

**TOWN OF CUMBERLAND  
PLANNING BOARD MEETING MINUTES  
Tuesday, April 16, 2019 – 7:00 pm**

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

**A. Roll Call: Present:** Paul Auclair, Bill Kenny, Steve Moriarty, Jason Record, Joshua Saunders, Ann Sawchuck & Peter Sherr. **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant, William Shane - Town Manager & Natalie Burns – Town Attorney (present through Public Hearing Item #1). **Absent:** None.

**B. Approval of Minutes:**

**1. February 19, 2019 Meeting Minutes:** Mr. Moriarty moved to adopt the minutes of the February 19, 2019 Planning Board meeting as amended, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

**2. March 19, 2019 Meeting Minutes:** Mr. Saunders moved to adopt the minutes of the March 19, 2019 Planning Board meeting as written, seconded by Mr. Moriarty and **VOTED, 7 yeas, unanimous - motion carries.**

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

**D. Minor Change Approvals:** None.

**E. Hearings and Presentations:**

**1. Public Hearing: Sketch Plan Review for the Phase 2 retirement community for Cumberland Crossing (OceanView at Cumberland, LLC) to develop 52 new cottages, located at 228 Greely Road, Tax Map R04, Lot 34 A and a small portion of the lot located at 60 Val Halla Road, Tax Map R04, Lot 41. Applicant: OceanView at Cumberland, LLC; Representative: Frederic (Rick) Licht, PE, LSE, Licht Environmental Design, LLC.**

Chairman Auclair introduced the item.

Mr. Sherr stated that his firm has worked with the applicant on this project and he recused himself from participating in this agenda item. Mr. Sherr left the dais and sat in the audience.

Rick Licht, PE - Licht Environmental Design, LLC, greeted the Board and noted that Scott Anderson from Verrill Dana, Chris Wasileski and Christian Haynes are here. Mr. Licht said that there are a couple of concepts that they want feedback from the Board on relating to the issue of the through road.

Scott Anderson said he is here about right, title and interest. Mr. Doane conveyed a 31 acre parcel for part of phase one of this project that the Planning Board approved in 2018. There is a deed restriction with this conveyance which limited the number of units to 50 and the project complies with this deed restriction. Mr. Anderson said that when the project moved forward with the rezoning to allow for phase two, Mr. Doane raised some questions and concerns about whether the deed restriction that applies to

Mr. Doane's conveyance has some impact and whether the Board should consider this. At that time the Town Attorney said that this is a rezoning and Mr. Doane has raised a concern that is a private matter and is not something resolved by the Board.

Mr. Anderson said that Mr. Doane's issue about the deed restriction has continued as the applicant goes through the Planning Board process for phase two. Mr. Anderson said that the Town Attorney suggested that he provide a letter to the Board regarding the legal standing and the deed restriction. Mr. Anderson read the restrictive language of the deed restriction as follows; Grantee, its successors and assigns covenant and agree that no more than 50 single family residential dwelling units (and related amenities and common facilities, including a common community or activity building, and also including parking, utilities, drainage, detention and other site improvements) will be constructed on the above described property. Mr. Anderson continued that the restriction only has to do with property that is a part of phase one and has nothing to do with the Godsoe property for the phase two application.

Mr. Anderson said that in Mr. Doane's April 2<sup>nd</sup> letter is concern about the spur road going from the loop in phase one and connecting to the Godsoe property and that there is something wrong with this in the deed restriction. Mr. Anderson doesn't think so. Mr. Anderson added that throughout the process working with the Doane family and the Town, OceanView has been clear that they are eager to develop this phase two property. An easement was acquired from the Town to cross a little triangle that is the 5<sup>th</sup> tee box of the golf course to access the Godsoe property. Mr. Anderson noted that the Town has been clear that they want all of the traffic, including phase two, to go in and out from Tuttle Rd. and does not want a formal through road that people would use as a cut through. The connection from the Doane property to the Godsoe property has been public and has always been part of the plan. Mr. Anderson said that he provided his letter to show that there is legal standing to apply and the deed restriction doesn't have anything to do with access or traffic.

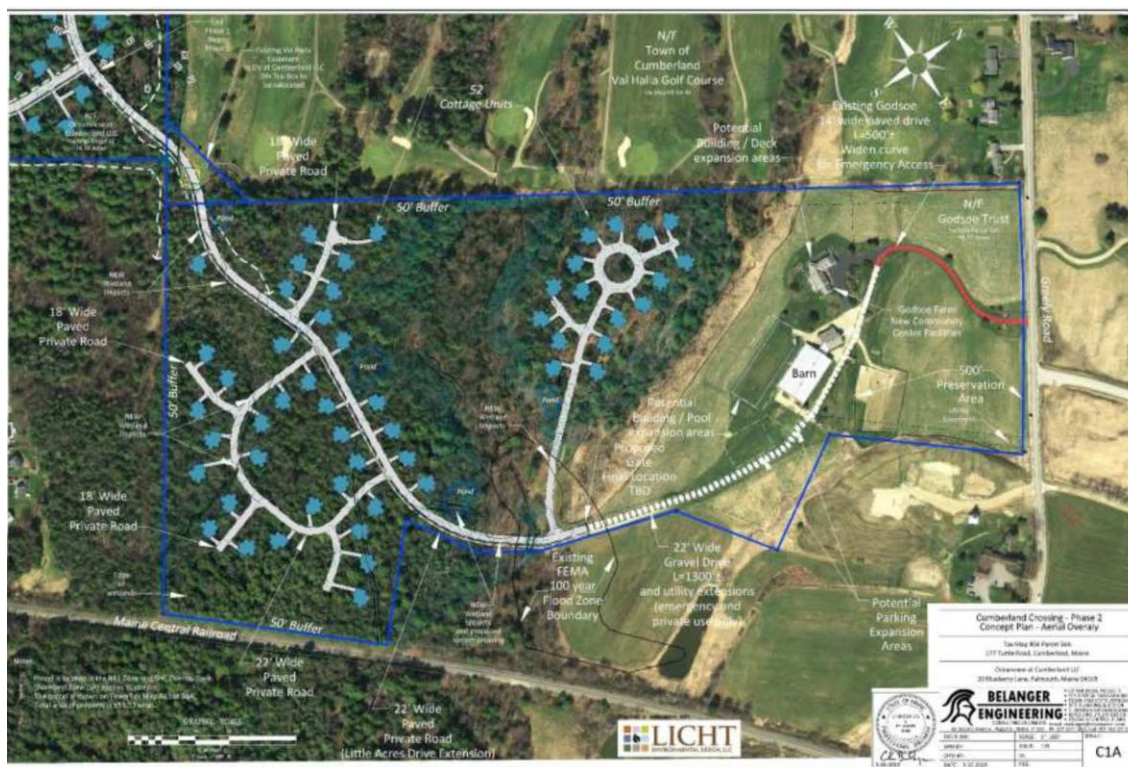
Chairman Auclair said that he read both Mr. Anderson's and Mr. Doane's letters carefully and the Board has no authority to litigate civil disputes. Chairman Auclair said that from his point of view the issue is the road, the connection and the issues that pertain to the ordinance and what is best for the community and the project.

Mr. Moriarty said that he has no comment on the legal issue raised and agreed that the Board does not have authority to resolve it. Mr. Moriarty asked Town Attorney Natalie Burns if there is any reason that the Board cannot proceed to hear the sketch plan review tonight. Ms. Burns responded that she does not see any reason why the Board cannot proceed at this time.

Ms. Nixon reported that Rick Doane has been communicating with her via email and asked that she convey to the Board that he could not be here due to previous plans but he would very much like to be here and his absence does not mean that he is not interested.

Mr. Licht explained that they are here for a second sketch plan to get feedback from the Board about the concerns with a through road. Mr. Licht displayed the phase two plan and said that the initial concept is for an extension of Little Acres Dr., a 22' road, to just

beyond a side road that leads to a cul-de-sac nearest to Greely Rd. where the formal roadway will end with a gateway. The road would then extend as a gravel road up into the area that will be the community center.



Mr. Licht continued that the plan looks to retain the pastoral feel of the community center and farmstead in concert with the overlay district. The overlay district has a 500' view shed which is very restrictive on the use of the front of the property. Mr. Licht said that the intent is to keep the existing driveway and, if necessary, modify the tight corner to the standard 100' minimum radius to make it acceptable for a large fire department vehicle. The gravel access will be maintained yet will be widened to the full base depth and 22' wide standard. This would be a through road, but a private road, connecting to the driveway that is 14' wide. The driveway shoulders would be widened.

Mr. Licht explained that there would be a through road and about 1300' of the road would require a waiver from the standards for paving the road. This would still provide a through connection for emergency services, access for residents to get to the community center and keeps the pastoral feel rather than creating a large scale roadway. Mr. Licht noted that maintaining the view shed is extremely important. Mr. Licht reviewed pictures of the existing property to convey the character of the farm.

Mr. Licht stated that they have looked at the Comprehensive Plan that talks about interconnectivity between Greely and Tuttle and also talks about maintaining character in subdivisions and maintaining the rural character and view along Greely Rd so there are some competing interests and thoughts.

Mr. Licht said he appreciated the opportunity to meet with Lt. Young and Chief Small who have written letters to the Board. Mr. Licht said they can meet all of their concerns.



The one area where they differ is in having the entire road paved. Lt. Young and Chief Small were very vocal about having the road paved and Mr. Licht said they would like feedback from the Board to see if the Board is comfortable with OceanView moving forward with the current road and the waiver. Mr. Licht noted that the existing driveway is already paved and the applicant has agreed to add a one inch overlay. Mr. Licht said the question of a gate has come up and the applicant wants to create stone pillars and not a gate that could be closed. Chief Small has requested an area near the community center to turn large fire apparatus around and the applicant is willing to work with the Chief on this.

Mr. Licht asked if the Board would be comfortable with granting a waiver of a paved surface of about 1,300'. Mr. Licht asked if the Board would be comfortable with a waiver in order to maintain the existing roadway (indicating the driveway) width of 14' and widening the shoulders, subject to making sure this works for the Fire Chief. Mr. Licht said the rest of the project remains the same as discussed at the last meeting and they would like feedback from the Board before proceeding with final engineering and detailing of the project.

Mr. Licht identified an area on the plan near the existing wooden bridge and said that this crossing is being reviewed and the bridge is being evaluated. The wooden bridge does not meet standards. Mr. Licht said that they hope to keep the bridge for a pedestrian walkway. Upstream of the wooden bridge they propose putting in a culvert or bridge.

Chairman Auclair asked Mr. Licht to point out where the parking area for the community center might be. Mr. Licht indicated an area near the end of the existing barn where a parking area is proposed. Mr. Licht noted that the view shed preservation area in the overlay states that whatever use occurs as farm use with vehicles can continue but parking cannot be expanded in this area.

Chairman Auclair stated that he read the letters from the Fire Chief and Police Chief and said given the proximity of the police department and the fire barn, it seems that these vehicles would come in from the other side. Mr. Licht said he thinks that in a lot of cases the vehicles will come down Tuttle Rd. and through the project but mutual aid could come from Greely Rd.

Chairman Auclair said that personally at this time he would have no issue with the gravel road. This could discourage people trying to short cut between Greely and Tuttle.

Mr. Kenny asked about handicap parking for the community rooms and asked if they could park in the small paved area near the house with a couple of handicap slots. Mr. Licht agreed and added that with the language in the overlay district they would be able to modify the front of the building with a ramp. Mr. Kenny said that the driveway coming in from Greely Rd. is narrow and this is a plus because it would not look like a town street and this might stop people from trying to cut through. Mr. Kenny said he doesn't have a problem with the gravel.

Mr. Moriarty referred to page two of Mr. Licht's letter that mentions it is recognized that a senior housing community generates one third of the traffic of a traditional subdivision

and asked if this is an accepted fact. Mr. Licht replied that based on the ITE trip gen numbers, a single family senior residential community generates about a third of the peak hour values. Mr. Licht further described how traffic is counted. Mr. Licht said that seniors typically have a looser schedule and can choose when they want to leave.

Mr. Record asked if the traffic study has been done. Mr. Licht replied that it has not been done but will be part of the initial formal application. Mr. Record asked what the total road length is for phase one and two. Mr. Licht said phase two is roughly 2,200' paved then 1,300' until you come to the existing driveway then 500'. Mr. Licht said they would ask for the waiver for 1,800'. Phase one is 2,900'. The utility extensions will come from phase one except they are not sure about CMP. Underground utility connections are permitted in the overlay language. Mr. Record referred to Mr. Licht's letter that said to do a full 22' wide road connected to Greely Rd., due to the limitations of both location and geometrics of the Godsoe driveway, this approach would require a full subdivision road access across the open field. Mr. Record asked if this is instead of using what is drawn now and why. Mr. Licht replied that the ordinance has offsets from public roads and they have to maintain the view corridor from Greely Rd. Mr. Licht does not think they could meet the offset. Mr. Record asked why the 22' can't go where it is drawn. Mr. Licht said a 22' road with stormwater controls would change the character. The overlay language speaks specifically to the existing drive and states that they cannot increase the square footage of the impervious area. Mr. Licht said they do not want to create a road for through road purposes but want to create a road for emergency access.

Mr. Saunders confirmed that the proposal for both phases is for a private road and Mr. Licht said this is correct. Mr. Saunders suggested Mr. Licht talk with staff and he cited the Town Ordinance for subdivision roads that says private streets are permitted only when the average daily traffic is less than 50. Mr. Licht referred to the overlay district standards and said these standards allow the road to be public or private. Mr. Saunders responded that the private road issue is separate than the performance standards but if this is in the overlay district than he is fine with it. Mr. Saunders said that he likes the idea of the gravel but he is concerned that both the Police Chief and the Fire Chief prefer it to be paved. Mr. Saunders said that there is some appeal to the idea of splitting the traffic between the two roads, Tuttle and Greely, and his concern is what the additional traffic would be if it becomes a through way. Mr. Saunders added that if the road is to remain private with waivers of performance standards he would feel more comfortable with a condition of approval to the effect that if the owner ever wants the Town to take the road over, bringing it up to Town performance standards would be the obligation of the owner.

Mr. Moriarty asked if all of the cottages will be sprinklered and Mr. Licht said yes. Mr. Moriarty referred to the applicants' meeting with Police and Fire and asked if the concern was primarily with mutual aid responses. Chris Wasileski replied that primarily the concern was with having access from both directions because Yarmouth and North Yarmouth do assist with emergency calls. Mr. Wasileski added that the cottages in phase one and two will also have smoke alarms and security systems. Mr. Moriarty said that if emergency calls are not mutual aid calls they will come down Tuttle Rd. and in through Little Acres Dr. Mr. Moriarty said that he would like to see how many mutual

aid responses there have been for the length of Greely Rd. because he does not think there are that many. Mr. Moriarty said he sees the rationale for another way in but he is not overwhelmed with a need for this. Mr. Moriarty is fine with the paved driveway as it is, he has no problem with the gravel part of the road or the pillars. Mr. Moriarty said he doesn't see residents of the Town using this as a cut through.

Ms. Sawchuck agreed with Mr. Moriarty and said her main concern is increased traffic on Tuttle Rd. and she is very interested to see the traffic survey. Ms. Sawchuck is fine with a gravel or alternative surface on the portion of the road Mr. Licht pointed out and she is fine with the red (indicating the existing driveway) part as well.

Mr. Record said that he has concerns with a 7,000' road that is significantly better on one side than on the other side and this could be an issue someday. Mr. Record does not think the road will be a major cut through because it is too winding. Mr. Record said he would go with Police and Fire as far as a 22' wide road and he does not think the view shed would be significantly impacted. Mr. Record said that he thinks that if the roads are equal on both ends, the traffic will balance itself and this would be better for the Town so not everything ends up on Tuttle Rd. If the 22' road is there it would be better for emergency services especially if something were to happen at the other end of the road. Mr. Record would like to see the road brought up to the full standard and follow the current path with minor alterations.

Chairman Auclair opened the public hearing.

Tom Netland, 212 & 216 Greely Rd., said that it seems to him that there is an effort to downplay the amount of traffic that will go through here and he is anxiously looking forward to the traffic studies. Dr. Netland does not agree with many of the Board members that there will not be a lot of cut through traffic. Google Maps will take people on the shortest road. Dr. Netland identified his property line on the proposed plan and said he is concerned about building this road, that is now likely to have more traffic, within the buffer zone. Dr. Netland identified one area where the proposed road is almost on the property line and said he is hoping that the road can be redirected off the buffer zone. Dr. Netland acknowledged that he is unsure about the pros and cons with the wetlands and the water flow and suggested that the road be moved back and kept over the crest of the hill and there would be additional view shed benefits. Dr. Netland questioned if it would be possible to take the road through by the side of the house and connect it to where there is a proposed cul-de-sac as a more direct route. Dr. Netland surmised that he has a lot of concerns about the location of the road, the view shed and the amount of traffic.

Town Councilor Peter Bingham, 19 Brook Rd., said that speaking to short cuts, when Wyman Way was approved the thinking was that it would be the ultimate short cut. After people tried the short cut they decided that it didn't really make any difference so Wyman Way being a short cut didn't really come to pass. Mr. Bingham referred to Harris Rd. being opened up and said that he lives right off Harris Rd. and there hasn't been a noticeable increase in traffic except for when there are big events at Twin Brook a few times per year. Mr. Bingham said that Harris Rd. was the longest dead end, before it was opened up, before this proposal and the Town does need a decent road coming out of phase two. Mr. Bingham said that he thinks this will be another Wyman

Way and once people go through they will see that it is not much of a difference. Mr. Bingham said that he thinks the road size will work itself out but there does need to be some kind of a flow of traffic here.

Town Manager Bill Shane said the meeting between the developer, police, fire and himself was put together to avoid the Planning Board having to play Solomon and having to figure out if it is safe or not. Mr. Shane said that the conditions for the Town support and the letters the Board has in their packet were that the road would be paved and the Town would concede to the S turns (indicating the existing driveway) as long as they were widened with gravel and grassed over so that fire trucks could make the wide swing and not damage the road. Mr. Shane said that this was agreed upon and to his surprise the road has gravel. Mr. Shane said that ambulances picking up from residences in the cul-de-sac area would have to decide if they want to go over the gravel road to Greely Rd., which is a 45 mph road, or take the paved road back to Tuttle Rd. which is a 35 mph road. Mr. Shane noted that ambulances pick up more people in senior housing neighborhoods than in traditional neighborhoods. The Town feels that it is important to keep this a paved road and this is what was asked for. Mr. Shane said that the Board will not see letters of support from the Chiefs or from him when the plan comes back for the preliminary approval meeting unless it is a paved road. Mr. Shane added that there was talk about gates which the Town would not support but the Town would support pillars.

Mr. Shane said that the way things are stated regarding traffic is extremely important. It is correct that there is 30% of the normal traffic for peak hour trips which is 1 hour in the morning and 1 hour at night. The rest of the day, subdivisions generate 10 trips a day per household at different times of day that won't conflict with the peak hour. Mr. Shane said that Tuttle Rd. and Greely Rd. have the capacity to handle traffic from this subdivision.

Mr. Shane said that the next meeting for the project will be interesting and he hopes they change the plan because he would like to support the project fully.

Chairman Auclair closed the public hearing.

Mr. Licht said that Chief Small and Lt. Young both really wanted the paved road but the owners think they can overcome the concern with well-designed gravel roads. OceanView would maintain the road and they are looking for a compromise. Chairman Auclair replied that it seems to be aesthetics versus safety issues and this is tough.

Mr. Moriarty asked if other affiliated developments have gravel roads that are maintained. Mr. Wasileski said that both of their Topsham projects have gravel roads as a secondary means of egress. Mr. Wasileski said that they are familiar with creating roads that are well maintained, aesthetically pleasing and reinforced so a heavy vehicle would be feasible to pass through.

Mr. Moriarty referred to Dr. Netland's concerns and said that he was slightly more happy when the road was proposed two months ago to be a dead end. Mr. Moriarty recognized that it would be a very long dead end, greatly exceeding the maximum length for a dead end road, and noted that there is flexibility in the Ordinance to allow the Board to approve an extension. Mr. Moriarty referred to the length of Greely Rd.



Ext. and Bruce Hill Rd. to Valley Rd./Pleasant Valley Rd. and said that, to his knowledge, there aren't any major public safety issues with either of these two long dead end roads. Mr. Moriarty added that he is not disturbed by what he sees tonight.

Mr. Record asked if, during the meeting with the Fire Chief, the radiuses/turns of the secondary roads shown on the plan were reviewed as far as being able to fit large trucks. Mr. Licht said that he can't say that the Chief got to this level of review but these roads will meet all of the Town standards. Mr. Record asked if the proposed gravel part of the road were paved would this create an unreasonable hardship for the project. Mr. Licht said he is not sure and they are looking for guidance from the Board.

Ms. Sawchuck said that the key may be a well-designed gravel road and she suggested the applicant bring their Civil Engineer to explain how such a road can meet the traffic and requirements of the Chiefs of Police and Fire.

Mr. Kenny referred to Dr. Netland's comments and said he would like to see if the road can be moved further away from the property line to be a good neighbor. Mr. Licht said that they are keeping a close eye on this and need to balance this with minimizing wetlands and satisfying the Army Corps & NRPA requirements and meeting flood requirements. The existing wooden bridge could be maintained as a walking trail.

Chairman Auclair said that he lived in Iceland back in the 70s for three years and at the time the country had fewer than 50 miles of paved road and the rest were gravel roads. Chairman Auclair said that obviously the applicant cares about the road and it will be there a long time. He would like to hear what their convictions are and how important this is to the project. Mr. Licht said they want to work with Public Safety and work through their comments. Chairman Auclair asked if Dr. Netland's proposed road location has been looked at. Mr. Licht replied that they have not looked at all of the alternatives and they will look at options.

Chairman Auclair thanked Mr. Licht.

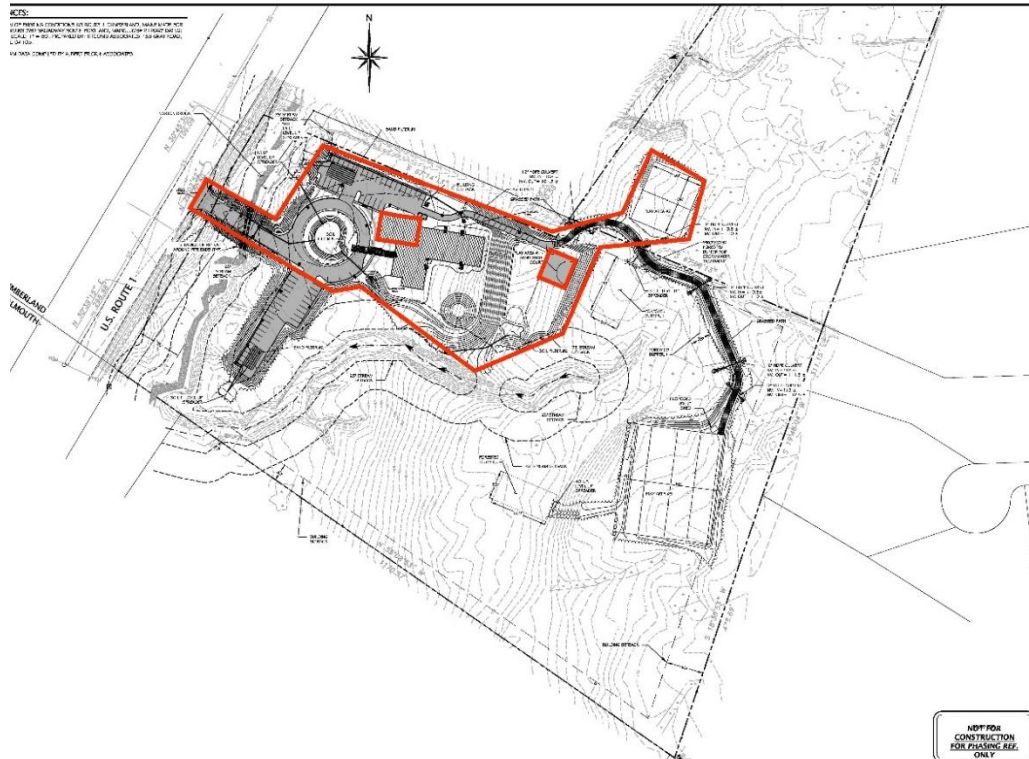
Chairman Auclair called for a short break. Mr. Sherr returned to the dais. Chairman Auclair resumed the meeting.

**2. Public Hearing: Amendment to an approved Site Plan for Friends School for a 3,950 square foot addition, expansion of on-site parking, other minor changes and reapproval of the 3,500 square foot Community Hall and 28,000 square foot Play Area 3 east of the existing building, located at 11 US Route One, Tax Map R01, Lot 10. Applicant: Friends School of Portland; Representative Norman Chamberlain II, PE, Walsh Engineering Associates, Inc.**

Chairman Auclair introduced the item.

Silas Canavan, PE - Walsh Engineering, said he is here standing in for Norman Chamberlain and they are the Civil Engineers for the project. Mr. Canavan noted that Jenny Rowe of Friends School is here. Mr. Canavan said they are here for expansion of the school and parking and for reapproval of the community center and the play area behind the school. Mr. Canavan displayed the 2013 site plan that was approved for the project and reviewed the project history. Mr. Canavan noted that the basketball court and community center were not constructed.





Mr. Canavan displayed a revised site plan and pointed out the proposed location of play area three in the back of the site. There will be an access road to this area which will be a soccer/play field of grass with no buildings except for a possible shed. This design was part of the original approval and has not changed.



Mr. Canavan identified a new classroom addition shown in yellow on the plan at the east end of the building. The footprint will be about 4,295 square feet. The existing school is two stories. The addition will be one story but will be on the second level and will be accessed by a bridge from the second level of the existing school. There will be some storage area below that will be accessed from outside the building. There will be stairs along the south side of the building. The new building will accommodate 25 more students and 5 more staff for a total of 130 students and 30 faculty.

Mr. Canavan identified the location of the community center that will be 3,500 square feet and will be an auditorium/gymnasium multifunction building. This is the same as what was designed and approved in 2013.

Mr. Canavan identified the parking area and said that they propose an extension of the parking to extend to the south. They propose a total of 84 parking spaces all together including some parking around the circle. This is a net increase of 48 spaces from what currently exists and an increase of 23 spaces from what was approved in 2013. Mr. Canavan said that in 2013 there was a waiver request for the number of parking spaces. The ordinance requires school parking be based on the largest auditorium seating. Mr. Canavan noted that in this case, the ordinance would require 132 parking spaces which would have been a similar calculation in 2013 when a waiver was granted for 61 spaces. Mr. Canavan said that they are asking for another waiver this time. The occupancy of the building with the additional students and staff will be an increase of 20%. The revised plan proposes a 38% increase in parking above what was previously approved. The parking increase exceeds the occupancy increase and therefore the applicant believes this will be enough parking for the site to operate as intended.

Mr. Canavan reviewed stormwater management plans for the site.

Mr. Canavan reviewed the lighting plans for the site. There was a review comment about light spill over on one side of the site and Mr. Canavan noted that this is existing lighting that is already in place. The new lighting doesn't contribute to any light spill over. Mr. Canavan said that to his knowledge there have not been any complaints about the lighting.

Mr. Canavan said Ms. Nixon and staff have provided some comments on the application and he has not submitted the information back to the Town yet. He has looked at the comments and knows that they can all be addressed. Portland Water District has provided the ability to serve letter and Mr. Shane has provided a letter about the sewer capacity. Mr. Canavan said he will provide these letters and any additional information if necessary.

Mr. Canavan referred to minor comments from the Sevee & Maher review related to stormwater and design of the site layout and said that these will be easily addressed as they move forward. Chairman Auclair asked if any of this has been resolved. Mr. Canavan replied that they have not followed up with the review engineers yet.

Mr. Canavan reported that they have consulted with Bill Bray, Traffic Engineer, on this project and a new traffic movement permit is not required because the site has this from the original design. The Town has asked for formal documentation on this and they have reached out to MDOT for documentation that the permit will not be required.

Mr. Canavan referred to financial capacity and said that they did get a letter from TD Bank. The project will be funded by multiple avenues. Some of the funding will be by the school itself, there will be a large fundraising effort and there will be a bridge loan from TD Bank for an amount to be determined.

Mr. Canavan reported that there will be a revision for the MDEP stormwater permit that has been submitted and is currently in review. There is no new wetland permitting associated with the new construction. During the course of design, it came to light that there was some inadvertent wetland fill during the original construction. Mr. Canavan said to remedy this, the school has reached out to the MDEP and the Army Corps and after the fact permitting has been done. The Army Corps permit has been received and the MDEP Tier 1 permit is under review. Copies of this information will be provided to the Town.

Mr. Canavan said that ideally they would like the Board to provide approval with conditions tonight and then they could follow up with staff.

Chairman Auclair asked about Portland Water District's request to confirm that the water supply is adequate for the sprinkler system. Mr. Canavan said this is usually done during construction and is not something that he would typically handle but he will reach out to the general contractor for info.

Chairman Auclair asked about the reference to 31 temporary overflow parking spots and asked where these would go. Mr. Canavan indicated a field in the back of the site that has a gravel drive and said the overflow parking would be in this field. Chairman Auclair asked if the area where the new parking spots will go is forested and will need to be cut. Mr. Canavan replied that some of this area will have to be cleared. Chairman Auclair asked for confirmation of the size and said the materials have differing amounts. Mr. Canavan said the classroom addition will be 4,295 square feet.

Mr. Sherr said that when this came before the Board in 2013 he thought it was a great project. It is a great addition to the Town. Mr. Sherr said that he doesn't see anything new that gives him any heartburn. Mr. Sherr asked Ms. Nixon if she feels that the project is ready for approval even with a lot of outstanding items. Ms. Nixon said that she does not think that the project is time sensitive and because the Town did not get responses to comments in time she recommends that the Board table the approval. Mr. Sherr noted that in order for the Board to grant conditional approval tonight, they need to go through all of the outstanding items and he doesn't think that this is the best use of the Board's time.

Mr. Kenny referred to the financial obligation for the project and their plan for a fundraiser. Mr. Kenny asked what if they don't raise the money and said that this doesn't seem like a commitment for financial capacity. Mr. Nixon replied that financial capacity is always a bit of a moving target depending on the project. In the case of the school, it is understood that it is a nonprofit and they need to do some fundraising. Ms. Nixon said that her comment was to get a letter from TD Bank saying that they met with the applicant and understand the cost of the project and are willing to provide financing for the amount of the bridge loan. Ms. Nixon noted that the Town is not bearing any risk in this because there are no public improvements with this project so if they undertake



the project and don't have the finances to complete it, the Town is not going to be left with an unfinished road or so forth. Ms. Nixon said that they will be required to provide a performance guarantee prior to the construction so she thinks the Town will be okay. Mr. Sherr added that the approvals will sunset after a certain time if they don't start construction and they would have to come back to the Board for an extension or for reapproval. Mr. Saunders said that the caveat to this is that the Town could be left with the expansion of the school itself and not the parking lot. Mr. Saunders said that the Town needs to be careful. Mr. Saunders said he would feel better to know what happens if fundraising doesn't hit their mark and asked if the project would be phased or would it be all or nothing.

Mr. Saunders referred to the parking waiver request and asked for clarification. Mr. Canavan clarified that there are currently existing parking spaces in the area in question and the proposal is to remove the four existing spaces to create seven spaces.

Chairman Auclair said that the Board is obligated to follow the Ordinance and there are so many questions that it would be hard to go through the entire list so if the applicant can resolve the issues and come back it would be more efficient.

Mr. Moriarty said that in 2013 the community hall and the playing field were approved and the approval has lapsed because they were not built. Mr. Moriarty asked Ms. Nixon if the project is back to square one for both of these components. Ms. Nixon replied that the project has made more than a substantial start and developed the project to the point where these pieces weren't been started yet. Ms. Nixon said it is reasonable that the approval is still in place and it is an abundance of caution to say they will be reapproved here. Ms. Nixon does not think that they have to go back to square one and said that the motion of the Board, when it comes, should cover the reapproval and the new pieces. Mr. Moriarty asked if he is wrong to say the approval has lapsed and Ms. Nixon said that she does not view it this way. Mr. Sherr said the option is to look at the reapproval separately from the new items. Mr. Sherr said that if this were only the reapproval it would be simpler but now there is one updated site plan so he believes the Board should tackle it as going to square one for everything being proposed.

Chairman Auclair opened the public hearing.

Robert Knupp, 4 Eagles Way, said he is an abutting property to the project. Mr. Knupp said that he received a public notice of intent to file with the Board of Environmental Protection from February that states the application is for construction of a 4,000 square foot classroom addition and parking for 52 additional cars. Mr. Knupp said he didn't hear anything about 52 cars tonight and asked about the difference in the numbers. Mr. Knupp said it seems that there should be re-notification to the abutters that accurately reflects what is being proposed. Mr. Sherr and Mr. Saunders explained that the new proposal is for additional spaces over what was previously approved.

Mr. Knupp referred to stormwater and asked if the stormwater that is being treated will run off into the existing stream. Mr. Sherr said that his understanding is that there is a treatment that will be approved by DEP and the stormwater will be treated before it discharges from the property.



Mr. Knupp said there is revision to the plan calling for additional construction and additional traffic and it brings up the question of the safety hazard that exists on Route 1 from Yarmouth to Falmouth in a 45 mph zone that is suddenly impacted by a 15 mph speed zone. Mr. Knupp said that he has been told that this is a requirement of State law. Mr. Knupp said that he has never seen a child crossing the street to go to this school. Mr. Knupp asked if the Town can take a look at this problem and ask the State Representative to see if there can be special legislation passed to address this significant hazard.

Mr. Knupp stated that these are his concerns as a citizen and abutting property owner. He noted that he is the Treasurer of the Hawks Ridge Condominium Association and is here in an official capacity to represent the Association.

Town Manager Bill Shane said that Friends School has been an amazing addition to the community and he encouraged the Board to meet with Ms. Rowe and visit the school. The Friends School gives residents another option for kids to go to school. Mr. Shane added that from the initial construction the school has been excellent to work with and has hired excellent contractors.

Mr. Shane's one concern is that the DEP is trying to get back to normal and it will take some time. Mr. Shane said that the DEP may not be ready by the time the school is ready for construction so staff is put in a precarious position of allowing the school to continue on what the Board already approved in 2013 while waiting for this DEP approval. Mr. Shane said he doesn't want people to think that he and Ms. Nixon are trying to circumvent the Board. Mr. Shane and Ms. Nixon are on the same page that a lot of this proposal the applicant already has approval for. A lot of the new areas that weren't on the last plan can't be done without the DEP approval. The DEP approval could be several months and it would be nice if the Board could make their approval conditional on the DEP approval. Mr. Shane said he would look to Mr. Sherr for advice as far as if the other areas that were approved could have cutting and site prep work. Mr. Shane said he doesn't think this would be a violation of the ordinance.

Mr. Shane referred to the issue with traffic and commended Friends School for what they have done. The Town and Friends School have petitioned the State heavily to get this corridor reduced in speed and there has been a 5 mph reduction which Mr. Shane said is inconsequential. When the Town added the third lane (the center turning lane) they were told it would be safer, and it is, but the Town has not seen the 10-11 mph reduction in speed that the Town was told would happen. Mr. Shane said that some cars are illegally using this center lane as a passing lane. Friends School had no choice and, at their own cost, they put the school limit signs in. Most communities get these through DOT funding but the school didn't want to wait and thought it was responsible if they were going to have a 15 mph zone to put the flashing lights in. Mr. Shane said that after time and time again trying to politic for a reduction in the speed limit, the school was faced with parents trying to turn in with other cars right on top of them. The DOT staff was not a big fan of putting these up but they explained that a school can petition for this and it has to be followed by State law.

Mr. Shane reported that Friends School is one of the few nonprofit organizations that provides the Town with a payment in lieu of taxes because they wanted to contribute

their share for public safety and services. Mr. Shane added the Friends School is the best representative of Cumberland and he wants to see their future success for a long time.

Jenny Rowe, of Portland and Head of Friends School, said that their hope is to begin the project with the parking lot, which they have money for, when the students leave after June 7<sup>th</sup> and would allow them to finish in mid-August. Ms. Rowe said they hope to begin building the classrooms in the fall and if they can't they will begin them on March 1<sup>st</sup>. Ms. Rowe said that if they don't have the money they will wait. The community room will come at a later date. The playing field may be something that will happen several years from now.

Mr. Moriarty said that the field and hall are not going to be done for some years and asked if this is the time to include these. Ms. Nixon said that she advises people to anticipate what they will need in the next two to five years to get the proposal out in the community and people know what is going to happen and have the whole plan approved. Ms. Nixon said this is the preferred way to do it.

Chairman Auclair closed the public hearing.

Mr. Canavan said that their intention is to have one comprehensive site plan that is approved that includes everything that the school wants to do. This is the cleanest way to keep things moving forward. The DEP stormwater permit has been revised and if it doesn't jive with the approved site plan there can be some confusion down the road.

Chairman Auclair asked if the Board can piecemeal the financial capacity. Ms. Nixon said the Board can do this. Mr. Saunders noted that this could be handled with a condition of approval.

Mr. Sherr moved to table action on the application, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

#### **F. Administrative Matters/New Business:**

Mr. Moriarty referred to the Town Garage property and the various uses taking place there. The Board hasn't been involved in this too much aside for the solar array and the additional homes to Village Green. The issues pertaining to the salt shed, sand pile, compost area, bus garage and so forth have been taking place before the Council. There have been efforts to relocate portions of the site elsewhere. Mr. Moriarty suggested that it would be worthwhile involving the Planning Board in a study of a redevelopment plan for the facility and offer recommendations to the Council. Mr. Moriarty said that he would be happy to serve on a subcommittee or perhaps this could involve the entire Board. Mr. Moriarty said he has spoken with Mr. Shane who spoke with Council Chairman Ron Copp and they will endorse this.

Mr. Sherr asked if this would be just the Board or members of the public. Mr. Moriarty said it would be open to the public. Mr. Sherr asked if this would be a recommendation tonight to Council to form a subcommittee. Mr. Moriarty said that he thinks the Planning Board can initiate a zoning change and doesn't need permission from the Council to initiate it. Mr. Sherr asked if it would be all volunteers and would there be any Town funds associated with the subcommittee in doing its work. Mr. Moriarty replied that he

doesn't think so and added that there would be nothing that wouldn't have to be spent already if they pursue a relocation option. Mr. Sherr said that there is potential for grant money for the Town in doing redevelopment plans and asked if this is something the Town would want to look at. Mr. Shane said this is a great idea and he is hopeful that two major components, sand/salt and compost, will be on their way out by early summer and then they will look at what is left.

Mr. Shane said that he doesn't know about the school buses. North Yarmouth would like to see the buses moved there but there is some opposition from the Yarmouth Water District. They would plan for both, to keep the buses and let them go. Mr. Shane referred to the master plan for the site that showed a skating rink, basketball courts and public space. Mr. Shane said that he and the Council would like to use the Board to facilitate this so things aren't forgotten like buffers, lighting and parking. This would be a great use of the Board's time. Mr. Shane said he can reach out to GPCOG (Greater Portland Council of Governments) and ask if there is any availability for additional technical support. This will be a finite site with less than four acres of existing footprint plus four acres of the civic lot. Mr. Shane would to combine both of these lots into a real master plan. It is inevitable that the garage will stay to service Town vehicles but the composting and sand/salt will be located elsewhere hopefully by summer. Mr. Shane hopes that by the end of the calendar year there is a good plan to move forward.

The Board discussed if this subcommittee would be the entire Board or a subcommittee. The general consensus was to leave it open to the entire Board. Mr. Sherr said there should be a designated Chair to take the lead. Mr. Sherr asked if findings of the subcommittee will be reported to the Planning Board to make recommendations to Council and Mr. Moriarty replied absolutely, and it would be on the agenda.

Mr. Sherr moved to appoint Steve Moriarty as Chair of the Town Garage Redevelopment Committee, seconded by Mr. Auclair and **VOTED, 7 yeas, unanimous - motion carries.**

Mr. Record said that he went to a training and learned about waivers and meeting a four point test. He would like a review for the Board on how to deal with waivers. Ms. Nixon said that she is not familiar with the four point test and added that she had consulted with the Town Attorney about OceanView. Ms. Nixon noted that Mr. Record is talking about a training that Maine Municipal Association put on. Ms. Nixon said that with variances the Board of Appeals has to make sure that certain criteria are met. Ms. Sawchuck said she thinks this is what it is. Mr. Saunders said that there are some waivers that the Board hits a lot and if these could be looked at and, if not needed, take them out of the ordinance rather than waiving them. Ms. Nixon will look into this and talk with the Town Attorney. Chairman Auclair asked Ms. Nixon to follow up with the Board.

## **1. Review and adopt revised Planning Board Administrative Procedures.**

Chairman Auclair introduced the item and noted that there were a few correctiond to be made after the last meeting.

Mr. Saunders moved that the Board adopt the revised Planning Board Administrative Procedures, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion**

**carries.** Mr. Moriarty asked that Ms. Silberman send the Board a clean copy of the revised procedures.

**G. Adjournment:** Mr. Moriarty moved to adjourn the meeting at 9:42 pm, seconded by Mr. Sherr and **VOTED, 7 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

\_\_\_\_\_  
Paul Auclair, Board Chair

\_\_\_\_\_  
Christina Silberman, Administrative Asst.

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