

**Planning Board Meeting - Minutes
Tuesday, January 20, 2009
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine
7:00 PM**

A. *Call to Order*

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

B. *Roll Call*

Present: Bill Ward, Board Chair, Bob Couillard, Chris Neagle, Pam Russell, John Ferland

Excused (due to conflict with School Board meeting): Bill Richards, Vice-Chair, Bob Vail

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

C. *Approval of Minutes of December 16, 2008*

Mr. Couillard moved to approve the minutes of December 16, 2008.

Mr. Ferland seconded.

VOTE: Unanimous

D. *Consent Calendar / Deminimus Change Approvals:*

There were no Consent Calendar Items.

E. *Hearings and Presentations:*

1. *Public Hearing: Minor Site Plan Amendment for Homeless Animal Rescue Team (H.A.R.T.) animal shelter to add a shed at 302 Range Road, Tax Assessor Map U16, Lot 7B in the Village Office Commercial 2 (VOC2) district.*

Ms. Nixon presented background information as follows: The applicant is a non-profit organization called H.A.R.T. (Homeless Animal Rescue Team) of Maine, Inc., P.O. Box 351, Cumberland, ME. 04021. H.A.R.T. provides a humane, no-kill shelter for unwanted cats, awaiting adoption. The applicant is seeking minor site plan amendment approval for the construction of a shed to be built on an existing concrete platform adjacent to an existing dumpster. HART is being represented by Maria Carr, the President of H.A.R.T.

PROJECT DESCRIPTION:

The parcel is located at the corner of Range Road and Route 100 (Map U-16, Lot 7A) in the Village Office Commercial 2 district. The parcel is 46,802 sq. ft. in size.

The proposal is to place a 10' x 12' vinyl storage shed on an existing concrete pad.

This plan is classified as minor since it involves the construction of less than 5,000 sq. ft.

REQUESTED WAIVERS:

Section 206.8.7.4.5: Drainage

Section 206.8.7.4.6: Groundwater Impact Analysis

Section 206.8.7.4.9: Landscape Plan

Section 206.8.7.4.15: Traffic Study

Section 206.8.7.4.16: Stormwater Calculations

DEPARTMENT HEAD REVIEWS:

Bill Longley, Code Enforcement Officer: No comments.

Peer Review: None

Mr. Neagle asked if the fenced in area would be removed and replaced with a shed.

Ms. Nixon stated the fence is to buffer an existing dumpster. The proposed shed will sit next to it on the existing concrete pad.

Ms. Marcia Carr, Representative stated she is a volunteer for H.A.R.T. and President of the Board of Directors. The shed will give the facility more storage. H.A.R.T. currently rents space in Falmouth for storage of new cat litter. This will allow the cat litter to be stored at the shelter.

Mr. Couillard stated the existing site plan shows bushes along either side of the driveway.

Ms. Carr stated the landscaping was started in the fall, there are small shrubs in the back, and some larger trees planted in the front.

Mr. Ward asked if there would be any lighting in the shed.

Ms. Carr stated no, she didn't think it would be needed.

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

Mr. Couillard asked about the waiver requests.

Ms. Nixon stated this is a very small project, with no physical impacts to the site.

Mr. Neagle stated the waiver requests are reasonable with such a small project.

Mr. Neagle moved to approve the waiver requests.

**§206.8.7.4.5: Drainage;
§206.8.7.4.6: Groundwater Impact Analysis;
§206.8.7.4.9: Landscape Plan;
§206.8.7.4.15: Traffic Study;
§206.8.7.4.16: Stormwater Calculations**

Mr. Couillard seconded.

VOTE: Unanimous

Mr. Couillard moved to waive the reading of the finding of facts, due to the small nature of the project.

Mr. Ferland seconded.

VOTE: Unanimous

Mr. Neagle moved to adopt the findings of fact as presented and to approve the minor site plan amendment request with the standard conditions of approval.

Ms. Russell seconded.

VOTE: 4 in favor (Ferland, Neagle, Russell,
Ward)
1 opposed (Couillard)

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. *There will be no areas disturbed as a result of this project.*

.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.

There will be no changes to the parking access and egress.

.3 Access way Location and Spacing

Access must meet the specific ordinance requirements.

There will be no changes to the access way location and spacing.

.4 Internal Vehicular Circulation

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

There will be no changes to the internal vehicular circulation.

.5 Parking Layout and Design

Off street parking must conform to the specific standards.

There will be no changes to the parking layout and design.

.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.

There will be no changes to the pedestrian circulation.

.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.

There will be very minimal runoff from the shed structure and so there will be no adverse impact on abutting or downstream properties.

.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.

There will be very minimal runoff from the shed structure and there will be no disturbance of the ground for the shed placement. Based on these facts, there will be no need for erosion control measures.

.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.

There is no need for water.

.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.

There is no need for sewage disposal.

.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.

There will be no utilities for the shed.

.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.

There will be impact on groundwater quality or quantity as a result of this project.

.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 storage facility will contain bags of clean cat litter. 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 shed has been purchased. There was no need for technical support for this minor change.

.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.

The site is developed; when the site was reviewed for site plan approval in 2003, there was a finding that there were historic or archeological resources on the site.

.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.

The property is located in the Floodplain Overlay Zone C—areas of minimal flooding (Community-Panel Number 230162 0015). No special precautions are necessary in Zone C.

.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.

There will be no lighting of this building.

.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.

There is no proposed buffering of the shed. A waiver of this requirement is a condition of approval.

.19 Noise

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

Based on the information submitted, the Board finds that 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.

There are no changes being made to the existing dumpster which is screened.

.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.

There is no proposed landscaping for this minor amendment to the plan. This is a waiver request.

.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 shed is being placed on an existing cement foundation. The standards of this section do not apply.

SECTION 300 – AQUIFER PROTECTION (if applicable)

The parcel is located in the Aquifer Protection district. The proposed use will not involve any of the listed uses contained in Section 303 of the Zoning Ordinance. Therefore, the Board finds that the proposed use will not adversely affect the quality of groundwater.

STANDARD CONDITION 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.

2. Public Hearing: To recommend to the Town Council draft zoning amendments to add Section 204.13 Village Mixed Use Zone (V-MUZ) to the Zoning Ordinance and to change the Doane property, owned by the Town of Cumberland, Tax Assessor Map U10, Lot 7B, from Rural Residential One (RR1) to the proposed (V-MUZ) allowing a mix of residential, office commercial and retail uses.

Mr. Ward stated he and Ms. Russell served on the Doane Committee which has held workshops with the Planning Board and Town Council.

Ms. Russell, Chair of the Doane Committee presented an overview of the Committee's work. The Committee met for ten times from early January 2007 through November 2007. The early activity focused on gathering site data to learn as much as possible about the Doane property. The Committee reviewed all available maps including tax, topographic, wetlands, flood, and aerial photos. They also had on file a letter from the State of Maine Department of Conservation, which addressed botanical features of the property. The Committee held a site walk to see its unique qualities and environmental characteristics. The Committee reviewed sample "neighborhood" site plans as provided by the Town Planner, and explored certain "feasibility of housing and development" options with consideration for open space. The Committee defined the property as a "non-performing asset" and a liability to the Town of Cumberland.

In January there was an independent fee appraisal which gave current market value for the property. The committee further considered site access, road and utilities extensions, and local impact. They looked at sample "total build-out housing unit" scenarios as provided by the Town Manager. And discussed and voted on the "how" of any project with consideration for any costs that may be incurred by the taxpayers of the Town of Cumberland.

The Committee considered Drowne Road including the Drowne Road School, Cumberland Town garage and neighboring parcels. The Committee refined the focus with input from the Council liaison which confirmed that their "charge" was primarily the Doane property.

The Committee is recommending the creation of a new zone called the Village Mixed Use Zone. The Committee's recommendations include:

1. They believe the highest and best use for the site is to remove it from "non-performing asset" status and for the Town of Cumberland to encourage new development consistent with accepted rules, protecting environmentally sensitive slopes and wetlands and controlling impact on neighbors.
2. They do not believe it is in the best interest of the Town of Cumberland or the taxpayer to participate financially in (any) said development and therefore recommend the site be sold to a private developer or developers.
3. They recommend the Town of Cumberland create a new zone to manage these uses and advise the adoption of the Village Mixed Use Zone (V-MUZ).

Ms. Russell reviewed the permitted and special exceptions of the draft V-MUZ zone.

V-MUZ---Village Mixed Use Zone (12-5-08)

The purpose of the Village Mixed Use Zone is to provide an area that allows for a dense, village-like development that promotes a neighborhood feel by allowing for a mix of residential types as well as for small scale office commercial, retail and restaurant uses with interconnected streets, sidewalks and trails.

All development in this district shall be connected to public water and sewer. All non-residential uses shall be subject to Section 206 – Site Plan Review.

204.13.1 The following uses are permitted in the V-MUZ district:

- .1 Dwelling, detached;
- .2 Dwellings, Duplex, and Multiplex, to include condominiums, apartments, and senior housing.
- .3 Personal Services;
- .4 Business and Professional Offices;
- .5 Markets: 5,000 sq. ft. maximum square footage, with no drive-through;
- .6 Restaurants: 3,000 sq. ft. maximum footprint, with no drive-through and in accordance with Section 204.13.5.3
- .7 Retail Uses: 2,000 sq. ft. maximum footprint per business unit;
- .8 Private Schools;
- .9 Research Facilities;
- .10 Municipal uses and buildings;
- .11 Sewer Pumping Stations, subject to the provisions of Sec. 419.4;
- .12 Uses and buildings accessory to those above.

204.13.2 The following uses are allowed as special exceptions in the V-MUZ district, requiring the approval of the Board of Adjustment and Appeals:

- .1 Residential Care Facilities, subject to Section 432;
- .2 Commercial Health and Recreation Facility;
- .3 Home Occupations;
- .4 Home Based Occupations;
- .5 Home Based Retail;
- .6 Bed and Breakfast Inns;
- .7 Daycare Homes
- .8 Day Care Centers and Nursery Schools for no more than 20 children, subject to the provisions of Section 408A and Site Plan Review;
- .9 Accessory structures of public utilities;
- .10 Religious Institutions;
- .11 Uses and buildings accessory to those above.

204.13.3 The following lot standards shall apply within the V-MUZ district:

- .1 5,000 sq. ft. minimum lot size
- .2 In the case of duplex or multiplex developments, the minimum lot area per dwelling unit shall be no less than 2,500 sq. ft.
- .3 There shall be no less than 50 feet of lot frontage.

204.13.4 The following minimum setbacks are required for all structures in the V-MUZ district, except that sheds and driveways are permitted to a minimum setback of eight (8) feet from the side and rear lot lines:

- .1Front: 15 feet
- .2Rear: 15 feet
- .3Side: 10 feet

204.13.5 The following performance standards shall apply within the V-MUZ district, provided however that the Planning Board may determine, based on the specific elements of a proposed development, that the standards be modified.

204.13.5.1: **Building Design:** New structures within the district shall be of a New England architectural style and materials. This includes clapboard, shingle, or brick siding (composed of natural or composite materials), pitched rooflines, and neutral colors.

204.13.5.2: **Lighting:** The use of exterior lighting shall be only as required for safety and to identify, during business hours only, businesses, parking areas and sidewalks. Fixtures shall be fully shielded, giving off no light above the horizontal plane. There shall be no internally illuminated signs.

204.13.5.3: **Restaurant Standards:** Outdoor seating is permitted but must be buffered from adjacent uses by fencing and plantings unless located between the front of the structure and the public right of way. No kitchen ventilation hoods will be mounted on the front or street side of the building and will be located to minimize impact on neighboring properties.

204.13.5.4: **Road and Drainage Design Standards:** There shall be no dead end streets within this district. Road design as follows:

- ROW Width: 60 ft.
- Paved Travel way width: 22 ft.
- Grass Esplanade: 4 ft. each side
- Paved Sidewalk : 6 ft. each side
- On-street parking when approved by Planning Board.
- All other street design standards as per Section 8.2 of the Subdivision Ordinance.
- Closed Drainage System with curbing and catch basins.

204.13.5.5: **Parking Standards:** Parking shall be located to the side or rear of both residential and commercial structures. There shall be no garages facing the street. On street parking may be allowed upon Planning Board approval.

204.13.5.6: **Buffering and Landscaping:** All uses 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, changed in grade and/or a combination of these or other techniques.

DEFINITION OF MARKET: A retail store selling primarily food products that does not exceed 5,000 sq. ft.

Mr. Neagle thanked Ms. Russell and Committee for their work, he generally agreed with their goal, and the zoning would be a great anti-sprawl tool. Mr. Neagle asked about the Parking Standards and garages not being allowed to face the street.

Ms. Russell stated the idea for curb appeal the garage would be turned to the side.

Ms. Nixon stated there are similar types of projects throughout the country with these types of homes, which include row house style homes, this was added for aesthetics to preclude homes and condominiums from "featuring" the garage.

Mr. Neagle asked if the intent was to have no garage doors facing the street. He grew up in a split level house with the garage underneath.

Ms. Nixon stated yes; the language could be word smithed to allow flexibility.

Mr. Ferland stated the word Restaurant and Market are singular is the intent to have only one.

Ms. Russell stated no the Committee didn't intend to have only one.

Ms. Nixon stated the other districts have plural references; this would be changed.

Mr. Couillard asked about the 2,000 sq. ft. limit to retail, why not 5,000 square feet.

Ms. Russell stated to have the size consistent with the property.

Mr. Couillard asked about the daycare limit of twenty children.

Ms. Nixon stated in referencing the 20 child limit; this would be consistent with several small mixed uses on the property.

Mr. Ward stated with state licensing twenty is a good number the liability of business owner is increased with a higher number. The property is pretty wet, and density was a predominant discussion throughout the Committee meetings.

Mr. Couillard stated he would like no limit to the number of children per daycare.

Ms. Nixon explained that the Committee wanted to be sensitive to existing residential neighborhoods and that a large daycare center would create more traffic.

Mr. Ferland agreed stating the area is wet and they are trying to locate dense building to protect sensitive areas; he would recommend the Committee's draft and the market will shape development.

Ms. Russell stated the Committee envisioned small scale commercial development; it would not be as large as the type of development envisioned for Route One and Route 100.

Mr. Neagle agreed with Mr. Ferland, the language was worked on by a cross section of the community and he would defer to the Committee's recommendations on daycares and garage doors.

The public portion of the meeting was opened.

Mr. Steven Winn, of 15 Aster Lane in Falmouth stated he owns land on Stockholm Drive and voiced concern about the change from Rural Residential One zoning. He felt the dense development would drastically alter the current neighborhood, increase traffic on Route 9, and change the character of the neighborhood. The neighbors will be impacted negatively.

Ms. Russell stated the Committee included two abutters and the intent of the work is to change a non-performing asset into a performing asset for tax revenue. Drowne Road already has an industrial flavor and the Committee suggested dense development because of the wetland areas.

Mr. Winn stated a performing asset does not need to be changed to a mixed use, this is a dramatic change from the current RR1 zoning, and it will have a tremendous adverse affect and change the character of the neighborhood.

Mr. Neagle stated this area of Town has water and sewer and is consistent with anti-sprawl development concepts.

Ms. Nixon stated the current RR1 zoning requires 4-acre lot sizes and 2-acres with water and sewer, the mixed use is to provide services locally such as a small restaurant, market, etc. and the Town Council has encouraged economic development. The design guidelines are to protect existing residential neighborhoods.

Mr. Neagle stated the Committee did a good job including language that requires buffering for adjacent uses to provide protection for houses.

The public portion of the meeting was closed.

Mr. Neagle moved and recommend to the to the Town Council the adoption of draft zoning amendments with three changes (to change market, and restaurant to plural “markets, restaurants” and to add Uses to the word Retail “Retail Uses” to add Section 204.13 Village Mixed Use Zone (V-MUZ) to the Zoning Ordinance and Zoning Map; and change the zoning of the Doane property, Tax Assessor Map U10, Lot 7B from Rural Residential One (RR1) to the proposed Village Mixed Use Zone (V-MUZ).

Mr. Ferland seconded.

Discussion on the Motion:

Mr. Couillard asked about the discussion of garage doors facing the street.

Mr. Neagle stated he was curious about the rationale, but he didn’t want to change the language.

Vote on the Motion VOTE: 3 in favor (Neagle, Ward, Ferland)
1 opposed (Couillard)

F. Administrative Matters: There were no Administrative Matters.

G. Adjournment:

Mr. Couillard moved to adjourn.

Mr. Ward seconded.

VOTE: Unanimous

The meeting was adjourned at 7:55 p.m.

A TRUE COPY ATTEST:

William P. Ward, Board Chair

Pam Bosarge, Clerk to the Board