

**PLANNING BOARD MEETING
MINUTES
TOWN OF CUMBERLAND
Cumberland Town Hall - 290 Tuttle Road
Cumberland, Maine 04021
Tuesday, March 20, 2012
7:00 p.m.**

A. *Call to Order*

Chairman Neagle called the meeting to order at 7:00 p.m.

B. *Roll Call*

Members Present: Chris Neagle, Chair, Peter Bingham, Gerry Boivin, Ronald Dillon, April Caron, Peter Sherr

Members Absent: John Ferland, Vice-Chair

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

C. *Approval of Minutes of February 28, 2012*

Mr. Bingham moved to approve the minutes of February 28, 2012.

Ms. Caron seconded.

VOTE: Unanimous 6-0

D. *Staff Site Plan Approvals: - None*

The Board heard Agenda item # 2 as the first item of business.

E. *Hearings and Presentations*

1. *Sketch Plan Review: Major Site Plan for Maine Standards for a commercial office building at U.S. Route One, Tax Assessor Map R02, Lot 10A, in the Office Commercial North (OC-N) district.*

Mr. Tom McDowell, CFO of Maine Standards, Inc. presented a conceptual plan of the proposed project. Maine Standards has held two neighborhood informational meetings and as a result have incorporated most of the suggestions from those meetings. The applicant has a purchase and sale agreement on the property subject to approvals. The project will be engineered by Sebago Technics and Port City Architects. A general contractor for the project has not been chosen.

Mr. McDowell reviewed the conceptual drawings showing the proposed building, stating all of the southern half of the property will be developed. The stormwater detention will be a wet pond system with pavers and underground drainage. The conceptual rendering shows a building of 29,810 sq. ft. with two floors and a 190' x 80' footprint building.

Mr. McDowell reviewed a master plan showing possible future expansions of 9,400 sq. ft. Maine Standards has 72 employees and the building will have 92 parking spaces. Maine Standards is a medical device manufacturer of liquid calibration material devices.

Mr. McDowell stated the Route One Design Guidelines require a 75' setback from Route One; the current proposal has a 35' setback to keep the building away from the back property line and stream. The proposed building will have cement boards and vertical siding with architectural shingles. There will be a single entrance driveway from Route One. A traffic study will be conducted. The HVAC equipment on the roof will not make any noise. There will be a generator that will operate 20-25 minutes a week, which will generate some noise. A generator is required to keep products refrigerated in the event of a power

outage. There is a proposed outdoor patio for employees. All products are shipped via Fed-X or UPS trucks daily.

The sewer is at the front of the property along Route One, the water and power will come off Powell Road. They are proposing overhead power lines to the front of the site, then the power lines will be underground from Route 1 to the building.

The sign will be free standing and exterior lighting will have full cut off fixtures; there will be no light trespass, and lights will be on timers and designed as required by the Ordinance.

Mr. Neagle stated this is not a public hearing but a sketch plan review, and asked if there were any public comments. There were no public comments. The public portion was closed.

Mr. Neagle stated it looks like a great project and welcomed the developer to Cumberland. His only concern was the setback requirements of the Route One Design Guidelines; stating he felt the guidelines were to maintain a public open corridor along Route One.

Mr. Bingham echoed Mr. Neagle's concern.

The Board took no action, pending a formal application.

The Board heard Agenda Item # 3 as Item # 2.

2. Public Hearing: To recommend to the Town Council draft zoning amendments to Section 204.14 Industrial (I) zone to add motor vehicle sales as a permitted use.

Mr. Shane, Town Manager stated that Alyssa Tibbetts, Economic Development Director had received a request from Mr. Bill Richards of 70 Blackstrap Road who currently operates a motor vehicle repair business on his property. Mr. Richards requested that the Council and Planning Board consider adding Motor Vehicle Sales as a permitted use within the Industrial zone. Motor Vehicle Service Repair and Retail Store are currently permitted uses within the Industrial zone and Motor Vehicle Sales is currently a permitted use in the neighboring Village Center Commercial zone (VCC) on Route 100, as well as the Highway Commercial Zone (HC) on Route 9. Mr. Shane reviewed the current uses allowed in the Industrial zone.

Ms. Caron asked if Cumberland Salvage was a neighbor of the property.

Mr. Shane stated Cumberland Salvage is in the Rural Residential 2 (RR2) district and is a grandfathered use.

The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.

Mr. Bingham moved to recommend to the Town Council draft zoning amendments to Section 204.14 Industrial (I) zone to allow motor vehicles sales as a permitted use.

Mr. Sherr seconded.

VOTE: Unanimous 6-0

The Board reviewed Agenda Item # 1 - 319 Main Street.

3. Public Hearing: Major Site Plan Review for a mixed use development at 319 Main Street; Tax Assessor Map U13, Lot 110 in the Town Center District (TCD); Flash Island, Inc.,

Applicant/Owner/representative; Scott Decker, P.E., SYTDesign Consultants, Design Engineer.

Mr. Neagle stated the Board and several abutters attended a site walk at the property at 6:00 p.m. prior to the Planning Board meeting. The Board looked at the proposed property and the neighbor's property to the north.

Mr. Bingham disclosed he has been acquainted with Mr. Guidi and Scott Decker for many years but didn't feel that would hinder his ability to objectively review the project.

Ms. Nixon presented background information as follows: The applicant and owner of the parcel is Jim Guidi, dba / Flash Island, Inc. The applicant proposes to redevelop the .76 acre parcel by converting the existing residential structure into a café/grocery (Phase I) and to construct a new building that will have two (2) one (1) bedroom apartments on the second floor and a fitness center or other commercial use on the first floor (Phase 2). The applicant would like approval for both phases at this time. Elevation drawings for both Phases have not been received in the packet submitted.

The application is for Major Site Plan Review. The project is subject to the provisions of the Site Plan Ordinance and the Town Center District Performance Standards (Section 204.16.6) and the Town Center District Design Standards. The applicant has utilized SYTDesign Engineers. The applicant will represent himself tonight at the meeting.

Mr. Guidi, Applicant stated he has been a local resident since 1983, and was the original developer of the Cumberland Business Park (Rockwood Condominiums); he also was the developer for Cumberland Commons, and Cottage Farms Development on Main Street.

Mr. Guidi reviewed his current proposal for 319 Main Street as follows: The project consists of two (2) buildings on a 0.76 acre site. The front building will be an 1800+-square foot café / restaurant with a few sales, such as take out coffee. This will not be a grocery store. The café / restaurant will serve three meals a day from 6:00 .m. to 9:00 p.m. The second building will be a mixed use building with a potential 1st floor fitness center with the second floor having two apartments. This building and appurtenances will be constructed as Phase II of the overall project. The property has 112 feet of frontage and is 300 feet deep.

- Parking and Access will utilize the existing driveway entrance which will be reconstructed and paved 22 feet wide. There will be 33 parking spaces on site with sixteen (16) parking spaces for the café/ restaurant and seventeen (17) spaces for the mixed use building.
The parking lot will have an inverted area in the middle of the parking to drain water to the back of the lot. The project will be serviced by a 16" water main with two (2) 2 inch lines. The sewer line is stubbed to the site. The project will utilize underground utilities. There will be a buried propane tank in the front of the café and an above ground tank in the rear of the lot.
- Lighting: The lighting will have slight light spill towards the Village Way Condos. The spillage will be .1 and .2 from the lights in the parking lot. The spillover is a result of the Ordinance requirement for ten (10) foot residential style poles. The lights will be cut off shielded fixtures.
- Snow storage will be towards the rear of the property, towards the retention pond. The grading / drainage will go to the back of the property via the inverted impression in the parking area.

- Buffering: Mr. Guidi stated he has been in communication with the Currie's to the north of the property and they are in agreement with fencing and planting a hedge of arborvitaes as shown on the plan.

Ms. Nixon stated she talked with Peter Biegel, Landscape Architect regarding growth of arborvitaes; a two foot high plant can grow to eighteen feet tall at maturity, and the plants grow six to nine inches per year.

Mr. Guidi continued his review with buffering stating he has not had any input from the neighbors to the south at Osgood Village. He is proposing a six foot high fence that would step down to four feet and end approximately six feet from the property line to not impede visibility to and from the site. They will cut down approximately ten trees on the site, most are diseased. They are proposing to re-plant seven new trees.

- Phase II – mixed use building; he does not have a specific use for the building and is waiting for a tenant, and he is not in a hurry to build the building. He understands he would need to come back to the Planning Board for review of the building for approval of the Town Center Design Standards. He would like approval for the location which would allow him to stub utilities to the site.
- Town Center District Guidelines Goals: Mr. Guidi reviewed the goals as follows:
 - To facilitate the accomplishment of a primary goal of the 2009 Comprehensive Plan to provide a well-defined town center area with a mix of compatible uses that will contribute to the vitality, livability, and sustainability of the entire town.
 - To foster an attractive, functional and safe environment that is conducive to both housing and commerce, while providing for a safe vehicular, pedestrian, and bicycling area.
 - To protect abutting residential properties through sensitive site planning, buffering and building design.
 - To preserve the architectural resources within this area.
 - To encourage high quality, economically viable development and redevelopment that is architecturally appropriate, that reinforces Cumberland's sense of place, and that is responsive to the Town's unique character.

Mr. Guidi stated he felt the proposed development meets these goals. The High School and community has a need for a fitness center. Seventy percent of the students at Greely are athletes.

- Planner's Comments
 - Building placement: Mr. Guidi stated the following reasons for not spinning the Phase II building. Snow storage issue, the placement would allow snow to be plowed and stored at the back of the lot.
 - South-West Exposure on the building. It is not economically feasible to build a building that doesn't take advantage of solar heating from southern exposure.
 - Village Atmosphere of the lot: the placement of Phase II building gives a village atmosphere on the property.
- Waiver Requests:
 - Section 5.3: Site Inventory & Analysis: High Intensity Soils Survey
 - Hydro Geologic Study: The property is on a vein of gravel and should only be required if there was ledge.

- Parking: The parking will have pavement and re-claim surfaces
- Sound: the Ordinance states 75 dB at property lines, Mr. Guidi stated a vacuum is 70 dB; he didn't know what 75 dB would sound like.

Mr. Bingham asked if the café would have a liquor license.

Mr. Guidi stated yes.

Mr. Guidi stated he was seeking approval tonight. Mr. Guidi continued to review the Planner's comments.

- Lighting: He is looking for direction.
- Stormwater: the test pit log has been completed.
- Financial Capacity of Applicant: Mr. Guidi stated he had provided a letter in the application. If more information is required he requested this be a condition to be reviewed and approved by the Planner and / or Town Manager.

Mr. Neagle stated Financial Capacity is something the Board has a responsibility to review.

Ms. Caron asked the number of proposed seats for the café and would outdoor seating exceed the amount allowed by Ordinance.

Mr. Guidi stated there will be 48 interior seats, and if he has outdoor seating he will have to reduce the interior seats.

The public portion of the meeting was opened.

Mr. Neagle read Mr. Ferland's e-mail comments as follows: "The use is allowed, so discussion should focus on the Ordinance standards and the Town Center Design Standards criteria. I would emphasize the need to meet the standards of the new zone and the design criteria. This is a newly created zone and design document which was developed with much input, debate, and consideration of impact. The property proposed for development is close to neighboring parcels. Key issues that I see at this moment are:

- a) The need to have a sensible master plan per the standards.
- b) The need to meet standards related to appropriate buffering/landscaping, as well as lighting.
- c) Neighbors will probably also be concerned about sound, hours of operation and other issues, which, again, bring us back to the standards".

Ms. Maura Nolin, of 13 Farwell Ave voiced concern with the rate of development and the potential for three competing food establishments or duplication of services. She was in favor of the back building and asked the hours of operation for a proposed gym, but was concerned whether there was a need for additional apartments with the five new ones at 371 Tuttle Road. Ms. Nolin also voiced concern regarding serving alcohol close to the school.

Ms. Melissa Gattine of 325 Main Street asked about buffering on the high school side of the property; and voiced concern regarding the sound, light and visual impacts on the properties on the Farwell side of the proposed project.

Mr. Mark Fortin of 15 Maple Street and owner of Food Stop voiced concern of parking and access for truck traffic. As a business owner you are not able to instruct vendors what size truck to bring, with fuel costs being high, almost everything is delivered in larger trucks. It is a challenge to keep vendors from

parking on the street, deliveries are during business hours, and he questioned traffic circulation on the 319 Main Street site. He voiced concern of trucks trying to park in his lot or on the road. Mr. Fortin agreed there should be buffering at the school side of the property. He voiced concern of safety with outside seating. He had four large picnic tables for the ice cream business, which was misused and became a safety concern.

Mr. Frank Pitassi of 30 Rosa Way, stated he was on the Town Center District Committee; and Mr. Guidi has tried hard to meet all the standards. Mr. Pitassi stated he is an engineer and the placement of the second building makes sense. Mr. Guidi is willing to meet the seating and hours of operation requirements of the Ordinance. As far as outside seating safety concerns Cumberland has an excellent Police Department to address any concerns. It is difficult to visualize future buffering. I am in support of the application.

Mr. Gary Heiselberg, of 8 Village Way the neighboring condominiums stated he was also president of the Homeowners' Association and was speaking for himself as well as the residents. The Association reviewed plans and had comments based on the plans submitted. Their concerns include noise, light, smell, and they have had no substantive input, and the plans appear to have been changed from the submittal plans. Mr. Heiselberg stated the trees that currently exist on their property can't be counted as buffering for the project as there is no guarantee they will remain. He voiced serious concern regarding Phase II which is shown as a rectangle on paper. He requested that the Board review both Phases together. He would also ask that approval decisions adhere to the standards for the entire lot.

Ms. Carolyn Currie of 321 Main Street, the abutter to the north, stated her Main Street neighborhood is a peaceful neighborhood, and she would request that the abutting residential uses be considered regarding sensory impact, such as noise, smells, etc. She asked if the hours on the outside deck could be restricted from 8:00 a.m. through the day. Ms. Currie stated she had hoped the Phase II building could be turned parallel with the street on the back of the lot. Its current location has a 72 foot long building ten feet from their property line, with people looking down into their pool; this will result in a loss of privacy in their backyard. Ms. Currie requested protecting abutting residential properties with sensitive buffering and building design and location.

Ms. Mary Yeo of 322 Main Street, across the street thanked the Board for the site walk. Ms. Yeo voiced concern of loss of privacy on her deck and requested a buffer be placed on the outside dining deck. She too voiced concern regarding traffic and asked that the Board consider impact on all properties to the side and across the street.

Mr. Steve Fluett, of 15 Pleasant Valley Road stated he is a fitness coach with the school; stating there is a need for a fitness center for the students. Many of the students go to facilities outside of Cumberland.

Mr. Doug Currie, of 321 Main Street also voiced concern regarding buffering, and impact of smells and sounds. He asked about venting and dumpster location. He stated he is not against Phase II but is concerned that the second floor of the building will be eleven feet from his pool, resulting in reduced privacy.

Mr. Randy Plummer of 13 Hedgerow Drive stated he grew up in Scarborough and what is nice about Cumberland is Main Street. Mr. Guidi has done his homework and this is a good project for the youth and a way to keep kids in the community. The fitness center proposed in Phase II is needed and he encouraged approval.

Mr. Tom Powers, of 306 Main Street also voiced concern of vehicular safety and traffic impact in relationship with other properties. He also voiced concern regarding circulation of larger vehicles and

safety vehicles. Mr. Powers also voiced concern regarding application completeness; signage details; and traffic speeds and volume on Main Street.

Mr. Guidi, Applicant addressed abutters concern as follows:

- The hours of operation will be from 6:00 a.m. to 9:00 p.m. He is withdrawing his request for extended hours.
- Third food service establishment; the three establishments may compete for coffee, but Mark has a great business and he has consulted with Rebecca Williams and they have different concepts for menus.
- He will not be a bar, but a restaurant that serves beer; he may have a breakfast bar.
- Farwell lights: he didn't think those concerns were warranted.
- Phase II building placement: He stated the location of the second building is for southwest exposure.
- Deck hours: 8:00 a.m. that is fine.
- Kitchen Vent: is a concern that will be addressed by Engineers.
- Traffic: Peter Tubbs stated the project will generate 44 trips as peak hours and the threshold is 100 per hour so a Traffic Movement permit is not required.
- Emergency Vehicle access: The plan has been reviewed by the Fire / Rescue Chief and he had no issues.
- Speed Limit – Main Street is a state road Route 9 and we don't have any say on the speed limit.
- Signage: Signage information is in the packet; the sign will identify 319 Main Street similar to the credit union... a 4' x 6' free standing sign. The restaurant sign will be on the front of the building.

Ms. Carolyn Currie asked a question about process. If the application is approved tonight is that the end of public input? Ms. Currie stated oak trees don't work well and asked about status of buffering.

Mr. Neagle stated the application has the right to propose a project and the Board has limited rights to discuss different types of buffering. The Board may approve the application or table the application. If the application is tabled there will be another public hearing for public comments.

Mr. Mark Fortin stated in regards to delivery trucks, his parking space is adequate for his business needs. His point was even with what is considered ample parking space tractor trailer trucks will park on the road. He voiced concern regarding internal traffic and truck access with parked vehicles. His concern is safety and unintended consequences with outside seating.

Ms. Heiselberg of 8 Village Way mentioned that the other condo owners are also present at the meeting. The six foot fence which was always in the plan, when we met with Mr. Guidi he stated he had no intention of taking down their fence and our four foot fence would be the buffer. Fencing is a concern; she also stated the proposed landscaping does not add any buffering. There are sections where there is not a continuous line of proposed landscaping. Some of the proposed plantings are arborvitae and abutting their property are day lilies and low lying plants that won't give any additional buffering.

Mr. Steve Moriarty, of 34 Blanchard Road, and Town Councilor stated there seems to be some procedural questions asked tonight. This application did not have a sketch plan review as did Maine Standards. He perceives from the public concerns of what happens if major site plan review is granted tonight what are the subsequent steps if any, and what the sequence of that would be. There seems to be uncertainty.

Mr. Neagle stated he does not know what his fellow board members are thinking, he can say if the Board does what Mr. Guidi wants which is to approve this project but only allow them to build a foundation of

Phase II building there would be another process identical to this evening with public hearings and site walks of the second building. His opinion is that is not how this application is going to go forward.

Mr. Guidi stated the deck on the front of the building is not accessible from the sidewalk. There won't be kids on bicycles sitting on the deck. I have had little conversation with the condo owners, and originally I did want the four foot fence, but that has changed and the plan should show a six foot fence... that is a mistake. I am not looking to put in a foundation for the Phase II building.

The public portion of the meeting was closed at 9:40 p.m.

Mr. Neagle stated we live in a great community and thanked all of the public who spoke for focusing on the standards; it was encouraging and helpful.

The Planning Board adjourned for a five minute break at 9:40 p.m.

The Planning Board resumed at 9:45 p.m.

Mr. Neagle asked the Board for a straw poll regarding approval of the application tonight. Mr. Neagle stated he felt the application was incomplete and he wanted to see more information regarding building two.

Mr. Dillon agreed, the plan is not complete, the Board is not seeing all of the buildings. Can the Board approve parts of the application?

Mr. Neagle stated legally the Board could but that is not what he is asking.

Mr. Bingham agreed he is not ready to approve the plan.

Mr. Boivin stated he likes the concept but he too is not ready to move forward.

Ms. Caron concurred with Mr. Boivin she agrees there is a great need for a fitness center. The neighbors have brought up some really good concerns. There have been many concessions by the applicant this evening and she was not sure she could get them right if they voted tonight.

Mr. Dillon stated he feels the same way; he reviewed what he had in the packet. He would like to do a review of an updated complete application. I was a member of the Town Center Committee, and was looking for one restaurant when the zoning was recommended to the Town Council; and now there is potential for three. I am also not comfortable and need to go through the material with more detail.

Ms. Caron stated as we begin reviewing Main Street projects the applicants should be aware of how cognizant the Board will be in compatibility with existing residences; with impacts such as noise, odors, etc.

Mr. Sherr echoed the same sentiments as his fellow Board members. He has concerns regarding buffering; and stated he thought that Mr. Guidi was asking for Site Plan Approval and perhaps table the standards for Phase II allowing him to stub utilities to the building. Mr. Sherr voiced concerns regarding buffering and building location; stating he thinks there could be some alternative options.

Mr. Neagle stated based on these comments he felt the Board would table the application. He stated he thinks this is a great project and Mr. Guidi has worked very hard to constructively address his neighbor's concerns. Mr. Neagle addressed his outstanding issues as follows:

- Traffic Study – due to the crowded area of Main Street
- Greely High School boundary – needs buffering and he would suggest the sidewalk go to the gate and there be a fence to allow access from the high school for students to work out in the fitness center.
- Phase II Building: This is a significant project in which the first time the TCD district has been reviewed in such a dense neighborhood.
- Truck traffic – concern of delivery trucks on the site.
- Plan Changes: The Board does not have final plans.

Mr. Dillon stated it is a very dense building plan; and asked for detail on the restaurant, will there be a liquor license, he also voiced concern of sound and odors.

Mr. Neagle encouraged Mr. Guidi to talk to a sound engineer.

Ms. Caron asked if there would be a HVAC in the fitness center; stating she would want to know about the noise level.

Mr. Bingham agreed with Mr. Dillon and he still has concern regarding noise especially at 7:00 to 8:00 p.m. on the outside deck.

Mr. Sherr stated he really likes the project and it will be a great addition to the center of Town. Again, it is a small site, it is a densely populated mixed use; buffering is still a concern. He echoed concern of buffering on the high school side and buffering along the adjacent neighbors on both sides. Phase II the building might be moved to the back twenty feet towards the high school. This might aid in traffic circulation. Mr. Sherr agreed with buffering for the neighbor across the street with buffering on the deck. A patron may also want a buffer. Is the center drainage swale to be driven on? He thought if it was a sidewalk there might be lighting instead of next to the property line.

Mr. Boivin stated this is an exciting project; having a gymnasium is a good thing. He asked the expected occupancy for the gymnasium; will there be showers, a locker room, free weights; just a general description. I understand the design and location of the building based on south west exposure; he agreed that the north side might be problematic. He agreed with Mr. Sherr's idea of perhaps sliding the building back on the property.

Mr. Neagle echoed other comments; he personally likes the project and this is a very approvable project with some changes as addressed by the Board. There are some missing items in the application.

Ms. Caron asked about the financial capacity letter.

Mr. Neagle stated financial capacity is a standard. The Board likes letters that give evidence of ability to complete project.

Mr. Bingham moved to table the application.

Mr. Sherr seconded.

VOTE: Unanimous 6-0

Mr. Neagle again thanked the public for its valuable input.

F. Administrative Matters:

Ms. Nixon asked about scheduling a site walk for Maine Standards; they will be submitting their application for the April 17, 2012 meeting. If the Board feels they do not need a site walk they could drive-by since it is an open site. The Board agreed driving by should be adequate.

G. Adjournment:

Mr. Bingham moved to adjourn at 10:05 p.m.

Mr. Dillon seconded.

VOTE: Unanimous 6-0

The meeting was adjourned at 10:05 p.m.

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Board Clerk