

**BRUNSWICK PLANNING BOARD
TUESDAY, JULY 31, 2012**

MEMBERS PRESENT: Chairman Charlie Frizzle, Vice Chair Margaret Wilson, Dann Lewis (dismissed at 20:23, Richard Visser and Steve Walker (arrived at 19:10)

STAFF PRESENT: Anna Breinich, Kris Hultgren and Town Attorney, Pat Scully

A meeting of the Brunswick Planning Board was held on Tuesday July 31, 2012 at the Municipal Meeting Facility at Brunswick Station, 16 Station Ave. Chairman Charlie Frizzle called the meeting to order at 7:00 P.M.

Case Number: 12-020 Medical Office Building: The Board will review and take action on a **Final Plan** application submitted by Priority Group, LLC to construct a medical office building at 14 Thomas Point Road (**Assessor's Map CC1, Lots 26 & 42**) in the **Cooks Corner Zoning District**.

Kris Hultgren reviewed his Memo to the Board dated July, 27, 2012 and stated that this is a Final Plan application for a medical office building at 14 Thomas Point Road with plans to construct a field house. Kris stated that the existing on site building is 5,000 square feet and the applicant proposes to add an additional 5,000 square feet of office space with an additional 10,000 square foot field house. Kris noted the Planning Board approved the Sketch Plan at the June 26th meeting and the Staff Review Committee reviewed the project for their final approval at their July 23rd meeting.

The applicant, Kurt Neufeld with Sitelines, reviewed the project and stated that the existing site has a single entrance and is a story and a half. Kurt stated that the adjacent lot will be combined to make a larger lot, about 1.8 acres. The office will be primarily used for physical therapy and the field house will be available during the weekends for sports. Kurt stated that the building will have a peaked roof and there will be a granite post and black metal fence adjacent to Thomas Point Road as well as ample parking lot plantings. The site plan has remained unchanged with two entrances, the main entrance at Thomas Point Road. The sidewalk will be parallel to Thomas Point Road and will be five feet wide as discussed at the June 26th meeting. Kurt stated that the project does not require any state permits for the drainage system and the system itself meets the Town of Brunswick requirements. Traffic has been analyzed by Diane Morabito, of Maine Traffic Resources and Kurt reviewed formalizing the left and right turn striping pattern improvements on Thomas Point Road. Kurt stated that in reviewing this with John Foster, the Town Engineer, Foster stated that he would like to see the striping improved to create 11 foot lanes and for the applicant to modify the island and curbing as necessary.

**MOTION BY DANN LEWIS THE FINAL PLAN BE DEEMED COMPLETE.
SECONDED BY STEVE WALKER, APPROVED UNANIMOUSLY.**

Charlie Frizzle, referring to correspondence from the Town contractor, Sebago Technics, suggested that instead of constructing a sidewalk now, that the applicant place money in escrow towards the sidewalk for a time when and if Thomas Point Road is improved. The applicant is

open to this so long as there is a time limit and the funds are not tied up indefinitely. Charlie asked Anna Breinich if this was a viable alternative and Anna replied that they have the ability to put it into escrow account dedicated for that purpose. Steve Walker asked what the priority level was for improvements for Thomas Point Road; Kris Hultgren replied that he did not know and stated that the Cooks Corner Master Plan alludes to improvements on Thomas Point Road with no specific timeline. Charlie replied that there needs to be a time limit and if that time limit is reached with no plans to improve Thomas Point Road then the applicant builds the sidewalk as proposed; Steve suggested 10 years and Charlie agreed. Kurt stated that the applicant would prefer a five year timeframe; Charlie agreed and suggested adding a phrase that if improvements for Thomas Point Road are not on the capital improvements list by this point the applicant will go forward and construct the sidewalk.

Chairman Charlie Frizzle opened the meeting to the public hearing. No public comment and the public hearing was closed.

Charlie Frizzle asked staff where the number of parking spaces was derived from. Kris Hultgren replied that the 60 parking space number because the warehousing use is based on square feet at two spaces for 20,000 square feet; he stated that it was a little tricky since the field house use does not fit into any category in the ordinance but staff felt there was ample parking on site. Charlie noted that the peak hours for the field house and the medical office building will be at different times and suggested that the applicant apply for minor modification review to reduce parking spaces if the applicant feels that they can get along with less.

Margaret Wilson, in reference to the finding for the stormwater provided by Summit Environmental dated July 23, 2010, stated that she is concerned that there is no conclusion in the finding that the soil is appropriate for infiltration. She asked that a conclusion be requested; staff agreed.

MOTION BY MARGARET TO APPROVE THE FOLLOWING WAIVERS:

1. Section 412.2.B.8-Name, location and width of paving for proposed roads
2. Section 412.B.14-Location of proposed cross section of sanitary sewers
3. Section 412.2.B.16-Class A Soil Survey
4. Cooks Corner Sidewalk Standard.

SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

MOTION BY STEVE WALKER THAT THE FINAL PLAN IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. That the Board's review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.

2. That prior to receiving a building permit, the applicant submits an updated stormwater management plan implementing those recommendations detailed in Sebago Technics peer review as required by Staff.
3. That prior to receiving a building permit, the applicant pays a solid waste impact fee of \$2,018.
4. That prior to receiving a building permit, the applicant pays the peer review fee of \$450.00.
5. That prior to receiving a Certificate of Occupancy, the applicant shall coordinate with the Public Works Director to construct adjustments to the curb and/or island and place pavement markings to define 11' wide left and right turn lanes at the exit of Thomas Point Road at Bath Road.
6. The applicant shall set aside funds in escrow to construct a 5' bituminous sidewalk along the front of the parcel on Thomas Point Road. The funds set aside shall be based on an estimate by Public Works Director John Foster. If after 5 years Thomas Point Road is not realigned, or the realignment of Thomas Point Road is not part of the town's Capital Improvement Plan, the escrow funds shall be released and the applicant shall construct the 5' bituminous sidewalk. The applicant may choose to leave the funds in escrow for more than 5 years.

SECONDED BY RICHARD VISSER, APPROVED UNANIMOUSLY.

Case Number: 12-014, Crestview Subdivision Amendment: The Board will review and take action on a **Final Plan** application submitted by John Gordon to create a three lot subdivision at 74 Crestview Lane (**assessor's Map 27 Lot 27**) in the **Coastal Protection (CP1) Zoning District**.

Kris Hultgren reviewed his Memo to the Board dated July, 27, 2012 and stated that the applicant wishes to subdivide a 7.39 acre lot into three lots on Crestview Lane. Kris stated that the application was before the Staff Review Committee on July 23rd and the Sketch Plan was approved by the Board on July 10th.

The applicant, John Gordon, stated that his proposal is to split the lot into three and would include his existing home. Mr. Gordon stated that one lot would be two acres and the other would be 2.2 acres. Since the last meeting Mr. Gordon stated that he has been asked if he would take into consideration the view easement that was in place when his house was originally built. It was asked that he bring the cut line back to the view line another 25 feet to the 50 foot setback from the conservation easement; he has agreed and the line has been brought back to the 50 foot mark. Mr. Gordon stated that they are still waiting for DOT (Department of Transportation) posting in regards to the curb cut.

**MOTION BY DANN LEWIS THAT THE FINAL PLAN BE DEEMED COMPLETE.
SECONDED BY RICHARD VISSER, APPROVED UNANIMOUSLY.**

Charlie Frizzle asked the Town Attorney, Pat Scully, to address the issue of standing for the applicant as discussed at the July 10th meeting. Mr. Scully clarified that question and stated that this lot is one part of a previously approved subdivision and the applicant is not the original developer of the subdivision but is asking for a subdivision of his lot. He stated that as he understands the question to be as follows: since the applicant is not the original developer of the subdivision, does he have standing to come before the Planning Board and ask for an amendment; Mr. Scully responded that the applicant does have standing. He stated that in some cases a subdivision or some other development may not have been fully developed and the original developer may still control the property; in this case you would expect the original developer to come back and request an amendment. In other cases all of the lots may have sold and the original sub divider no longer has an interest in the development or is not in a position to seek a modification because he/she no longer has control of the property; in this case the original lot owner, such as this request, is the only person who can seek an amendment of this plan as it effects that lot. Mr. Scully stated that if the amendment affected more owners, you would need to have the owners of the larger effected properties. Mr. Scully reiterated that the applicant does have standing and is probably the only one who does. Steve Walker stated that he understands the standing over the 7.39 acres as a clean option for a lot split, but given that that Burgess still has ownership of the open space, wouldn't he need to approve an amendment beyond a single lot split? Mr. Scully replied "no" and stated that the reason is because the impact of this change is falling entirely on the applicant's lot. Steve replied that due to the separation of the Burgess ownership and the 7.39 acres, is there any issue with Mr. Gordon requesting his lot be split three times based on actions that he did not take in terms of setting conservation lands aside. Mr. Scully replied that what is being sought is an amendment to what was the original plan and in reviewing the original plan this is to be treated as an amendment and in doing so you must look at the larger parcel. The Planning Board must make sure that the impact for the conservation land is met as a whole and that they do not cross a point where the original density of the conservation area would have supported.

Charlie Frizzle stated that with respect to other legal issues which have been raised and may affect their decision, Pat Scully has addressed in his letter dated July 26, 2012; the Planning Board will not discuss these issues any further.

Margaret Wilson asked for clarification on the area of disturbance and Steve McLellum, Land Surveyor, stated that the area for disturbance has been moved 25 feet closer to the house. Steve Walker asked in terms of monitoring the disturbances, would it make more sense to make the building envelopes more consistent with those limits? Kris Hultgren replied that this project has gone through Staff Review and the Conservation Commission and the boundaries for disturbed area and mitigation have remained the same. Steve suggested showing the building windows more consistent with the limits of disturbances on the plans; make the disturbed area the building window, outside the disturbed area do not show setbacks. Margaret and Charlie agreed.

Chairman Charlie Frizzle opened the meeting to the public hearing. Charlie reminded those wishing to speak that the Planning Board is not a court of law and asked that they only address issues pertaining to the Town's Zoning Ordinance.

John Sperzel, resident of 61 Crestview Lane and an abutter, stated that he has opposed this application based on release of covenants which has been pointed out to be a legal issue. He stated that he provided to the Planning Board at the meeting of June 26, 2012 a letter that addressed issues dealing with Maine real estate law and case law that address the issue at hand. Mr. Sperzel stated that he asked Mr. Scully for an interpretation and what he got was a response to Anna's Question. Mr. Sperzel asked if Mr. Scully had read his letter and if he has any comments. Pat Scully replied that there may be some question between the two owners whether release of this covenants is effective against other lot owners and whether other lot owners would have any complaint about the release and whether or not a court would entertain and what they would do about it. He stated that this would require a factual investigation at a court level, legal investigation and for a judge to decide. He stated that it is not a decision that the Planning Board would make; the Planning Board does not litigate legal matters. Mr. Sperzel asked if Pat Scully was willing to go on record and say that, based on the removal of the restriction of the subdivision of that property, "that it is OK for somebody to get a change in a covenant on a piece of property that they don't own without the knowledge of the owners of that property"? Charlie replied that the Planning Board has reviewed this issue and that is as far as it is going to go. Mr. Sperzel stated that he had an issue from the last Staff Review meeting and the curb cut for Lot 1A. He stated that he spoke to Jim Higgins and John Foster with Public Works and neither seemed to have an issue with moving the curb cut back to the original position. He stated that he wishes for the cut to be located at the original position.

Mr. Sperzel stated that his last issue pertains to the remaining covenants and the covenants that got with the lots run with the land and must be included in any deeds or transfer of the property.

Chairman Charlie Frizzle closed the public hearing.

MOTION BY STEVE WALKER TO APPROVE THE FOLLOWING WAIVERS.

1. 412.2.B.11 – Kind, location, cross section of all drainage facilities, etc.
2. 412.2.B.17 – Location of trees over 10 inches in diameter
3. 412.2.B.25 – Wetlands Map
4. 412.2.C.17 – Landscaping Plan

SECONDED BY MARGARET WILSON, APPROVED UNANIMOUSLY.

MOTION BY DANN LEWIS THAT THE FINAL PLAN IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. That the Board's review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.

2. That prior to receiving a building permit, the applicant shall receive a Driveway Entrance Permit from the Department of Public Works and update the final plan, if necessary, in accordance with the permit.
3. That prior to receiving a building permit, the applicant shall pay a solid waste impact fee in the amount of \$258.56 for lots 1A and 1B.
4. That prior to receiving a building permit, the applicant shall submit an updated plan showing building setbacks only within the proposed limits of disturbance.

SECONDED BY MARGARET WILSON, APPROVED UNANIMOUSLY.

Case Number: 12-022 Maine Woolens: The Board will review and take action on a joint sketch and Final Plan application submitted by Maine Woolens to construct a 7,886 square foot addition at 15 Paul Street (**Assessor's Map U26, Lot 12**) in the **Mixed Use 2 (MU2) Zoning District**.

Kris Hultgren reviewed his Memo to the Board dated July, 27, 2012 and stated that the application is to expand Maine Woolens existing manufacturing operations at 15 Paul Street. Kris stated that there is an existing building of approximately 8,668 square feet and the applicant wishes to extend this another 7,886 square feet; Staff Review Committee reviewed this application at their July 23rd meeting.

Curt Neufeld with Sitelines reviewed the location and stated that it is set back far from the road. He stated that the facility is for light manufacturing and the existing building is non-conforming with regards to the rear setback and the proposed building will be no more non-conforming than that. The proposed building will extend out to the side. They employ four to five people at any given time and the expansion is not going to change this much. The site plan provides parking up to 11 but based on use they will only use five to eight. Kurt stated that there are no state permits required and the new building will be sprinklered as required by the Fire Chief.

Charlie Frizzle asked Anna if her request that the application be updated with specifications to HVAC had been met; Anna replied that according to the additional information they received, the HVAC unit is not to be located on the roof and they are all set.

Margaret Wilson asked if the Planning Board could waive parking requirements; Kris Hultgren replied that the Planning Board has the ability to waive the requirements under Section 512 and noted that Planning Staff would support this based on the use of this site and very little traffic to this site. Margaret asked how a big truck will access the site; Kurt replied that a large truck will need to back in. Richard Visser asked where the additional parking will be located. Curt replied that it is along the side and envisions that if needed the applicant can ask their employees to move their vehicles.

Chairman Charlie Frizzle opened the meeting to the public hearing.

Town Councilor, John Perrault, stated that he is excited that there is a business expanding in Brunswick and encouraged by this. Councilor Perrault asked about access if NEPRA was to come in and is there a possible driveway access this way. Margaret Wilson and Charlie Frizzle stated that they haven't been given any information in regards to NEPRA; Councilor Perrault stated that he understood and noted that he has been present at many of the NEPRA meetings and this is the direction that they are talking about to bring their road in. Charlie replied that this will have to be addressed when NEPRA submits their formal plans.

Chairman Charlie Frizzle closed the public hearing.

**MOTION BY STEVE WALKER TO DEEM THE SKETCH/FINAL PLAN COMPLETE.
SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.**

MOTION BY STEVE WALKER TO APPROVE THE FOLLOWING WAIVERS.

1. Section 412.2.B.8 – Name, location and width of paving for proposed roads
2. Section 412.2.B.14 – Location of proposed cross section of sanitary sewers
3. Section 412.2.B.16 – Class A Soil Survey
4. Parking Space Requirements

SECONDED BY MARGARET WILSON, APPROVED UNANIMOUSLY.

**MOTION BY STEVE WALKER THAT THE SKETCH AND FINAL PLAN IS
APPROVED WITH THE FOLLOWING CONDITION.**

1. That the Board's review and approval does hereby refer to these findings of fact, the plans and material submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing official, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.

SECONDED BY RICHARD VISSER, APPROVED UNANIMOUSLY.

Workshop: At the request of Town Council, the Board will discuss options to amend the zoning ordinance to allow other uses at 28 Federal Street (Town Hall and Recreation Facility), once the buildings are no longer a municipal facility and schedule a public hearing.

Anna Breinich stated that this was a workshop at the Town Council's request that the Board discuss options to amend the zoning ordinance to allow other uses at 28 Federal Street, once the buildings are no longer a municipal facility. Anna reviewed her letter to the Board dated July 27, 2012 and asked the Town Attorney, Pat Scully to discuss zoning by ownership. He replied that "if you are using land or a building for a municipal purpose then you are a municipal facility and if it is permitted as a municipal facility then fine", however, if you are grandfathered as a municipal facility then once that ownership ceases it is no longer a municipal facility. He stated that this building was created under a different ordinance when it was permitted but later in time it became no longer allowed to use as an office building. If an office building were to move into this building it would become non-conforming. Margaret Wilson asked what would be allowed and Anna replied that TR2, Town Residential 2, only allows two uses; single family and multi-

family duplex. She stated that there are a number of uses by special permit such as greenhouses, florists, religious institutions and such. Anna reviewed the history of Federal Street and non-conforming buildings that were established uses. She stated that all non-municipal uses that are in place are considered non-conforming; once the Town gives up ownership of the municipal building, it will be non-conforming only as a municipal facility not as the use of an office and recreational facility. Anna reviewed the potential options as reflected in her letter. Charlie Frizzle asked what the functional use was of the recreational building; Anna replied that it would remain the same as a gym, office and daycare. Charlie suggested taking a liberal approach to see what direction the Town wishes to go with respects to Public Hearing. Steve Walker agreed with Charlie and stated that it would be best to start with a broader approach. Richard Visser asked if these changes would inhibit the possibility of using the space as a parking lot. Anna replied that the only way a parking facility could be legally established under the current TR2 was if it was municipally owned and would have to follow the dimensional requirements. Charlie stated that going to TC1 would alleviate some of the requirements. Pat Scully stated that he disliked the second option of amending the existing municipal facilities standards; he stated that the first option leaves flexibility.

Chairman Charlie Frizzle opened the meeting to public comment; hearing none, the public comment period was closed.

It was decided that planning staff set public hearing to consider rezoning the west side of Federal Street from Mason to Center Street to TC1 Zone.

Other

Minutes

MOTION BY MARGARET WILSON TO APPROVE THE MINUTES OF JUNE 12, 2012. SECONDED BY RICHARD VISSER, APPROVED UNANIMOUSLY.

Adjourned

This meeting was adjourned at 8:45 P.M.

Attest



Tonya D. Jenusaitis
Recording Secretary