

**Planning Board Meeting
Council Chambers of the Town Offices
290 Tuttle Road, Cumberland Center
Tuesday, November 20, 2001
7:00 PM**

A. Call to order

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

B. Roll Call

Present: Phil Hunt, Martha Porch, Stephen Sloan, Joseph Taylor, Terry Turner, Beth Howe

Absent: Tom Powers

Staff: Andy Fillmore, Town Planner, Pam Bosarge, Clerk

C. Minutes of Prior Meetings

Ms. Howe moved to approve the minutes of October 16, 2001 as presented.

Ms. Porch seconded.

VOTE: Unanimous

D. Consent Calendar

There were no consent calendar items.

E. Hearings and Presentations

1. Public Hearing – To consider amending a previous site plan approval to allow an auto mechanic operation at 7 Corey Road, Tax Assessor Map U07, Lot 3C, Highway Commercial Zone, William Ward, owner. This request was tabled at the Planning Board's October, 2001 hearing, pending a site walk and additional information.

Mr. Hunt stated the Board had done a site walk at the property. There has been an environmental assessment report presented to the board. The proposed use is an allowable use. The Code Enforcement Officer requested evidence of pumping of the septic tank, which has been provided.

Mr. Fillmore presented the proposed findings of fact as follows:

PROPOSED FINDINGS OF FACT

1. Utilization of the Site

Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained

and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

From the perspective of this section the proposed amendment does not change the utilization of the site

Based on these facts the standards of this section have been met.

2. Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.

The site has safe and ample vehicular access and parking for its use.

Based on these facts the standards of this section have been met.

3. Accessway Location and Spacing

Access must meet the specific ordinance requirements.

The site's private Accessway location is 50 feet away from the nearest unsignalized intersection.

Based on these facts the standards of this section have been met.

4. Internal Vehicular Circulation

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

The site features ample and safe internal circulation.

Based on these facts the standards of this section have been met.

5. Parking Layout and Design

Off street parking must conform to the specific standards.

The site features more than enough parking area, and these areas meet the lot line setbacks.

6. Pedestrian Circulation

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

Pedestrian circulation will not be affected by this proposal.

Based on these facts the standards of this section have been met.

7. Stormwater Management

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

Stormwater management will not be affected by this proposal.

Based on these facts the standards of this section have been met.

8. Erosion Control

1. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

2. Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control

Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

Erosion control will not be affected by this proposal.

Based on these facts the standards of this section have been met.

9. Water Supply Provisions

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

Water supply will not be affected by this proposal.

Based on these facts the standards of this section have been met.

10. Sewage Disposal Provisions

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

The site features a septic holding tank. The applicant has provided the required information regarding pumping.

Based on these facts the standards of this section have been met.

11. Utilities

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

Utilities will not be affected by this proposal.

Based on these facts the standards of this section have been met.

12. Groundwater Protection

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

The applicant's tenant has described how all hazardous materials are fully recycled or safely disposed of off-site

Based on these facts the standards of this section have been met.

13. Water Quality Protection

All aspects of the project must be designed so that:

.1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

.2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

The applicant's tenant has described how all hazardous materials are fully recycled or safely disposed of off-site

Based on these facts the standards of this section have been met.

14. Capacity of the Applicant

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

The capacity of the applicant is not a factor as the use is in operation, and has been for several years.

Based on these facts the standards of this section have been met.

15. Historic and Archaeological Resources

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

This standard does not apply to the application.

16. Floodplain Management

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

Based on Flood Insurance Rate Map #230162 0015 B, dated May 19, 1981, the project area is not in a flood zone.

Based on these facts the standards of this section have been met.

17. Exterior Lighting

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

No change in lighting is proposed as part of this amendment..

Based on these facts the standards of this section have been met.

18. Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

The site features appropriate buffering, and is not affected by the proposed amendment.

Based on these facts the standards of this section have been met.

19. Noise

The development must control noise levels such that it will not create a nuisance for neighboring properties.

It is not anticipated that the proposed amendment will result in additional noise.

Based on these facts the standards of this section have been met.

20. Storage of Materials

1. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

2. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

3. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

The applicant has explained that used tires are removed from the site on a monthly basis, and that junk cars are not stored on the site. Also, all hazardous materials are either recycled or disposed of off-site.

Based on these facts the standards of this section have been met.

21. Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

No landscaping is proposed as part of this amendment.

Based on these facts the standards of this section have been met.

22. Building and Parking Placement

1. The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

2. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

The standards of this section do not apply to the application.

Based on these facts the standards of this section have been met.

SECTION 300 – AQUIFER PROTECTION (if applicable)

The use is located in the Aquifer Protection district. Due to the small size of the project and its intended use, no positive finding by the board is required.

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

Ms. Porch clarified that the Board was reviewing only the auto mechanic portion of the owner's request. She stated the environmental impact report recommended that the floor drain be plugged.

Mr. Ward, applicant stated the floor drain had been plugged.

Ms. Porch asked about the landscaping plan.

Mr. Fillmore stated the landscaping review would be deferred until the Board received the expansion request.

Mr. Turner moved to approve the proposed findings of fact.

Mr. Taylor seconded.

VOTE: Unanimous

Proposed Conditions of Approval

1. Liquid waste in 5-gallon buckets that are stored outside of the property should be removed and disposed of properly. There will be no outside storage of waste materials.
2. There is to be no outside washing of vehicles with solvents and chemicals.
3. The floor drain is to remain plugged.
4. There is to be no storage of junk vehicles on the property.
5. Inside materials be stored in accordance with the Phase I Environmental Assessment prepared by Acadia Environmental Technology, dated July 3, 2001.

Standard Conditions of Approval

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the Town Planner, which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

Ms. Porch moved to approve the proposed conditions of approval.

Mr. Turner seconded.

VOTE: Unanimous

Mr. Turner moved to amend a previous site plan approval to allow an auto mechanic operation at 7 Corey Road, Tax Assessor Map U07, Lot 3C, Highway Commercial Zone, William Ward, owner. The approval is conditioned with the proposed conditions and standard conditions of approval.

Ms. Howe seconded.

VOTE: Unanimous

2. Public Hearing – To consider recommending to the Town Council a zoning text change to Section 204.8 of the Zoning Ordinance of the Town of Cumberland to allow the following uses in the southern Office Commercial district: Single-family, duplex and multiplex dwellings on 10,000 square foot lots with 75 feet of frontage, for persons 55 years of age and older, and; Communication towers in accordance with Section 433 as a Special Exception use.

Mr. Hunt presented background information as follows: At the October 16, 2001 Planning Board Hearing, the Board heard proposed amendments to the Office Commercial District that would allow single-family detached housing for persons fifty-five years of age and older in the southern OC district. At that time the board expressed its support for the intent of the amendments, and expressed its general support of Peter Kennedy's proposed development in the area. However, the Board had some concerns with the proposed language of the amendments. The request was tabled pending a rewrite of the amendments. Specifically the Board requested that the amendments clarify that:

Only age-restricted single-family, duplex and multiplex residential units be allowed in the southern OC, and further that these units be granted a density bonus (10,000 s.f. lots rather than 20,000 s.f. lots for non age-restricted lots).

Commercial uses shall be developed along the Route One frontage, thereby preserving the intent of the OC zone.

Developers shall be required to provide public amenities for residents of any proposed residential development.

Mr. Fillmore presented background information as follows:

The Town's attorney, Ken Cole, has advised the Planning Department that the Zoning Ordinance is not the correct vehicle for requiring builder-provided amenities. He states, *"The zoning ordinance cannot authorize a planning board or a zoning board of appeals to establish new standards as part of its review of a project,"* and recommends that such requirements be added to the Subdivision Ordinance for enforcement at Subdivision Review. At this time the proposed amendments still feature language that requires builder-provided amenities, as the Planning Board requested. The Board is certainly within its rights to recommend such language to the Town Council, however it is likely that the Council will strike that language on legal grounds, per Mr. Cole's advice. In addition to the amendments requested by the Planning Board, Mr. Kennedy has requested that three other changes be added. These are:

1. That communication Towers be added to the southern OC zone as a Special Exception Use, in accordance with Section 433, page 152. This would also require the addition of the southern OC zone to the list of zones that permit towers as described in Section 433.4(a), page 155. Ken Cole sees no barrier to allowing this.
2. That the minimum frontage for 10,000 s.f. age-restricted residential lots be reduced from 150 ft. to 75 ft. Frontage for commercial lots shall remain at 150 ft.
3. That the side and rear building setbacks for 10,000 s.f. age-restricted residential lots be reduced 15 ft. and 20 ft. respectively (from 20 ft. and 65 ft.). The front setback shall remain at 25 ft.

The Planning Department has reviewed both the Planning Board's, and Mr. Kennedy's proposed amendments with the Code Enforcement Officer, the Town Manager, and the Town's attorney, and all parties are in support of them.

With a favorable recommendation from the Planning Board, the Town Council is prepared to consider the amendments for adoption at their meeting on 10 December 2001.

Mr. Hunt stated he agreed with Mr. Cole, but thinks perhaps there should be a definition of minimum standards.

Ms. Porch asked if amenities would be reviewed in site plan review. She stated she did not feel comfortable sending the amendment to Council without a provision for amenities. She asked if there were model ordinances or performance standards to deal with Senior Housing Projects.

Mr. Fillmore stated they do exist, but generally are drafted by a consultant hired by the developer.

Ms. Porch stated she felt very strongly about the issue of amenities, but the Planning Board could not send language that could be determined illegal. There are two developers who want to build senior housing, and perhaps a moratorium should be enacted to give the Planning Board time to draft accurate language.

Mr. Turner stated he did not want to require amenities such as swimming pools, clubhouses etc. requiring amenities would generate an on-going cost to tenants.

Ms. Porch disagreed and said she had contacted many Senior Centers, which have rental units and found that many had on-site managers, all of the centers that had clubhouses stated they were used daily as a part of the social life of the community.

Mr. Turner stated there are churches, and schools in the community with rooms available.

Ms. Porch stated many of the residents didn't have vehicles, some of the residents were from 75 to 90 years of age, and the community center was used daily.

Mr. Turner asked if there was going to be a list of proposed amenities for seniors. He didn't agree that the Planning Board should determine amenities for seniors.

Mr. Hunt asked Ms. Porch if she felt it were mandatory for any senior housing project to contain a public meeting area.

Ms. Porch stated that was correct.

Mr. Hunt asked if she would insist upon a public meeting area for any project.

Ms. Porch stated yes, with no exceptions.

Mr. Hunt asked if there were any other items that would need to be included.

Ms. Porch stated it would be necessary to have good-lighted walkways, easy access for visits among the units.

Mr. Hunt asked if an on-site residential manager was necessary.

Ms. Porch stated about 50 percent of the facilities she surveyed had on site managers, which would be her preference.

Mr. Turner stated that an on site manager would be a business decision, and not for the Town to determine.

Mr. Hunt asked Ms. Porch what other items she felt ought to be provided.

Ms. Porch stated a clubhouse was the only mandatory requirement. The barest minimum that a complex should have is a public meeting area.

Ms. Howe stated the central difference in housing for people over 55 years of age is that more of the people are likely to be retired, in that respect they spend more time at home, than working people. In the sense that they are home more it is important to think of the activities that older people engage in. Obviously as they get significantly older they may be less able to climb stairs, and need additional railings. She would like to see things such as lots with garden spots for community vegetable gardens and walking trails. Thornton Oaks in Brunswick has walking trails with exercise stations.

Ms. Porch stated that in her research the added expense to a Town would be increased rescue calls.

Ms. Howe stated the average age of people moving into senior complexes would be closer to 55 years than 85, people will age there

Ms. Porch stated she thought the average age moving into a senior unit was closer to 65 years.

Mr. Taylor stated he was uncomfortable with unfunded mandates, or dictating market conditions. There is a potential for two developments and price and amenities will determine desirability to the person paying the cost to reside in the community.

Mr. Sloan agreed with Mr. Taylor and Mr. Turner that the town should not mandate what developers provide for amenities.

Mr. Hunt stated, speaking for Ms. Porch, the reason senior projects were allowed and encouraged was because the Comprehensive Plan stated the need to promote housing for older citizens. The first phase of Cumberland Meadows has been very successful, and has demonstrated the demand for senior housing in the community. The town is looking for a quality project, developers are given the density bonus to encourage senior projects. He would prefer to address this project with a contract zoning approach. Which would allow the Town Council to address issues such as design. He agreed with Ken Cole's decision, and would be reluctant to micro-manage in advance what a senior project should be. A project should however, have sensitivity to senior needs.

Ms. Howe stated the by adopting these zoning regulations the Town is providing a considerable subsidy to developers of senior projects, and has the right expect good projects in return.

Ms. Porch stated units should be equipped with safety features, no steep slopes and at a minimum a clubhouse.

Mr. Turner agreed safety issues should be addressed, he didn't think the presence of absence of a clubhouse would determine the quality of the project.

Mr. Hunt asked about the Board's opinion of communication towers being allowed in the office commercial zone.

Ms. Howe stated she was uncomfortable considering a zoning change for one person. She would prefer to see the two OC zones the same.

Mr. Turner stated he preferred to use contract zoning for the parcel. He felt the wording of whenever possible to reserve land adjacent to Route One to be vague.

Mr. Fillmore stated the Town Council had considered contract zoning, but had requested the Planning Board consider a zoning amendment. The town seems to be hospitable to communication towers in the southern office commercial, nestled between two highways, he didn't think the communication tower would stall the process.

Mr. Hunt asked what was the difference between an antenna and a communication tower.

Mr. Fillmore stated an antenna could be on an existing structure. The terms are defined in the ordinance.

Mr. Sloan agreed there were places on Route 88 where there was no cell phone coverage, and either Mr. Kennedy or another developer would propose the issue.

Mr. Taylor stated he was not concerned with the tower, he asked for clarification on the reduced setbacks for 10,000 square foot lots. The setbacks would be changed from rear 65 feet to rear 20 feet; and side from 20 feet to 15 feet.

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

Mr. Kennedy, applicant stated the only place on the site that would accommodate a proposed tower is next to the quarry.

Mr. Hunt asked if the location shown on the conceptual plan would work.

Mr. Kennedy stated that location does not work. There are two tower companies studying to see if a tower can reach Route 88. The ideal place is on top of the Cousin's Island power plant. On the amenities he agreed and would be happy to come up with a list of provided amenities.

Mr. Turner asked about the development and what phases would be built first.

Mr. Kennedy stated he has a great interest in building the residential component, but not the commercial. He has contacted several people regarding office buildings or light manufacturing for the commercial lots on Route One.

Mr. Turner asked if the site plan for the entire development would be reviewed at one time.

Mr. Kennedy stated he did not know what the mix would be, the commercial would be pretty cut and dry. It's the mix as to whether the housing becomes multiplex, duplex or single family detached. He is waiting for a 2-foot topography study to aid in planning roads.

Mr. Turner asked that if the zoning change were approved would Mr. Kennedy be ready to start a subdivision process for part of the site.

Mr. Kennedy stated yes, he has ordered the engineering from Pinkham and Greer and Owen Haskell is completing the surveying and topography study. The wetlands were re-done this past week. He is almost ready to put the entire package together for site plan review.

Mr. Turner asked if his package would include the residential and commercial aspects, and not the age restricted condos.

Mr. Kennedy stated that was correct.

Mr. Turner stated if contract zoning were used you could potentially come up with a master plan with the exception of the land reserved for the condominiums.

Mr. Kennedy stated he thought that was correct. However, he said requires a concrete plan for the entire use, with no flexibility to change with market trends. Mr. Kennedy stated condominiums cannot be changed, once the project is started it must be finished. He has no interest in building the condominiums.

Mr. Turner stated the contract zone could have the area for condominiums reserved and the actual layout could be presented at a later date.

Mr. Hunt asked if there was a building code applicable to structures for older citizens, such as door sizes, windows, ramps, handrails, grab bars, heights for cabinets etc.

Mr. Fillmore stated the 1993 Boca Code states the ADA (Americans with Disability Act) guidelines. In a project for senior housing a developer would be required to develop a certain percent of units to comply with the ADA guidelines, complete with ramps, grab bars etc.

Mr. Hunt asked if there was an existing code that could be adopted as a condition for these projects.

Mr. Fillmore stated yes.

Mr. Hunt stated a senior housing project would be required to conform to the ADA guidelines. He would like to see both of the districts treated the same with any changes made be applicable to the entire Office Commercial district. That the request for public amenities in the zoning amendment cannot stand as it has been proposed. He would like to see a standard that states all structures built for persons 55 years of age or older conform with the appropriate BOCA code. As a fifth condition he has no problem with the proposed reduced setbacks as long as the fire chief states that he can get between buildings, and the setbacks would not restrict him from getting fire and safety apparatus where needed, without any undue risks. He had no concerns regarding the back setbacks. No problem with the communication tower this is a commercial district, but should be treated equally in both districts.

Ms. Howe stated in relation to worries about communication towers, if there is currently one at Cole Hahn that would alleviate the concerns of an additional one being installed in the Northern Office Commercial.

Mr. Turner asked if he were proposing a change at a subsequent date, with a public hearing for changes to both zones.

Ms. Porch agreed, but stated the amenities issue was still not addressed. Mr. Kennedy stated he would do his part, but would Mr. Guidi do his part.

Mr. Guidi stated yes, and he would like to see both of the zones the same.

Mr. Turner asked if the language of lands adjacent to Route One whenever feasible was adequate.

Mr. Hunt stated if you go with a set distance of 250 feet of Route One it may unduly restrict the ability to design a project.

Mr. Turner agreed a line of demarcation would be difficult.

Mr. Turner stated vague language would give the Planning Board less latitude.

Mr. Hunt stated given the time constraints he stated the Board would need to hold an interim Planning Board meeting. The proposed amendments would be for age restrictions in both zones, adding the condition of the BOCA code. The Board voted to have a special Planning Board meeting on December 4, 2001 at 7:00 p.m.

Ms. Porch moved to table the request to consider recommendation to the Town Council for the amendments to the Office Commercial district.

Mr. Turner seconded.

VOTE: Unanimous

3. Pre-Application Conference – To hear preliminary details of a proposed 3-lot subdivision at 45 Longwoods Road, Tax Assessor Map R03, Lot 15, RR1m zone, Richard Meoli, owner, Michael Creamer, Preferred Homebuilders, applicant.

The applicant was not present.

Ms. Porch moved to table the request until the next regularly scheduled Planning Board meeting.

Mr. Turner seconded.

VOTE: Unanimous

4. Public Hearing – Preliminary Major Subdivision Review of 70 units of senior housing on Lots 11, 12, 13, 14 and 15 of the Cumberland Business Park, Route One, Tax Assessor Map R02D, Lot 1A, DST Realty owner, Scott Decker, SYTDesign applicant. The Planning Board tabled the request for approval at the January 2001 meeting, pending plan amendments by the applicant.

Mr. Fillmore presented background information as follows: The applicant currently has an open application before the planning board. This application was most recently before the Board at their 16 January 2001 hearing. At that time the Board tabled the request for Subdivision Review, and directed the applicant to make several modifications to the plan. The applicant is now before the Board and has addressed the comments the Board made.

PROJECT DESCRIPTION:

- Applicant: DST Realty (Jim Guidi), Scott Decker of SYTDesign representing.
- Location: Lots 11, 12, 13, 14 & 15 of Cumberland Business Park, Route One, Cumberland Maine.
- Zoning: Office Commercial
- Project: 70 +/- units of duplex and multiplex housing, restricted to persons 55 years of age and older.
- Setbacks: Setbacks established at 1995 Cumberland Business Park Subdivision. The applicant is proposing to encroach upon the setback on Road 'C' by approximately 200', as depicted in the November '01 site plan, attached. The applicant has met with the abutters and they have agreed to his proposal. Their agreement is expressed in a letter written by Mr. Field Griffith, attached as "Exhibit #2."
- Lot Frontage: Proposal meets the 100' minimum required in a dispersed subdivision.
- Sidewalks: In response to the Planning Board's January 2001 request for sidewalks, the applicant is now proposing a curb separated sidewalk system.
- Roadway: The subdivision proposes two new roadways accessed off a turning circle at the end of Thomas Drive, and one new loop roadway, with a spur, accessed off Thomas Drive adjacent to the Toddle Inn Daycare site.

Water: Town water.
Sewer: Town sewer.
Electrical Utilities: Will be pole-mounted along Thomas Drive, thence underground along new roadways.
Fire Protection: See Fire Chief Small's memo, attached.
Amenities: The applicant is opposed to providing a "clubhouse," but is soliciting ideas from the Planning Board on what other kind of amenity might be appropriate.

IV. DEPARTMENT HEAD REVIEWS:

Andy Fillmore: See "Discussion" below.
Barbara McPheters: See attached memo, "Exhibit #3."
Adam Ogden: No comments at this time, awaiting a more detailed submittal.
Rescue Chief Bolduc: No comments at this time, awaiting a more detailed submittal.
Police Chief Charron: No comments at this time, awaiting a more detailed submittal.
Fire Chief Small: See attached memo, "Exhibit #4."
Al Palmer: See attached memo, "Exhibit #5."

V. DISCUSSION:

The applicant has made some very positive changes toward addressing the Planning Board's concerns as expressed in their January 2001 Notice of Decision. These changes are discussed in SYTDesign's letters of 6 November and 15 November 2001, (attached "Exhibit #6") and include:

- A reduction in the number of units from 76 to 70 +/-.
- A mixture of duplex and multiplex has been provided to provide visual variety and break up uniformity.
- The roadway has been revised to include curb-separated sidewalks and a closed drainage system.
- A less obtrusive lighting plan is in the design stages.

However there still appears to be room for improvement in a number of areas. Some of these improvements would represent a low cost to the applicant, but would return a high pay-off in terms of appearance and attractiveness to prospective buyers. The Planning Department is willing to work with the applicant or his designer to implement the following recommendations:

- **Building Design:** the functionality, appearance and quality of the units would be vastly improved if the services of a registered architect were enlisted. Rockwood will be a community where people live for many years and the importance of quality design cannot be over-emphasized, both for the quality of life of its residents, and for attracting potential buyers. As currently designed, there is room for improvement in the architectural massing and detailing.
- **Variation of Building Footprints:** While the site layout has been vastly improved with the addition of three- and four-plexes to the stock of duplexes, there remains a "barracks" feel to certain areas of the site. More variation in the plane of building

facades could remedy this. Also, straight shots of roadway, particularly Road ‘A’, would benefit from being curvilinear to break up the long perspectives of repeated building forms.

- Entry Experience: Road ‘D’ and the units served by it will serve as the entry point for the community. As currently drawn this experience is somewhat bland. If the locations of the roadway and the housing blocks were flipped, the units could form a crescent in the background with the roadway/parking/landscaping/amenities in the foreground, as viewed from an entering automobile.
- Flexibility of Unit Layout and Appearance: It is recommended that the applicant provide a variety of both unit layout options and exterior unit appearance (i.e., window types, roof lines, etc.) options. Specifically, the kitchen/dining/foyer layout is somewhat dated – people live in open-plan arrangements these days, and the structural ability for the buyer to remove or add walls to customize their homes is advisable, at the construction phase if possible. This points to a “kit of parts” approach for customization of units for each customer, while still maintaining overall design consistency.

VI. PLANNING BOARD REVIEW:

The Planning Board addressed the following issues in its review of the updated proposed site plan:

Project Amenities:

Previous plans for this subdivision have shown walking trails. The current plan makes no reference to trails. Is the applicant still proposing them? Where? How will they be maintained and marked?

The Planning Board has on several occasions requested that significant public amenities be provided on-site for the residents of this community. As referenced in SYTDesign’s letter and Gorrill-Palmer’s letter, the applicant had been considering providing a clubhouse, however this seems to be off the table at the moment, perhaps in favor of a gazebo in a garden-like setting.

Mr. Decker of STYDesign, stated with respect to the walking trails they were inadvertently left off the plan, there is no proposed change. There is an existing network of walking trails. There is also an area that could be used for a community garden off Road C, in the original subdivision plan that area was allowed to be open and used with no buildings. They are requesting that the subdivision plan be altered to allow buildings. A clubhouse has been given consideration. There is concern a clubhouse would be too costly for potential buyers. At completion if the owners desired a clubhouse, one could be built.

Ms. Porch asked if the proposal was for units to be sold and not rented, and what were the proposed amenities.

Mr. Decker stated yes, and the proposed amenities are walking trails and a community garden spot.

Mr. Decker stated an expansion of the trail system and an area for gardening.

Ms. Porch stated Mr. Guidi stated earlier in the meeting that he was willing to have a clubhouse.

Mr. Decker stated there is an area in Road D that could be used for a gazebo.

Public Utilities:

The applicant's previous proposal described shared water and sewer hook-ups for adjacent units. In response to Staff comments, the current proposal shows separate sewage and water hook-ups for each unit. Adam Ogden and Ralph Oulton must approve this design.

Mr. Decker stated the change in utility was proposed in the last submission, and there is no change, each unit will have its own water and sewer hook up.

Sidewalks/Drainage:

When the Board last reviewed this project, they gave clear direction that curb-separated sidewalks should be provided, and that a closed "urban" drainage system of catch-basins and closed pipe be provided. The applicant has complied with this direction. From the site plan drawing provided it is unclear whether the sidewalk is separated from the roadway by a planted strip (recommended) or merely by a curb (less desirable). Also, what curbing material would the Board recommend?

Mr. Decker stated there would be a 2-foot esplanade grassed area between the road and sidewalk. The developer is proposing bituminous curbing.

Lighting Plan

The Planning Board is required to approve light poles and luminaries. The previously reviewed plan showed light fixtures on each street however in some instances the 12' high fixtures were over 330' apart. This spacing may imply overly bright fixtures. Given that this is a residential development adjacent to other residential areas, it is extremely important that the site not be over-illuminated. The applicant has stated that a comprehensive lighting plan is currently under design, which will feature shorter poles with "full cut-off" non-glare fixtures. The abutters have also stated this as a concern in their attached letter. When available, the Planning Board should carefully review this plan.

Mr. Decker stated a lighting consultant has been retained and the developer understands the Board's concerns in this area.

Snow Removal/Emergency Vehicle Access:

As currently designed, the site plan doesn't appear to accommodate snow removal and storage to the appropriate extent, as noted in the Code Enforcement Officers attached memo. Fire Chief Small has also indicated concerns about emergency vehicle

turnarounds, as detailed in his attached memo. What direction would the Board like to offer at this time?

Mr. Decker stated the applicant would review the issues with Chief Small.

Grading/Backyards:

While the new placement and configuration of units somewhat lessens the problems of dangerous and unusable backyards, the problem persists. The applicant has indicated that where the grade allows, terraces of “pavers” will be provided outside the sunrooms of each unit. The Board should establish a standard defining what “where the grade allows” means. A situation of terraces adjacent to unadorned foundation walls should be avoided. Where the grade does not allow, the applicant should be required to provide an adequately sized deck.

Mr. Decker stated yes, they will be providing terraces where the grade will allow, there was a discussion of decks, which would be appropriate? Daylight basements with full foundations in areas of steep grades are being considered.

Mr. Turner stated in the past there were some pretty steep slopes, have they changed.

Mr. Decker stated there are some areas where there are some relatively steep grades. The terrain is such that on Road C there is a high point along the roadway then it drops off on both sides. To get units on both sides of the roads, there will be some drop off in the rear of the units. To the extent that those can be flattened out and minimize impact on the wetlands, that will be done.

Performance Bond/Letter of Credit:

The applicant is currently proposing development of the project in seven phases. It is appropriate for the Planning Board to require correspondingly phased performance bonds or letters of credit, rather than a single guarantee to cover the cost of the entire project. These phased guarantees must be sufficient to ensure the completion of each phase such that each phase could stand alone should the subsequent phases not be realized for any reason. Additionally, each phase must have the capacity (i.e., sewer and water pipes) to support full build-out of the subsequent phases.

Ms. Porch asked if there was a time limit on the building of phases?

Mr. Fillmore stated the Planning Board’s approval would lapse after a certain time.

Mr. Hunt stated the condominium language would have to be written by the Town Attorney. If things do draw on a long time, there may be issues of lapsed development rights etc.

Building Setbacks:

The current plan shows encroachment of the building setback line on Road ‘C’ by approximately 200 feet. This setback was established via a public process with the

abutters at the 1995 Cumberland Business Park Subdivision Approval. Now, the applicant has met with the abutters and has reached an agreement with them whereby they will not oppose the proposed encroachment in exchange for the design considerations outlined in abutter Field Griffith's attached letter. Various other more minor incidences of encroachment are outlined in Al Palmer's memo.

Mr. Decker stated they had addressed some of the encroachments last year. Because they were relatively minor in nature it was understood they were okay. These buffers were established in 1994 – 1995 when the abutters presumed the lots would be commercial. Some of the buffers are a little bit of overkill given the development will be residential.

Mr. Scott Lalumiere, of Pioneer Capital discussed items identified that may be of concern to the Board. Rockwood will be a substantial project costing approximately \$11 million. Analyzing size and cost is critical in senior projects to keep condo fees down. A clubhouse would add a monthly cost of \$30.00, and about \$2,000 per unit to build. The units are larger than previously proposed, which would give more room to entertain. Tenant profiles will determine amenity needs.

Mr. Decker stated most of the units will be single story units, but there is a possibility of some of the units on Road A having a dormer on the front for an upstairs bedroom. With respect to wetland impact the previous submission had zero impact. This submission will have some minor filling of wetlands, in four or five different locations. It will exceed the 4,300-sq. ft. threshold so a NERPA application will be filed with the DEP. Al Palmer the Town's peer reviewer brought up the issue of the DEP modification that will be re-applied for.

Mr. Hunt reviewed the outstanding issues.

1. Public Utilities - No issue
2. Sidewalks/ Drainage - The Board's preference is granite curbs.
3. Lighting Plan – To be submitted
4. Snow Removal / Emergency Vehicle Access – To be addressed
5. Grading / Backyards -

Mr. Taylor asked if there would be walk out basements.

Ms. Porch asked what the distance would be of the graded area.

Mr. Fillmore stated approximately eight feet and there would be a mix of pavers and decks.

Mr. Turner asked about the map contours.

Mr. Decker stated the 2-foot contours were not shown on the conceptual plan.

Mr. Turner asked if there were any codes on the allowable steepness of grade.

Mr. Fillmore stated zoning allows 20% or so to avoid adverse erosion.

Mr. Hunt stated the Board was conceptually comfortable with eight feet of relatively level yard.

6. Building Setbacks – The current plan shows encroachment of the building setback line on Road ‘C’ by approximately 200 feet. The setback was established via a public process with the abutters at the 1995 Cumberland Business Park Subdivision Approval. The applicant has reached an agreement with the abutters whereby they do not oppose the proposed encroachment.

Mr. Griffith stated that if there were other proposed encroachments they had only addressed the setback line in Phase 7.

Mr. Hunt stated the Board was not concerned with minor revisions.

7. Performance Bond / Letter of Credit –

Mr. Hunt stated the Town attorney would approve the letter of credit and will cover the concerns of finishing each phase to stand independently.

7. Building Design –

Mr. Hunt stated it is not traditionally the role of the Planning Board to review design, or critique the architecture of the buildings. The market will dictate design. Mr. Fillmore has offered design advice.

Ms. Porph and Mr. Turner stated they would like to have the ability to review design, but understand the Planning Board has no Ordinance to mandate building design.

Mr. Taylor stated the Board should only address the ADA safety codes.

The Board again discussed amenities.

Ms. Porph stated Mr. Decker’s letter of Nov. 6, 2001, stated there was a proposed clubhouse, now it appears there is no proposal for a clubhouse.

Mr. Decker stated there has been but at this time it appears there will be no clubhouse.

Ms. Porph stated she would contact the Cumberland Housing Authority for an opinion on amenities, and the possibilities of developing criteria.

Mr. Hunt stated amenities would be more of a concern if the units were rental and not individually owned. The ADA design guidelines must be met.

Mr. Guidi asked about the Board’s desire to have granite curbing.

Mr. Hunt stated the opinion of the Board tonight is 4 – 3 or 5 to 2 in favor of granite. There is a history of bituminous curbing failure.

F. Administrative - Mr. Fillmore provided the Board with a draft of the Route One guidelines. A workshop will be held on December 4, 2001 at 6:00 p.m. in the East Conference Room of the Cumberland Town Offices.

Mr. Turner moved to adjourn:

Ms. Porch seconded.

VOTE: Unanimous

Meeting Adjourned at 9:20 p.m.

A TRUE COPY ATTEST:

Philip Hunt, Board Chair

Pam Bosarge, Board Clerk