

Matthew Nazar
62 Old Kents Hill Rd
Readfield, ME 04355

August 31, 2021

Readfield Planning Board
8 Old Kents Hill Rd
Readfield, ME 04355

Dear Board Members,

First, please let me apologize again for what was undoubtedly incoherent testimony that I gave last week. I assume it was extremely obvious how anxious I was to be standing in front of you and speaking about this project. I was that nervous because the risk to me personally has never been this big. In 2019, the owner of this property attempted to get me fired from my job for speaking to public officials about his project. All of my activity in Readfield is on my own time and has nothing to do with my employer in Augusta. All I have ever done related to this property is speak as a private citizen to public officials about my concerns. Everything I have stated to every public official has been accurate, as I understood the situation at the time.

And to correct the record, the city of Augusta negotiated for over a year to get a purchase and sales agreement with the landlord of Attorney Davis's paralegal and actually failed in those negotiations. I was not involved in any of the negotiations, but my department was. The house was ultimately purchased in 2014 by the Maine Governmental Finance Authority – a state entity. Yet in 2016, I was personally named in a lawsuit related to this issue. I have no idea why Attorney Davis would believe that a lawsuit brought against me by his paralegal could somehow disparage his office and his client. However, it clearly played a role in my anxiety last week.

It seems important that the public testimony in favor of the project centered on the owner and his "gift" to the community and the chance for the owner to create "Emporium 2.0". Those speaking in favor did not mention Safe Spaces Meeting House or mission of the applicants, they focused on the mission of the owner.

To the substantive points Attorney Davis makes, I have a few responses. Item 7 in his letter does not make sense. Readfield's shoreland zoning is part of the base zoning scheme in the town. It is not an overlay zone. 26 Mill Stream Road is a parcel that is split into two zoning districts – Rural Residential and Resource Protection. Article 7, Section 3(C) of the Land Use Ordinance states that:

If a lot is divided by two or more districts, the requirement of this Ordinance for a particular district apply only to the PART of the lot which is located in THAT district.

The question that remains is how much of the building is Rural Residential and how much are in Resource Protection. The Resource Protection zoning district does not permit the use being

requested, so any portion of the buildings that is in the Resource Protection district cannot be used as the applicant requests. Contrary to Attorney Davis's assertion, there are some uses permitted in the Resource Protection district. And a single-family home that has been in existence for 250 years can clearly continue to be a single-family home per the ordinance. This use, as proposed, appears to not be allowed in part of the building and this should result in the denial of the application. The applicant proposes using the entire building, despite the use not being permitted in a portion of the building. And there's no realistic way to divide the building to prevent use in areas where the use is not permitted. This is grounds for denial.

On Item 8, Attorney Davis is also mistaken. Readfield's Ordinance has language that is not typical in most ordinances in Article 7, Section 5, giving the Code Enforcement Officer authority to review uses that are not specifically listed in the Ordinance and determine if they are similar to permitted uses, similar to Planning Board approved uses, similar to CEO approved uses, or similar to "prohibited" uses. This is clunky language because Readfield's ordinance is a permissive ordinance only listing uses that are permitted. Rather than the word "prohibited" here, I would have said "not permitted in that zoning district, but permitted in other districts". This is the point that Town Manager Eric Dyer made in his testimony. He listed all of the uses proposed by SSMH that are similar to uses permitted by the ordinance, but not permitted in the Rural Residential zoning district. It does not make sense that a single use in the Rural Residential zoning district could effectively be a conglomeration of multiple other uses not permitted in that zone. If they are not permitted individually, how could they be permitted collectively when land use ordinances are designed to mitigate impacts and individually the impacts would be less than they would be collectively?

On item 9, Readfield's ordinance construction is as a "permissive ordinance", listing uses that are permitted. I urge the Planning Board to resist Attorney Davis's request to identify "prohibited uses". That's not the way your ordinance language is constructed and courts have found that mixing prohibited uses with permitted uses leads to significant problems regarding what's in the middle, what's not listed. It's the applicant's job to tell the Board exactly what they want to do, how they want to do it, where they want to do it, and when they want to do it. It's your job as a quasi-judicial Board to review their proposal.

On item 10, Attorney Davis is wrong, in my non-legal opinion. 30-A MRS Section 3009 gives the municipal officers the legal authority to enact parking regulations. The problem in Readfield is that there is no enforcement entity in town, making any parking regulations effectively meaningless. Neither the state police nor the sheriff will enforce local parking regulations. Roads must be designed and built to accommodate human behavior, rather than attempting to regulate behavior without enforcement. Mr. Allen is a highly respected DOT regional engineer who, after decades in his position, has a very clear understanding of the laws directly related to his daily duties. I recommend you consult with the town's attorney to confirm legal assertions made by any applicant's attorney.

On item 11, the Board should both hope and expect that SSMH will be successful and will be open and active year-round with increasing activity and an increasing operational schedule until

they meet the Fire Marshal's limits for occupancy of the building. I have no idea what "fewer" activities in the winter means. "Fewer" is wholly unquantified. Given the condition of Mill Stream Road as well as the remote parking, whether there's 35 or 200 is irrelevant. The road and the parking are inadequate for spring and winter use that is any more substantial than a single-family home at 26 Mill Stream Road. And the road is certainly not able to be maintained in a condition during spring and winter that enables people to walk from a business to their remotely parked vehicle either in the light, or after 4pm in the dark. The applicant has provided no viable options for dealing with the public safety issues their operation will create. Unpaved, unmarked parking lots typically hold fewer vehicles than they are designed to hold because of inefficient parking by visitors. And unrestricted openings to parking lots along roads are a serious safety hazard to pedestrians and drivers. Parking, traffic, and pedestrian safety are all critical public safety concerns. This failure of the application should be part of why the proposal is denied.

Attorney Davis's letter states that attendance will be limited to 35+/- vehicles. At the last meeting he was stating that parking could occur on Route 17 and Mill Stream Road. If the parking lot can hold 35 vehicles, and attendance is limited to 35 vehicles, I don't understand his argument in favor of additional on-street parking. And anything beyond the one or two single family homes that have existed on Mill Stream Road will be a "significant uptick in use".

I remain very interested in knowing what brand and model sound level meter was used to take decibel readings and when it was last calibrated by a qualified technician. I also want to know where the readings that were identified as being adjacent to my house were taken. I did not grant permission for anyone to be on my property and if readings were taken from Old Kents Hill Road they are inaccurate due to obstructions. My house sits on a knoll and accurate readings cannot be taken from anywhere off my property. Finally, I encourage the Board to regulate decibel levels at SSMH property line, not at neighboring buildings. Their noise should not trespass on abutting properties above a designated level. With the inaccuracies and vagaries in the applicant's submissions I outline in this letter, I have little confidence any information submitted to the Board is accurate. I recommend independent verification.

I strongly support the goals of SSMH, but not the proposed location. In my opinion the owner of 26 Mill Stream Road owns the perfect location for this proposal that is appropriately sized, properly zoned, and has been sadly vacant for several years – the old Emporium building in the middle of the village. Emporium 2.0 would thrive in the same location as Emporium 1.0. The village needs more economic and cultural vitality and SSMH would be perfect there.

Thank you for your time. And again, I speak here as a private citizen of Readfield with no public position and no authority to make anything happen. Let me also be clear I am not an attorney and none of my comments in this letter should be viewed as giving legal advice. The Board should consult with its own hired attorney.

Sincerely,
Matt Nazar