

**PLANNING BOARD MEETING  
MINUTES  
TOWN OF CUMBERLAND  
Cumberland Town Hall - 290 Tuttle Road  
Cumberland, Maine 04021  
Tuesday, February 28, 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, John Ferland, Vice-Chair, Peter Bingham, Gerry Boivin, Ronald Dillon, April Caron, Peter Sherr

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

**C.     *Approval of Minutes of January 17, 2012***

Mr. Bingham moved to approve the minutes of January 17, 2012 as amended.

Amendments included changing the spelling of Mr. Neagle's dog Gordy to Gordie; and to correct names of public letters submitted for the record.

Mr. Dillon seconded.

VOTE: Unanimous

**D.     *Staff Site Plan Approvals: 1) SBA Properties – Tower Upgrades, Range Way; 2) Seafax – Generator; 3) H.A.R.T. Ventilation System & Condensers.*** Ms. Nixon provided an explanation of each project.

**E.     *Hearings and Presentations***

Mr. Neagle stated at 6:00 p.m. Planning Board had held a workshop prior to the meeting with staff and a member of the public and a Town Councilor to review and discuss the proposed zoning amendments.

**I.     *Public Hearing: To recommend to the Town Council draft zoning amendments to the Growth & Impact Fee Ordinances.***

Mr. Shane, Town Manager stated last summer the Council appointed a five member committee; Chris Neagle and Peter Bingham from the Planning Board and Councilors Shirley Storey-King, Ron Copp and George Turner. The Committee reviewed the current Ordinance understanding that the Ordinances require review every three years for Growth Ordinance and every ten years for the Impact Fee Ordinance. The Committee recommended the Ordinances continue and tasked staff to develop a formula for the foreseeable future. The formula was based on average square footage of dwellings. The current Impact Fee is \$1.36 per square foot; the new proposed amount is \$1.09 per square foot. These calculations would continue to subtract out the first 500 square feet of a dwelling. In the 1990's the calculations were based on huge growth and the Town's need to build and purchase additional recreational space. The Town purchased the Rines Forest and did improvements to Twin Brook facilities. The Growth Ordinance previously categorized types of houses, i.e., the Ordinance allowed 22 houses in subdivisions and 22 non-subdivisions and two permits for affordable housing. That has been revised to one category of 45 dwellings and an additional 5 dwellings for affordable housing. The fee calculations were .87 per square foot for a recreation fee and .49 per square foot for open space fee amount for a total of \$1.36 per square foot minus the first 500 square feet. This has been changed to \$1.09 per square foot minus the first 500 square feet and categorized as an open space / recreation fund. The Planning Board has the options to

oppose, modify, or approve recommended changes to the Town Council. Alyssa Tibbetts, Economic Development Director is present to answer any specific questions. Next month these Ordinances will be at the Town Council for action.

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

Mr. Peter Valente of Maple Street stated he would like to have a discussion on the Impact Fee Ordinance, stating he wasn't sure how many residents understand the impact fee. An impact fee in Cumberland is a fee charged to an individual to build a home. Prior to receiving a building permit this fee must be paid; the average fee is over \$3,000 dollars and is based on the square footage of the house. The funds generated are supposed to be used to fund Twin Brook and the Rines Forest properties at an annual obligation of \$154,000 per year. Over the last ten years monies raised from impact fees were less than half of the projections. If this trend continues an additional \$817,000 will be required to meet our obligations. He would project that in the next ten years we won't come close to these projections. The point I am making is we all pay taxes to the Town to maintain items such as roads, fire, school, etc.; why not open space? In Cumberland there are approximately 3,800 tax bills divided by \$154,000 would equate to approximately \$40.00 per year. This is the amount every taxpayer would pay annually for use and maintenance of Twin Brook and the Rines Forest facilities. This is a bargain to residents and non-residents. I attended the workshop and learned some information on how the Growth and Impact Fee Ordinances interact. The Town cannot have an Impact Fee Ordinance without a Growth Ordinance. I think \$40.00 a year is an incredible bargain for residents. I recently spoke with a gentleman who received a building permit and paid over \$3,200; if he paid his fair share it would be \$140.00 annually to his tax bill. I also found out that the Bateman project's stated the impact fees are set aside for the infrastructure; and will not be used for the Rines Forest / Twin Brook fund.

Mr. Shane stated impact fees are allowed by Ordinance to be used in projects with approval of the Town Council. The Bateman property has a contract zone, and the fees will be set aside for recreational amenities on the Civic Lot in Phase II. If Phase II never happens the money would be used for the expansion of the sidewalk on Route 9.

Mr. Valente stated the Town hasn't met its projections and he didn't think it would. He asked do we need an impact fee? Currently landowners pay property taxes, and if they want to downsize to a smaller home or gift land to a child then the impact fee is an additional financial burden.

Mr. Neagle stated for clarification the \$3,200 dollar fee you referenced might have included all the other permits needed for the house such as building permit, electrical, etc.

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

Mr. Neagle stated at the workshop Mr. Boivin had voiced concern of the need for the ordinance and policy; with the argument that the cost is shifting to first time homeowners or buyers. Mr. Neagle asked the Board if we want to continue with these ordinances.

Mr. Dillon stated he didn't understand we were trying to restrict growth with the Growth Ordinance, but understood we need it to have the Impact Fee Ordinance.

Mr. Neagle agreed the Growth ordinance isn't currently limiting development because growth is low.

Mr. Boivin stated his understanding was the original reason for the Ordinances was school overcrowding, which is no longer an issue, and he is not keen on a certain group of people burdened by fees that should be funded by taxpayers. He doesn't agree with a small percentage of the community funding open space. The Rines Forest and Twin Brook are part of the Town's open space and he doesn't feel new people in the community should bear the financial burden. He doesn't agree with the Growth Ordinance.

Mr. Ferland stated the Growth Ordinance is a tool with long term applications and one of the benefits of the tool as it exists is it is ready if necessary. It was created during a particular high growth time. Currently we are not in a high growth situation, and neither does the Growth Ordinance hinder development. If at some time in the future the Ordinance is needed it can be adjusted; I see this as a long term tool for the community.

Mr. Bingham stated his thoughts would mirror Mr. Ferland's. The Growth Ordinance serves a purpose and a lot of are people moving into Town and building larger houses because of our recreational facilities; which the Town has invested considerable resources. It makes sense to keep the Ordinance.

Ms. Caron stated the debt on the Rines Forest and Twin Brook is 2.1 million and the revenue from the Impact Fee only covers part of the cost. She asked if the Impact Fee was a good land use tool. She doesn't think it is. She has no problem with the Growth Ordinance; that Ordinance is a good long term tool.

Mr. Neagle asked for a straw poll on whether we should keep the Growth Management Ordinance.

VOTE: 6 IN FAVOR (Neagle,  
Bingham, Caron, Sherr, Dillon,  
Ferland)

1 OPPOSED – Boivin

Straw Poll on Impact Fee:

VOTE: 4 IN FAVOR (Neagle,  
Ferland, Bingham, Sherr)  
3 OPPOSED (Caron,  
Dillon, Boivin)

Mr. Dillon moved to recommend to the Town Council changes to the Growth Management Ordinance as presented by the Town staff.

Mr. Dillon seconded.

VOTE: 6 IN FAVOR (Neagle,  
Ferland, Bingham, Sherr)  
1 OPPOSED (Boivin)

Mr. Bingham moved to recommend to the Town Council changes to the Impact Fee Ordinance as presented by Town staff.

Mr. Ferland seconded.

VOTE: 4 IN FAVOR Neagle,

Ferland, Bingham, Sherr)  
3 OPPOSED (Caron,  
Dillon, Boivin)

**2. *Public Hearing: Shoreland Zoning Permit, the Town of Cumberland requests a permit for the construction of stairs and footbridge for shoreline access from Route 88 to the clam flats; at the existing right-of-way between Tax Map and Lots U06A, Lot 17 and R02, Lot 17 as required in the Shoreland Zoning Ordinance Section 14 Table 1(23).***

Ms. Nixon stated the Shoreland Zoning Ordinance gives the Planning Board the authority to review these types of Shoreland Zoning Permits, some applications are approved by Staff, some by the Coastal Waters Commission and Town Council and some the Planning Board. Mr. Shane, Town Manager will present background information on the project.

Mr. Neagle asked about proposed findings under the Shoreland Zoning Ordinance.

Ms. Nixon stated she asked Mr. Longley, Code Officer and there are not specific areas for findings. The new Shoreland Zoning Ordinance has information about where development and structures are located. Mr. Longley wrote a general memorandum stating the following: *Recently I reviewed the application submittal for the Access at Rt. 88 including the drawings by Gorrill-Palmer. Based on the minimal amount of work and assuming the contractor is required to meet all State of Maine soil erosion and control best management practices, I find the proposed improvement of the walkway meets all State and Town standards for this type of use.*

Mr. Neagle stated the Ordinance doesn't have review standards but does have land use standards.

Mr. Ferland asked what triggers the requirement for Planning Board review of this request.

Ms. Nixon stated on page 29 of the Ordinance there is a table which shows types of land uses, and what level of review is required; in Section 14 Table 1 (23). The Shoreland Ordinance is a State of Maine model ordinance which the Town adopted.

Mr. Ferland stated someone could build a much larger dock with a greater environmental impact and that review would be by the Town Council and Coastal Waters Commission.

Ms. Nixon stated the Coastal Waters Commission was reviewing the same projects that the Planning Board had been reviewing, using the same criteria, so the decision was made to have the Coastal Waters Commission review piers and docks to avoid redundant reviews.

Mr. Shane, Town Manager reviewed the project as follows: The Shellfish Conservation Commission with support and endorsement of the Town Council is proposing improvements to the shellfish area along the northern end of the Foreside. This 50' wide Town right of way known as Old Town Landing Road and the Town Landing Road provide the only public shore access in Cumberland.

The project is located outside the 100' high water mark setback, but is within 250' of the high water line which triggers Planning Board review for public improvements.

The project will include a set of stairs, a small bridge-like crossing (thirty inches off the ground) and small pressure treated steps along the path to the water to better define the path and minimize erosion to the shore. Mr. Shane reviewed the engineering and details of the plan. The parking will allow approximately 16 cars in the new paved shoulder area on both sides of Route 88.

The Shellfish Commission is trying to make the public access more accessible, the clam flats are currently open through May 31<sup>st</sup> with a conditional opening. We are hoping with public information we can open the flats year round. The stairs will be built by in-house staff.

Mr. Boivin stated the pressure treated steps will have galvanized pipe for the handrail and open steps. And asked if there would be pressure treated squares.

Mr. Shane yes, the pressure treated squares will be 3' to 4' landings. There will be no handrails as the steps will be less than 30' above grade. From the bridge at the top of the road there will be a handrail, similar to Town Landing.

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

Mr. Neagle reviewed the Shoreland Ordinance, for relevance of standards and findings.

- Section 15 parking areas states they must be back 15' from shoreland which don't apply.
- Stormwater Run-off – Section J – this project will not create any additional stormwater run-off.
- Erosion & Sedimentation Control – The project will utilize Best Management Practices.

Mr. Shane stated there will be silt fencing and erosion control bark to meet all Best Management Practices.

Mr. Ferland moved to approve the Shoreland Zoning Permit for the Town of Cumberland to construct stairs and footbridge for shoreline access from Route 88 to the clam flats at the existing right-of-way between Tax Map and Lots U06A, Lot 17 and R02, Lot 17 as required in the Shoreland Zoning Ordinance Section 14 Table 1 (23).

Mr. Bingham seconded.

VOTE: 7-0 Unanimous

Mr. Neagle suggested reviewing Agenda Items # 3, 4, 6 and 7 collectively.

**3. *Public Hearing: To recommend to the Town Council draft zoning amendments to Section 104.140 definition of Self Storage Facilities, to include design standards.***

Ms. Nixon presented background information as follows: The Town received a request to allow Self-Storage facilities in the Village Commercial Center District. Currently, this use is only

allowed in the Industrial District (in an area located along Blackstrap and Goose Pond Roads). When this use was added to the Industrial District, it was anticipated that the facilities would be located in one of the gravel pits and therefore not visible from the roadways. Upon further review, staff realized there was nothing preventing them from being placed along those roads and in full view of the travelling public. So rather than simply adding the use to the VCC and relying on the Route 100 Design Standards to govern appearance, staff decided to develop design standards that would apply to all areas where the use is permitted. To accomplish this, changes have been proposed to the definition of self-storage facilities, to Section 420 (Self-Storage Facility) and to the Route 100 Design Standards. Item # 3 is the tweaking of the Self-Storage Facility definition.

**Item # 3** is to amend the definition in Section 104.140 to: Self-Storage Facilities: A fully enclosed structure divided into separate compartments individual, secured units used to meet the for the exclusive purpose of temporary storage needs of non-hazardous business or personal materials. [Amended, effective 6/26/06, Amended, effective ].

**4. Public Hearing: To recommend to Town Council draft zoning amendments to Section 420: to require internal access to units and limit external garage doors to one standard door on the front of the building facing the road and no more than two overhead doors on the remainder of the building.**

Ms. Nixon stated the proposed amendment would address overhead doors in the Section 420: Self Storage Facilities.

**Item# 4:** Section 420 Self Storage Facility: A Self Storage Facility is a fully enclosed structure with individual, secured units (accessed with or without supervision) from separate internal doors used for the exclusive purpose of storage of non-hazardous business or personal materials. The footprint of the structure shall be no larger than 15,000 sq. ft. in size. The building shall not exceed a height of 35'; and shall be required to meet all applicable lot standards of the zone in which it is located. There shall be no outside storage of any kind including such large items as RVs and boats. The structure shall be landscaped with planting sufficient to buffer the structure from adjacent properties. The architectural design of the building shall be consistent with the New England vernacular and shall include such features as pitched roofs, vertical rectangle windows, and brick, clapboard or shingle siding. The use of vinyl siding is acceptable; metal siding is not. There shall be no more than one (1) standard residential garage) size door on the front of the building facing the road. There shall be no more than two (2) overhead doors on the remainder of the building; these shall be located on the side or rear of the building. [Amended, effective 6/16/06, Amended, effective ].

Mr. Boivin asked about a definition of a residential garage door; with the comment of what size.

Mr. Neagle recognized Alyssa Tibbetts; the Town's Economic Development Director and asked if she had comments.

Ms. Tibbetts stated staff's discussion regarding the size of doors was in reference to a U-Haul moving truck.

Mr. Neagle stated if the concept is to drive into the building and unload trucks into the inside a residential door probably won't work. H would like to see staff or the Board work up a defined standard.

Ms. Tibbetts, Economic Development Director, stated the intent was to restrict larger doors to the back or side of the building and have the front doors for car access only.

Ms. Nixon stated Agenda Item # 7 gives shows a rendering of a building with residential doors on the front of the building and larger doors on the side.

Ms. Caron stated we are not talking about a specific project. I think we should take this off the agenda if there is no current project.

Ms. Tibbetts stated the Board Barn or D. J. Small Plumbing could have asked for overhead doors on the front of the building; and the Design Standards didn't prevent that.

Ms. Caron stated we didn't have a problem then and didn't see why we were addressing this.

Mr. Neagle supported the adding the standard for use in the future when needed.

Ms. Nixon stated we were fortunate with the last two projects that we didn't have an issue.

Ms. Caron stated she is fine with discussing overhead doors without discussing self-storage facilities.

Mr. Neagle clarified that the discussion was for overhead doors in the Route 100 Design Standards and not for self storage facilities.

Mr. Ferland stated the photo suggests a self-storage facility and thought this was not a good photo example.

Ms. Nixon stated she could look for examples of large doors with other architectural designs.

Mr. Neagle stated he thought that was a good suggestion.

**Agenda Item # 5 to add self storage facilities to the Village Center Commercial District as a permitted use was tabled.**

**6. Public Hearing: To recommend to the Town Council draft amendments to Section 204.14.1.12 Industrial (I) district, Self Storage Facilities, to add; Self-Storage Facilities, subject to the provisions of Section 420.**

Ms. Nixon stated currently self-storage facilities are allowed in the Industrial Zone but the current language doesn't say subject to the provisions of Section 420. This amendment would be to add that language to the permitted use in the Industrial zone.



**The public portion was opened on Agenda Items # 3, 4, 6, & 7. There were no public comments. The public portion of the meeting was closed.**

Mr. Bingham moved to recommend to the Town Council the following amendments:

**Section 104.140 – Definitions: Self-Storage Facilities:** A fully enclosed structure divided into separate compartments individual, secured units used to meet the for the exclusive purpose of temporary storage needs of non-hazardous business or personal materials. [Amended, effective 6/26/06, Amended, effective] ]

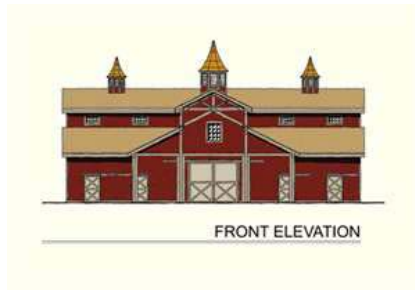
**Section 420 Self-Storage Facility:** A Self Storage Facility is a fully enclosed structure with individual, secured units (accessed with or without supervisions) from separate internal doors used for the exclusive purpose of storage of non-hazardous business or personal materials. The footprint of the structure shall be no larger than 15,000 sq. ft. in size. The building shall not exceed a height of 35'; and shall be required to meet all applicable lot standards of the zone in which it is located. There shall be no outside storage of any kind including such large items such as RVs and boats. The structure shall be landscaped with plantings sufficient to buffer the structure from adjacent properties. The architectural design of the building shall be consistent with the New England vernacular and shall include such features as pitched roofs, vertical rectangle windows, and brick, clapboard or shingle siding. The use of the vinyl siding is acceptable; metal siding is not. There shall be no more than one (1) standard (residential garage) size door on the front of the building facing the road. There shall be no more than two (2) larger overhead doors on the remainder of the building; these shall be located on the side or rear of the building. [Amended, effective 6/15/06, Amended, effective ]

**Section: 204.14.1.13 – Industrial (I) district: 204.14.1.13: Self Storage Facilities; subject to the provisions of Section 420.**

#### **Route 100 Design Standards to add Section 2.1.5 “Overhead Doors”**

##### 2.1.5 Overhead Doors

Due to their size, overhead doors can become the predominant architectural feature of a commercial building. Given this, overhead doors should blend in with the architectural style of the building to the greatest extent possible. An example of this is a barn door style design on a large barn style building, as shown below.



Mr. Ferland seconded.

Discussion:

Mr. Ferland asked about the discussion regarding the size of doors.

Mr. Neagle after clarification on allowing residential doors on the front and larger doors to be located on the back and side he doesn't see the need.



Mr. Richards agreed with Mr. Neagle.

VOTE: 6 – 1 in favor  
(Boivin, Dillon, Ferland,  
Neagle, Bingham, Sherr)  
1 – Abstain (Caron)

8. ***Public Hearing: To recommend to the Town Council draft amendments to the Site Plan Ordinance to include a definition of total building area: The total area, in square feet, of all floors of a building as measured from the interior faces of the exterior walls, excluding unfinished attics and unfinished basements.***

Ms. Nixon presented background information as follows: The revised Site Plan Ordinance shows what type of development triggers what type of review. People ask us for a definition of square footage, such as does it include attic space, basements, rafters, etc.? Staff decided it was best to define square footage and has provided the suggested language.

Mr. Neagle stated we are talking about defining developable space as opposed to total square footage.

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

Mr. Boivin stated he is not a fan of interior dimensions.

Ms. Nixon stated staff looked at a number of different past projects in making the proposed recommendation.

Mr. Neagle asked if Mr. Longley had a preference.

Ms. Nixon stated Mr. Longley felt this was the definition that worked best.

Mr. Bingham moved to recommend to the Town Council draft amendments to the Site Plan Ordinance to include a definition of total building area: The total area, in square feet, of all floors of a building as measured from the interior faces of the exterior walls, excluding unfinished attics and unfinished basements.

Mr. Boivin seconded.

VOTE: 7-0 Unanimous

***F. Administrative Matters:***

1. Ms. Nixon stated at the April meeting the Board will be asked to review a new mixed use project for 319 Main Street; this will include a café and market with a separate building for a fitness center with two apartments above. Ms. Nixon stated the Board may want to conduct a site walk.  
A site walk was set for 6:00 p.m. prior to the April 17<sup>th</sup> meeting.

2. A Town Council, Planning Board, and Conservation Committee workshop will be held on Saturday, March 10, 2012 from 9:00 a.m. to 12:00 p.m. The Workshop will review the concept of Conservation Subdivisions.

Mr. Neagle stated he would not be able to attend the workshop.

**G. Adjournment:** Mr. Neagle adjourned the meeting at 8:30 p.m.

A True Copy Attest:

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Christopher S. Neagle, Board Chair

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Pam Bosarge, Clerk to the Board