

## CUMBERLAND PLANNING BOARD MEETING MINUTES

### June 20, 2023

**A. Call to Order:** Chair Bingham opened the meeting at 7:00 pm and reported that Board member Joshua Saunders is absent.

**B. Roll Call: Present:** Peter Bingham - Chair, Paul Auclair, Bridget Perry, Lorraine Rardin - Vice Chair, Ann Sawchuck, George Turner, Carla Nixon - Town Planner & Christina Silberman - Admin. Asst. **Absent:** Joshua Saunders.

**C. Approval of the Minutes of the May 16, 2023, meeting:** Mr. Auclair moved to approve the minutes of the May 16, 2023, meeting as amended, seconded by Ms. Rardin and **VOTED, 5 yeas, 1 abstained (Turner) - motion carries.**

**D. Staff Site Plan Approvals:** None.

**E. Minor Change Approvals:** The Grange Hall Pub at Longwoods Preserve located at Wander Way (formerly 76 Longwoods Rd.), Tax Assessor Map R03, Lot 13 for de minimis lighting plan changes. Ms. Nixon reported that she approved a request from the owner of the pub for a minor change to the type of lighting fixtures to better fit the character of the project with no change in the lighting placement.

#### **F. Hearings and Presentations:**

**1. Public Hearing for Sketch Plan Review:** 72 unit Major Subdivision to be located at 77 Blackstrap Rd., Tax Assessor Map R07, Lot 53 in the Industrial Zoning District and the West Cumberland Housing Overlay Zone. **Applicant / Owner:** David Chase / B. R. Property, LLC. **Representative:** Peter Biegel, ASLA, LEED AP – Land Design Solutions. Chair Bingham introduced the item.

Town Planner Carla Nixon described the project planned for an area in West Cumberland formerly known as the Pike Pit. David Chase, owner of the parcel, is interested in doing a housing project with some of the units being affordable homes. Ms. Nixon said that current zoning in this area, the West Cumberland Housing Overlay District, allows the project to be designed with the density being proposed.

Peter Biegel, Land Design Solutions, said he is here with the applicant and owner David Chase. Mr. Biegel said they have also been working with Sevee & Maher Engineers. Mr. Biegel showed the location of the 40.9 acre parcel located in West Cumberland that borders on Blackstrap Rd. and Upper Methodist Rd. in the Industrial Zone and West Cumberland Housing Overlay District.

Mr. Biegel reported that Mr. Chase purchased the pit in 2009 from Pike Industries and has primarily used the site for material processing. Mr. Biegel noted that there is no public sewer or water but they are in the process of having public water brought across the highway to serve the site.

Mr. Biegel displayed the proposed sketch plan and outlined how the net residential density is calculated to allow for up to 73 units.



approximately \$110,000.00. Ms. Sawchuck asked who wrote the affordable housing agreement / declaration of covenants included in the meeting packet. Mr. Chase responded that this is still a work in progress with the Town Manager and Town Attorney. Ms. Nixon said the agreement sets out the affordability parameters and should be ready when the project comes to the Planning Board for preliminary plan review.

Mr. Auclair said the covenants are very detailed and interesting with a thirty year limit on the covenants to be in effect. Mr. Auclair wondered if a market/affordable housing study has been done and noted a stipulation that the Town could try to sell an affordable unit for 365 days after which Mr. Chase could take it over and it would become a market rate unit. Mr. Auclair said this could affect affordability and make everything market price. Mr. Auclair asked if the applicant looked at any development like this. Mr. Chase replied that he is finishing up a development in Falmouth with 68 units but no affordable houses. Mr. Chase has done this work for 40 years and the market has changed many times. Mr. Chase said he has a good sense of what the real estate market is today and what is available in Cumberland. Similar homes in Westbrook sell for \$480,000. Mr. Chase said he would be leaving ten percent on the table so there is wiggle room and Mr. Chase is comfortable with this.

Ms. Perry asked if the cluster subdivision requirements apply at all or if the overlay is all that the Board is looking at. Ms. Nixon said this would be classified as a cluster style subdivision. Anything not covered in the overlay would default to the underlying zone.

Chair Bingham asked Mr. Biegel to review buffering. Mr. Biegel said the buffering will be more evident with the preliminary review plans. The site is a gravel pit and the middle part is a lot lower than the rim around it. They intend to buffer the development from the highway. There is a vegetated buffer along Blackstrap Rd. and Upper Methodist Rd.

Chair Bingham asked about traffic. Mr. Biegel said it makes sense to connect (the subdivision road) in more than one place, especially with this many homes and the Fire Department prefers this. A traffic study has not yet been done and will be available at the next stage of review.

Chair Bingham asked if septic systems will be shared or individual. Mr. Biegel said they are not certain yet but prefer each home have its own septic system. Chair Bingham asked if there are issues with the aquifer. Mr. Biegel replied no and said a hydrogeologist has been measuring and looking at the groundwater. A groundwater contouring analysis was done years ago to show where the water goes. Mr. Biegel said the State will review this for the Site Location Permit.

Chair Bingham asked about the proposed pond. Mr. Biegel said the pond will have a recreational aesthetic and will be an amenity to the residents. Mr. Biegel asked if there would be skating or fishing and Mr. Biegel thinks there will be neither. Chair Bingham asked if there will be a safety feature around the pond. Mr. Biegel replied that they are not planning any. Mr. Biegel added that they have thought of this but it would be similar to the pond in Deering Oaks Park. Mr. Biegel said people may be concerned. Mr. Biegel said they plan for a gradual grade leading to the pond and they will prepare for additional questions.

Mr. Auclair noted that half of the units will have a one car garage and half will have no garage and asked if there is room at each unit to park two cars. Mr. Biegel replied each driveway will be 22' wide to accommodate two vehicles and additional parking will be available throughout the project. One side of the road will have an extra wide shoulder and there may be room for on-street parking.

Mr. Turner asked what is the maximum number of units that would be on one septic system. Mr. Biegel said he would have to defer to the site designer.

Chair Bingham explained the role of the Planning Board as quasi-judicial. The Board advises on policy but makes no policy. The Board reviews the Subdivision Ordinance with seventeen criteria including septic, water, buffering, traffic and others and interprets the ordinances. The Planning Board has no jurisdiction over impacts to schools. The Town Council makes the policies that the Planning Board governs.

Chair Bingham opened the public hearing.

Lynn Copp, Goose Pond Rd., said she does not understand what the aquifer is and how it would affect the septic systems. Ms. Copp said she has a well in the area and the thought of having 73 septic systems on top of the water does not sound good. Ms. Copp asked about the distance between the aquifer and the septic systems. Mr. Biegel replied that the flow from the groundwater contouring goes towards the turnpike. There is a requirement for a distance between the groundwater and the septic system but Mr. Biegel does not know what this is. Mr. Biegel explained that they will be moving earth around and the level of the pit floor will be brought up. The developer will adhere to every requirement and the septic system information will be submitted to the DEP and to the Town. Mr. Chase noted that the septic systems will be engineered and said the site is more than capable of handling the septic systems. Mr. Chase said the groundwater flow is important. They measure the nitrate load that leaves the site and this is what would impact someone's well and there is nothing flowing toward the houses.

Lynn Copp asked if the open space will be available to all members of town or just the people living in the development. Mr. Chase replied that this is to be determined because condominium associations typically pay for the maintenance of the open space. This is negotiable and there may be some agreement with the Town about the use of the open space. Chair Bingham said that a condo association document will outline these things and the Board will see this info before the project approval. Lynn Copp said she knows a traffic study has not been done but Upper Methodist Rd. is a little, dead-end road and this traffic would be a burden to the neighborhood.

Chair Bingham noted that people can go to the agenda on the website and click on the item and see the same information that Board members see. Items such as traffic studies, hydrogeological studies, etc. will come up at the next review. Lynn Copp said she doesn't understand why this is a good project at this time with the town struggling and noted that it seems like the town is going to have an expensive new school. Ms. Copp asked why more commercial development isn't being encouraged to have more tax income, less impact on the schools and to bring people into town to spend money at our small businesses. Ms. Nixon explained that the zoning overlay was added in 2014 and was created due to concern with the aquifer. Commercial uses are a risk to the aquifer and the best use for this land, in terms of protecting the aquifer, is residential.



Clayton Copp, Main St., asked if a PFAS (per- and polyfluoroalkyl substances) study has been done on the amount of wastewater going into the aquifer. Mr. Copp said the EPA is lowering the amount of PFAS allowed and this is something that should be considered. Chair Bingham said this is something they can ask the hydrogeologist.

Lorna Copp, Upper Methodist Rd., asked about the side setbacks. Mr. Biegel replied that the side setback for the parcel is ten feet. This is a condominium project and there are no lot lines between the buildings. The only side setback will be around the outer perimeter of the parcel. Upper Methodist Rd. has a front setback of twenty-five feet. Ms. Copp asked if sidewalks are planned just for the development or also for Upper Methodist Rd. Mr. Biegel replied they only propose sidewalks for the development. Ms. Copp said she thinks if the town is considering housing here with added traffic that sidewalks are needed on Upper Methodist Rd. and on Blackstrap Rd.

Matt Dobson, 83 Methodist Rd., said he receives all the water that comes down Upper Methodist Rd. and he asked about the plan for stormwater. Chair Bingham replied that one of the standards for approval is for adequate plans for the stormwater runoff. Mr. Dobson said the proposed houses along Upper Methodist Rd. are 25 feet off the road and he would like these houses pushed back further like other houses on the road.

Bob Vail, Cumberland Center & Town Councilor, responded to Mr. Dobson's concerns and said the Town will not let the developer get away with impacting Mr. Dobson's property and the stormwater requirements will be enforced.

Shirley Storey-King, Middle Rd. & Town Councilor, referred to section D3 in the Housing Overlay which states that 100 feet of frontage is required for each dwelling unit and asked if these lots meet this. Ms. Nixon replied that she will look into this.

Heather Jacoma, 12 Pond Shore Dr, said she walks her dog daily on Skillin Rd. and there is so much litter along the road it is awful. This is due to too much traffic and population density. Ms. Jacoma asked if a traffic study looks at the ramifications of what people throw out of their cars and at speed. The road was not designed to accommodate the traffic from these units. Ms. Jacoma wondered if this number of new homes will require more law enforcement, fire control, emergency management and if emergency response times will be delayed if more staff is not added.

Mark Sloat, 81 Blackstrap Rd., said that the pit is spring fed and asked where all the water will go with the weight of the houses sitting on the aquifer. Mr. Chase replied that while he is not an engineer, the weight of the houses is nothing compared to the weight of the dirt piles that are there now. Mr. Sloat referred to the proposed pond and said it will remain full all the time because the spring will fill it. Mr. Sloat recalled when they were digging the pit, they hit a spring and had to haul in dirt to fill it or it would have filled the pit and become a lake. Mr. Sloat noted a stream that flows onto his property and asked if it will keep flowing when the project is done. Mr. Biegel said they will be rebuilding the existing road and will adjust the grades and he is not familiar with the stream. They plan to maintain the existing drainage patterns, clean up the wood lines and take care of any erosive situations. Mr. Sloat asked if the subdivision road will be town road or a private road. Mr. Biegel said the road would be built to town standards so the town could take it over.

Mr. Sloat asked about grading. Mr. Biegel said they are working on this now. Mr. Sloat said he has a new well and asked if the septic systems will impact his well. Mr. Biegel said they will ensure that the septic systems are a certain distance away from his well. Mr. Sloat asked how far away the first house will be from his property and Mr. Biegel said it will be about eight hundred feet. Mr. Biegel said nobody (abutters) should have any problem with the way the septic systems are located. Mr. Biegel said they will be working on the slopes on this parcel only and not on anyone else's property.

Clayton Copp asked if the setback considered is for two fronts. Mr. Biegel said a front setback is shown for all of the roads. Ms. Perry noted the front setback is 25 feet. Mr. Copp asked what Councilor Storey-King referred to as 100 feet. Ms. Perry replied that Councilor Storey-King was referring to a lot frontage requirement of 100 feet for each dwelling unit and this will be determined. Mr. Copp asked if there will be one tax bill for the lot. Mr. Chase replied that each dwelling unit will have their own tax bill and the common area will get a tax bill to be paid by the association. Ms. Nixon noted that this is a sketch plan review and the questions raised here will get worked out. Mr. Copp asked why the zoning for the lot wasn't changed from industrial to commercial for use as an office park. Ms. Nixon noted that there was concern about the aquifer and a lot of things can be considered commercial. Mr. Chase noted that he tried building a commercial office park to Route 1 but there is no office market. Mr. Chase said the 100 foot frontage per dwelling unit doesn't make sense to him because he could do multi-family units here and the overlay allows for apartments.

Mr. Sloat asked how long it will take to finish the project. Mr. Chase anticipates he will do twenty to twenty-five units per year and once construction starts, he plans to complete it within three to four years. Mr. Sloat asked if this plan is a final draft. Mr. Chase said final grading and engineering may drive the plan in a bit of a different direction but this is close to what it will be.

Ned Copp, Upper Methodist Rd., said when they say the sewerage is going to run towards the turnpike, it means it is going to run to his house. Mr. Copp has an artesian well and he expressed concern with his well becoming contaminated. Chair Bingham replied that the stormwater and wastewater treatment review will address this. Mr. Copp said he was born and raised in the area and he has seen the whole pit under a lot of water and he thinks there are going to be some surprises. Chair Bingham said the purpose of the meeting tonight is to hear of the neighbors' particular issues that they may have with their property so the issues can be resolved.

Mr. Chase referred to the pit being flooded in the past and said he doesn't disagree that this happened. Mr. Chase explained that part of the reason he did a land swap with turnpike previously was so he could remove a line of gravel that was creating a water ponding issue in the spring. This has been addressed and there is no more water ponding. Mr. Chase said that the State is not going to allow the sewerage to impact neighboring wells. Mr. Chase added that he will be extending public water into the neighborhood.

Mr. Auclair referred to Councilor Storey-King's comment about the frontage requirement and questions about the one parcel and condominium approach for setbacks that pertain to the project and wondered if the sketch plan should be tabled. Mr. Auclair noted that if the 100 feet of frontage applies, then the whole plan has to entirely change. Mr. Chase

said this is sketch plan and there is no Board vote. Mr. Chase thinks it is healthy to continue the meeting to hear other comments and asked not to table the item.

Councilor Vail encouraged Mr. Chase to look into the questions raised and noted that amenities for the project may also affect the neighborhood, such as the water line extension. Councilor Vail referred to the lack of a shoulder or sidewalk along the roads and asked Mr. Chase to consider providing some amenities that may benefit the public in addition to the project.

Chair Bingham closed the public hearing.

Mr. Turner outlined the history of trying to promote commercial development in this area of town and noted that commercial entities were not interested so the Town Council created this overlay for affordable housing.

Ms. Sawchuck said she appreciates the public comments and the Board will look carefully at the development. Ms. Sawchuck said that it is a federal or state law that projects cannot increase water runoff. Mr. Nixon added that it is in the town ordinance that the rate of post development runoff cannot exceed the predevelopment runoff. Ms. Sawchuck said that sewage cannot impact wells and the Board takes this into consideration. Ms. Nixon said that the developer works with their engineer to put the information together and the town then sends this information to another engineer to do a thorough review all of the standards. Ms. Nixon said that it can take several meetings to approve a project as the developer and town engineers work together to ensure the project is safe and meets the ordinance. Ms. Sawchuck added this is all public information and people can review it and if there is something they don't like, they can point it out to the Board.

Ms. Sawchuck asked about rules for closure of a gravel pit. Mr. Chase said he considers the site an active gravel pit but there is no mining of materials on the site. The gravel pit will be closed if this development plan goes through. Ms. Nixon said that they will look into what the State may require for the closure of a gravel pit.

Ms. Rardin thanked members of the public for their comments and asked about abutter notifications. Ms. Nixon said that every time the project comes before the Board, the abutters within 500 feet of the boundary of the project will receive a notice. Ms. Nixon noted that the ordinance did not always require that sketch plan reviews have a public hearing or that abutters be notified but the Town changed this years ago in order to be more inclusive of the neighbors.

Chair Bingham said he believes that within the next ten to fifteen years, Route 100 will have a thriving commercial presence. Chair Bingham thanked the applicant for their presentation and the public for their participation.

**2. Public Hearing:** Recommendation to Town Council on proposed amendment to the Cumberland Code of Ordinances Chapter 315, Section 4 - Word Usage and Definitions and Section 6 - Rural Residential Districts to define and add Agritourism as an allowed use.

Chair Bingham introduced the item.

Ms. Nixon explained that the Grange Hall Pub project on lower Route 9 is unique in that it preserves a lot of land for conservation. The developer asked if he could have four small

structures for overnight camping. The Lands and Conservation Commission denied the request. What is before the Planning Board tonight is a similar concept proposing to allow up to four tent sites. This use will have to be added to be allowed and the term is “agritourism.”

Chair Bingham said the term “agritourism” is new and this will go to the Town Council. This aligns with the Comprehensive Plan to encourage agricultural things. Chair Bingham wondered who controls what is done and whether there will be unintended consequences.

Chair Bingham opened public hearing.

Shirley Storey-King, Middle Rd. and Town Councilor, said her concern is with people that want to camp for the duration of the summer. Ms. Nixon explained that if someone wants to let people come camp on their land at no charge, there is nothing the Town can do to prevent this but if the owner is charging people to camp then the Town would regulate this and it would need site plan review. Ms. Nixon said the proposal has a limitation of four sites. Councilor Storey-King added that the proposal includes a limit of two people per site and they have to meet sanitation requirements.

Ms. Perry said that the two people per campsite requirement is very exclusive and would prohibit families. Cumberland is a family oriented town.

Ms. Nixon explained that the town is not allowing campgrounds as defined by the State that has stringent rules and this is why the proposal is limited to four sites with not more than two people on each site.

Mr. Auclair asked if there was agreement from the Ordinance Committee on this. Councilor Storey-King replied yes and noted that it is not just for the Longwoods Preserve site, it will be for any property making income through agriculture. Mr. Auclair said it is appropriate early on to be limiting.

Mr. Turner said that the uses proposed are appropriate but the proposed language indicating “not necessarily limited to the following” could open Pandora’s Box. Mr. Turner suggested only allowing the activities listed so the town does not end up with something they would prefer not to see.

Chair Bingham wondered if there is a town procedure for regulating these.

Ms. Perry asked if there could be a change to the contract zone to allow this for the Longwoods Preserve property. Ms. Nixon answered no. Councilor Storey-King added that changes to the contract zone have to go back to the beginning.

Councilor Storey-King said she will share the Board’s comments with the Town Council. Ms. Nixon noted that the Town Attorney has recommended in the past to use the proposed language Mr. Turner referred to that indicates uses are “not necessarily limited to the following.”

Mr. Auclair moved to recommend to the Town Council the acceptance of the proposed amendment to the Cumberland Code of Ordinances, Chapter 315, Section 4 - Word Usage and Definitions and Section 6 Rural Residential Districts to define and add agritourism as an allowed use, seconded by Mr. Turner and **VOTED, 6 yeas, unanimous - motion carries.**



**G. Administrative Matters/New Business:** Chair Bingham noted that he and Ms. Rardin will be away in July.

**H. Adjournment:** Ms. Perry moved to adjourn the meeting at 8:55 pm, seconded by Mr. Auclair and **VOTED, 6 yeas, unanimous – motion carries.**

**A TRUE COPY ATTEST:**

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Peter Bingham, Planning Board Chair

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Christina Silberman, Administrative Asst.