

TOWN OF MOUNT VERNON ORDINANCE REVIEW COMMITTEE

MINUTES 4-15 2024 MEETING

Meeting called to order by Chair Roberts at 6:35:pm at the Library. Quorum present: Fred Webber, Quimby Robinson, Michele Pino, Susan Herman, and Chair Roberts.

Minutes of 3/6/24 were reviewed. Motion to approve the minutes made by Heather, seconded by Fred. Approved 5-0 unanimous. It was noted that there are several updates to some of the items discussed at the ORC's 3/6/24 meeting. These items were discussed at the March 19, 2024, meeting of the planning board, which Heather and Bob Grenier both attended. The updates are reflected in Chair Roberts' March 25, 2024 summary of the meeting of the planning board on March 19, 2024, which will be attached to these minutes, for ease of reference.

- 1. Review/approve updated LD 2003 proposals.** Heather explained the changes from what was previously approved by the ORC. Sue attended KVCOG's presentation regarding LD 2003 on April 10, 2024 and had an opportunity to speak with Jessica Cobb (KVCOG) after the meeting. The primary change relates to the increased density provisions of LD 2003 (referenced as bucket 2 in the State DECD Handout). At the presentation, it became clear that since Mount Vernon has a comprehensive plan and two designated growth areas (which do not include the Village District), that Mount Vernon is not required by LD 2003 to allow up to 4 units on a lot/parcel on a vacant lot in the Village District. The amended proposal reduces the 4-unit density to 2 units (which are already allowed in the Village District). Other changes include a clarification of Section 5(B)(8) (Multiple Dwelling Units on a Single Lot, and the definition of a Certificate of Compliance to reflect that Mount Vernon has not adopted the Maine Uniform Building and Energy Code (MUBEC).
- 2. Public Hearing: Wednesday, April 24, 2024 at 6:00 pm at the Community Center**
Hilary Gove from the State DECD will be attending at our request. The DECD handout from 4/10/2024 presentation will be available for people to take home. It was agreed that the ORC would arrive at 5:30 to help set up the room and would meet briefly at 5:45 to review the minutes of this meeting (4/15/2024).

We reviewed the requirements for posting and the dates the public hearing was to be noticed in the Kennebec Journal. Heather will check to see if the notice is published tomorrow as requested.

Michele moved to adjourn; Heather seconded. Approved. 5-0. Meeting adjourned at 7:50 p.m.

NEXT MEETING: Wednesday, April 24, 2024 at 5:45 p.m. at the Community Center, before the public hearing. .

Respectfully submitted,

Susan Herman, Co-Secretary

Ordinance Review Committee's (ORC) review of Code Enforcement Officer's (CEO) comments submitted to the Select Board (SB) on February 2, 2024.

The Select Board Chair requested that the ORC review the Code Enforcement comments which were submitted to the Select Board on February 2, 2024.

Regarding the CEO's recommendation to adopt minimum shoreland zoning guidelines, and to begin work on a separate document for regulating the Village District, Commercial District and Rural District.

The ORC's opinion on this matter is the same as it was April of 2022 when the CEO made a similar recommendation to the Select Board. The ORC certainly wants an enforceable ordinance, but we do not feel that the town needs to abandon the unified ordinance concept that the town adopted many years ago in order to ensure enforceability. The history of the Mt. Vernon Land Use Ordinance, to the best of our combined knowledge, is summarized below:

There was a decision made by the town many years ago (1990s) to have a unified land use ordinance, which blended all of the LUO ordinances together under one ordinance (with common definitions). The town CEO at the time, the SB, and the planning board were all involved in that decision. The unified ordinance was approved at town meeting and by the DEP. This is an approach that is used by other towns; including Readfield, Manchester and Wayne. When the town adopted town wide zoning, the town hired a professional land use planner who helped craft the various districts, including the growth zones, village district etc.

Section 1(G)(2) of the LUO includes specific dates and the process for DEP review regarding Shoreland Zone provisions of the LUO.

The ORC recommends that Mt. Vernon join KVCOG so that the committee can consult with them regarding our LUO for guidance, templates, review of proposals etc.

Lastly, reconstructing the LUO at this point in time would make it very difficult to comply with LD 2003 requirements by July 1. The proposed LD2003 amendments are based upon the current structure of the LUO

CEO reiterated his concern that the laymen reviewer would not be able to review the LUO and know what to do in its current format.

Planning Board Chair stated that if Mt. Vernon had multiple ordinances, the reviewer would need to know to look at all of them.

Footnotes in Table 4-1 and 4-2

Section 4(F) of the LUO notifies the reader that all land use activities must conform with all of the applicable land use standards in any Section of the ordinance.

There are many Sections of the LUO that discuss the land uses in Table 4-1 and 4-2. Creating notes/cross references for each land use, in each district, would be a very long list, and it is the opinion of the ORC that this would only add confusion.

CEO's opinion is that with 16 footnotes, more would not add any more confusion.

Tina stated that Manchester has multiple footnotes in their ordinance, and that they have a separate document that includes all updates to the LUO and when they were made. Mt Vernon could extract LUO updates from past town warrants.

Post-meeting: Manchester's LUO was reviewed, and only one footnote is included in their land use table(s). Readfield's land use table(s) is five pages long, with fifteen footnotes. Currently Mt. Vernon is a blend of both

Timber Harvesting

The ORC and the CEO had discussions in 2023 regarding the Steep Slopes Map. At that time the CEO requested an electronic version of the map. Sue Herman talked with David Toby, who originally created the map in 2001, Mr. Toby stated with new technology it would be easy to update this map. Sue had requested that the CEO that a photo or scan of the existing map, and post it to the town website. If the SB agrees, the ORC could look into adopting a new steep slopes map in 2025.

The ORC is not aware of any water resource maps utilized by other surrounding towns. The ORC committee recommends that the Shoreland Zoning Map, which is included in the LUO, be referenced when there is concern over the definition of water bodies.

CEO stated that his concern is with Timber Harvesting, and determining setbacks from bodies of water. He states other towns do not have Timber Harvesting and steep slopes defined the way that we do. At a minimum, maybe a link should be included on the town web site to the National Wetland Inventory Maps.

Tina stated that China has a map that shows everything. CEO stated that China does, but notes it is expensive.

Post-meeting: Additional members of the ORC stated that there were issues with Timber Harvesting in Mt. Vernon and that's why Mt. Vernon includes it in our LUO. ORC will look into waterbody map referencing in 2025.

Village District

When Mt. Vernon created the Village District, the DEP reviewed and approved the district definition. The DEP has not stated any concerns over Mt. Vernon's Land Use Districts.

Section 1(H)(2) of the LUO describes DEP's involvement for any amendments regarding Shoreland Zoning.

Shoreland Zoning usually contains a Limited Commercial District, Mt. Vernon has a Village District.

The ORC does not see a concern with conflicts of the Shoreland Zone in the Village District.

Post-meeting: Bob confirmed with DEP (Colin Clark) that DEP does review the entire LUO when shoreland zoning amendments are made to the LUO.

Seasonal Docks

The CEO had concerns with season docks in April of 2022. At that time, the DEP and the ORC reviewed the LUO, and no changes were recommended by either party. There haven't been any updates to the LUO regarding seasonal docks since the DEP review in 2022, therefore the ORC does not recommend any changes.

CEO's concern is with additional work to himself in telling applications they need to go to the Planning Board, and that people don't actually come to him for a permit.

Bob states if it puts extra burden on Bill, it should be adjusted.

Heather stated that in the ORC review, it was noted that many people in town had an interest in docks/seasonal docks and there was large support at town meeting for it. As such, this should not be removed from the LUO.

Post-meeting: Propose to add Note 18 to Table 4-2 Row 21 (A), all districts, stating "PB review may be required, see additional requirements in Section 5(C)(3)(e)". Noting that LD2003 proposes a Note 17.

Campgrounds

Campgrounds require site plan review. Site plan review determines if the activity is allowed in the district(s) it is proposed. The ORC does not see any conflict.

Solar Array Systems

Permits for less than 100 sq ft

Appendix 1 of the LUO – Activities Not Requiring Permits; states that accessory structures, which are less than 100 square feet in Rural District, do not require a permit.

The ORC's recommendation is to leave Table 4-2 for small scale solar arrays as is. If someone were to request a less than 100 sq ft solar array, in checking with the CEO, the CEO can tell them that a permit is not required.

CEO concern is from a SLZ perspective; he states that an accessory structure less than 100 sq ft would require a permit in the SLZ.

Post-meeting: ORC will look into this in 2025, add clarification that in the SLZ ground mounted and roof mounted SES would require a CEO permit regardless of size.

Electrical Inspection

The ORC will review this concern in 2025. When solar arrays were added to the LUO, there were discussions/concerns regarding electrical integrity of the solar arrays.

Setbacks/Screening

The ORC intentionally included more restrictive setbacks when we developed the ordinance for the protection of abutting and nearby land owners.

Screening of the arrays was included to also protect abutting and nearby land owners. There isn't any language in the LUO allowing elimination of screening for Solar Arrays.

CEO is concerned the town will get sued for more restrictive setbacks.

CEO is concerned that with the more restrictive set backs, a ground mounted SES may not fit on a 2 acre lot, and an appeal may be requested.

Post-meeting: ORC will look into this in 2025; add clarification for exceptions, potentially something similar to temporary docks.

Glare/Spacing

When solar arrays were added to the LUO, the ORC reviewed neighboring town's ordinances. Mt. Vernon's language for glare, spacing at roof ridge etc are all the same as Readfield's. The ORC does not see an issue with the LUO as written.

CEO stated that there is a glare standard for what is included in the glass of solar panels, and that he has no way of measuring or dealing with glare. He recommends more objective language for glare. ORC will look at standard for glare in 2025.

Section 5(C)(33)(a) specifies that NFPA 1 compliance is required.

Recreational Business

The ORC recommends that Table 4-2, Row 48 in the RD be updated from Yes/16 to **PB/16**, and LC be changed from No to **PB** (not 'yes', as pointed out by CEO).

Recreational Business excludes Campgrounds, includes Summer Camps.

CEO questioned what if an existing summer camp in the SLZ wanted to expand, or replace a building?

Post-meeting: For expansions within the SLZ, reference should be made to non-conforming expansion rules in the SLZ. In regards to adding a new building in the SLZ, additional clarification should be requested from DEP/Colin Clark for state requirements.

CEO stated that the PB thought that RD Yes/16 was intentional to eliminate all the site plan reviews they received in the past.

Post-meeting: Note 16 was intended to cover Mt. Vernon for the summer camp expansions that had previously been happening in the Rural District. It was not intended to make any changes to the previous process, what had been previously allowed, or to shut down any existing summer camps.

Recreational Facility

The ORC proposes adding the following language (noted in red and italicized) to the LUO

Section 6(B)

This section shall apply to all development proposals..... or service organizations, *non-profit organizations or activities*, municipal.....

Section 6(B)(4)(a)

New commercial, industrial, office, multiple dwelling residential, municipal, *non-profit organizations or activities*, or community or service.....

Section 6(B)(4)(b)

Changes in use of existing structures to commercial, industrial, office, multiple dwelling residential, municipal, *non-profit organizations or activities*, institutional.....

Update Minimum Lot Size Table in Section 6(E)(1) page 6-19

Office/Commercial/Industrial/Municipal/Institutional/Utility/*non-profit organizations or activities*

CEO stated that Travis Mills attorney argued they were non-profit, and therefore they were not a business. Bob requests Recreational Facility also be added to Table 4-2, row 49. ORC to look at in 2025.

Legend

Mt. Vernon only has a ‘Building and Use Permit’. Any reference to CEO or BI in Table 4-1/4-2 means ‘Building and Use Permit’.

To answer the question of ‘what if the town has no building inspector’, it would be helpful to clarify what positions the Select Board has appointed the CEO to hold? According to the Department of Economic and Community Development / CEO training/certificate program, towns of 2,000 inhabitants or less are not required to have a BI.

The ORC does not agree that any allowed land use should be submitted to the CEO for approval. For example, row 1 of Tale 4-1 states that hunting, fishing and hiking is allowed in all districts. The ORC does not agree that anyone should require any consent for these activities.

CEO stated there is a land use permit, and it needs to be listed on the town web page. CEO would like clarification of building permit or land use permit made in Table 4-1 and 4-2.

Bob stated that a Building Inspector has not been in Mt. Vernon for a while.

ORC will look at removing/updating references to BI, and clarifying type of CEO permit in 2025.

Automobile Recycling

M.S.R.A §3754-A. Limitations on graveyard, automobile recycling business and junkyard permits, Section 8 states:

Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.

If the Select Board wishes, the ORC can review this further next year, and propose any additional clarification.