

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
December 18, 2019**

MEMBERS PRESENT: Chris Horton, Jason Barry, Jeremy Rhodes, Bob Belmore-City Manager, Harold Guptill-Vice Chair, Paul Robidas, Keith Perkins, Alternate, and David Witham, City Council Representative

MEMBERS ABSENT: Ron LeHoullier, Chair

STAFF PRESENT: Shanna B. Saunders, Director Development Services, Dana Crossley Planning Secretary

The Meeting was called to order at 6:30 PM.

Acting Chair Guptill appointed Perkins as a full voting member for the meeting.

- 1) **Approval of the minutes of the meeting of November 20, 2019 regular & CIP Workshop:**
Motion: Robidas MOVED to approve the minutes of the November 20, 2019 regular meeting.

Seconded by Horton.

The MOTION CARRIED by a 7-0-1 vote. (Witham abstained)

Motion: Robidas MOVED to approve the minutes of the November 20, 2019 CIP Workshop meeting.

Seconded by Horton.

The MOTION CARRIED by a 7-0-1 vote. (Witham abstained)

- 2) **COMMITTEE REPORTS**

Land Use Board Reports (ZBA, HDC, Conservation Commission, SRTC): Guptill stated the reports are in the board's packet if they have additional comments to add. No additional comments.

City Council Report: Witham stated at the last Council meeting there was a presentation from the consultant for Form Based Codes. He highlighted some of the main aspects of the Form Based Codes discussion.

Witham reported that the Council took action on the resolution to prohibit parking 250' Westerly on either side of Blackwater Road from Route 108 (by Cumberland Farms).

Horton stated 1 John Parsons Way (the old bank) is becoming a pediatric dentist.

Horton stated he would also like to see a copy of the visual preference survey results for the Form Based Codes research.

Witham stated the Council did request to see the results of the survey. He stated there was around 300 people who completed the survey.

Witham stated the pediatric dentistry that is going into the old bank was before Council for the review of their 79:E request. He stated it was approved by Council.

Minor Field Modifications Report: No Comments.

Strafford Regional Planning Commission Update: Guptill stated the Board continues to receive the updates via email.

Belmore stated they still need a commissioner. He stated it is important to have all three seats filled because they are the ones that vote on the grants. He stated if anyone wants more information on the commitment, one should contact the Somersworth representatives Mike Bobinsky or Scott Orzechowski.

3) **OLD BUSINESS**

A) **SNTG, LLC (Green Collar Laundry), is seeking site plan approval to add a 4,500 sq. ft. commercial building and associated parking and infrastructure to the existing commercial site on property located at 472 High Street, in the Residential Commercial (RC) District, Assessor's Map 40 Lots 4-A & 4-B, SITE#8-2019 PUBLIC HEARING**

Saunders stated the applicant has requested to continue the application to the January meeting.

MOTION: Witham moved to remove the item from the table for discussion.

The MOTION was SECONDED by Robidas.

The MOTION CARRIES by an 8-0 vote.

Board Discussion: Witham asked if the board is obligated to grant the request to keep this item on the table. He stated the application is dragging on and with each month that passes the surrounding area changes. He stated since the applicant has submitted their application, sidewalks have been constructed by the Flatley Company on Tri City Road.

Saunders stated they are not obligated to keep the item on the table. She stated they were aware that the sidewalks were to be installed. She stated she agrees that there is change in the surrounding area. She stated she recommends that if they continue the application to January, make it clear that would be the last continuance without additional abutters notice.

Belmore stated he is inclined not to approve the continuance. He stated he does not think it fair that abutters have to keep watching the agendas and minutes. He stated he also thinks that the applicant should have a valid reason to why they are seeking the continuance. He stated the board agreed to allow the engineer the applicant wanted for the third party review agent. He stated and now the applicant is still seeking a continuance.

Horton stated he would echo the statements made. He stated when the project first came to the board there was a lot of concern by abutters.

Robidas stated he has concerns, as things change, of when another traffic study would be warranted.

Saunders stated if the board denies the continuance they will hear the application tonight without the applicant here. She stated this course of action would be with the understanding that the board may make a decision tonight.

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MOTION: Witham stated, I MOVE to DENY the request to continue the application of SNTG, LLC to the January 2020 meeting.

The MOTION is SECONDED by Robidas.

The MOTION CARRIES by an 8-0 vote.

Saunders requested a 5 minute recess to gather the documents for the meeting.

Guptill granted the request.

Guptill called the meeting back in session at 6:51 PM

Saunders stated the Board has before them the memo from the last time the application was before them. She stated the Fuss & O'Neil report is also before the Board, the report did request several pieces of additional information from the applicant. Saunders stated she could review the memo again if the Board requests.

Guptill asked for the applicant to speak to the application. No applicant was present at the meeting.

Guptill opened the public hearing.

No public comment.

Guptill closed the public hearing.

Board Discussion: Witham stated the Fuss & O'Neil comments regarding the traffic study makes the statement that the City should continue to monitor the area. He stated it appears they are suggesting that, in lieu of another traffic study. He stated it is an issue for him that the last traffic study was done in 2013. He stated there have been a lot of changes in that area.

Belmore stated the applicant needs to come in before the Board to explain the facts. He stated it should not be something the Board is confirming it is incumbent on the applicant to do.

Saunders stated that the comments in italics in the report are the CLD comments from 2013. She stated Fuss & O'Neil comments in regular text explains if that italics comment had been met or not. Saunders explained that Fuss & O'Neil also requests further analysis of the intersection and are asking for an updated traffic study. She stated Fuss & O'Neil quoted that would be an additional \$3,500 contract.

Belmore stated he would want to see that updated traffic study.

Saunders stated one of the concerns brought up was the traffic circulation and dead-end isles. She stated that was a CLD concern in 2013 and it was not fixed in the 2019 submittal.

Belmore stated with all of the plan changes he would want to see new plans that reflect the changes.

Robidas stated they allowed the applicant to use Fuss & O'Neil to complete the third party review to speed things along but does not feel that is happening. He stated he found the report to be difficult to read. He stated he had concerns with what was brought up about the drainage in the report.

Rhodes stated he had an issue with the concerns brought up by Fuss & O'Neil. He stated looking at the parking aisle Fuss & O'Neil calls out, that the current configuration has made aisle use more difficult than the previous plan. He stated that is a problem. He noted that the traffic comparison

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was done for a single hair salon of 4,500 sq. ft. in NY and is concerned with that. He stated there is instruction to monitor the intersection. He stated that is an issue for him because the Board has stated numerous times that there have been significant changes in that area since 2013. He stated the applicant has not modified the loading area so truck access is limited at the site and would likely continue to be. He stated they have only blocked the High St access with a couple of bollards and thinks that is an issue. Rhodes stated no crash data has been provided. He stated the storm water calculations have not been signed off by an Engineer. He stated there are drainage problems and there are utilities added to the plans. He stated there have been abutter concerns that have not been addressed as well. Rhodes stated that he does not feel that the issues would be addressed by the January meeting even if the Board continued the application. He stated he feels the list of problems with the application is more comprehensive than even what the Board has listed. He stated he does not agree with continuing or hearing the application in its current state.

Horton stated he agrees with the comments that have been stated. He stated for him what stands out is the lack of response in 2 months of the abutter's concerns.

Barry stated the plans are incomplete and feels there are a lot of holes in the application. He stated there needs to be good engagement with the abutters. He stated by drawing the application along the abutters are less informed of when it is before the Board.

Witham stated the proposal to have just bollards to block the High Street entrance is an outstanding issue. He stated he recalls from the previous hearings that the board wanted that entrance closed off with granite curbing.

Saunders stated from the Board's discussion she has gathered that the Fuss & O'Neil report has brought up enough issues with the existing plan set that the plan set is not complete. The Board's discussion is sounds like they want to deny the application, and allow the applicant to resubmit a revised plan set based on the Fuss & O'Neil comments and re-notify the abutters.

MOTION: Robidas stated, I move that the request of SNTG, LLC to add a 4,500 sq. ft. commercial building and associated parking and infrastructure to the existing commercial site be DENIED based on the fact that comments received from the Fuss & O'Neil report show that the plan set is quite lacking and therefore not a complete application that meets the regulations and cannot be accepted as complete.

The MOTION is SECONDED by Rhodes.

Discussion: Witham clarified that this is a denial of the application based upon the fact that the plans are not complete for review. He stated if the applicant wants to re-submit it will start the process over again, abutter notification, and a new third party review done by the City's agent.

Belmore stated the denial is also because of the other factors that were discussed during this meeting. He stated this includes the abutter notification, opportunity to hear from the applicant and abutters.

Rhodes stated per the State RSA the applicant can ask to use a different engineer but does not think the Board will be inclined to grant that request again.

The MOTION CARRIES by an 8-0 vote.

- B) **Compliance Hearing** regarding site plan compliance including access management and landscaping for Cumberland Farms Inc., 216 Route 108, Map 62 Lot 11, SITE#10-2016

Guptill stated the process this compliance hearing would follow.

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Saunders reviewed the history of the property: She stated the site plan was approved in 2016. She stated they returned to the Planning Board in June 2018 at the PB request to discuss traffic issues. Staff worked with the Cumberland Farms representatives though the month of July and came up with the plan of striping a “Do not block intersection” pavement marking on Blackwater Road.

Saunders stated staff also reached out to DOT at this time to talk about signal timing. No action was ever taken by Cumberland Farms on signal timing as the Blackwater Road striping was a less expensive fix. She stated this option is still on the table and is a function of Cumberland Farms reviewing with the City and making a recommendation to DOT.

Saunders explained she reviewed the right of way that is available in that corridor. She stated part of the issue for discussion tonight is the pavement degradation. Saunders stated she looked at the right-of-way portion of Blackwater Road there is about 10’ -12’ in the direction of the vacant lot if they want to seek an offsite improvement.

Witham stated he has received a lot of comments from residents in regards to the pavement degradation and traffic flow. He stated in the past 4-5 years the Council has put forth a great effort to improve the City roads and pavement. He stated since the Cumberland Farms has gone into this location there has been road degradation that did not occur prior to their occupancy. He stated he has personally witnessed passenger cars passing the queued cars on the right attributing to the degradation. He stated the issue of cars traveling through the vacant lot across the street is something that can be brought to light with the owner of that property.

Witham stated the other area of concern, traveling from Route 16-B, cars are going off road and turning into Cumberland Farms prematurely. He stated he has documented that there is a large depression on that edge of roadway as well. He stated there was not curbing wrapped around that entrance.

Witham stated the vegetation is difficult to review at this time of year. He stated it can be further vetted in the spring. He stated the lawn is not healthy looking though. He stated the catch basin in the front yard, still has the silt soxx installed. He stated the stop sign is listing at 45 degrees. He stated the lit entrance signs along Route 108 has been knocked down and not replaced. He stated there is a number of little issues they are seeing. He noted that there is a side exit of the building, that has been blocked off with cones and chains. He stated the Fire Chief has indicated that is an ongoing issue of them blocking the door.

Belmore stated the landscaping is an issue; it has looked poor for a long time. He stated the stop sign has been listing for at least a month. He stated he has seen the delivery trucks take the wide turn that has caused road degradation. He stated the road has been re-paved and it is has been degrading from the delivery trucks and passenger cars on both sides of the road.

Horton stated he agrees with the statements made. He stated the City and Council have put an investment into the roads. He stated to see the roads degrade because of a business is disheartening. He stated everyone is here to promote the City and keep it on the move.

Witham stated an action that Council can take is prohibit left turns from Blackwater Road into Cumberland Farms. He stated if they cannot resolve the issue here it is an alternate path that can be taken.

Manny Paiva of the Cumberland Farms Planning Department and **William Gemas** of Cumberland Farms Store Operations were in attendance.

Paiva stated until this meeting he was unaware of the issues outside of the road degradation. He stated Gemas would be able to address those issues brought up tonight. Paiva provided a plan showing the truck circulation that was approved in 2017. He stated they cannot change the transportation route for the trucks because of the side that the tanker trucks offload. He explained why the trucks need to remain taking the route they are.

Paiva stated the approved traffic circulation plan is what they have witnessed the delivery trucks performing. He stated the trucks wheels stay within the paved roadway into the site. He stated when the site was built there was a mobile home park with a paved driveway across the street. He stated he tried to show in the Google history that there was always a depression. He stated once the trailer park was demoed and paved driveway removed was when the deterioration started. Paiva stated they have witnessed trucks that are not their patrons pull into the vacant lot. He stated they think it would be a good resolution to barricade the vacant lot driveway.

Paiva stated store and fleet operations have stated the trucks are 100% executing their turns as shown on the truck turn radius plan. He requested a copy of the packet that the board received.

Saunders stated the packet is the public record from the 2016 approval. She stated it is minutes, reports submitted by the applicant, etc. She stated a copy can be provided to them.

Belmore stated he has witnessed the delivery trucks attributing to the degradation. He stated there is an issue with the vacant lot traffic but the delivery trucks have exasperated the issue.

Witham stated they will be encouraging staff to address the vacant lot issues. He stated there are some trucks that follow the prescribed traffic plan. He stated when there is traffic queued from the light that is when the delivery trucks are taking the wider turn and causing the degradation. He stated that portion of Blackwater does not have a breakdown lane. He stated these heavy trucks will push away the pavement especially during the warmer months.

Witham stated also due to cars queued to turn left, passenger cars pass around those cars. He stated that is a common occurrence all around the City but in this location there is no breakdown lane. He stated Cumberland Farms also paved the portion of Blackwater that abuts their frontage. He stated the degradation has been since the Cumberland Farms was built.

Witham stated they know Cumberland Farms being present there is the catalyst for the road degradation. He stated there is adequate right of way and thinks paving the shoulder is the answer here.

Rhodes clarified if the agent was insinuating that the demolition of the mobile home park was creating the road degradation. Paiva stated no, where that edge of pavement is rolling off there was a removed paved driveway. He stated because the paved entrance to that lot was removed, it is adding to the degradation of the road.

Rhodes stated the photo provided by the City, the tire tracks appear to be from a trailer vehicle and are turning into their facility. Paiva stated the vehicles are staying within the paved road. Rhodes stated from the tire track marks it clearly shows that is not happening. He stated that paving the area in the right of way would be a quick fix for this. He stated maintaining a good neighbor posture is good for business and thinks they would be able to shoulder.

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Horton stated that based on the conversation, he would be in favor of an offsite exaction for at least 4' 4" pavement in the right-of-way to support the traffic going into the business.

Witham stated he agrees with Horton and that 4' in width would be adequate. He stated he would not specify depth but rather to City standards. He stated they need to determine how far the shoulder will be paved. He suggested from the intersection to the far end of the westerly driveway. He stated about 50' westerly of the granite curbing at the intersection.

Saunders stated it would be safe to say from the intersection to the far side of their driveway.

Robidas asked how to address the other side of the road.

Witham stated he thought it could be addressed by widening the apron.

Saunders stated there is a requirement of the width of the apron that she would have to research in regards to this project. She stated they may need a waiver or variance from the City for that.

Belmore suggested they add a paved shoulder on that side. Saunders stated that would work as well.

Witham stated a 4' wide paved shoulder going 20' on that side of the road as well.

Horton stated he would like to see some barricades on the vacant property. Saunders stated she would follow up on that.

Belmore stated signs could be posted as well to discourage any traffic on the vacant lot.

Barry asked how wide the roads are in that location. Saunders stated if the road is standard it would be 24'.

Barry stated the Board acknowledges there is an issue with parking on the vacant lot. He stated it must be acknowledge that cars queued to turn left into Cumberland Farms the other traffic will go around them. He stated Cumberland Farms is the contributing factor to the road degradation. He stated he is in support of the shoulder. Barry stated it should be done before the entrance and beyond 1-2 car lengths.

The Board held a brief discussion to clarify the extent of the shoulder pavement.

Saunders stated that under State Statue the Planning Board is allowed to require an offsite exaction for any portion of the development. She stated they have the right to require proportional share of municipal improvement costs so that the applicant keeps their approval.

Witham inquired how the process will work.

Saunders explained that the work can be done by the applicant or the money can be put into an escrow with the City, for the City to do the work.

Paiva stated they would prefer to supply the escrow funds and have the City do the work.

Robidas stated he would prefer having the City do the work as well because it would be done to their specifications.

Belmore stated he would agree and felt it would be the neighborly thing to do.

Gemas stated he is in charge of the day to day operations of the site. He stated they outsource the landscaping and they come weekly to maintain the landscaping. He stated the landscaping has struggled because it was planted in the month of October. Gemas stated a tremendous amount landscaping died within the first year. He explained the maintenance and replacement of the landscaping they have done. He stated they are aware of the issues and working to get back to plan in the spring.

Gemas stated the side door was closed because they were losing a significant amount of money due to people taking goods without paying for them. He stated the door has been changed to an emergency exit only. He stated it should not have been blocked.

Gemas stated there is an open work order to fix the sign. He stated they have struggled with the exit/entrance signs because customers hit them. He stated it is very expensive to replace them. He stated it happens often that customers hit the signs.

Saunders stated it could be an amendment to the site plan to remove those signs.

Witham stated he is fine if the sign is removed. He stated what he wants is if the sign is removed that the wiring and post is also removed.

Saunders stated it can be done through her office and the applicant does not need to come before the board for that.

Gemas stated he was unaware of the annuals that are required in the planters. He stated moving forward they will be planting those.

Witham suggested the applicant work with the Director in finding alternate plants that would survive at the site.

Gemas explained that he lives, works and grew up in the area. He stated he takes a lot of pride in his sites. He stated anyone can reach out to him about an issue and he will address it.

Robidas stated the Board appreciates the store and the business in that location. He stated as some of the issues started it brought up frustration. He stated he does not look at anything the Board has asked tonight to be unreasonable. He stated if it was not Cumberland Farms' responsibility he would not be seeking them to resolve the issue. He stated he would like to see the areas cleaned up and to move forward.

Horton stated the hearing is about the pride the Board has in the City, just as the applicants have in their store. He stated he appreciates their comments tonight.

Witham stated he is satisfied the little issues will be addressed by staff. He stated what he would like to focus on is the roadway restoration. He stated discussion has brought up a 4' shoulder constructed to the City's standards to a point 20' west of the most Westerly edge of their entrance on the Northerly side of the road. He stated on the Southerly side of the road the 4' shoulder would run from the intersection of Route 108 and Blackwater to 20' past the far end of the driveway heading west.

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Paiva asked for clarification. Saunders stated, when driving toward Route 108 on the Cumberland Farms property side of the road, it would be a 4' shoulder for 20' approaching the driveway. On the North side of Blackwater Road, the 4' shoulder will start at Route 108 and 20' past the far end of the driveway (to be in line with the alternate side of the road shoulder pavement).

Belmore stated the applicant will provide an estimate and the City will verify it. He stated then the applicant will provide the escrow and the City will do the paving in the spring.

Rhodes noted the silt soxx should be removed.

MOTION: Witham stated I move that reasonable offsite exaction be made by Cumberland Farms for necessary improvements to Blackwater Road which includes a 4' paved shoulder as outlined in the discussion, the cost estimate will be provided by the applicant, verified by staff, Cumberland Farms will supply the escrow and in the spring the paving will be done by the City. The landscaping will be addressed no later than July 1, 2020. The stop sign will be repaired within 30 days of this meeting. The site plan amendment be made to remove the lit entry bollards around the site. The silt soxx be removed within the next 30 days of this meeting.

The MOTION is SECONDED by Robidas.

The MOTION CARRIES by an 8-0 vote.

C) Any old business that may come before the Board.

No other old business.

4) **NEW BUSINESS**

A) **ZBA Proposal to review the Business District Zoning on Main Street**

Witham stated there has been increased numbers of people seeking a variance from the requirement to have business on the first floor of the Business District. He stated the issue is being seen specifically on the lower end of Main Street. He stated that is an area that Council has flagged and it will likely be addressed through the Economic Development Committee.

Saunders stated the Zoning Board has been wrestling with that topic. She stated they have proposed to work with the Planning Board to submit a proposed zoning change to Council for that area. She stated there is a memo in the packet that explains the ZBA's thoughts on the matter. She suggested the boards have a joint meeting to discuss the issues.

Belmore stated he did not think a joint meeting was necessary. He stated he thought the Director could put together a proposal from their ideas and then act as the go between. He stated he thought she had provided a good proposal tonight. He stated he thought it might be spot on and that it can be taken care of.

Witham stated if it is presented as a zoning change it will likely go through the Economic Development Committee for review.

Horton stated he is in favor of a joint meeting. He stated the memo does express their opinion well but a face to face could bring out more details.

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Robidas stated he agrees that a proposal put forth by the Director any questions can be relayed back through the Director. He stated he thinks they should allow the Director to do her job.

Witham stated it is important to involve the ZBA in the review of the issues. He stated they have a good understanding with what they have been dealing with for the requests. He stated the Director can work with the ZBA and bring the information to the board.

Saunders stated she can bring a proposal to the board in January and move forward from there.

B) Saunders stated the Board has received tonight a copy of the 2020 Planning Board schedule.

5) **WORKSHOP BUSINESS**

No other workshop business.

6) **COMMUNICATIONS AND MISCELLANEOUS**

A) Witham stated the former KIA building has been cleaned up of automobiles along with the interior of the building. He stated the lot has come into compliance and is looking a lot better.

B) Rhodes stated the Conservation Commission has been reviewing a Conditional Use Permit for a number of lots behind Willand and Commercial Drive. He stated the property owner has put fill into the wetland buffer zone right up to the wetland line. He stated they were due to present to the Commission in December but were not ready. He stated they had stated they would not be willing to recommend approval of a CUP to the PB until mitigation had taken place. He stated he would like to see if the silt fences had failed from the storm over the weekend. He stated he would like to know if there has been any fill into the wetlands and if DES should get involved at this point.

C) Horton stated it has been a great year and it has been a pleasure working with the board. He stated he thinks the City Council and Staff have done a great job this year. He stated he is proud to be a part of where the City is going.

MOTION: Robidas MOTION to ADJOURN.

Witham SECONDS the motion.

The motion carries by an 8-0 vote at 8:05pm.

Respectfully Submitted,

Dana Crossley, Planning Secretary