

TOWN OF CUMBERLAND
PLANNING BOARD MEETING MINUTES
Tuesday, March 21, 2017 - 7:00 pm

A. Call to Order: Chairman Moriarty called the meeting to order at 7:00 pm and noted that the third item on the agenda has been tabled and will not be heard tonight. Item 4 of the agenda was tabled previously.

B. Roll Call: Present: Steve Moriarty - Chair, John Berrett, Gerry Boivin, Teri Maloney-Kelly, Joshua Saunders & Peter Sherr. **Absent:** Jeff Davis. **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant, William Shane, Town Manager.

C. Approval of Minutes of the February 28, 2017 meeting: Members of the Board made note of minor corrections to the prepared minutes. Mr. Boivin moved to approve the minutes of the February 28, 2017 Planning Board meeting as amended, seconded by Mr. Saunders and **VOTED, 6 yeas - unanimous, motion carries.**

D. Staff Site Plan Approvals: None.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. Sketch Plan Review: Solar Way 5 Lot Major Subdivision. 34 Hillside Drive. Tax Map R-04; Lot 24. Applicant: Live Life Maine, LLC; Representative: Tom Greer, P.E., Pinkham and Greer.

Chairman Moriarty explained that this item has some history with the Board. The Board held a sketch plan review initially on October 18, 2016 and began preliminary plan review on December 20, 2016 and the item was tabled. The Board held a site walk on February 4, 2017. The item appeared on the Board's agenda again on February 28, 2017 for continuation of the preliminary plan review but instead, due to a defect in the Board's process, the Board began again with a sketch plan review. The Board's meeting packet for the February 28th meeting included the cluster subdivision plan that the Board saw in the fall as well as a conventional subdivision plan. The conventional plan design was modified on the day of the February 28th meeting and the Board did not have the revised design in their packets. The revised plan was described and shown to the Board during the February 28th meeting and the Board proceeded with the sketch plan review. Chairman Moriarty said that an examination of the Town's ordinance showed that at least 21 days' notice of the alternative plan should have been given and the sketch plan review conducted on February 28th was not in sync with the ordinance. The Board will begin again at square one tonight by conducting sketch plan review. Chairman Moriarty outlined the sketch plan review process.

Mr. Boivin said that the sketch plan review process does not usually include a public hearing but this was allowed at the last meeting due to the circumstances. Chairman Moriarty said that the sketch plan review process does not include a formal public hearing and the Board can discuss whether to allow public input. Mr. Boivin said that public input should be a fair and reasonable amount of time in order to keep the meeting moving. Chairman Moriarty commented that from his background serving on the Town Council, the Council always invited public input even when it was not categorized as a formal public

hearing and things can be learned that way. Chairman Moriarty said that the hope is that people will come to the point and will not repeat points that others have made previously. Chairman Moriarty said that after Mr. Greer's presentation, he will invite public input unless other members of the Board object. Town Councilor Peter Bingham suggested that public input be limited to 5 minutes. Chairman Moriarty said that the Board does not have an official rule about the duration of time that someone can speak but Councilor Bingham's suggestion is not a bad way to approach it.

Tom Greer of Pinkham and Greer, the Civil Engineer for the project, said that with him tonight is Patrice Miller, the applicant. Mr. Greer displayed the existing conditions plan and said that a boundary plan has been completed for the site. A topographic plan for the area to be developed has been completed. LIDAR topo was used for the rest of the site. Wetlands mapping and soils work has been done. Mr. Greer reviewed the existing conditions of the site off Hillside Avenue and pointed out the 2 existing houses on the roughly 24 acre site. On one side of the parcel is land owned by Central Maine Power and an approximately 1 acre home site. Across the road from the parcel are 6 lots that are roughly 1 acre each. On the other side of the parcel are two roughly 4 acre lots and a 10 acre lot. The back side of the lot abuts farmland. Mr. Greer said that this is a fairly diverse neighborhood.

The net residential density calculations have been updated since the last meeting and the road, right of ways and the wetlands have been deducted. Steep slopes were previously deducted for. On review of the Town's ordinance, Mr. Greer found that the area of steep slopes for this parcel is less than 30,000 square feet and do not need to be deducted. Mr. Greer said the new calculations allow 5.33 home sites and .33 is roughly 1 acre of extra land based on having 5 lots.

Mr. Greer showed a cluster plan and a conventional plan for the parcel and described each plan. The conventional plan has the same road that could be modified some to make the lots a bit neater. The conventional plan develops the entire site into lots and there is no open space. Each lot in the conventional plan will have a building envelope in generally the same place as with the cluster plan.

Chairman Moriarty explained that this area of Town is zoned for a 4 acre minimum lot size. A conventional subdivision plan means that each lot must contain at least the minimum number of acres required by the particular zone. The lots can be in any configuration as long as they meet the lot size required. A cluster subdivision plan is a grouping of house lots together in order to preserve open space and the minimum lot size is smaller in a clustered concept.

Mr. Greer said that the cluster plan includes 4 lots in the front with 60,000 square feet each, one 7 acre lot and one 10 acre lot in the rear that is roughly 40% of the site that will be kept as open space. With the cluster plan there will be a public trail that will tie into the CMP power line and Mr. Greer feels this meets a criteria for a cluster subdivision. There is a stream crossing on the parcel that is open and visible that also meets a criteria for a cluster subdivision. The parcel abuts farmland in the back which meets another cluster plan criteria. Mr. Greer said they would like to continue with a cluster plan and he feels it is the best way to develop this property.

Mr. Boivin asked about LIDAR. Mr. Greer replied that a surveyor did a topographic survey on the front of the site and the back of the site was surveyed with LIDAR. The LIDAR was taken 3 years ago before any development of the site. LIDAR is an aerial survey taken from a plane and is very accurate.

Mr. Berrett asked if the tests done for soils and bores for wells and sewage apply to both plans. Mr. Greer said yes, there are two homes now and the home sites are in relatively the same location for both plans.

Chairman Moriarty asked how far back from the road the two middle house lots will be in the cluster plan. Mr. Greer said the property line would be about 350' from the road and the building lots would be about 500' from the road. Chairman Moriarty asked Mr. Greer to explain the current terrain of the lot. Mr. Greer said that the terrain slopes from the northeast to the southwest and there are two streams. The area of the building envelopes is relatively flat and should be easy to develop. Chairman Moriarty noted that this property was cleared extensively before the current owner acquired it. Mr. Greer said his client has tried to clean up some of the brush in the front and part of the plan is to start on an erosion control plan in the spring. Chairman Moriarty confirmed that the 10 acre lot in the rear will remain open space in perpetuity and Mr. Greer concurred. Mr. Greer noted that lot 5 in the cluster plan is a 7 acre lot and if the zoning changes in the future the owner may look to split this into 1 additional lot. Chairman Moriarty said the zoning would have to change first and Mr. Greer agreed.

Chairman Moriarty invited any public input and referenced an e-mail received from Alison Beyea indicating that there is a request with the DEP (Department of Environmental Protection) pending for an appeal of the DEP decision. Mr. Greer said that the Town has been provided with 2 stream crossing permits that are valid and there is a permit pending for work adjacent to a stream. One of the abutters has asked that the DEP Commissioner hold a public hearing and rule on this instead of having staff approval. Mr. Greer said he has been asked to look at moving the road over and they cannot move the right of way because of the setback to an existing house but they can move the road over a few feet and he will work on a plan with DEP for this.

Ed Libby, abutter, said it is fantastic to have public access on the trails instead of having them private. Mr. Libby is glad to hear that there will be attention given to erosion control and stabilization of the site. Mr. Libby showed an example of an alternate cluster plan. Mr. Libby said the ordinance says that the lots in the subdivision shall be designed to minimize the appearance of buildings when viewed from the public streets. Mr. Libby said his alternate plan better conforms to the ordinance. Mr. Libby said there is a DEP enforcement action for an existing driveway. Mr. Libby said that minimizing the appearance from the road is a significant consideration that applies to both plans. Mr. Libby noted that the Board can decide tonight or there is a provision in the ordinance that they can notify the applicant of their decision within 10 days. Mr. Libby showed an example of a traditional plan that he drafted.

Chairman Moriarty noted that before a cluster plan may be considered, one of seven characteristics needs to be met. Reference has been made to an active trail system and connectivity to the system and also to active farmland or adjoining active farmland. It has been confirmed that the back acreage of the parcel does abut property which is currently enrolled in the Town's farmland program so this characteristic applies in this case.

Chairman Moriarty reviewed the sketch plan review process. Ms. Nixon said that historically when people send e-mails or letters to the Board, they are read aloud into the record and asked if Chairman Moriarty wishes to do this. Chairman Moriarty read Alison Beyea's e-mail as follows;

Dear Carla,

Unfortunately I have a Board of Director's meeting this evening in Westbrook and I am not sure I will get out in time to make tonight's sketch plan review. I wanted to make sure you knew I remain interested and concerned about this process and am still represented by Murray, Plumb and Murray.

I have reviewed Ed's concerns about whether these sketch plans meet the requirements of the ordinance and agree with his assessment that the plans still raise more questions and are not ripe for PB guidance on even the kind of sketch that makes sense. I understand that the ordinance does not require all details to be resolved at sketch plan (although as a policy matter that seems strange to me since a developer could spend a lot of money in one direction and then have PB stop them - seems like more info early would make more sense.) However, in this case, given the ever changing factual issues, the ever changing filings from the applicant, the outstanding DEP permit/enforcement action, it only seems prudent for the PB to have more information before making this preliminary decision.

I am filing a request for a hearing with DEP as have other neighbors. I will let you know when I receive a hearing date.

Last, it seems clear that this application is messier than most. I do not understand why the developer does not want to sit down as a group to wrestle with all of the issues raised. It seems like a tough use of PB limited time, and patience, to try and use that hearing process to get questions raised and answered. I would welcome being part of any group (so long as you were there) to see if we can work out the details together over a table rather than in a hearing.

Thank you very much for your help with this matter.

Alison

Mr. Berrett said he thinks a cluster plan is the appropriate solution for this site. Mr. Berrett moved to approve a cluster development for the site as opposed to a conventional development, seconded by Mr. Saunders and **VOTED, 6 yeas - unanimous, motion carries.**

2. Public Hearing: Amendment to an Approved Site Plan: MSAD 51 to Construct a Performing Arts Center at Greely High School. Tax Map U-11, Lot 1. Applicant: MSAD 51, Representatives: Pat Carroll, LLA, Carroll Associates and Tom Greer, P.E., Pinkham and Greer.

Chairman Moriarty introduced the item. Mr. Saunders confirmed that there is an approved site plan already and this item is for an amendment to the approved site plan. Ms. Nixon agreed.

Pat Carroll, Carroll Associates, said he is here with Tom Greer, Civil Engineer, Doug Breer, Architect, and Randy Dunton, Traffic Engineer. Mr. Carroll showed a map of the campus and described the project. The Performing Arts Center will be located at the end of a wing at Greely High School that was developed in 2007 at a location that was identified as a future expansion site. Mr. Carroll said they looked at other locations on the campus and this site fits the campus the best with the least impact on existing operations. Mr. Carroll outlined the travel ways within the campus. The major access to the Performing Arts Center will come off Main Street. The current bus loop will remain. There are approximately 35 parking spaces inside the bus loop that were previously permitted by DEP that will be built. 16-18 parking spaces will be added outside the bus loop furthest from the building. The overall traffic circulation throughout the site will remain the same.

Mr. Carroll showed the site plan for the Performing Arts Center and said the development will be very much contained to the end of the high school site. Mr. Carroll described the site plan. There will be an outdoor plaza at the end of the building that will work as a gathering space for students or for a small outdoor concert. A service drive will come off the bus loop and go around the building and connect to the emergency drive and will also provide service access to a stage door area. Vehicular access on the service drive will be limited and controlled and will be compatible with pedestrian use in this area.

Mr. Carroll said there will be a major reconfiguration of the existing stormwater management basins that are located nearby. There are two basins now, one near the parking lot and one near the track and these will be combined into one. The DEP stormwater regulations have changed and they have to meet the current standards. Mr. Carroll said the new basin will handle all the stormwater from the building and from the additional impervious area. The basin will be planted and there is a detailed landscape plan. Mr. Carroll reviewed the grading plan. There is an application with DEP primarily for stormwater and they anticipate approval within a couple of months.

Ms. Maloney-Kelly said she sees there are 3 handicap parking spaces and asked if that is all they are proposing to be near the Performing Arts Center. She also asked if someone parks in one of the handicap spaces how they would access the building. Mr. Carroll responded that the 3 handicap spaces are what is required for the additional parking they are adding. The number of ADA (handicap) parking spaces are dictated by the total number of parking spaces and for every 20 parking spaces there needs to be one ADA parking space. The plan is to add approximately 55 spaces. Mr. Carroll showed on a map of the site how someone would access the building from the ADA parking spaces. Mr. Sherr noted that there are existing ADA parking spaces already in place. Ms. Maloney-Kelly said the other ADA spaces are way up on the other end and that is a long walk for someone with mobility challenges. She asked if there is a possibility of adding more ADA spaces closer to the entrance. Mr. Carroll said they can look at this if the Board desires. For every 2 ADA spaces they add, they lose 1 space.

Mr. Boivin asked about snow removal and storage. Mr. Carroll said that snow removal is an issue campus wide. Chairman Moriarty asked if there is a plan for snow. Mr. Carroll said they have not identified on the site plan where snow storage will be but they can add it to the plan. Mr. Sherr said that he drives to the school daily with his kids and right now the snow is being trucked off after a major storm.

Ms. Nixon asked if Mr. Carroll has met with the Fire Chief yet. Mr. Carroll replied that he has not met with the Fire Chief yet and they are playing phone tag. Mr. Carroll has talked with the Police Chief. Ms. Nixon urged Mr. Carroll to meet with the Fire Chief as soon as possible about emergency vehicle access. Ms. Nixon asked if the access way is wide enough for someone to park there. Mr. Carroll said he thinks it will be signed for no parking. Ms. Nixon said she thinks they might need a barricade there for events otherwise there will be people parking there.

Randy Dunton of Gorrill Palmer said he was asked to look at traffic and particularly parking associated with this proposed facility. Mr. Dunton showed a map of the campus and said they have counted the parking spaces and they are shown color coded on the map by the particular school, the High School, the Middle School and the Elementary School. There are approximately 669 parking spaces right now. There will be approximately 723 spaces

after the Arts Center is added. Mr. Dunton said that to figure out the existing demand, they looked at 3 different scenarios by conducting a parking inventory for the entire campus at the last bell for the beginning of the school day, just before the last bell for the end of the school day and during a special event that was a basketball game concurrent with a swim meet. The parking demand for when school started was 541 spaces. The afternoon demand just before school let out was 461 spaces. The special event after school with the basketball game and swim meet was 402 spaces. Mr. Dunton said all of this information is in the parking demand and trip evaluation that was submitted.

Mr. Dunton said the Performing Arts Center will have 510 seats. The cafetorium now has 300 seats so the actual increase in seats is 210 seats but he did calculate for 510 seats. Mr. Dunton said they used 5 different sources to figure out what the number of parking spaces per seat is and they all were about 3 seats per parking space. Based on 3 seats per parking space there would be 170 parking spaces. Mr. Dunton said there is something called practical demand that usually considers about 15% more than what the calculated demand is which comes to 196 parking spaces. If an event occurs after school, there should not be a parking issue if you look at the entire campus. If you look only at the High School, there will be a deficit. If there is an event during the school day, there will be a deficit at the High School and the entire campus.

Mr. Dunton said that in addition to parking, they looked at trip generation. Based on 3 persons per parking space they calculate that there will be 70 additional trip ends for 210 parking spaces. Mr. Dunton said that 70 trip ends does not trigger the 99 threshold for requiring a Maine Department of Transportation (MDOT) traffic movement permit. Mr. Dunton said a letter has been sent to the MDOT Regional Traffic Engineer asking for concurrence with the calculations and to confirm that a traffic movement permit is not required.

Mr. Dunton said they also looked at safety by ordering the crash history for the latest 3 years available. They looked at the Main Street and Tuttle Rd. frontages for areas classified as high crash locations and there were none. Mr. Dunton said they looked to see if there were any pedestrian or bicycle crashes reported and there were none. Sight distances were looked at and the only concern is at the High School where there is a white fence and a request has been made to move the fence back slightly.

Chairman Moriarty asked if we assume there is a high turnout event with nothing else going on throughout the campus would the people attending use any one or all of the various parking lots on the campus. Mr. Dunton said yes, they expect people will park as close as they can and then they will filter down into the other parking areas as needed. Chairman Moriarty asked if in terms of trying to avoid concurrent events on the campus, it is not strictly limited to the High School but rather every facility on campus and Mr. Dunton said that is correct. Chairman Moriarty asked if Mr. Dunton can speak to the concurrent scheduling issue. Mr. Dunton said it is managed as a campus so concurrent events can be minimized but he cannot speak to how this is done.

Mr. Boivin asked if the school is at full capacity for enrollment. Mr. Dunton said that it is not even near capacity. Mr. Boivin asked if they accounted for growth of the schools if years down the road the enrollment is at capacity. Mr. Dunton said when the parking space inventory was conducted, none of the school parking areas were full. Mr. Boivin

said he thinks they should look at this. Mr. Boivin asked about student parking and Mr. Dunton said he cannot answer this.

Tom Greer, Pinkham and Greer, outlined the stormwater management for the project. Mr. Greer said his company has submitted an application to DEP and the Portland office of DEP is so busy that they sent the application to the Bangor office and they are already asking questions and Mr. Greer has been responding. The difference in this plan is that there were two filters and a pond that are existing now that were based on 2007 standards and these standards no longer apply so they have to upgrade to meet the new standards. The new plan is to have an underdrain soil filter and Mr. Greer showed on a map where it will be located. The new standards require that the system be 20% bigger. The basin will be roughly 3' deep with a retaining wall around the outside. This system will handle stormwater retention and treatment. Mr. Greer said he likes the project in that it has as light a touch on the campus as possible. Mr. Greer said they will meet the current peak flows leaving the site and will meet the treatment standards.

Doug Breer, Stephen Blatt Architects, showed a sketch of the Performing Arts Center and described the interior design. Chairman Moriarty asked if the stage will be below ground level. Mr. Breer replied that the stage is at the same level as the lobby. There is a lower level of seating near the stage that is about 3' lower than the stage. Mr. Breer showed a rendering of what the outside will look like.

Chairman Moriarty opened the public hearing.

Jeff Porter, MSAD 51, reported that current enrollment at the school is 2,025 students. Enrollment has been stabilizing for the last couple of years and it was declining for a number of years. Next year they project the same number of students as today. Planning Decisions has done a report showing that district enrollment will gradually go up over the next 10 years to about 2,300 students which is what enrollment was about 10 years ago.

Mr. Porter said that a lot of the parking is by staff during the day and also by students at the High School. Students are issued permission to park based on seniors first then juniors then sophomores if there is available space. Recently there has not been a problem with student parking due to current enrollment. Mr. Porter said generally there have been parking spaces available during the day.

Chairman Moriarty asked if there would be a major event at the Performing Arts Center during school hours. Mr. Porter said occasionally there is a major event during the school day such as Grandparents Day. These events are few and far between and they try to make sure parking is available. Mr. Porter said for the last year everything has been scheduled through central scheduling to make sure there is a master calendar. Chairman Moriarty asked who has the authority to commit to central scheduling and Mr. Porter said he will commit to the central scheduling.

Mr. Boivin asked about the construction process. Mr. Porter said keeping students away from the construction area should not be difficult and this is an isolated area at the High School. Mr. Porter said at this point, they will not break ground until the fall.

Karen Campbell, School Board and Building Committee member, said that parking now at the High School does allow for the juniors and seniors but this has only been recently. Student parking during the High School renovation in 2007 was allowed at the Middle School. Ms. Campbell said there are other alternatives for parking during construction that

have been utilized in the past. In Yarmouth, if there are multiple events going on they have run a shuttle for off-site parking and Cumberland has done this as well.

Mr. Porter said there is a system for offloading the snow usually within 1 week of a storm and the Town helps with this.

Chairman Moriarty closed the public hearing. This item will be on the agenda again for approval later in the spring.

3. TABLED ~~Public Hearing: Fiddlers Way 3 Lot Minor Subdivision. 12 Spring Road,~~
~~Tax Map U-18, Lots 6 A and 6 D. Applicants: Peter and Suzanne Martell; Representative: Michael E. Tadema-Wielandt, P.E., Terradyn Consultants. This item was tabled prior to the meeting.~~

4. TABLED ~~Public Hearing: Major Site Plan Review: Lot 9 of Cumberland Foreside Village Subdivision, to construct 2 commercial buildings on a 1.67 acre parcel as shown on Tax Assessor Map R-01, portion of Lot 12 A in the Office Commercial South zoning district with a contract zone overlay. Applicant: Cumberland Foreside Village, LLC; Representative: Tom Greer, P.E., Pinkham and Greer Civil Engineers.~~ This item was tabled prior to the meeting.

G. Administrative Matters / New Business:

Chairman Moriarty said that the Board has received an invitation for a Town Council Workshop this coming Monday at 6 pm to discuss the sign ordinance. Mr. Boivin asked what the motive is. Chairman Moriarty said the invitation comes from the Council and he thinks the Council wants to hear what the Board's thinking was when the Board voted not to recommend the EMC portion of the proposed ordinance. The Town Council will hold a public hearing later Monday evening during their regular meeting that starts at 7 pm.

Chairman Moriarty talked about public comment and policy particularly during sketch plan review and asked how the Board feels about it. In some cases the ordinance or statutes require formal public hearings and in other cases the Board can take public comment in a less formal format without a particular requirement to do so.

Mr. Sherr said he agrees and he does not think having some extra public comment is a bad thing. In the form of a public hearing, it has to be published (advertised). Mr. Sherr said that for an informal public discussion, the Board should not call it a public hearing but call it public input and the Board has the right to solicit this.

Ms. Nixon said that she has had input from neighbors over the years that they were surprised that they did not get an abutter notice until the Board began the review. Ms. Nixon said the sketch plan review process does not require an abutter notice but perhaps the Board could do this. Ms. Nixon said she and Chairman Moriarty are meeting with the Town Attorney to discuss things and asked the Board members to think about this and send her an email to let her know. A sketch plan is a meeting for the developer and the Board to meet and talk face to face about the development and the design. Mr. Boivin said that the decision by the Board will cause expense to the applicant. Mr. Boivin said when the Board is comparing two subdivisions they could look in more detail and have better information. Ms. Nixon asked if anyone is opposed to allowing public comment. Mr. Saunders said if the Board allows it in one case, they have to allow it in all cases. Mr. Sherr said allowing comment provides additional input of value to the project. Mr. Sherr

said that at the application stage, a notice could go out to abutters. Mr. Greer said from the applicant's point of view, they like to see public input early because something may come up early that can be addressed. Mr. Greer said of all the towns he has gone to, about 20 towns, almost all of them allow public comment and sometimes it is formal and sometimes it isn't. Quite a few towns now have timed public input. Mr. Saunders said the Board can be liberal with the timing to provide consistency.

Ms. Silberman said there will be another workshop for the Planning Board with the Town Council to go through the new Contract Zone Agreement process for an amendment to the Village Green CZA that is needed for the lot line change on April 3rd at 7 pm.

Ms. Nixon noted that there is a Mylar for the Board to sign for Cumberland Foreside Village.

H. Adjournment: Mr. Saunders moved to adjourn the meeting at 8:58 pm, seconded by Mr. Berrett and **VOTED 6 yeas – unanimous, motion carries.**

A TRUE COPY ATTEST:

Stephen Moriarty, Board Chair

Christina Silberman, Administrative Asst.