

**Planning Board Meeting - Minutes
Tuesday, April 27, 2010
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine
7:00 PM**

A. *Call to Order*

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

B. *Roll Call*

Present: Bill Ward, Board Chair, Bob Vail, Vice-Chair, Bob Couillard, Chris Neagle, John Ferland, April Caron, Bill Richards

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

C. *Approval of Minutes: March 16, 2010*

Mr. Vail moved to approve the minutes of March 16, 2010.

Mr. Ferland seconded.

VOTE: 6 in favor (Neagle,
Caron, Ferland, Ward, Vail, Couillard)
1 abstain (Richards)

D. *Consent Calendar/ Minor Change Approvals:*

There were no Consent Calendar items.

E. *Hearings and Presentations:*

Mr. Ward stated that item # 2: Evergreen Landscaping has been tabled.

1. *Public Hearing: Minor 3-lot commercial subdivision “Emerald Commons”* at Gray Road, Tax Assessor Map U21, Lot 1, in the Village Center Commercial (VCC) district; Andrew Hagerty, Owner, David Titcomb, PLS, and Al Palmer, P.E. Representatives.

Mr. Ward stated last month the Board reviewed this project as sketch plan and conducted a site walk.

Ms. Nixon stated this is the Board’s first formal review of the application. Ms. Nixon presented background information as follows:

REQUEST: The applicant is Andrew Hagerty of Falmouth, Maine. The applicant is represented by David Titcomb, Licensed Land Surveyor. The parcel is a 3.12 vacant piece of land located on Gray Road as shown on Tax Assessor Map U21, Lot 1, in the Village Center Commercial (VCC) District. The applicant is proposing to split the parcel into three lots for commercial development.

HISTORY:

March 16, 2010: The Planning Board was presented with a conceptual plan for general comments.

April 12, 2010: The Planning Board conducted a site walk of the property. The lots have frontage on Route 100 however, the applicant is proposing a single shared access from Route 100. The wetland survey is complete.

DESCRIPTION:

Parcel size: 3.12 Acres
Zoning: Village Center Commercial (VCC)
Min. Lot Size: 20,000 square feet
Lot frontage: 75'
Setbacks: Front = 45', Rear = 50', Side 15'
Water: The Town of Cumberland has agreed to extend public water to the site at the time the first site plan is approved by the Planning Board.
Septic/Sewer: The applicant has shown passing test pit locations on each lot for private septic systems, however nitrate plumes were not provided.
Wetlands: Wetland delineation was conducted by Sweet Associates. They are shown on the plan.
Road: The applicant has not proposed to construct a subdivision road but rather an access drive for the three lots. The reason for this is that each lot has frontage on Route 100, but the applicant has chosen to create only one curb cut onto Route 100 to limit access/egress points. The initial ROW proposed was only 30', but the new plan shows a 60' ROW that will allow this access drive to become a commercial access road should development of the lots necessitate it.
Net Res. Acreage: Provided
Rt. 100 Design Standards: Not addressed at this time; will be reviewed during site plan reviews.

DEPARTMENT HEAD REVIEWS:

Code Enforcement Officer, Bill Longley: Reviewed, no comment.

Police Chief Joseph Charron: Reviewed, no comment.

Fire/EMS Chief Dan Small:

- 1) The buildings in this commercial subdivision shall be equipped with fire alarm systems that are monitored by an approved fire alarm company. The systems shall have a remote annunciator panel located at the main entrance that can be silenced with the push of one button from this location. The strobe or other visual alarm signaling devices shall remain active when the system is silenced. The alarm system shall identify the exact location of each individual initiation device with plain text at the fire alarm panel.
- 2) The buildings shall be individually equipped with a key box approved by the fire department. The key boxes shall be electronically connected to the fire alarm systems to show a trouble signal whenever the box is in the open position.
- 3) The buildings shall meet the requirements of the National Fire Protection Association's Life Safety Code. These requirements cannot be determined until a complete set of building drawings are reviewed. The code's building requirements typically address, but may not be limited to: building exiting, emergency lighting and fire extinguishers.

4) Any above or below ground fuel storage shall meet the appropriate standard of the National Fire Protection Association. Attention to building and property line set back requirements should be included as part of the site plan review.

5) The developer shall denote what measures will be made for fire protection. (ie – fire hydrants, sprinklers, etc.) A phone conversation has occurred with Gorrill-Palmer Consulting Engineers and they are presently working on a design to extend the existing water main approximately 1300 feet and include fire hydrants at the end of the main extension and one intermediate of the extension. This water main extension, if completed as verbally proposed, would suffice the town's fire protection ordinance requirements.

Planner's Comments:

- There is no application form.
- Are there any deed covenants and/or restrictions?
- There is no evidence of financial capacity to construct the subdivision improvements (road construction, utility connections, stormwater management system, etc.)
- There is no cover letter/report from James Mancini re: test pit results.
- A byway (a sidewalk or paved shoulder within the subdivision is required)

Mr. David Titcomb of Titcomb Associates stated he was accompanied by Doug Reynolds of Gorrill Palmer. Mr. Titcomb reviewed the proposal and the common drive details. The entrance will be forty feet wide. The site will be served by public water with private septic.

Mr. Neagle stated he is comfortable with the application, and pleased with one curb cut from Route 100. He will suggest a condition of approval that the lots are not authorized to use Old Gray Road as an access; unless Old Gray Road is improved to Town standards.

Mr. Titcomb agreed Old Gray Road is gravel and has a bad intersection back onto New Gray Road.

Ms. Caron asked about the nitrate plumes and the side walk location.

Ms. Nixon stated with on site septic the developer has to be careful that nitrates don't impact neighboring wells. It is clear that those are not at risk and this has been confirmed with our peer review Engineer.

Ms. Nixon stated the sidewalk will go around the wetland area.

Mr. Ferland apologized for not being able to attend the site walk; he has since looked at the site. He asked if there was a sense of what percentage of the property would be cleared for development. It is currently a wooded site.

Mr. Titcomb stated he did not know, that issue will be discussed at site plan review.

Mr. Hagerty, Owner stated he will cut trees for an entrance.

Mr. Richards asked the applicant what he anticipated for types of development.

Mr. Hagerty stated he had no idea; he is open to whatever zoning allows.

Mr. Vail stated he was pleased with the single entrance; this is a tough site and voiced concern regarding soils, stating there are ledge outcroppings towards the back of the property.

Mr. Couillard stated he would like to see emergency gated access to Old Gray Road.

Ms. Nixon stated the Fire Chief does not seem concerned with emergency access as proposed.

Mr. Couillard asked why the applicant was proposing an entrance of forty feet and not the sixty feet required for commercial access.

Mr. Titcomb stated this is not a road but an easement for a driveway.

Ms. Nixon stated she had discussed this with Al Palmer, of Gorrill, Palmer Engineers and he had stated there would be no harm in dedicating a sixty foot wide easement.

Mr. Neagle stated this is a driveway and a sixty foot easement would impinge on the building envelopes, he thought it was a bad idea. Mr. Neagle stated this is subdivision review not a site plan review; he did not want to put unnecessary restrictions on the property.

Mr. Couillard voiced concern of adequate room for a turning lane.

Mr. Richards asked if the abutter issue on the west side had been resolved.

Mr. Titcomb stated they have met with Mr. Bamfield; a boundary survey has been done. This property was surveyed before, they will work on an agreement, and there is plenty of land available to resolve this civil matter.

The public portion of the meeting was opened.

Mr. James Bamfield, of 242 Gray Road stated he had a disagreement with a pin location and he has a survey from when he purchased his property.

Mr. Hagerty stated they are willing to work with the neighbor to resolve any dispute.

The public portion of the meeting was closed.

The Committee discussed at length the width of the driveway easement and whether it needed to be sixty feet as stated in Table 8.2.

Mr. Titcomb stated forty feet wide is sufficient to accommodate three lanes of traffic; if it is wider there will be a greater wetland impact.

Mr. Neagle stated the Board's job is to review what the applicant has prepared for conformance with the Ordinance. The project meets the Ordinance requirements.

The Board continued to discuss potential intensity of use and whether a forty foot entrance would be wide enough.

Mr. Neagle stated if at site plan review a use is determined to require a wider easement the applicant would have to amend the subdivision plan.

Mr. Neagle stated this has been a well articulated discussion on both sides and requested the Chair poll the Board.

Ms. Caron stated if it is commercial it should be sixty feet.

Mr. Ferland stated he could see no reason to require the sixty foot easement.

Mr. Richards asked Ms. Nixon about her comment # 6.

Ms. Nixon stated under Table 8.2 in the subdivision ordinance require a 60 foot easement, she is trying to understand be protective of the applicant.

Mr. Richards stated the applicant is aware of the requirement and concurred with Mr. Ferland and Mr. Neagle.

Mr. Vail stated he appreciated both sides, a site plan application will change the type of review; and the Applicant understands there won't be a road constructed; he is okay with the forty foot easement.

Mr. Couillard supported the sixty foot easement.

Mr. Ward was in favor of the plan as presented.

The straw poll was five to two in favor of a forty foot easement.

Mr. Neagle asked to have the proposed deeds reviewed by the Town Attorney.

Mr. Vail voiced concerns of the Fire Chief's requests and felt the requests for sprinklers and fire alarms were onerous to the applicant and not required by the Fire Protection Ordinance.

Ms. Nixon stated she had had a conversation with Chief Small as to why these requirements were added, and he explained to protect the contents of the building.

The Board discussed the Fire/EMS Chief's comments.

Mr. Titcomb stated these have been added as notes to the plan.

Mr. Richards moved to waive the reading of the Findings of Fact.

Mr. Couillard seconded.

VOTE: Unanimous

Mr. Neagle moved to adopt the Findings of Fact as modified.

Mr. Richards seconded.

VOTE: 5 in favor (Neagle,
Richards, Ferland, Vail, Ward)
2 opposed (Caron,
Couillard)

Mr. Neagle moved to grant Minor Subdivision approval for a 3-lot commercial subdivision "Emerald Commons" at Gray Road, Tax Assessor Map U21, Lot 1, with the Standard and Proposed Conditions of Approval.

Mr. Vail seconded.

VOTE: Unanimous

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.

Proposed Conditions of Approval

1. That all fees be paid prior to releasing the plat for recording.
2. That the Applicant execute the 25' landscape easement deed to the Town; said easement document to be provided by the Town. This is to be done prior to any site plan review for the lots.
3. That the deed easements, covenants, and restrictions are submitted by the Applicant, are reviewed, and approved by the Town Attorney. This is to be done prior to any site plan review of the lots.
4. That the Applicant provide a copy of the MDOT Entrance Permit (previous one has expired) prior to the construction of any driveway.
5. There will be a single common driveway entrance from Gray Road for all three lots at the intersection of Lots #1 and #2.
6. The Old Gray Road will not be used for anything other than emergency access to any of the lots until it is improved to current Town standards for a public road and its intersection at the Old Gray Road is approved by MDOT.
7. That any special notes shown on the proposed plan regarding Life Safety Codes be removed.

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 parcel is not located in a 100-year floodplain. The test pit information for subsurface wastewater disposal has been reviewed and found satisfactory. The nitrate plumes have been reviewed and found acceptable.

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 of Cumberland has agreed to extend the public water line to the site at the time the first site plan is approved. Should a private water supply be required, past projects have shown that there is an abundance of groundwater in the area due to its location above a large aquifer.

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;

The Town of Cumberland and the Portland Water District have indicated that this project will not cause an unreasonable burden on the existing water supply, if used. 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;

The site is generally flat with well-drained sandy soils. A stormwater management plan has been prepared by Gorrill Palmer Engineers and approved by the town's peer review engineer, Oak Engineering.

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;

This is a small commercial subdivision that had obtained an entrance permit from MDOT (which has expired). The development of the parcel will be reviewed under site plan review at which time this requirement will again be assessed.

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;

The applicant has provided test pit data that indicates the subsurface wastewater disposal systems will be serviceable. The project will not utilize the public sewer system.

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;

At the time that the three buildings are reviewed under the provisions of the Site Plan Ordinance, information relating to the disposal of solid waste will be provided.

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;
While this is currently an undeveloped parcel, it is located in an area zoned for commercial development. Due to the existing trees along the front of the parcel and the fact that there will be only one entrance to the site,, the visibility of the new buildings will be partially shielded.
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 is in conformance with the Town of Cumberland's Zoning and Subdivision Ordinances and also the Route 100 Design Standards.
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;
The applicant has provided an estimate of values for the few improvements to be made by the site for marketing of the subdivision lots. Only an entrance drive and small parking area will be constructed initially in order to allow viewing of the lots that will be for sale. The applicant has provided letters from his bank and credit union evidencing his ability to construct these improvements.
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 have been identified along the Route 100 road frontage. The proposed lots and building locations will not adversely affect the wetland areas.
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;
The proposed development will not adversely affect the quality or quantity of groundwater due to the low intensity of use and the fact that the development will utilize public water.
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's Flood Insurance Rate Map #230162 0015B, 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;

***The applicant has provided a "Stormwater Management Report" that has been reviewed and approved by the Town's peer review.
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 have been identified on the map, and building envelopes and driveways have been drawn to avoid impacting them. The proposals are in compliance with all Town and State regulations.
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]

***No rivers, streams or brooks have been found on the site.
Based on the information provided the standards of this section have been met.***

2. Public Hearing: Minor Site Plan Amendment for Atlantic Regional Federal Credit Union at 327 Main Street, Tax Assessor Map U13, Lot 66; Contract Zone; Tom Saucier, P.E., SYTDesign Consultants, Representative.

Ms. Nixon provided background information as follows: The Atlantic Regional Federal Credit Union is here to amend the site plan to show the location of the four condensing units. The original concept was that the mechanical units would be located inside the building, but they have decided due to limited space, they would like to place them outside. Mr. Tom Saucier, P.E., of SYTDesign Consultants is present to answer any questions.

Mr. Tom Saucier stated they were before the Board almost a year ago, and focused on the building site, and layout. The original concept was that the mechanical units would be located inside the building, but given limited space available, and potential for noise impacts, the design team determined that the preferred location was outside the structure at grade. The location selected was the point in the site that is central, and farthest from each of the property lines. The condensing units will be mounted on concrete pads, and enclosed by a 5' high board fence. The purpose of the fence is to screen the units, as well as to reduce sound levels to a minimum when the units are operational. Three of the units are 29' x 29' x 37' tall and cool three zones within the structure, and one unit will have a footprint of 14' x 32' with a side discharge. This unit is for cooling the IT room. We have submitted a copy of a Noise Evaluation Report prepared by Robert Rand, of Rand Acoustics in Brunswick. The Noise Evaluation Report concludes the condensing units will not be a nuisance at property lines and will not exceed 40 dBa at the property lines during the day (which is equivalent to a quiet room in a library); and not more than 25 dBa during evening hours; (rainfall is 50 dBa and equivalent to background noise).

Mr. Al Palmer the Town's peer review engineer has reviewed the Noise Evaluation Report and agrees with the report that the noise will not create a nuisance at the property lines.

Mr. Couillard asked if this was the only possible location for the condensing units, and asked if the fence would have a baffle.

Mr. Saucier stated the fence located behind the Tardiff's will be 6' with lattice, this one will be 5' high, and wood material which is a good noise buffer.

Mr. Vail stated he understood that the building would have heat pumps and a condensing propane boiler.

Mr. Richards asked if when all condensers are operating at one time will the noise levels be greater than 40 dBa at the property lines.

Mr. Saucier stated he is not a noise expert, however, he understands the noise will be no greater than 40 dBa when all units are running.

Ms. Caron asked for clarification on daytime and evening hours.

Mr. Saucier stated day hours are during peak traffic; the building temperature will be set at 70 degrees; closing time is 5:30 p.m.

Mr. Ward asked if the hours were specified in the report.

Mr. Neagle stated he was pleased the condensers were not located in the cupola; he recommended day and night be defined as sun up and sun down. He would recommend as a condition of approval that the decibels are below 40 dBa during the day and no more than 25 dBa at night.

Mr. Couillard suggested moving the door in the fence to the sidewalk side and not the parking area for safety reasons.

The public portion of the meeting was opened.

Mr. Mike Tardiff, of 331 Main Street stated he appreciates the condition for noise level, he thinks the amount of noise that is considered to be a nuisance is relative.

Ms. Gattine of 325 Main Street asked for clarification on which units would run during non-office hours. Would the IT room condenser be the only one? Might they need more units on hot August nights?

The public portion of the meeting was closed.

Mr. Neagle commended the applicant on the design and the great job keeping the decibels at or below 40 dBa during hours and at or below 25 dBa at night.

Ms. Caron asked the business hours.

Mr. Steve Van Rensselaer from Atlantic Regional Credit Union stated the drive through is open at 8:00 a.m. and the lobby opens at 8:30 a.m. The tellers arrive between 7:15 and 7:30 a.m. The building will need to be cooled prior to opening, the hours after closing are less important.

The Committee discussed the time frame of when the condensers should run.

Ms. Caron suggested one hour before opening and one after closing.

Mr. Neagle moved to amend the Minor Site Plan Amendment for Atlantic Regional Federal Credit Union based on the findings of fact, and the Standard and Proposed Conditions of approval to locate four condensing units to be located southerly of the drive-through entrance as shown on the revised plan. That the condenser units be turned on no earlier than one hour before business opening and turned off one hour after business closing. The decibel limit is no more than 40 dBa at the property lines during daytime hours and no more than 25 dBa during night-time hours.

Mr. Ferland seconded.

VOTE: Unanimous

3. Public Hearing: Minor Site Plan Review for Coastal Lawn Care at Upper Methodist Road, former Pike gravel pit; Tax Assessor Map R07, Lot 53, in the Industrial (I) district; Coastal Landscaping, Applicant, B.R. Properties, LLC, Owner.

Ms. Nixon stated this application is for a new business in an existing building so all that is really changing is the use. It is located in the Industrial district, more specifically in the Old Pike gravel pit. The biggest concern is the protection of the ground water / aquifer. The pit floor is very close to the water table in some areas. There is surface flooding during rainy periods (i.e., site is not in a flood zone) but the area where the building and parking for this new business is not affected by the temporary flooding.

Mr. Jeff Read, P.E. of Pinkham Greer Consulting Engineers gave an overview of the proposed project. The 32.5 acre parcel is currently operated as a gravel pit. 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 electrical service. Site lighting on the property is minimal, and lettering and lighting have been removed from the existing sign at the site entrance. The proposed use with the anticipated tenant will include a small office, interior storage of vehicles and landscaping equipment, as well exterior storage of additional equipment, vehicles, and small quantities of landscaping materials adjacent to the existing structure. Storage of hazardous materials is not planned or anticipated. The balance of the property will continue to operate under its current use. Primary activities will include the stockpiling, storage and distribution of earth materials. Any renovations to the property will be limited to interior improvements only. There are no plans to expand the structure. A new septic system is proposed. The leased space will utilize the water supply and electrical services currently serving the existing structure. Mr. Read stated he had called Ms. Nixon regarding the Fire Chief's requirements for a fire alarm system and the knock box.

Mr. Couillard asked about the water quality and Mr. Longley's comment.

Ms. Nixon stated a passing water test has been completed.

Mr. Chase stated he tested the surface spring water for water quality.

Mr. Couillard asked if there would be storage of oil and gasoline.

Mr. Chase stated inside the garage there will be motor and hydraulic oil, the building has no floor drains. Outside the building is an existing covered 1,000 diesel fuel tank, which has a double containment system.

Mr. Reed stated the application identifies what would be stored on site.

Mr. Vail stated he has no problem with the application, but has problems with the Fire Department requirements.

Ms. Caron asked if there would be any pesticides on site.

Mr. Craig Wright, owner of Coastal Lawn Care stated they will have no fertilizer or pesticides, they are not licensed.

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

Mr. Nagle motioned to approve the two waiver requests;
Section 206.7.2.9 (evidence of technical and financial capacity)
Section 206.7.3.2 (boundary survey)

Mr. Vail seconded.

VOTE: Unanimous

Mr. Neagle motioned to waive the reading of the findings of fact.

Mr. Richards seconded.

VOTE: Unanimous

Mr. Neagle moved to adopt the findings of fact as written with amendments.

Mr. Records seconded.

VOTE: Unanimous

Findings of Fact

Note: Section 206.7.6 states that the Planning Board may waive any of the submission requirements based upon a written request by the applicant. A waiver may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria.

Sec. 206.8 Approval Standards and Criteria

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

.1 Utilization of the Site

Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The project involves no new construction, grading, traffic access, parking, circulation changes which would adversely affect the environmentally sensitive nature of the site.

The Board finds the standards of this section have been met.

.2 Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient.

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .8 The following criteria must be used to limit the number of driveways serving a proposed project:
 - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
 - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

There is one access point to the 32 acre parcel. All the above standards have been met.

The Board finds the standards of this section have been met.

.3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

The plan shows that the entrance area meets these standards.

The Board finds the standards of this section have been met.

.4 Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

- .1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

The parking area is not defined due to the nature of the site as a gravel pit. There is one clearly defined entrance and then a generalized “roadway” around the site. There is adequate area for parking.

The Board finds the standards of this section have been met.

.5 Parking Layout and Design

Off street parking must conform to the following standards:

- .1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- .2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- .3 Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

- .4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- .5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- .6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

The parking area is not defined due to the nature of the site as a gravel pit. There is adequate area for parking.

The Board finds the standards of this section have been met.

.6 Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

The site plan shows there will be adequate pedestrian circulation for the employees; there will be very few, if any visitors to the site. There is no sidewalk system in the area to connect with.

The Board finds the standards of this section have been met.

.7 Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

- .1 To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

- .2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- .3 The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
- .4 All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- .5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- .6 The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- .7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

**The ground surface is composed of highly permeable soils.
Stormwater is contained on site.**

The Board finds the standards of this section have been met.

.8 Erosion Control

- .1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
- .2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

The project involves no new construction, grading, traffic access, parking, or circulation changes that would require erosion control.

The Board finds the standards of this section have been met.

.9 Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

A passing water quality test has been provided.

The Board finds the standards of this section have been met.

.10 Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

There is a new septic system on site.

The Board finds the standards of this section have been met.

.11 Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

All utilities are in place.

The Board finds the standards of this section have been met.

.12 Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

There is a new septic system on site. A water quality test of spring water showed evidence of coliform; this could be attributable to the old septic system. A passing drinking water test of the well water is a condition of approval, and removal of the old system will be done if it is shown to be the source of the coliform.

The owner has submitted a Contamination Assessment Report date March 29, 2010 conducted by Sweet Associates states that the groundwater flow

direction beneath the property flows toward the Turnpike which should provide adequate protection for all private wells in the near vicinity of the pit.

The Board finds the standards of this section have been met.

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

No hazardous or special waste materials will be generated by the development activity. The applicant has stated there will be no chemicals or fertilizers on site. The only outdoor storage will be loam and mulch.

The owner has submitted a Contamination Assessment Report date March 29, 2010 conducted by Sweet Associates states that the groundwater flow direction beneath the property flows toward the Turnpike which should provide adequate protection for all private wells in the near vicinity of the pit.

The Board finds the standards of this section have been met.

.14 Capacity of the Applicant

The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

A waiver from these requirements has been requested due to the fact that no site construction is planned or anticipated.

The Board finds the standards of this section have been met.

.15 Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The site is a long-standing gravel pit. There are no evident historic or archaeological resources on site.

The Board finds the standards of this section have been met.

.16 Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

**According to Flood Insurance Rate map #230162-0015B as issued by FEMA, the entire site is located in Zone C (area of minimal flooding),
The Board finds the standards of this section have been met.**

.17 Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

**Site lighting on the site is minimal and due to the remote nature of the site will not adversely affect neighboring properties.
The Board finds the standards of this section have been met.**

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.

Proposed Conditions of Approval

1. That all fees be paid prior to the building permit being issued.
2. That the requirements numbered as 3, 4, and 5, of the Fire / EMS Chief review be met prior to the issuance of an occupancy permit. *3) Any fuel storage shall meet the appropriate standard of the National Fire Protection Association. Attention to building and property line set back requirements should be included as part of the site plan review. 4) Access to the building shall be adequate enough to accommodate fire department vehicles. Should a gate at the site entrance be locked it shall be equipped with a pad lock approved by the fire department that is keyed with the identical key access as the key box. 5) Whereas the building is existing, the installation of a fire protection sprinkler system shall not be required or the extension of the water main system.*

Mr. Neagle motioned to approve the Minor Site Plan request for Coastal Lawn Care, Tax Assessor Map R07, Lot 53 with the standard and proposed conditions of approval.

Mr. Vail seconded.

VOTE: Unanimous

4. Public Hearing: To recommend to the Town Council a draft zoning amendment for Section 204.14.4.3 Industrial district RE: side setback: NOTE: Provided that within the 15' foot setback, a buffer consisting of vegetation and / or fencing is installed and maintained by the owner. The Planning Board can waive the landscape buffer when topography of the site makes the buffering useless.

Mr. Ward stated the Board had discussed this in workshop at our last meeting and Mr. Neagle crafted the proposed language.

Mr. Neagle stated he thought ineffective was a better choice of words.

Mr. Ferland moved to recommend to the Town Council a draft zoning amendment to Section 204.14.4.3 Industrial district:

.3 Side: 15 Note: where a proposed non-residential use will abut an existing residential zone, the side setback shall be 75' of which 15' will be a landscaped buffer consisting of vegetation, fencing or a landscaped berm or a combination of the three; provided that the landscape buffer may be waived by the Planning Board when the topography of the site makes the buffering ineffective.

Mr. Vail seconded.

VOTE: Unanimous

F. Administrative Matters:

1. Ms. Nixon stated the Board has been invited to the ground breaking ceremony for the Atlantic Regional Federal Credit Union.
2. May 13th at 6:00 p.m. will be a joint site walk for the CMP project.
3. The Town staff has been working to modify ordinance language to be more business and user friendly. Ms. Nixon asked if the Board would like to have a workshop to review these items. She asked if the Board wanted to meet at 6:00 p.m. next month prior to our regular meeting, or on another night.

The Board preferred to meet on a night other than our regular meeting. Ms. Nixon will check the Town calendar for a date and time.

G. Adjournment:

Mr. Neagle moved to adjourn.

Mr. Vail seconded.

VOTE: Unanimous

The meeting was adjourned at 9:15 p.m.

A TRUE COPY ATTEST:

William P. Ward, Board Chair

Pam Bosarge, Clerk to the Board