

**TOWN OF CUMBERLAND
PLANNING BOARD MEETING MINUTES
Tuesday, August 20, 2019 – 7:00 pm**

A. Call to Order: Chairman Auclair opened the meeting at 7:00 pm

B. Roll Call: Present: Paul Auclair, Bill Kenny, Steve Moriarty, Jason Record, Joshua Saunders & Ann Sawchuck. **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant & William Shane - Town Manager. **Absent:** Peter Sherr.

C. Approval of the Minutes of the May 21, 2019 Meeting: Mr. Saunders moved to approve the minutes of the May 21, 2019 meeting as written, seconded by Mr. Kenny and **VOTED, 5 yeas, 1 abstained (Moriarty) - motion carries.**

D. Staff Site Plan Approvals:

1. SBA Communications: Replace 6 cell antennas with newer technology antennas and associated equipment including an emergency backup generator, 159 Range Way, Tax Assessor Map R03B, Lot 19.

Ms. Nixon reported that this was a minor staff review for SBA Communications that owns the cell tower on Range Way. This is to replace six antennas with new antennas. Ms. Nixon said that there is no impact to anything.

Mr. Record asked if the generator is new and Ms. Nixon replied yes. Mr. Record asked what the proximity is to the closest house and Ms. Nixon said it is quite far, probably $\frac{3}{4}$ of a mile.

Chairman Auclair asked about fuel for the generator and Ms. Nixon said it is probably propane. Chairman Auclair stated that noise is not a consideration and Ms. Nixon agreed.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. Public Hearing: Final Review for Christmas Creek 20 Lot Major Subdivision, located on Tuttle Road, Tax Assessor Map R04, Lot 10. Applicant: Beta Zeta Properties, LLC; Representative: Thomas Perkins, PE - Dirigo Architectural Engineering, LLC.

Chairman Auclair introduced the item.

Tom Perkins, PE – Dirigo Architectural Engineering, displayed a plan of the proposed subdivision and said he is here seeking final approval. Mr. Perkins reported that there have been some adjustments as they have gone through various regulatory reviews and comments. Mr. Perkins outlined changes to culverts for a crossing and noted that these changes required additional treatment and the wet pond proposed between lots two and three is now larger. A proposed easement, which no longer has value, has been removed from the plan.

Mr. Perkins reported they have approval for the MDOT Entrance Permit. They have received the ability to serve letters from Portland Water District, Town of Cumberland and Town of Falmouth for waste disposal. They have their US Army Corps of Engineers permit. Mr. Perkins noted that they have conducted a prehistoric archaeological survey of the entire property and found nothing. This has been submitted to the Maine Historic Preservation Commission and approved. They have checked for the presence of vernal pools, as indicated on some Town maps, and found no vernal pools anywhere near or adjacent to the property. Rabbit droppings were sampled and sent to UNH for testing and determined not to be from New England cottontails. Mr. Perkins added that there are no long eared bats.

Mr. Perkins reported that they have worked on the trail easement and have this at an agreeable spot. A high intensity soil survey has been submitted. Mr. Perkins noted they originally asked for a waiver for this and no longer need a waiver. The Fire Chief has approved the dead end road. The road name has been approved by the Assessor.

Mr. Perkins referred to the MDEP review provided to him earlier today by Ms. Nixon. Mr. Perkins outlined a comparison of pre and post development stormwater flows and noted that usually the post development flows are higher than pre development. The modeling for this project shows the post development flows will be lower than pre development. Mr. Perkins said that this is a bit of an anomaly and they have discussed this with Aubrey Strause, MDEP reviewer. Mr. Perkins said that Ms. Strause is confident that they are adequately treating the stormwater.

Mr. Perkins said an issue with the stormwater buffer locations came up this afternoon. The crux of this is that if the stormwater buffers are not shown exactly where they have them, it could impinge upon the buildable area for the lots. Mr. Perkins said he has reviewed this with their stormwater engineer who said that on two separate projects in the recent past, Ms. Strause has been okay with this. Mr. Perkins said that their engineer is very comfortable with the setbacks shown.

Mr. Perkins said they are seeking conditional approval tonight so they can move forward with marketing.

Chairman Auclair asked about a reference to a guardrail that he read in the materials. Mr. Perkins identified an area on the plan and replied that this area originally would have a flat slope that wouldn't need guardrails but the slope has been increased in this area and guardrails will be installed.

Chairman Auclair asked for clarification on why it is a requirement to notify buyers about wetlands on certain lots. Mr. Perkins replied that the wetlands are shown on the plans. The issue is that not a lot of folks pay attention to this once they acquire the property so it will be noted in a legal document. There is also a need to protect the vegetated buffers and these are shown on the plan. Mr. Perkins said this is to protect the environment and the open space.

Mr. Saunders confirmed that Mr. Perkins sees that the two main issues are the hydro cad numbers that MDEP will have to agree is an anomaly and the 100' forested buffer on the stream side. Mr. Saunders asked Mr. Perkins if he is confident that the DEP is going to accept the 100' or are they saying this needs to change. Mr. Perkins said the

DEP is questioning where on the plan the 100' is coming from. Mr. Saunders said this will impact where the buffer is on the lots. Mr. Perkins said that potentially it could.

Mr. Saunders said that the Board has done a condition of approval for getting the MDEP permits but he doesn't think the Board has ever done conditional approval if the drawings will change. If the lines on the plans change, the applicant will still have to come back to the Board. Mr. Perkins said that after speaking with Ms. Nixon this afternoon he was feeling a lot less confident than he feels now after speaking with people that work with Ms. Strause (MDEP) every day. Mr. Perkins said that financially there is pressure to move forward and start the marketing piece.

Mr. Moriarty asked Mr. Perkins what his take is on the DEP's response likely resulting in modification to the lot lines. Mr. Perkins replied that the lot lines would not change but potentially the building envelopes could change. Mr. Moriarty asked Ms. Nixon if this would require the applicants to come back to the Board for approval and she replied yes.

Mr. Saunders noted that there are current engineer's comments and prior engineer's comments. Mr. Saunders said that the responses to the prior comments were not updated for this meeting and he confirmed that the current comments are the things that need to get done and not the prior comments. Ms. Nixon said this is correct.

Ms. Nixon noted that DEP is working on their review and it looked like, a week ago, there would be quick resolution to their concerns. Ms. Nixon noted that this item was tabled in June and July. Ms. Nixon said that yesterday she sent a message to Ms. Strause at DEP to check on the status. Ms. Strause sent Ms. Nixon a copy of the DEP review and there are a lot of highlighted issues. If the stream setback is not shown properly, this may have to be revised on the plan and may affect building envelopes. Ms. Nixon said that she followed up with Dan Diffin, Town Peer Review Engineer, to see what he would recommend and he feels that it is not appropriate to grant final approval given the nature of the DEP comments.

Ms. Nixon said that she knows developers want approval because it makes the project viable for investors, however; developers are not allowed to start marketing the project until the plan is recorded at the Registry of Deeds and this doesn't happen with a conditional approval.

Chairman Auclair opened the public hearing. There were no public comments and Chairman Auclair closed the public hearing.

Chairman Auclair said that Ms. Nixon and Mr. Saunders have made some good points and he would be hesitant to do a conditional approval. Mr. Kenny agreed.

Mr. Saunders said he is leaning toward deferring to the Town Engineer and tabling this.

Mr. Moriarty asked Ms. Nixon if the Board can move this forward tonight. Ms. Nixon said that when a project comes for final review either it's all there or it's not. If there are minor things, some conditions of approval are nice to note for things that need to get turned in. Ms. Nixon said that this is different because there are substantive design engineering issues that have not been resolved that could affect the design of the subdivision. Ms. Nixon does not think it is prudent to approve. Mr. Moriarty asked if the

Board could consider the findings. Ms. Nixon said that the findings are positive but some are dependent on DEP approval and it really wouldn't get anywhere for the Board to review the findings now.

Chairman Auclair asked when this could come back to the Board. Ms. Nixon replied that she could put this on the agenda for the meeting in September.

Mr. Saunders suggested the Board look at waiver requests. Ms. Nixon noted that the Board granted two waivers at preliminary review, noted on page two of her review. Mr. Saunders asked about a waiver for the length of the road. Ms. Nixon said she is not sure if the road length needs a waiver, it is more of a standard. Ms. Nixon suggested the Board wait. Town staff, including the Fire Chief, have approved the road length.

Mr. Perkins asked if there are any other lingering issues. Chairman Auclair replied that the DEP issues need to be resolved so the Board knows they have the final drawings.

Mr. Moriarty moved to table the application for final approval for Christmas Creek until Tuesday, September 17, 2019, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

2. Town Manager report on Greater Portland Council of Governments Growth Study.

Chairman Auclair introduced the item.

Town Manager Bill Shane said that several months ago he was here at the Planning Board and they talked about the Growth Ordinance, building caps, how growth is measured and what are the impacts of the housing being built. Mr. Shane left that meeting with direction from the Board to do some research.

Mr. Shane reached out to Greater Portland Council of Governments (GPCOG) and said that he expected to find a study about the impacts of senior housing. GPCOG reported that Cumberland is not leading the County in senior population. To the contrary, Cumberland is leading communities, outside of Portland, in bringing younger families to the community.

Mr. Shane outlined some highlights of the report. Mr. Shane added that the report was encouraging and it would be cool to dovetail the school impact piece with this to have a bigger picture. Mr. Shane will reach out to the MSAD #51 Superintendent to share the report with him and ask if he could share with the Board what the schools are looking at for growth.

3. Town Manager report on upcoming Town projects.

Town Manager Bill Shane reported that the Town will have some projects coming before the Planning Board.

Mr. Shane displayed a plan of the proposed relocation of the Town's compost pad and sand/salt shed on a site next to the Town Forest. Mr. Shane identified two parcels, one is about 24 acres and the other is 10.4 acres. Mr. Shane noted that the 24 acre parcel has a lot of wetlands and the development would not be more than 2.5 acres on this parcel. A landscaped berm is proposed to be placed on the smaller lot.

Mr. Shane noted that there is a second neighborhood meeting tomorrow night. Mr. Shane suggested that the Planning Board consider having a site walk before their next meeting. Mr. Shane outlined details of the plan and said that more information will be shared when the plan is before the Board next month.

Mr. Shane reported that the Town has received a notice from DEP stating that the Town must cease operations (at the current site) by December 1st. All of the materials on Drowne Rd. must be vacated by the end of January. Mr. Shane added that Drowne Rd. is not a good site and the proposed location has the least impact to the least number of neighbors and long term will work well.

Mr. Shane said another project is the Town Garage itself. This will not be ready for the Board's September meeting. The Town has yet to host a neighborhood meeting. Mr. Shane said that the Town has hired a Landscape Architect to work on this with the same Architect that did the Fire Station building. Sevee and Maher Engineers are helping with the site plan. Concept drawings are being put together for the meeting with the neighbors.

Mr. Shane said that when the Town was originally looking to relocate the Public Works facility and developing the site as housing and so forth, it was conducive to putting recreational amenities on the site. It is not so conducive when there are buses, trucks and equipment around you so the Town needs to talk with the neighbors about how to enhance and buffer the site. Mr. Shane added that this project will be delayed until October or November.

Another project Mr. Shane hopes to have before the Planning Board in September is an expansion of the Town Hall parking lot. This would be to the west of the existing parking lot heading up Tuttle Rd. behind the tree line. It would be around 60-65 spaces with a second entrance off Tuttle Rd.

On Monday night, the Architect for the Library is presenting to the Town Council on the Library / Historical Society project. Mr. Shane explained that the Historical Society building will be physically moved to the Library site. This is phase one of the project and it is a fairly small building. This is planned for October 15th and there are a lot of logistics to work out before then.

Mr. Shane said that September and October will be busy for the Board and he looks forward to working with them.

Mr. Kenny asked if the food pantry is going to move with the parking lot expansion project. Mr. Shane replied no, moving the food pantry was to make additional space for the Police Department. The Council would like to explore possibilities of adding the Police Department to the Fire Station or putting it on the site where the food pantry was proposed as a separate building. Mr. Shane added that as Cumberland grows, the Police Department's space needs will become greater. There is a struggle with having the Police Department being within a municipal building because of access to secure sites. Mr. Shane said the Town will work with the Police Department on a needs analysis and then see what is next.

Mr. Moriarty said that he read that there is a site walk component planned for tomorrow night's meeting. Mr. Shane agreed and said they are marking the locations of the buildings and the pads so that when the Town meets with the neighbors they can physically show the locations. The meeting will start here (at Town Hall) with a quick overview and then people will be bused to the site.

Mr. Moriarty asked if Mr. Shane has a plan that shows the limits of the Town property. Mr. Shane said that he will have this for tomorrow night. Mr. Moriarty noted that a critical piece of information for people to consider is that this will be placed 1,300 feet from one home and 1,100 feet from another home and there is nothing any closer.

Mr. Shane cautioned the Board that if they attend tomorrow night, it is as public members. The meeting was not advertised as a site walk for the Planning Board and there should be no Planning Board type of discussion. This meeting is to provide feedback to the Engineer to help with the design.

Ms. Sawchuck referred to the plan of the proposed site for the compost pad and sand/salt shed and asked if the Town Forest is shown as the top and the railroad at the bottom. Mr. Shane said yes. Ms. Sawchuck confirmed that the Town has to get out of the Drowne Rd. site per DEP and Mr. Shane agreed. Ms. Sawchuck asked if DEP approvals are required for the proposed site. Mr. Shane said absolutely, the Town will get DEP approvals and should be pushed to the top because it is a DEP mandate. The Town should have the permits by October. Mr. Shane referred to the smaller, front parcel on the plan and said that because of the value of this land, the Town was hesitant to put the compost pad and sand/salt shed there and fitting it in the back area is a better solution.

Ms. Sawchuck asked about plans for renovations of the town office. Mr. Shane said that this probably won't happen until the first of the year. This will essentially be to have the wall behind where Mr. Shane is currently standing in the council chambers opened to allow for more space for elections and overflow from meetings. There will be a sliding petition wall. This will allow the Town to continue to hold elections here, which is big because the Town utilizes a lot of Town Hall staff on election days. The hope is to have this in place before the next Presidential Election.

Ms. Sawchuck asked about the Police Department. Mr. Shane said that the Town Council feels that there are enough conflicts with having the Police in this building that the Town might want to look at a better arrangement for the Police going forward.

Ms. Sawchuck asked about timing for the parking lot. Mr. Shane said this will probably be next summer.

Mr. Kenny referred to the portable petition proposed for the council chambers and confirmed that the conference room will not be lost and Mr. Shane agreed.

Chairman Auclair thanked Mr. Shane for the information.

Mr. Moriarty asked if the Board would consider a Saturday site walk (for the compost pad and sand/salt shed). Chairman Auclair said that he would consider this. Mr. Saunders asked about public notice for the site walk. Ms. Silberman said that she needs about ten days to get the ad in and it has to run at least seven days before the

site walk. Mr. Moriarty suggested having a site walk on Saturday, September 14, 2019. Mr. Record said that he will not be here on Sept. 14th. Ms. Sawchuck said she will be here. Mr. Saunders said this sounds fine. A site walk was scheduled for Saturday, September 14, 2019 at 8:30 am. Mr. Shane said that the gate will be open and people can drive in on the gravel road and park at the site. Ms. Nixon asked about abutter notices for the site walk which is usually within 500'. Mr. Shane said that for the neighborhood meeting, they noticed everyone within about 1,500' and he recommended doing the same for the site walk.

G. Administrative Matters/New Business:

Ms. Silberman reminded the Board to let her know if they want to attend the Jensen Baird Gardner Henry Municipal Client Seminar.

H. Adjournment: Mr. Saunders moved to adjourn the meeting at 8:15 pm, seconded by Mr. Moriarty and **VOTED, 6 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

Paul Auclair, Board Chair

Christina Silberman, Administrative Asst.