

**Planning Board Meeting - Minutes**  
**Tuesday, January 15, 2008**  
**Cumberland Town Hall**  
**290 Tuttle Road, Cumberland, Maine**  
**7:00 PM**

**A. Call to Order**

The meeting was called to order at 7:02 p.m.

**B. Roll Call**

Present: Bill Ward, Vice-Chair, Bob Couillard, Chris Neagle, Bill Richards, Mark Robinson, Pam Russell, Bob Vail

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

Mr. Ward welcomed Bob Vail, the Board's new member.

**C. Approval of Minutes of September 13 & 18 2007**

Mr. Richards moved to approve the minutes of October 16, 2007.

Mr. Couillard seconded.

VOTE: Unanimous (Ward, Couillard,  
Neagle, Richards, Russell)  
2 abstain (Robinson, Vail)

**D. Consent Calendar / Deminimus Change Approvals: Astilbe Lane Subdivision**

Ms. Nixon presented background information as follows: This matter involves a Yarmouth resident John Veilleux, whose home is in an approved subdivision that is located mostly in Yarmouth, but a portion of his lot (his backyard) is in Cumberland. When Mr. Veilleux came to Cumberland for a building permit for the installation of a pool, he learned that a note on the approved plan states: "The portion of Lot 1 located within the Town of Cumberland shall be left in its natural state and shall not be developed or built upon." He was advised by the Code Officer to work with the Planner on an application for a revision to the subdivision. Ms. Nixon felt this was a deminimus change. The file indicates that the note was placed on the plan to prevent a stand of trees that serve as a stream buffer, from being removed for the construction of the home. The home was built entirely in Yarmouth. The few feet of pool that will be located in Cumberland, will be on land that was an open field at the time of the subdivision (aerial photos show this) has been an open lawn area since the home was built.

Ms. Nixon spoke with the Yarmouth Planner, Dawn Emerson, and agreed the applicant will not be required to make a formal revision to the plan, but this information will be placed in the file.

Finally, just to be sure, this information was presented to the Town Attorney, who agreed it was a deminimus change.

Mr. Ward asked for clarification on the location of Astilbe Lane.

Ms. Nixon stated it is on the Yarmouth / Cumberland Town line at the intersection of Portland Street and Middle Road, near Main Line Fence.

Mr. Neagle asked if the house and pool were located on the left or right side of the lot.

Mr. Veilleux stated the left side (as you look from the house to the street).

Mr. Neagle thought this was a positive change and stated he would support the minor change, but suggested a note be added to the plan.

Mr. Richards asked for clarification on the location and clearing of the field.

Mr. Veilleux, applicant stated the area had always been cleared and the buffer and stream will not be impacted.

Mr. Vail asked why this land shared property with Cumberland and Yarmouth, and asked Ms. Nixon if she had any idea how many of these properties existed.

Ms. Nixon stated Greely Road Extension and Orchard Road have some properties that straddle the Town lines.

Mr. Ward agreed with Mr. Neagle he supported documenting the change with a note on the plan.

Ms. Nixon asked if adding a note would constitute a revision to the plan and require a public hearing.

Mr. Robinson also agreed and asked Mr. Neagle if that would require a revision to the plan and a public hearing.

Mr. Neagle stated he didn't think so; there may be some that would argue it might. He was comfortable dealing with this now, and not delaying the applicant. A Notice of Decision from the Town Planning Department can be recorded at the Registry of Deeds, and a note stamped on the Plan.

Mr. Neagle moved to approve amending Note # 2 of the subdivision plan for Astilbe Lane. (The portion of Lot # 1 in the Town of Cumberland shall be left in its natural state and shall not be developed or built upon.) Amended to: The portion of Lot # 1 in the Town of Cumberland shall be left in its natural state, except that a swimming pool, deck, and pool shed shall be allowed to extend a few feet into the Cumberland portion of Lot # 1; provided no portion of the stream buffer is affected.

Mr. Robinson seconded.

VOTE: Unanimous

Mr. Ward stated prior to the Hearings and Presentations, the Board would have a presentation from Mr. Moriarty, Town Councilor.

Mr. Moriarty, Town Councilor stated as probably all of you know I am the Council Liaison to the Planning Board. His duties require him to show up and listen. Tonight however, he has the unique pleasure of appearing before you and speaking to give thanks and recognition to retiring Planning Board Chair Tom Powers, for his many years of service on the Planning Board. This is a community that is run by volunteers, and the volunteers that serve us in so many ways are the

back bone of our community. Tom is certainly an exemplar of that; he served faithfully for a number of years as a member of the Planning Board. Tom, in recognition of your service we present you tonight with a Town of Cumberland chair; which is to the right of the podium. It is presented to you with special thanks from the Council, the Manager, and the Planner, your former colleagues on the Planning Board and on behalf of all residents. Thank you for a job well done, and our thanks as well to your wife Patty for all the support she has given you over the years; that goes to all of our spouses, we know we don't do this alone. This chair is something we hope you will both enjoy and treasure and make a part of your home. Tom, we present you this evening with this chair, come on up and try it out for the camera, and many many thanks for all you have done for the Town.

Mr. Powers stated it is a fit. Then he said he wanted to take a moment to say thank you to the Town Council for putting up with me for as many years as they did, and to his peers on the Planning Board who allowed him to stumble through; and particularly to the Town staff and Town Planner, Carla Nixon; who helped keep him from getting into difficulty. So again, thanks to all. He wanted to echo Mr. Moriarty's comment about the nature of participation in our Town. I particularly want to encourage the folks watching from home this evening; to participate in their community. Through his travels throughout the World that is what unique and special about where we live, not simply Cumberland. In many parts of this world folks don't have an opportunity to voice their preferences, and the opportunity to participate in the evolution of their communities and their countries. We do, and that is special, and something we should all cherish. He would encourage those who are watching the proceedings to participate in your community and to contribute; and furthermore to encourage your children to do exactly the same; because it is the participation of the individual citizen that makes us unique as a Nation and a community. I strongly encourage it, and want to thank those of you who appointed me to the Planning Board to allow me to participate. One of the wonderful things about a small town is we are much more closely connected than a larger community. Cumberland is growing, evolving, and changing and hopefully that will happen through consensus, but he strongly urges those who are the least bit interested to participate in your community. We may not always agree but we will always move forward with consensus. Thank you so much, I will look forward to seeing each and every one of you in the future.

***E. Hearings and Presentations:***

**1. Public Hearing: To recommend to the Town Council draft zoning amendments to allow "agricultural uses" as a permitted use to Sections 204.10 Village Office Commercial I (VOCI); 204.11 Village Office Commercial II (VOCII); and 204.12 Mixed Use Zone (MUZ) of the Zoning Ordinance.**

Mr. Ward asked if this was overlooked in the re-zoning of the Route 100 Corridor.

Ms. Nixon stated yes, and read the minutes of the Town Council meeting as follows: "The Manager explained the existing agricultural uses were not considered when reviewing the Route 100 uses. A fairly intense focus was paid to commercial uses. Agricultural uses slipped through the cracks. Agricultural uses have been "typically allowed in just about all our zones in town." So the thought was that we needed to go back and remedy this; we have an existing agricultural use being Skillin's Greenhouse in the VCC district. There is a definition of "agriculture" in the zoning ordinance.

Ms. Russell read the definition of Agriculture: *The use of a tract of land for commercial purposes for cultivation and the production of crops, truck gardening, nurseries or greenhouses, or any*

*allied industry, but exclusive of animal husbandry and exclusive of private gardens less than 1/2 acre.*

Mr. Couillard a member of the Route 100 Committee stated they talked about this and the thought the plan was to have the VCC as a Village Center; veterinary offices were allowed, there is an existing office. As far as the other areas he didn't think the Committee was looking to have agriculture uses. The Committee was looking for business uses, and the MUZ zone was to have varied commercial use, perhaps a business on the first floor and dwellings on the second floor. Agricultural uses may take a lot of land out of the area, and prevent commercial development.

Mr. Robinson asked Ms. Nixon what brought this to the forefront.

Ms. Nixon stated she couldn't answer, but perhaps one of the two Councilors in the audience could address this. The request originated from the Manager's office.

Mr. Moriarty stated he was not sure why this was before the Board, he and Mr. Porter were just discussing this. They were thinking that "agricultural uses" were previously allowed in the "LB" and were excluded, he wasn't sure they addressed it directly for inclusion into the new zones. He didn't know of any property owner that addressed this.

Mr. Neagle stated the minutes from the meeting say that agricultural uses were not allowed in the Route 100 HC and LB zones. From his prospective he respects Mr. Couillard's comments of what might happen some day, but thinks the possibilities of Route 100 being developed during his life time are low. If there are people who want agricultural uses in West Cumberland he thinks it's okay. If Route 100 becomes a Route One north of Boston someday, the houses will be turned into McDonald's. He supports the change to allow more flexibility until such time as there is commercial development.

Mr. Robinson agreed with Mr. Neagle, he doesn't think this will create any use that is unfavorable; the best use of the land will dictate how it is developed. If there is a large market garden on the land and the highest and best use is commercial it will happen. He would support this change.

Mr. Richards agreed, but referenced the Manager's comments that agricultural uses have been typically allowed is just about all zones in town. Are there any zones that are analogous to these zones that do not allow agricultural uses such as Route One?

Ms. Nixon stated that the MDR zone was amended to allow agriculture for the Apple Barrel.

Mr. Porter stated at the Council meeting there was a conversation that a piece of land for sale across from Castlerock would be a great site for agriculture. He agrees with Mr. Robinson highest and best use will dictate development. The two T.I.F. districts were just passed by the Council. The recommendation from the Manager was to add these uses. The Council didn't spend a lot of time on the issue.

Ms. Russell asked for clarification on whether agricultural use was allowed in the VCC.

Ms. Russell asked if they wanted to amend the motion to add VCC as well, that is where Skillins is located.

Ms. Nixon stated tonight the Board can only act on what has been advertised.

Ms. Russell stated she supported the use in all zones.

Mr. Neagle agreed with Ms. Russell, and if needed they can recommend that it be added to the VCC.

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

Mr. Richards moved to recommend to the Town Council to add “agricultural uses” as a permitted use to Sections 204.10 Village Office Commercial I; 204.11 Village Office Commercial II, and 204.12 the Mixed Use Zone of the Zoning Ordinance.

Mr. Robinson seconded.

VOTE: Unanimous

### **3. Review and Recommendation to Town Council: 2008 - 2012 Proposed Capital Improvement Plan.**

Ms. Nixon stated she was passing out a paper copy of the overview of the Capital Improvement Plan. In past years the Planning Board has been perplexed as to why this comes to them, many of the C.I.P. items are not land use related. The C.I.P. can include anything from fire trucks to computers. The Town Charter as written requires the Planning Board make a recommendation to the Town Council.

Mr. Ward stated the paper version and the e-mailed version are somewhat vague as to what is in the big binder.

Mr. Robinson stated the e-mail version was intended to be an introduction, he agreed there were some discrepancies between the two, but thought the Board should reference the large document and not the e-mailed version. Mr. Robinson stated this is something the Board struggles with; he understands it is required by the Charter. The Planning Board doesn't have a lot of input into this; he has reviewed this and is ready to make a motion.

Mr. Richards stated although the C.I.P. reflects preventive maintenance and capital equipment needs; he asked if the plan had been reviewed for alignment with the new Comprehensive Plan. He assumes this has been done, if it hasn't that is a really important issue.

Mr. Vail stated the Comprehensive Plan Committee is currently in motion; there is not a complete document. The Committee is not at that point in the plan; some of these things have been presented to the Comprehensive Plan Committee.

Mr. Robinson stated this references the current Comprehensive Plan. He thinks the process is such that Ms. Nixon reviews the sheets for compliance.

Ms. Nixon stated one of the questions on the Department Head Sheets is how this request complies with the Comprehensive Plan.

Mr. Couillard stated what bothers him is the Board can only give a yes or no, and the only way to voice an opinion is as a citizen before the Town Council.

Mr. Robinson stated the Board has as much input into this process as the Board chooses if they want to be more involved in the process the option exists to do that. The Planning Board has realized there are other people making decisions on how dollars are spent. The Planning Board is asked to review this to make sure it mirrors the Comprehensive Plan and if so, to forward it to the Council.

Mr. Neagle agreed with Mr. Robinson, and stated this gives the public another opportunity for discussion. The only public here this evening is two Councilors.

Mr. Porter, Town Councilor stated the C.I.P. is not written in stone, these are recommendations by staff and management. These are items we think need to be taken care of in the next five years, fiscal constraints will dictate how many are completed. One of the ways the process works together is the Planner is involved in C.I.P., and is also involved in the Comp Plan, and the Chair and Vice-Chair of the Comp Plan Committee are on the Planning Board. He would also encourage members to communicate priorities to the Town Council, they welcome input. The Town Council appointed the Route 88 Committee to look at a sidewalk or byway on Route 88, as a result of residents' requests.

Mr. Ward offered a couple of suggestions as to how the Charter incorporated the Planning Board, and it would be helpful to have a mini-workshop on the C.I. P. prior to bringing it to the Board.

Mr. Richards wanted to amend the recommendation that there be a macro conversation, he is not concerned with paving a street, but feels the template for decision making should be the Comprehensive Plan.

Mr. Moriarty agreed the new Comprehensive Plan is a work in progress. Ms. Nixon can be utilized as a resource on how the current C.I.P. conforms to the current Comp Plan. As far as a workshop idea, the Council hasn't seen the C.I.P. yet, the Planning Board is the first to see this. During the month of March the Council will take two or three or four consecutive Saturdays from 9:00 to 4:00 and go through the budget in its entirety, one of those days will be the C.I.P. If you want us to let you know what day and approximately what time the Council will review the C.I.P. you are welcome to join us and have a workshop to consider this. If a workshop is needed in addition to these opportunities the Council is willing to do that.

Mr. Ward stated he thought the workshop should have been before this evening for the Planning Board members.

Mr. Moriarty stated he would carry that point back to the Town Manager.

Ms. Nixon stated the Planning Board had such a workshop last year, the Department Heads came to the workshop. Her sense was it wasn't something that the Board felt needed to be done every year. We can certainly hold a workshop every year if the Board wants.

Mr. Neagle stated the Council might want to consider taking the Planning Board out of the loop. There might have been a time in past when this process was beneficial. He doesn't feel there is a need for the Planning Board to be involved.

Mr. Robinson stated he understood if the Regional School Unit goes forward it would require changes to the Charter and suggested the Council look at this item at that time. Historically there was a good reason for the Planning Board involvement, but today there is an opportunity for all citizens to comment.

Mr. Robinson moved to forward to the Council a positive recommendation for the 2008 - 2012 Capital Improvement Plan.

Mr. Vail seconded.

VOTE: Unanimous

***F. Administrative Matters***

Ms. Nixon wanted to remind the Planning Board that the February meeting would be February 26, 2008 instead of the regularly scheduled February 19, 2008 due to school vacation.

Mr. Couillard stated the Board needed to nominate a Chair and Vice-Chair to the Board.

Mr. Robinson nominated Mr. Ward as Chair.

Mr. Neagle seconded.

VOTE: Unanimous

Mr. Robinson nominated Mr. Richards as Vice-Chair.

Mr. Couillard seconded.

VOTE: Unanimous

***G. Adjournment:***

Mr. Robinson moved to adjourn.

Mr. Couillard seconded.

VOTE: Unanimous

The meeting was adjourned at 8:00 p.m.

A TRUE COPY ATTEST:

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William P. Ward, Board Chair

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Pam Bosarge, Board Clerk