

Planning Board Meeting Minutes  
Town of Cumberland  
Cumberland Town Hall - 290 Tuttle Road  
Cumberland, Maine 04021  
Tuesday, February 15, 2011  
7:00 p.m.

**A.     *Call to Order***

The meeting was called to order at 7:00 p. m. by Mr. Neagle

**B.     *Roll Call:***

Present: Chris Neagle, Chair, John Ferland, Vice-Chair, Peter Bingham, April Caron, Bob Couillard, Tom Gruber

Absent: Ron Dillon

**Staff:** Carla Nixon, Planning Director, Pam Bosarge, Administrative Assistant

**C.     *Approval of Minutes of January 26, 2010***

Mr. Couillard moved to approve the minutes of January 26, 2011 as amended.

Mr. Ferland seconded.

VOTE: 5 in favor (Neagle, Ferland, Caron,  
Couillard, Gruber)  
1 abstain (Bingham)

**D.     *Consent Calendar / Minor Change Approvals:* None**

**E.     *Hearings and Presentations:***

1. ***Sketch Plan: Sketch Plan Review for a minor (4) lot commercial subdivision at 77 Blackstrap Road, Tax Assessor Map R07, Lot 53 (Former Pike Pit); B.R. Property, LLC, Owner; Jeff Read, P.E. of Pinkham Greer Consulting Engineers, Representative.***

Mr. Neagle disclosed that David Chase, the applicant had built a driveway at a house he owned twenty-five years ago; stating he didn't think that would affect his ability to be objective.

The Board had no problem with Mr. Neagle reviewing the application.

Ms. Nixon presented background information as follows: the term "Sketch Plan" is defined in the Subdivision Ordinance as follows: "A non-engineered plan based on topography, wetlands, steep slopes, water bodies, appropriate septic locations if applicable, and as further defined in Section 4.4.1 of this ordinance". The sketch plan review step is recommended but not required for minor subdivisions. (Minor subdivisions are 4 or fewer lots). The applicant was encouraged to take this step because there are some unique concerns associated with developing a gravel pit. I wanted the Board to have a chance to listen to the proposal and ask questions of the applicant prior to the development of engineered plans.

The Board has previously done a site walk at the property for the site plan review of Coastal Landscape. The proposal is for three additional units, (condos). The gravel pit is over a large sand and water aquifer and there is concern of aquifer protection. Jeff Read of Pinkham Greer is present to review the proposal.

Mr. Jeff Read, P.E. of Pinkham Greer Consulting Engineers stated they were looking for preliminary feedback from the Board. The applicant's proposal includes subdivision of the parcel into four condominium units, the construction of three new structures, site grading, the installation of stormwater management devices and additional site utilities. The parcel received site plan approval for an additional use as a landscaping service approximately one year ago. Coastal Landscaping is the current occupant for Unit 1 on the property. The balance of the property is currently operated as a gravel pit. Historic activity and current use includes the extraction of earth materials and aggregate processing. This property was formerly owned and operated by Pike Industries, Inc., who purchased the property from the original developer, Blue Rock Industries, in 2005.

The property is accessed from Blackstrap Road by a paved entrance drive. The existing pit is approximately 40 feet deep with a relatively flat bottom and side slopes that approach 1:1 (horizontal: vertical). Existing structures on the property include a 4,116 square foot masonry garage and office space located in the north central portion of the parcel. The building is served with an on-site well, existing septic system, and overhead utilities. A truck scale and materials processing equipment abut the office portion of the existing structure to the east. Site lighting on the property is minimal, and lettering and lighting have been removed from the existing sign at the site entrance.

B.R. Property, LLC, recently completed a land swap with the abutting Maine Turnpike Authority (MTA). The exchange allowed the MTA to gain additional buffer space along the existing travel corridor and the Applicant to gain additional land area adjacent to Upper Methodist Road. The new parcel boundaries are outlined in the drawings and located entirely within the Industrial zone.

A condition of the land swap was the construction of a new infiltration basin and installation of additional stormwater management devices to regulate stormwater runoff on the parcel and minimize impact to the adjacent MTA travel corridor. Proposed site grading modifications and stormwater management improvements are outlined on the attached subdivision plan.

Contractor space will be the common scheme of development; the sketch plan outlines further subdivision of the parcel for three additional contractor space units. Each unit will include a 4,800 square foot single story building with a pitched roof slab on grade. It is anticipated each structure will consist primarily of a garage / storage space with a small attached office. The pit is 40' deep and the buildings will have minimal or no visibility from the road. There is natural vegetation around the embankment. The large berm will be removed and become a detention basin. A new berm will be built. Proposed utilities include new electric and telephone service, drilled wells and on-site community waste water system.

Proposed occupants include Chase Excavating, Inc., for Unit 2; H & H Rigging Co. for Unit 3 and a third yet to be determined tenant for Unit 4. Coastal Landscaping will continue to occupy Unit 1, which will be expanded from one acre to approximately 7.4 acres. The proposed development adheres to the 40,000 sq. ft. minimum lot size required in the Industrial district. Unit 2 (Chase Excavating) will be the largest parcel in the development. Primary activities for Unit 2 will include material stockpiling and storage, as well as the extraction, processing and distribution of earth materials. Proposed use for Lots 3 and 4 will be leased contractor space.

The proposed lot configuration will not trigger Site Location of Development Permit (SLODA) with the Maine Department of Environmental Protection (MDEP). A Stormwater Permit, however, will be

required. There are no natural resources on the property that will require Natural Resource Protection Act permitting (NRPA).

Based on scope and scale of the proposed development, they would like to ask for the following waivers:

- Subdivision Ordinance 7.11 – Utilities, above ground utilities may be a practical alternative for this site given the proposed use and proximity to the groundwater table.
- Subdivision Ordinance 8 – Street Design and Construction Standards. The property includes an existing site access that may not conform to current layout geometry or design/construction standards. The site will be privately owned, and it is not intended for the site access or internal circulation routes to be public ways.

This site will generate minimal quantities of solid waste. General waste will be collected and stored, removed from site and properly disposed of as necessary by individual tenants. We do not anticipate any hazardous materials will be generated or stored on the property in association with the proposed additional use. We believe increased traffic generation from proposed development will be minimal and a Maine Department of Transportation Traffic Movement Permit will not be required. Proposed parking is outlined on the plan, and we do not anticipate interior site circulation issues with this property.

Mr. Neagle asked Board members for comments.

Mr. Couillard asked the level of soil on the base of the pit.

Mr. Read stated on the high end 250 and 47 to 48 feet on the low end.

Mr. Couillard stated at the site walk last spring the pit was  $\frac{3}{4}$  full of water.

Mr. Read stated they may need to elevate the bottom so it won't be under water. The stormwater management should help alleviate the water, it will be moved further down on site to the new detention basin.

Mr. Couillard voiced concern of the ground water and asked how tenants would access parking behind the buildings.

Mr. Read stated there will be common elements for access a 35' wide unpaved open area.

Mr. Couillard stated the septic system would need to be designed to not pollute wells in the area.

Mr. Neagle reminded the Board this is a sketch plan review and not a preliminary review. It is used for general review and comments specifics will be covered in the preliminary review.

Ms. Caron asked the depth of the buildings in relation to the Church.

Mr. Read stated the banks are 40' and they will not remove any material.

Ms. Caron stated this is a good use for the site; she asked where the heavy equipment would go when it left the site.

Mr. Chase stated his business is material storage, and processing he will move his office to 77 Blackstrap Road. The volume of traffic won't change with the exception of service vehicles. And H & H Riggins has a few cranes.

Ms. Caron asked if the current utilities were above ground.

Mr. Chase stated yes.

Mr. Ferland stated he liked the clustering of units and asked how that was determined.

Mr. Chase stated that is the highest portion of land.

Mr. Ferland asked about the uses for Unit 2.

Mr. Chase stated the current use storage of materials.

Mr. Ferland stated converting a gravel pit into successful businesses is an effort worth saluting. We will need more information on the impact to the aquifer and stormwater modeling.

Mr. Bingham stated from a 10,000 foot view it looks like a good plan, there may be future concerns of buffering for the Church and Sloat's and water issues.

Mr. Gruber stated in the true spirit of sketch plan it looks good. We need to be sensitive to increased impervious surface; clustering of the lots is a good plan.

Mr. Neagle applauded the applicant on proposing to expand the tax base in a gravel pit. It is important that the lots meet minimum lot requirements; if units 3 & 4 extended to Blackstrap Road the lots would have the frontage requirements.

Mr. Read stated they were designed to maintain flexibility of the buffer.

Mr. Chase stated the property lines could extend to Blackstrap Road and maintain the buffer with a condition that nothing is built in the buffer.

Mr. Neagle stated the Board can waive standards not deemed necessary for review of the project. He encouraged that the applicant re-thinks the lots and have them closer to conforming.

Mr. Neagle stated as we learned in our training session last meeting we are not encouraged to visit the property individually and suggested a site walk.

The site walk was scheduled for March 2, 2011 at 5:00 p.m.

Ms. Nixon asked that the corners of the lots and road be staked. She also stated it would be helpful to have Dick Sweet present, and/or have additional information on ground water and waste water systems.

Ms. Nixon stated because of the sensitivity of the aquifer the Town would use Sevee & Maher as the peer review engineers.

Mr. Chase thanked the Board and stated he would plan to be back for the April meeting.

***2. Public Hearing: To add Section 204.23, Route 100 Corridor Residential Overlay to the Zoning Ordinance. The purpose of this overlay is to allow limited residential use along the Route 100 Corridor commercial district when lots are not developable for commercial use due to restrictions by the Maine Department of Transportation.***

Ms. Nixon presented background information as follows: The overly on Route 100 is being proposed because we experienced a situation where a property owner was unable to obtain a Maine Department of

Transportation (MDOT) commercial entrance permits for her two adjacent lots because they are located on the rise of a steep hill and are considered to be unsafe. Without this overlay, the property is essentially useless. With this overlay, she would have the ability to sell the lots as house lots. While the Town is interested in developing Route 100 for commercial use, it seems only fair to allow a residential option if nothing else could be built due to DOT restrictions.

Mr. Neagle asked if sections other than Morrison Hill are likely to be denied.

Ms. Nixon stated Route 100 is a retro-grade arterial highway designated by DOT.

The Board discussed the number of lots that might be affected by this situation.

Ms. Nixon stated probably less than five.

Ms. Caron stated the house that was a yoga studio and divided her lot; if she wanted to put a yoga studio in would that be a commercial driveway.

Ms. Nixon stated the use has ceased, could they get another permit for the yoga studio probably not.

Mr. Neagle stated if I have a house on Route 100 with a driveway and I want to turn it into a legal commercial use. Do I need to get an upgraded entrance permit?

Ms. Nixon stated yes.

Ms. Caron asked if the old homes we envisioned as commercial uses wouldn't be allowed.

Ms. Nixon stated no, 99.9% would be able to receive a commercial entrance permit.

Ms. Caron stated the commercial subdivision just beyond the Board Barn have one shared driveway.

Ms. Nixon stated that is an example of what DOT might require; on this property there is no way DOT would allow a commercial driveway.

Ms. Caron stated there is a lot that is currently for sale on the corner of Route 100 and Mill Road; and if that lot was developed into a commercial use would the entrance have to be on Mill Road.

Ms. Nixon stated that is correct.

Ms. Caron asked if there was anything in current zoning that would preclude a commercial entrance on Mill Road which is strictly residential.

Ms. Nixon stated no, it would be appropriate they could do that.

Ms. Caron asked at what point in the process someone finds out they are precluded from having a commercial driveway. If someone is interested in developing a property on Route 100 what is the process in which they would discover the lot had only a residential use.

Ms. Nixon stated a potential developer would call the office and discuss plans with Bill Longley, the Code Officer and myself. An applicant would find out at that time they need an entrance permit off from Route 100 and would need to file an application with the MDOT for a commercial permit. Only if the MDOT refused a commercial permit could the property be considered for residential development.

Ms. Caron asked if the large lot for sale across from Castlerock which is also on Morrison Hill will have a problem.

Ms. Nixon stated it is at the base of the hill and DOT may want to line up the driveways.

Ms. Caron stated as a resident of the hill it is an issue, we call public safety during every snow storm. They have closed the hill because it is such a hazard. A state plow was backing down the hill at 5:00 a.m. on a Sunday morning because it couldn't get up the hill.

Mr. Neagle had a question about the language in the purpose. He thinks currently should be stricken.

The Board discussed the proposed language of the amendment.

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

There were no public comments. The public portion was closed.

Mr. Bingham moved to recommend to the Town Council draft zoning amendments as revised to add Section 203.23 – Route 100 Corridor Residential Overlay to the Cumberland Zoning Ordinance.

Ms. Caron seconded.

VOTE: Unanimous 6 -0

**Section 204.23 – Route 100 Corridor Residential Overlay**

The purpose of this overlay is to allow residential use along the Route 100 corridor commercial districts that are not developable for commercial use due to restrictions on Route 100 access by the Maine Department of Transportation.

**203.23.1 The following uses are permitted**

- .1 Dwelling, Attached**
- .2 Dwelling, Detached**
- .3 Dwelling, Duplex**
- .4 Dwelling, Multiplex**
- .5 Any use permitted in the underlying district.**

**203.23.2 Minimum Lot Standards**

The minimum lot size and setbacks for all new uses in this Overlay shall be those of the underlying district.

This is to advise you that on February 15, 2011 the Planning Board voted to approve and recommend draft zoning amendments to the Cumberland Zoning Ordinance to add Section 203.23 – Route 100 Corridor Residential Overlay.

**F. Administrative Matters**

1. Mr. Neagle stated since last meeting we have received a copy of the *Planning Board Ordinance* and *Administrative Procedures*. I have looked through these and they need some updating as there are still references to Chebeague Island which is no longer part of Cumberland. We also received some examples of sample motions which are great work. There are a few things to be changed such as waiving the reading of the findings of fact; there is no requirement to read the findings of fact. I would like to suggest at the end of the meeting in March we schedule a time to talk about these things as a group. I think we as a group have the power to amend these items. I know we have the power to change

the *Administrative Procedures*, and to amend the Planning Board Ordinance. Mr. Neagle asked Ms. Nixon to check with the town attorney regarding changing the Planning Board Ordinance. Mr. Neagle advised Board members to read through the documents, and will make a few changes to the drafted sample motions.

## **2. April Meeting Date:**

Ms. Nixon stated she had e-mailed to reschedule the Planning Board meeting for April. It is school vacation week, and I have asked if we could meet on Monday the 18<sup>th</sup>; it is unusual that the Council Chambers is available that night.

Mr. Neagle stated that date is Patriot's Day; which is fine with him.

The Board agreed they were able to meet on the 18<sup>th</sup> of April.

Ms. Nixon stated the March meeting should have the draft contract zoning agreement for the Bateman Doane property.

Mr. Neagle stated he would like to put the workshop on an evening with a light agenda.

## **G. Adjournment:**

Mr. Gruber moved to adjourn at 8:30 p.m.

Mr. Bingham seconded.

VOTE: Unanimous

The meeting was adjourned at 8:30 p.m.

A TRUE COPY ATTEST:

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Christopher S. Neagle, Board Chair

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Pamela Bosarge, Board Clerk