

**PLANNING BOARD MEETING  
TOWN OF CUMBERLAND  
Cumberland Town Hall  
290 Tuttle Road, Cumberland, Maine 04021  
Tuesday, December 18, 2012  
7:00 p.m.**

**A. *Call to Order***

**B. *Roll Call:***

***Present:*** Chris Neagle, Chair, John Ferland, Vice Chair, Peter Bingham, April Caron, Peter Sherr

***Absent:*** Jerry Boivin, Ron Dillon

***Staff:*** Carla Nixon, Town Planner, Pam Bosarge, Administrative Assistant

**C. *Approval of Minutes of November 20, 2012 meeting:***

Mr. Bingham moved to approve the minutes of November 20, 2012 as amended.

Ms. Caron seconded

VOTE: 5-0 Unanimous

**D. *Staff Site Plan Approvals: None***

**E. *Minor Change Approvals: None***

**F. *Hearings and Presentations:***

1. ***Sketch Plan Review: Major Site Plan Review for Friend's School for a 14,000 sq. ft. (foot print) building at 11US Route One***, Tax Assessor Map R01, Lot 10 in the Low Density Residential (LDR) district; Cramar Realty Trust, Owner, Friend's School, Applicant; Steven Blais, P.E. of Blais Engineering and Stephen Blatt, of Stephen Blatt Associates, Representatives.

Mr. Bingham disclosed he has known Steve Blatt since they were school friends in Auburn and has interacted with him on the School Board; he did not feel his relationship would bias his decisions.

Mr. Neagle disclosed he also has worked with Stephen Blatt.

Ms. Nixon presented background information as follows: The project has been re-designed since the neighborhood meeting. The applicant is present to give an overview of the plan.

Ms. Naomi Beal, Chair of the Board and Building Committee gave a brief history of the school. The Friends School is an independent Pre-K-8 school. The school was opened in 2006, in the years since, our enrollment has increased and our financial base has strengthened. About four years ago we started looking for a new location; we began looking in earnest for a location about two years ago, and about 10 months ago we started looking at this land on Route One. The land is a beautiful wooded site, positioned close to I-295. The zoning works for us and the Town of Cumberland staff has been really helpful and accommodating in our search for a new location. We are thrilled to be building in Cumberland.

Mr. Stephen Blatt, of Stephen Blatt Architects, stated the Friend's School has retained his firm with several other engineering firms to devise a way to accommodate a plan for their method of education. Our firm has designed many schools; this is an unusual school, it is very exciting. There are several precepts that are unique to this school. One of them is the school's philosophy of education which focuses on outdoor experiences. It is not an Outward Bound school, but the school has an appreciation of nature and interacts with nature. The interaction with nature and the natural setting is critical. The School has been on Mackworth Island.

Mr. Blatt continued to review the location of the lot, it is the last lot in Cumberland on the left if going south on Route One, across from the new Exactitude building with the condos to the north. The property backs up to residential subdivisions off from Route 88; Maeve's Way and Stony Ridge Road. We are conscious of the impact of development on the property; the plan is to have a small impact on the property. It is a difficult site with topography that rises from Route One up the hill. There are wetlands on the site, which may be one of the reasons it has not been developed. There are no wetland regulations which prevent walking, playing, or hiking, only development. This is a great location for a day school. The applicant is proposing a Phased development.

Mr. Blatt reviewed the 21+- acre site that is under agreement. It is expected that the transfer of ownership will occur before the end of the year. We have been in touch with DEP and expect a preliminary meeting this week. We hope to be back to the Planning Board in January, however it may be February. The proposal is to enter on the east side of the property; there is a straight entrance to a loop with parking off the loop. The building will be a 9,000 sq. ft. footprint with the upper right of the building two stories. The yellow expansions are for a future Phase II will include a parking tray, gym, and classroom.

Phase I will have six classrooms, an office, and a 1,200 square foot meeting space. The building will have underground utilities, with the hope of a net zero energy building. There will be three play areas, none will be competition fields, and they will be lawn. The school does compete in cross country competition, and will utilize the fields and trails. There will be no lights on the fields. The parking for Phase I will have 35 spaces with seven additional at the front door. The school has 85 students and hopes to grow to 120 students. The parking required per Ordinance for the facility is 14; the requirement with the 12,000 square foot meeting room requires 27.2.

Phase I will have a total of 42 parking spaces.

Phase II will have a 2,800 square foot gym and more parking will be created to meet the required 136 spaces.

Mr. Steve Blais, Civil Engineer of Blais Civil Engineering reviewed the project stating Bill Bray has been hired for the traffic movement permit. The site will require a stormwater and traffic movement permit. The site will have gravity feed sewer and public water. Phase I will not disturb over an acre of impervious service and will not need a permit from DEP. The wetlands disturbance will be 15,000 square feet which is within the threshold to fill under a Tier 1 DEP permit.

Mr. Bingham asked the distance to the neighboring condos and was there adequate buffering, and asked about the elevation of the condos?

Mr. Blatt stated approximately 460 feet; and the elevation is about the same the land between the properties has a buffer with gullies.

Mr. Blatt stated the land behind the condos will be used for passive recreation, such as hiking etc. There will be no organized play fields on the area.

Mr. Neagle asked if the applicant was purchasing the extra piece of land.

Mr. Blatt stated yes.

Mr. Sherr asked if the entrance was to be offset from Exactitude.

Mr. Blatt stated yes, directly opposite the drive would require moving two power poles.

Mr. Blais stated the Town plans to add a center turning lane in the area.

Ms. Caron asked if there was a time frame for the new parking lot in Phase II.

Mr. Blatt stated that would be dependent on fundraising.

Mr. Ferland asked if the play area III would have a trail system.

Mr. Blatt stated yes, there will be a trail system that will meander through the wetland; which might have a foot bridge over the wetland; that has not been determined.

Mr. Ferland asked about the proposed use of the dog leg shaped property.

Mr. Blatt stated the proposed use is to have outdoor excursions to look at the frogs.

Ms. Caron asked for clarification about vernal pools.

Mr. Blatt stated the wetland studies showed a potential vernal pool, this will be verified in the spring and if the area is a vernal pool it will have a 100 foot no-disturb buffer. The presence of a vernal pool will not affect the development of the parcel.

Mr. Blais stated there is a State created exemption for manmade vernal pools. If there is a skidder rut it will be noted on the plan. The Army Corps does not have that exemption; the Army Corps could not identify if this was a vernal pool. These are determined by egg masses in the spring. The effects of a vernal pool are a 100' no disturb buffer, and then 40.5 acres contiguous land which cannot be disturbed. It doesn't have to be part of the parcel; this does not interfere with our development.

**The public portion of the meeting was opened.**

Mr. Ron Cedrone of 27 Falcon Drive stated he has walked the woods and there is a huge amount of water on the dog leg (toe) piece beyond the condos. He can see the red flags from his deck; this is not 500' to the first units. The toe piece backs up to the back property line.

Mr. Neagle stated he realizes this is wetland area and will be used by the students.

Mr. Shane stated he looked at the Town's aerial photos and measured the 460 feet using the Town's GIS system.

**The public portion of the meeting was closed.**

Mr. Neagle thanked the applicant for their overview of the project; this seems like a wonderful use of this land; stating they had done a good job proposing the building to meet the needs of the applicant with as little environmental impact as possible.

The Board took no action, pending an application.

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**2. Public Hearing: Major Subdivision Amendment for Castle Rock Subdivision** for development of 17 single-family affordable housing units, at Tax Assessor Map R07C, Lot 1A – lots 1-9, in the Village Office Commercial I (VOCI) district; as allowed by contract zone. Owner, Telos Capital, LLC; Representative, Scott Decker, P.E., SYTDesign Consultants.

Mr. Sherr disclosed his firm did the peer review, but he has had no contact with the engineers; he didn't think it would affect his ability to be objective in his review of the project.

Mr. Bingham stated the same as last time: he has been in the Lion's Club with Scott Decker, the design engineer.

Ms. Caron asked to be recused as a close abutter.

Ms. Nixon presented background information as follows: The owner is Castle Rock Business Park. The applicant is TELOS CAPITAL, LLC of 84 Middle Street, Portland, Maine. Scott Decker, P.E., of SYTDesign Consultants is the representative.

The parcel is located in VOC 1 zoning district but the development is governed by the provisions of a Contract Zoning Agreement dated November 1, 2012.

The application is a request to amend an approved 9 lot commercial subdivision to allow for the construction of 17 residential house lots. The prices for the homes shall not exceed \$225,000 and there is design restrictions specified in the contract zoning agreement.

The property is shown as Lot 1A on Tax Assessor Map R07 and is 28.8 acres in size.

The access road and utilities are installed.

The MDOT has issued an entrance permit for the access road.

The subdivision will utilize public water and on-site septic.

The Town Engineer has signed off on all technical concerns; there is the need for a waiver; *for submission of final design plans of the access road and associated utilities since these items are already in place.*

Mr. Scott Decker, P.E., of SYTDesign Consultants stated he is present with Peter Biegel, Landscape Architect, and Scott Lalumiere, and Todd Settle, principles of Telos Capital.

Mr. Decker briefly reviewed the project stating the waiver request is because the infrastructure is already in place.

Mr. Bingham moved to grant to grant the waiver for submission of final design plans of the access road and associated utilities since these items are already in place.

Mr. Ferland seconded.

VOTE: Unanimous – 4

Mr. Decker reviewed the responses to the Review Comments as follows:

1. The Cumberland Fire Chief requires that the Fire Prevention notes that were on the original submission be placed back on Drawing C-101 or C-102, revisions G & C respectively.  
**Note # 7 on Drawing C-102, revision C has been revised per our discussion.**
2. Shouldn't the 50 ft. no cut buffer line extend all the way from the Route 100 right of way to the lot # 5.  
**This line has been extended as noted on Drawings C-101 and C-102 revisions G & C.**
3. Since the 8.6 acres of open space to the east of the subdivision has been deeded to the Town, Note # 5 should be removed from Drawing C-101.  
**The note has been removed.**
4. Verify the Applicant's legal name and property ownership.  
**The legal name of the Applicant is Telos Capital, LLC, and the property is owned by Castle Rock Business Park, LLC.**
5. Has the water main in Castle Rock Drive been connected to the main in Route 100/26?  
**Based on the November 14, 2012 letter from the Portland Water District, "the project site does currently have existing water service".**
6. The dimensions on Drawing C-101 should be more legible.  
**Drawing C-101 has been revised to be more legible.**
7. A 75 ft. setback from the street should be added to plan legends.  
**The 75ft. stream setback hatch has been added to plan legends.**
8. Revise the 50 ft. no cut buffer line to extend the property line perimeter and add label "End of 50 ft. no cut buffer" on Drawing C-101.  
**The "50 ft. No Cut Buffer" line has been extended to the property line perimeter and we have added label "End of 50 foot No Cut Buffer" on Drawing C-101.**
9. Remove Note # 5 from Drawing C-102.  
**Note # 5 (open space to be deeded to Town) has been removed from Drawing C-102.**
10. Revise the ownership of the abutting lot to the south from N/F Nancy L. Melcher to current owner Bethany Nash.  
**This correction has been made.**
11. Revise Fire Protection # 7 on Drawing C-102 to include the following: "The proposed 17-lot subdivision has a subdivision drive which is approximately 750 lineal feet with a fire hydrant at each end and one in the middle. All homes will be within approximately 300 feet of a fire hydrant. No homes will be sprinkled."  
**Note # 7 on Drawing C-102 has been revised to include this note.**
12. Revise the label associated with the evergreen buffer, on Drawing L-100, along Nash property line to include the Town of Cumberland in parties responsible for the final field location of the 10 evergreen trees.  
**The label associated with the evergreen buffer, on Drawing L-100, along Nash property line to include the Town of Cumberland in parties responsible for the final field location of the 10 evergreen trees has been added to Drawing L-100.**
13. Add a section showing the proposed esplanade and sidewalk to the Drawing C-301 Civil Details plan.

**A section showing the proposed esplanade and sidewalk has been added to the Drawing C-301 Civil Details plan.**

Mr. Decker continued stating the detention basin as shown on the current plan will be rehabilitated there will be two working detention basins. The sidewalks and curbing will be rebuilt.

Mr. Neagle asked if there is a provision in the Homeowners' Documents that require the homeowners to maintain street trees.

Mr. Biegel stated the Homeowners' Association will only be responsible for the trees in the street right-of-way, not on the lots. This provision will be added to the Homeowners' Documents.

Mr. Neagle stated there is a state statute that requires a note be added to the subdivision plan that states this subdivision supersedes and replaces the subdivision plan in Plan Book \_\_\_\_ Page \_\_\_\_.

**The public portion of the meeting was opened.**

Mr. Tyler Nash of 14 Wilson Road stated he was representing the snowmobile club and thanked the applicant for the adequate buffering. He voiced concern that the trail as proposed requires more thought; on the project side of Route 100 there is a significant swale which couldn't be crossed with a snowmobile. Gray Road/ Route 100 is 8 to 10 feet lower and not traversable in the current proposed location. The snowmobile club is made up of 22 volunteers and would need assistance to build a bridge. The current temporary site requires no work.

Mr. Biegel stated there were two potential trail locations the reason for this location is to incorporate the detention area to keep the trail in the open space.

Mr. Scott Lalumiere stated they have tried to accommodate the snowmobile club, the expense is assumed by the club, they have not seen any estimates.

Mr. Neagle stated he is not comfortable with a non-useable location of the snowmobile trail, and the developer should absorb costs of relocating the trail as part of the project.

Mr. Lalumiere stated this is an affordable project and they are trying to abide by the obligations of the contract zone.

Mr. Neagle stated the applicant is moving the existing trail, and he can't support the developer re-locating the trail to a location that doesn't work.

Mr. Lalumiere stated he hasn't seen any estimates.

Mr. Tom Gruber, Town Councilor stated the contract zone agreement states the developer will work with the snowmobile club on the trail.

**The public portion of the meeting was closed.**

Mr. Neagle stated this is a great project.

Mr. Sherr stated he supports the project however, there needs to be a resolution with the snowmobile club and re-location of the trail.

Mr. Ferland stated without this detail the project would not meet the standards; this is a compliance issue.

Mr. Lalumiere stated this could be addressed as a condition of approval and they will find a way to make it work.

Mr. Neagle stated they can draft as a condition of approval something such as: the snowmobile trail access to Route 100 will be made reasonably accessible at the cost of the developer.

Mr. Lalumiere stated they have spent a lot of time and money and they intend to work with the snowmobile club.

The Board reviewed the findings of fact as follows:

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

The purpose of these standards shall be to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Cumberland, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
  - A. The elevation of the land above sea level and its relation to the flood plains;
  - B. The nature of soils and subsoil and their ability to adequately support waste disposal;
  - C. The slope of the land and its effect on effluents;
  - D. The availability of streams for disposal of effluents; and
  - E. The applicable state and local health and water resource rules and regulations;

**The subdivision will utilize septic systems; test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist.**

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



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

**The Town and the Portland Water District have reviewed the plans and are prepared to serve the subdivision. Public water is available on Route 100. Based on the information provided, the standards of this section have been met.**

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

**A letter dated 11/14/12 is on file from the Portland Water District stating that there is adequate capacity to serve the subdivision.**

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

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

**An erosion and sedimentation control plan was prepared by SYTDesign and has been reviewed and approved by the Town Engineer.**

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

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

**A traffic assessment was conducted by William Bray, P.E. The report, dated October 25, 2012 was reviewed and approved by the Town Engineer.**

**A copy of the amended MDOT Driveway Entrance Permit is on file.**

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

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

**Test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist.**

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

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

**A letter from a Pine Tree Waste is on file.**

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



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

**Letters are in file from the Dept. of Inland Fisheries and Wildlife and the State Historic Preservation Commission indicating that there are no significant wildlife habitat or historic sites on the property.**

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

9. Conformity with local ordinances and plans. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

**The plan has been reviewed and approved by the Town Engineer and Department Heads. The proposed subdivision is in compliance with local ordinances and plans.**

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

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

**A commitment letter from Milk Street Capital is on file.**

**Technical capacity is evidenced by the use of professional engineers, surveyors, licensed soils evaluator, and landscape architect.**

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

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

**Wetlands delineation and high intensity soils mapping has been done by Mark Hampton Associates, Inc. There is no adverse impact on the small wetland area on the site.**

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

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

**Test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist.**

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

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

**According to the National Flood Insurance Program, the property is located in Floodplain Overlay C-areas of minimal flooding. No special precautions are necessary in Zone C.**

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

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

**A Stormwater Management Report was prepared by SYTDesign and reviewed and approved by the Town Engineer.**

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

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

**Wetlands delineation and high intensity soils mapping has been done by Mark Hampton Associates, Inc. Wetland impact is limited to less than 1/10<sup>th</sup> of an acre.**

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

16. River, stream, or brook. Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream, or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9. [Amended; Effective. 11/27/89]

**A stream has been identified and shown on the plan with the appropriate 75' buffer.**

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

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

**The site is located in the Aquifer Protection District, but the findings relative to suitable soils for septic systems allows a positive finding that the plan will not adversely affect the aquifer.**

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

Mr. Bingham moved to approve the findings of fact as presented.

Mr. Sherr seconded.

VOTE: Unanimous 4 – 0

Mr. Bingham moved to approve the major subdivision amendment for Castle Rock Subdivision for the development of 17 single-family affordable housing units, at Tax Assessor Map R07C, Lot 1A – lots 1-9, in the Village Office Commercial I (VOCI) district; as allowed by contract zone. The approval is subject to the seven (7) recommended conditions of approval, the Standard Condition of Approval, and the Limitation of Approval.

Mr. Ferland seconded.

VOTE: Unanimous 4 – 0

#### **STANDARD CONDITIONS OF APPROVAL:**

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

Approval of any subdivision plan not filed for recording within 90 days after Final Plan approval shall become null and void. A note referencing this time provision shall be placed upon the Final Plan. The developer shall provide the Town Planner with the plan book number and page number, upon recording of the subdivision plan.

#### **RECOMMENDED CONDITIONS OF APPROVAL:**

1. That a preconstruction meeting be held prior to start of construction.
2. That a performance guarantee in a form and amount acceptable to the Town Manager be provided prior to the preconstruction conference.
3. That all fees be paid as required.
4. The Owner agrees to inspect all existing trees planted as part of the original subdivision approval. This will be done in the spring, no later than July 1, 2013. If, in the opinion of an arborist of the Town's choice, any trees are deemed unhealthy, the Owner will replace the trees with similar sized trees or provide recommended treatment such as fertilization and pruning. The Town of Cumberland will hold in escrow or as part of a letter of credit, the amount required to replace any existing or proposed plantings. See Note 2 on Sheet L-100.
5. A statement is added to the subdivision plan stating this subdivision plan supersedes the recorded plan of CASTLE ROCK BUSINESS PARK SUBDIVISION dated June 17, 2006 and recorded April 30, 2008 in the Cumberland County Registry of Deeds Plan Book 208, Page 186.

6. That the Homeowners' Association Documents be amended to add a provision that those homeowners with trees on their lots as shown on Landscape Plan Sheet L-100, be required to maintain and replace those trees as necessary.
7. The location of the snowmobile trail where it connects to Route 100 be improved by the developer such that a snowmobile may reasonably and safely follow the trail shown on the plan.

Mr. Neagle asked that Mr. Decker e-mail him the note to be added to the plan prior to recording the Mylar in the Registry of Deeds.

**G. Administrative Matters:** February Planning Board meeting date – change from February 19, to February 12, 2013.

The Board agreed to move the February 2013 Planning Board meeting to the second Tuesday, February 12, 2013.

**H. Adjournment:** The meeting was adjourned by Chairman Neagle at 8:35 p.m.

A TRUE COPY ATTEST:

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Christopher S. Neagle, Board Chair

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Pam Bosarge, Board Clerk