

**PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine 04021
Tuesday, May 20, 2014
7:00 p.m.**

A. *Call to Order:* The meeting was called to order at 7:00 p.m.

B. *Roll Call:*

Present: Chris Neagle, Chair, John Ferland, Vice-Chair, Jeff Davis, Josh Saunders, Peter Sherr,

Absent: Teri Maloney-Kelly, Gerry Boivin

Staff: Carla Nixon, Town Planner, Pam Bosarge, Administrative Assistant

C. *Approval of Minutes of the April 15, 2014 meeting.*

Mr. Saunders moved to approve the minutes of April 15, 2014 as amended.

Mr. Sherr seconded.

VOTE: 4 in Favor (Neagle, Davis, Saunders,
Sherr)
1 – Abstain (Ferland)

D. *Staff Site Plan Approvals:*

- 1. Summit Natural Gas of Maine for construction of a single story, 928 sq. ft. meter and regulator station on a 1.6 acre parcel located at 23 Fairgrounds Road, Tax Assessor Map R07, Lot 8; owned by the Cumberland Farmers Club.***
- 2. Chebeague Transportation Company (CTC) for construction of a 6' x 10' storage shed on the 13.01 acre parking lot parcel located at 264 US Route One as shown on Tax Assessor Map R02, Lot 46.***

Ms. Nixon gave a brief overview of the Staff Site Plan Projects.

F. *Hearings and Presentations:*

- 1. Public Hearing: Minor Subdivision Review for a 3-lot subdivision at 460 Greely Road Ext., Tax Assessor Map R06, Lot 34 in the Rural Residential 2 (RR2) district; owned by Anthony and Michelle Cardoza, J. Whitman Smith and Shirley B. Alling.***

Ms. Nixon presented background information as follows: The applicants are Anthony and Michelle Cardoza. The applicants are proposing to subdivide a 38.75 acre parcel into two lots. Because this split will result in 3-lots being created within a 5-year period, subdivision review is required. The original parcel was 50.75 acres in size. In October, 2013, a lot was split off and deeded to Shirley Alling; this is referred to as Lot A on the subdivision plan. The applicants wish to split the remaining land which is owned jointly by Anthony and Michelle Cardoza and J. Whitman Smith. The Cardoza's will own Lot 1 and J. Whitman Smith will own Lot 2.

The property is located off Greely Road Extension. The parcel is identified as Tax Map R06, lot 34 in the Rural Residential 2 (RR2) district. Robert A. Yarumian II of Maine Boundary Consultants prepared the boundary survey and subdivision plan.

II. DESCRIPTION:

Parcel size:	50.75 acres total. Lot 1:15.3 acres; Lot 2: 23.45 acres; Lot A: 12 acres
Subdivision Type:	Traditional
Number of Lots:	3
Zoning:	Rural Residential 2
Development Type:	Residential detached single family dwelling units.
Min. Lot Size:	2 acres
Lot frontage:	200'
Lot Setbacks:	Front: 50'; Rear: 75'; side: 30' minimum; 75' combined.
Water	Private
Sewer:	Private Septic Systems. An HHE 200 was submitted that showed passing test pit locations on each of the three lots.
Open Space:	None
Utilities:	Public water and private septic. All utilities will be underground. A capacity to serve letter has been received from Central Maine Power.
Road:	No internal subdivision road. Driveways will access homes from Greely Road Extension.
Sidewalks:	None
Wetland Impact:	Approximately 6.10 acres
Vernal Pools:	None identified.

WAIVER REQUESTS:

Note: Section 15.1 of the Subdivision Ordinance allows for waivers when “an unnecessary hardship may result from strict compliance with these standards, or where there are special circumstances of a particular plan which the Board finds makes a particular standard inapplicable”.

1. **Landscaping:** The applicants are requesting a waiver from the landscape plan requirement due to the fact that only one home is being built on the entire parcel at this time. The proposed homes will not be visible from the road.

OUTSIDE AGENCY APPROVALS: None required

PLANNING DIRECTOR'S COMMENTS/DISCUSSION ITEMS: None

DEPARTMENT HEAD REVIEWS:

William Longley, Code Enforcement Officer: No comments at this time.

Joe Charron, Police Chief: No comments

Chris Bolduc, Public Services Director: No comments.

Dan Small, Fire Chief: No requirement for a sprinkler system

Town Engineer: Review not required.

Mr. Neagle stated this request appears to be drawing a line on the map splitting properties; there will be no new roads or infrastructure.

Ms. Michelle Cardoza, Applicant stated yes, they want to build one house.

Mr. Neagle asked why the Father's lot has two building areas.

Ms. Cardoza stated to show him where a house could be located in the future.

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

Ms. Cardoza stated she had received a letter from the Department of Agriculture – State Preservation Department.

The Board reviewed the landscape waiver request.

Mr. Saunders moved to approve the request for a waiver of landscaping.

Mr. Sherr seconded.

VOTE: 5-0 Unanimous

The Board reviewed the proposed findings of fact as follows:

MINOR SUBDIVISION REVIEW:

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Cumberland, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;

- B. The nature of soils and subsoil and their ability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations;

The applicant has provided a soils report prepared by Harris Land Solutions describing the soils as they relate to the design for the proposed septic systems. There are passing test pit locations for each of the proposed lots. A 75' setback from a stream located on the site has been shown on the plan.

Based on the information provided, the standards of this section have been met.

- 2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;

The proposed subdivision will utilize private wells. There have been no reported shortages of water in this area.

Based on the information provided, the standards of this section have been met.

- 3. Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

The proposed subdivision will utilize private wells.

Based on the low number of lots being created and the fact that surrounding homes have more than adequate water, there appears to be an adequate supply of clean and healthful water to serve the needs of the proposed subdivision.

Based on the information provided the standards of this section have been met.

- 4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

The applicant states that Best Management Practices will be used to control erosion and sedimentation.

Based on the information provided, the standards of this section have been met.

- 5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

Due to the small number of lots being created, the proposed subdivision will not cause unreasonable road congestion or unsafe conditions.

Based on the information provided, the standards of this section have been met.

- 6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

The project will utilize private septic systems. Harris Land Solutions, Inc. submitted a soils evaluation report dated 9/4/13 and has located passing test pit locations for each of the proposed lots.

Based on the information provided, the standards of this section have been met.

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

The Town provides curbside pickup of household trash. The Town is currently under contract with Pine Tree Waste for the collection and hauling of residential solid waste with disposal at Eco-Maine.

Based on the information provided, the standards of this section have been met.

8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

A letter from Department of Conservation has been received that states that there are no rare or botanical features documented specifically within the project area.

A letter from the Department of Inland Fisheries and Wildlife has not yet been received. This is a condition of approval.

A letter from the Maine Historic Preservation Commission states that this project will have no effect on historic resources.

Based on the information provided, the standards of this section have not been met.

9. Conformity with local ordinances and plans. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

The plans have been reviewed and approved by the Town's staff for conformance with local ordinances and plans.

Based on the information provided, the standards of this section have been met.

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

Technical capacity is evidenced by the use of professional surveyor and soils evaluator.

There are no public improvements associated with this development. The applicants intend to fund construction through private financing or cash.

Based on the information provided, the standards of this section have been met.

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 chapter 3, subchapter I, article 2-B, the proposed subdivision

will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

The parcel does not appear to fit into any of the above protected areas.

Based on the information provided, the standards of this section have been met.

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affects the quality or quantity of ground water;

The proposed 3 lot residential subdivision will not adversely affect the quality or quantity of groundwater.

Based on the information provided, the standards of this section have been met.

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

The parcel is located in Zone C- Area of Minimal Flooding as depicted on FIRM #230162 0015B.

Based on the information provided, the standards of this section have been met.

14. Storm water. The proposed subdivision will provide for adequate storm water management;

Since only 3 lots are proposed for this sizeable parcel, there is no need for a formal stormwater management plan.

Based on the information provided, the standards of this section have been met.

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

Wetland areas are shown on the plan. There are no natural vernal pools on the site. The applicant has designed the project so as to avoid impacting to wetland areas.

Based on the information provided, the standards of this section have been met.

16. River, stream or brook: Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9. [Amended; Effective. 11/27/89]

A brook called "Old Brook" is shown on the plan. The required 75' MDEP setback has been provided.

Based on the information provided, the standards of this section have been met.

SECTION 300 – AQUIFER PROTECTION (if applicable)

The parcel is not located in an aquifer protection area.

STANDARD CONDITIONS OF APPROVAL:

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except minor 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.

RECOMMENDED CONDITIONS OF APPROVAL:

1. That all fees be paid prior to releasing the plat for recording.
2. That a letter from the, Department of Inland Fisheries and Wildlife be provided stating that the project will have no impact on these resources.

Mr. Saunders moved to adopt the findings of fact as amended.

Mr. Ferland seconded.

VOTE: 5-0 Unanimous

Mr. Saunders moved to approve the minor 3-lot subdivision ***Break-A-Way Subdivision***; located at 460 Greely Road Extension; Tax Assessor Map R06, Lot 34 in the Rural Residential 2 (RR2) district; owned by Anthony and Michelle Cardoza. This approval is subject to the Standard Condition of Approval and the two proposed conditions of approval.

Mr. Ferland seconded.

VOTE: 5-0 Unanimous

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- 2. Public Hearing: To recommend to the Town Council a Contract Zone Agreement with Justin M. Fletcher, Inc., for property at 3 Longwoods Road, to create two lots and convey to the Town of Cumberland a right-of-way from Longwoods Road to Harris Road; Tax Assessor Map R03, Lot 20A in the Rural Residential 1 (RR1) district.***

Mr. Bill Shane, Town Manager presented background as follows: The Town council has received a request from Justin Fletcher to divide one lot in the RR1 into two lots and allow a single family home or a duplex on each lot. Mr. Fletcher has agreed to give the Town approximately one acre of land to build a connector road from Harris Road to Route 9. This road would be built to Town standards and allow all traffic to access Harris Road.

This request is consistent with the Comprehensive Plan. The Comprehensive Plan survey stated 47% of people were in favor of connecting Longwoods Road to Harris Road. This proposal will improve public safety response, particularly when rain events block Tuttle Road and Route 9 south of Winn Road near the previous SYTDesign building. Connector roads assist with infrastructure management, winter maintenance, school transportation, and more efficient use of motorized vehicles.

The site distances on Longwoods Road will be 750 feet south; and 570 feet north, the required amount in the area is 425 feet. Harris Road is a 35 mph road, and is in the paving schedule for 2017, the current

pavement rating is 2.3 – 2.7 a fair rating. Harris Road is the longest dead end road in town at 1.6 miles long. Greely Road Extension is the second longest dead end road in town at 1.5 miles. The extension of Harris Road to Longwoods Road was eliminated in the 1990s when the Town reviewed its paper streets. The Town Council referred this request to the Planning Board on April 28, 2014 and will conduct a public hearing on June 16, 2014. The Town Charter reserves the right for citizens to petition; 630 signatures would be required to send the decision back to the Town Council to be placed on a town wide referendum. This information was shared at the neighborhood meeting held on May 1, 2014 with approximately 30 people in attendance. The concerns of citizens at the neighborhood meeting consisted of parking, safety, increased traffic by sports teams at Twin Brook, speeding, headlights in windows, decrease in property values, and sight distance on hills, future maintenance costs and impact on wells in the area.

Mr. Shane reviewed the concept plan of a 24' wide travel surface with 3' gravel shoulder, reviewing the alignment of the connector road to Harris Road stating it is designed so that lights will shine into the trees opposite the road and not windows of a resident. We had speed counters placed on Harris Road, and 85% of traffic respects the speed limit. Traffic nearest Tuttle Road traveled at 32 mph; towards the dead end 36 mph, at Rock Ridge going both directions traffic was between 29 and 30 mph; at the end of Harris Road traffic was 26 – 27 mph. There were 150 cars – 300 trips a day. Two-thirds used the private entrance/exit system with the current association. The vertical curves (hills) were evaluated – at Brook Road two (2) feet should be shaved off to get proper sight distance. Any costs and funding issues would be addressed by the Town Council. The proposed lots have a 40' no-cut buffer.

Mr. Neagle stated this is a recommendation to the Town Council; the Planning Board's action will not be the final public hearing.

The public portion of the meeting was opened.

Mr. Dexter Field of 308 Harris Road stated he respectfully disagreed with the direction of headlights, stating his house is passive solar with lots of windows and he will get headlights from all vehicles, he would ask that a buffer be planted to alleviate the situation. Mr. Field stated because of the location of his home he felt he would have the greatest impact.

Mr. Thomas Greenlaw of 1 Longwoods Road voiced concern that the road would have an impact on his well.

Mr. Neagle asked Mr. Shane if the Town would take responsibility for wells.

Mr. Shane stated the Town can do pre and post well testing as it has on several projects in Town and at Raven Farm. The Town would conduct an initial test with a follow-up test within a year to allow for settling and the well to be back to the original parameters.

Mr. Neagle stated he would add that as a condition of approval: That the Town conducts pre and post construction well testing on Mr. Greenlaw's well.

Mr. Brian Leighton of 21 Whitetail Road stated he doesn't use the private access road to commute since he works in Yarmouth. Mr. Leighton suggested the association eliminate the gate and allow fire access to the Town. Mr. Leighton is opposed to the connector road and voiced concerns of wells; there has been prior well contamination in the area. Mr. Leighton asked about the construction of the connector road.

Mr. Neagle disclosed that his son and Mr. Leighton's sons played baseball.

Mr. Shane stated the connector road will be built to subdivision standards addressing grade, this will be an improvement to the current turning radius and would allow two vehicles to pass.

Mr. Chuck Staples of 232 Harris Road stated he is opposed to the proposal stating the majority of the 74 homeowners on Harris Road are also opposed. Mr. Staples stated one of the overall public benefits is access for emergency vehicles, the Fire Department currently has the access code to the private access and two ambulances have used the access. Mr. Staples voiced concern of increased traffic from Falmouth, and speeding vehicles. Currently he allows his children to bike to Twin Brook, but wouldn't allow that with additional traffic and the current condition of Harris Road; there are no shoulders.

Ms. Coleen Higgins of 59 Harris Road stated she has lived on Harris Road for nearly 45 years and is adamantly opposed to the connector road. Back in the 1990s the right of way to Longwoods Road was eliminated. Ms. Higgins asked the Board to consider the effect on their neighborhood; stating today she was walking her grandchild with a carriage and an approaching oil truck had to come to a complete stop. There was no place for her to safely get off the road.

Mr. Aaron Amirault of 244 Harris Road stated he purchased his house last fall; he moved from the Falmouth end of Middle Road. One of the reasons for his move was to have a safer dead end street to walk on, he has small children; Harris Road is not designed or built as a through road there are no shoulders.

The public portion of the meeting was closed.

Mr. Neagle thanked the public for their well-articulated, thoughtful and respectful comments, which enhance the Planning Board review process.

Mr. Neagle read a letter from Marian Day, of 58 Harris Road into the record. Ms. Day is opposed to the connector road voicing costs, traffic safety, and speeding vehicles which would affect road safety.

Mr. Neagle also read a letter from Patricia Goepfert who owns property at 125 Harris Road, she also opposes the connector road, stating the Town Council designated Harris Road as a dead end street and she didn't want to see it changed.

Mr. Sherr asked for clarification that the road improvements were proposed for 2017.

Mr. Shane stated the paving, and drainage improvements are proposed for 2017, the project is not proposed for this summer budgeting process. The hill needs to be addressed and these go hand in hand, the vertical hill has a 100' sight distance which is short it should be 185 to 325 feet. Gorrill Palmer is reviewing this and nothing is proposed for this summer, it is next budget process.

Mr. Saunders asked if there was an option to leave restricted access to the road and not to general traffic.

Mr. Shane stated possible, not preferable, we can't use Town equipment on a private road, the public benefit would be to the entire town; Rockwood has a fire gate for access on Route One.

Mr. Ferland asked if the existing restricted use would continue with a future owner.

Mr. Shane stated the rights are deeded rights to the association; a future owner couldn't extinguish these rights unless it becomes a Town road.

Mr. Ferland suggested the Board conduct a site walk.

Mr. Neagle stated that is a fair point, he is willing to hold a site walk, but doesn't feel the need to have one, before there was a gate he has used the access road.

Mr. Davis asked who has rights to the existing private access road.

Mr. Leighton stated thirteen families and as a group they could approve other people, they are not opposed to building the access to allow fire trucks; Harris Road is not a true dead end. He traveled both routes today and the time saved by using the shortcut might be 1 minute and 20 seconds.

Mr. Davis asked if the current owner who limits the usage to 13 people could limit the use of public safety vehicles.

Mr. Neagle stated he has lived in Cumberland for thirty years and has longed for this connection; he is sensitive to the neighborhood concerns and agrees traffic may increase. However, I am a big believer in connectivity, this would remove some traffic from the center of town, and the public benefit far outweighs the change to the neighborhood.

Mr. Sherr referenced the 2009 Comp Plan and the 2013 Comp Plan Update Committee looked at transportation and one of the goals is to eliminate dead end streets. He echoes the responses for safety aspects and agrees that the Town Council will address road safety issues. The 2009 Comprehensive Plan survey showed 47% of the people in favor of connecting Route 9 and Harris Road. The survey had a response rate of 66% of residents.

Mr. Ferland stated there were similar concerns with Village Green subdivision; stating there have been a number of good points discussed this evening and he would like to have a site walk.

The Board voted to conduct a site walk on Monday, June 9, 2014 at 6:00 p.m.

Mr. Neagle discouraged the Board from having private conversations during the site walk, so that the Board receives all the same information.

Mr. Saunders moved to table the request to recommend to the Town Council a contract zoning agreement for 3 Longwoods Road until after the site walk.

Mr. Davis seconded.

VOTE: Unanimous

3. *Public Hearing: Minor Site Plan Review for a Dog Daycare Center at 295 Tuttle Road, Tax Assessor Map R04, Lot 3A, in the Rural Residential 1 (RR1) district; Owner, Applicant Bill and Darcey James.*

Ms. Nixon presented background information as follows: The applicants are William and Darcy James who resides at 295 Tuttle Road. The application is for Minor Site Plan review of a proposed dog day care. This project was eligible for Minor Staff Review because it involves the construction of a new structure that is less than 1,000 square feet in size, but due to the potential nuisance factors, the Town Planner has opted to have the project reviewed by the Planning Board.

The property is owned by the William James' father, Fred James. The 2.37 acre parcel is shown on Tax Assessor Map R04, lot 3A and is located in the RR1 zoning district. The days and hours of operation will be Monday through Friday from 7:00 a.m. to 6:00 p.m. The dog day care will be accessed by an

existing gravel driveway that is 14' in width and extends for 300 ft. There will be parking for 12 or more vehicles.

There will be a 4' x 4' sign placed near the entrance drive. The sign will not be lighted.

Proposed Use: Boarding Kennel

Zoning District: RR 1

Lot Size: 2.37 acres

Fenced Area: Approx. 9, 828 sf.

Entrance: 14' wide gravel entrance and drive.

Parking: 12+ spaces in an unstriped, gravel parking area.

Hours of Operation: Monday –Friday from 7 a.m. to 6:00 p.m.

Number of Employees (Owners): 2

Maximum number of dogs: 12

Lighting: 3 (1 floodlight and 2 exterior wall fixtures)

Mr. Bill James, applicant stated they are proposing weekdays only, no overnight boarding; hours will be from 7:00 am. to 6:00 p.m. The facility will be limited to eight (8) dogs, they will not allow nuisance dogs; they live at this property and have a farm stand in the fall and summer.

Mr. Sherr verified there would be no overnight or weekend boarding.

Mr. James stated that is correct the hours will be Monday – Friday 7am to 6pm.

Mr. Neagle opened the public portion of the meeting.

Mr. Durwood Bragg of 305 Tuttle Road stated he has two concerns; 1) noise, 2) he would like to have a solid fence perpendicular to Tuttle Road voicing concerns of the dogs barking when he was in his back yard. The applicant has installed a solid fence along Tuttle Road.

Mr. James stated he would prefer to not have a solid fence along his backyard so they can enjoy the vistas of the open fields, he does not want his back yard to feel boxed in. Mr. Bragg's backyard is a long way from his.

Mr. Neagle stated he lives across from Adventure Dogs on Orchard Road and they have a no barking policy; stating he hasn't heard any barking.

Mr. Bragg stated Mr. James owns two dogs and when he goes into his backyard it triggers his dogs to bark.

Mr. Neagle read into the record a letter from Rick and Hilary Doane of 4 Catalpa Lane. The Doane's letter addressed: hours- only weekdays, no evenings or overnights, and suggested that all dogs be on a leash when conveyed to and from vehicles to the daycare, and during all walks; and a condition that addresses barking dogs beyond some reasonable amount that provides for either removing the dog(s) in question or revisiting the operation as a whole.

The public portion of the meeting was closed.

Mr. Saunders asked if the Planning Board could limit the number of dogs.

Mr. Neagle stated yes.

Mr. Neagle stated the neighbors support the proposal based on the reputation of the owners.

Mr. Sherr asked about planting a row of hedges to prevent the dogs from barking; and asked about the no bark policy.

Ms. Nixon stated the Police Chief has had complaints regarding Adventure Dogs; and has questioned the ability to enforce a no-bark policy.

Mr. Neagle stated any neighbor who feels the no-bark policy has been violated should contact the Town.

The Board discussed no-bark policies.

Mr. Davis asked who enforces the policy.

Mr. Neagle stated the Code Officer or the Police.

Ms. Nixon stated if at any time the daycare was in violation of its approval the applicant would come back before the Board.

Mr. Neagle stated there is a possibility, but it is not the role of the Planning Board to be enforcement; an applicant would return to the Board if the scope of the approval changed.

Mr. Sherr asked if the no-bark policy should have something measurable such as decibels at the property lines.

The Board reviewed the proposed findings of fact as follows:

SECTION 10: APPROVAL STANDARDS AND CRITERIA

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

10.1 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 are no environmentally sensitive areas on the site that would be affected by placement of fencing for the outside kennel area. No buildings or site disturbance will occur.

10.2 Traffic, Circulation and Parking

10.2.1 Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient.

10.2.1.1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

10.2.1.2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

10.2.1.3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

10.2.1.4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

10.2.1.5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

10.2.1.6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

10.2.1.7 Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

10.2.1.8 The following criteria must be used to limit the number of driveways serving a proposed project:

- a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
- b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

The proposed project complies with all the above criteria. The driveway is wide enough to allow two vehicles to pass should that be required. There is a large, open area for parking and turning around.

10.2.2 Access way Location and Spacing

Access ways must meet the following standards:

10.2.2.1 Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

10.2.2.2 Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

The accessway complies with the above criteria.

10.2.3 Internal Vehicular Circulation

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

10.2.3.1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.

10.2.3.2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

10.2.3.3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

10.2.3.4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

The 14' existing access way is sufficiently sized for the anticipated number of vehicles. Emergency vehicles are able to access the site.

10.2.4 Parking Layout and Design

Off street parking must conform to the following standards:

10.2.4.1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

10.2.4.2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

10.2.4.3 Parking stalls and aisle layout must conform to the following standards.

Parking Stall Angle	Skew Width	Stall Width	Aisle Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

10.2.4.4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

10.2.4.5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

10.2.4.6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

There is an existing gravel parking area for at 12 + vehicles. The above criteria have been met as appropriate for the scale of the project.

10.2.5 Building and Parking Placement

10.2.5.1 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.

10.2.5.2 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.

No buildings are proposed.

10.2.6 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 very little pedestrian circulation and it is located at the end of the access drive near the drop off area.

10.3 Stormwater Management and Erosion Control

10.3.1 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.

10.3.1.1 To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

10.3.1.2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

10.3.1.3 The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.

10.3.1.4 All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

10.3.1.5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

10.3.1.6 The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

10.3.1.7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

Since there will be no soil disturbance, new structures or vegetation removal, a stormwater plan was not required.

10.3.2 Erosion Control

10.3.2.1 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.

10.3.2.2 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.

Since there will be no soil disturbance from the construction of new structures or vegetation removal, an erosion control plan was not required.

10.4 Water, Sewer, and Fire Protection

10.4.1 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 public water available.

10.4.2 Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which is in 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 a septic system on site.

10.4.3 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.

The site has electrical and telephone service.

10.4.4 Fire Protection

The Fire Chief or his/her designee shall review the site plan for conformance with the Fire Protection Ordinance and may provide the Town Planner a list of suggested conditions of approval.

The Fire Chief has reviewed the proposed plan and has made no recommendations.

10.5 Water Protection

10.5.1 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.

Dog waste will be collected daily and put into a sealed bag and stored in a sealed trash bucket until Waste Management Services picks it up once per week.

10.5.2 Water Quality

All aspects of the project must be designed so that:

10.5.2.1 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.

10.5.2.2 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.

There will be no storage of hazardous materials that would adversely affect the quality of groundwater.

10.5.3 Aquifer Protection

If the site is located within the Town Aquifer Protection Area, a positive finding by the Board that the proposed plan will not adversely affect the aquifer is required.

The site is not located in an aquifer protection area.

10.6 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 Ordinance.

The site is located in an area of minimal flooding (Class C) as shown on the FEMA floodplain map.

10.7 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.

There are no apparent historic or archaeological resources on the site. The area of disturbance is a grass field.

10.8 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 are two existing exterior lights near the house and garage doorways and one floodlight near the outside play area.

10.9 Buffering and Landscaping

10.9.1 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.

10.9.2 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.

The applicants have placed a solid wood fence around the outside two sides of the exercise/play area. There is an existing tree line to the east of the farm stand.

10.10 Noise

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

The applicant's state there will be a "no bark" policy. The solid fencing will limit the visibility of other animals or people which leads to barking. When the dogs are indoors, the garage facility will be insulated and fairly soundproof. Kennels will not be used. Barking dogs that can be heard off site will "not be welcomed back". When the dogs are outside, they will be in a secured fenced area or will be on a leash. There will be no overnight or weekend boarding.

10.11 Storage of Materials

10.11.1 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.

10.11.2 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.

10.11.3 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 will be no storage areas or trash receptacles for commercial waste on the site.

10.12 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.

There is minimal expense associated with this project. Fencing has been installed by the applicant. The applicant has stated he is funding the project with cash on hand.

Technical Capacity: Applicants have been life-long dog owners and have training and experience from working at the Coastal Humane Society. One of the applicants has a BS in animal science from University of Maine.

10.13 Design and Performance Standards

10.13.1 Route 100 Design Standards

All development in the Village Center Commercial, Village Office Commercial I and II, and the MUZ Districts shall be consistent with the Town of Cumberland Route 100 Design Standards; in making determination of consistency, the Planning Board may utilize peer review analysis provided by qualified design professionals

10.13.2 Route 1 Design Guidelines

All development in the Office Commercial North and Office Commercial South districts is encouraged to be consistent with the Route 1 Design Guidelines.

10.13.3 Town Center District Performance Standards

All development in the Town Center District is encouraged to be consistent with the Town Center Performance Standards.

10.13.4 Village Mixed Use Performance Standards

All development in the Village Mixed Use Zone is encouraged to be consistent with the VMUZ Performance Standards.

None of the above design or performance standards apply to this project.

Mr. Sherr moved to approve the findings of fact.

Mr. Davis seconded.

VOTE: Unanimous

Mr. Sherr moved to approve the Minor Site Plan request for a Dog Daycare Center at 295 Tuttle Road, Tax Assessor Map R04, Lot 3-A, in the Rural Residential 1 (RR1) district; Owner, Applicant Bill and Darcey James subject to the Limitation of Approval, Standard Condition of Approval and ten (10) Conditions of Approval.

Mr. Saunders seconded.

VOTE: Unanimous

G. Administrative Matters: None

H. Adjournment: Mr. Neagle adjourned the meeting at 9:15 p.m.; stating he would not be at the June 17, 2014 meeting as he had a prior commitment.

The meeting was adjourned at 9:15 p.m.

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Clerk to the Board