AGENDA
CUMBERLAND TOWN COUNCIL MEETING
Town Hall, 290 Tuttle Road
Monday, September 13, 2004
6:00 p.m. – Workshop with Rines Committee
7:00 p.m. - CALL TO ORDER

I. APPROVAL OF MINUTES
   a) August 9, 2004  b) August 23, 2004

II. MANAGER’S REPORT

III. PUBLIC DISCUSSION

IV. LEGISLATION AND POLICY

04 – 116. To hold a public hearing to consider and act on the Mass Gathering Permit and Victualers licenses for the 133rd Cumberland Fair, September 26 – October 3, 2004 at the Cumberland Fairgrounds, 194 Blanchard Road.

04 – 117. To consider and act on a Victualer’s license application by Dina Lattanzi, d/b/a D’Antonio Baking Company, 25 Pond Shore Drive.

04 – 118. To hold a public hearing to consider and act on the adoption of a Fire Protection Ordinance and related amendments to the Zoning and Subdivision Ordinances.

04 – 119. To consider and act on a request for financial assistance by the Cumberland Historical Society.

04 – 120. To hear a report from the Val Halla Trustees regarding an alcohol use policy.

04 – 121. To appoint Nadeen Daniels as Warden, Town Hall precinct, for the 9/21/04 SAD 51 election.

04 – 122. To hold a public hearing to consider and act on a proposed Consent Agreement with James M. and Bethany G. Hanley, regarding a porch setback violation at 288 Blanchard Road, Map R07, Lot 92.

04 – 123. To set a date for a Nominating Committee meeting re: a Winter Road Maintenance Committee.

04 – 124. Tabled  To hold a public hearing to consider and act on a Contract Zone request for the Louis Hanson property located at 371 Tuttle Road, Map U11, Lot 4.

04 – 125. To hear a report from the Town Council Chairman regarding the Palesky initiative.

V. NEW BUSINESS

VI. ADJOURN

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<tr>
<th>MEMBERS OF THE TOWN COUNCIL</th>
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Minutes
Cumberland Town Council
Town Council Chambers – 290 Tuttle Road
Monday, August 9, 2004

Call to Order – 7:06 PM

Attendance:  Councilors Stiles, Kuntz, Storey, Damon & Savasuk
Absent:  Councilors Moriarty & Porter

Chairman Stiles requested a moment of silence to remember the passing of two former Town Councilors, Mary Louise Smith and Jeffrey Butland.

I. Approval of Minutes:
Motion by Councilor Savasuk to approve the minutes as presented.
Seconded by Councilor Damon
VOTE:  UNANIMOUS (5)

II. Manager’s Report
Manager Shane reported that the Department of Transportation had informed him that proposed traffic signal light at Route 100 and Blackstrap Road did not meet warrants and they will not recommend a signalized light at that intersection. Approximately $92,000 has been designated for improvements at that intersection: better signage, better striping, some granite curbing at the radius to better define the intersection, moving some of the utility poles back at the intersection so that the sight lines are improved and even creating some islands in front of the two car dealerships that are there so that cars aren’t parking along Route 100 or encroaching out into the right of way.

Over 20 volunteers helped clear the sight of the Habitat For Humanity home on Greely Road Extension over the weekend. Another cleanup day is scheduled for Saturday, August 14, 2004 from 8:00am to 12:00 pm.

The West Cumberland multipurpose field is under way. It should be seeded by early September.

Mill Road is scheduled to be reconstructed toward the end of this month.

Kudos to the Public Works Department for the work on the railroad crossings at Main Street, Greely Road and Tuttle Road.

Prock Marine will be completing work next week at the Stone Wharf; installing some additional pilings, shifting some of the floats around and installing an additional float inside the wave break to add some more tie-up space for the future.

The crosswalk and striping along Tuttle Road and Main Street will be done during the next two weeks in preparation for the start of school.

A meeting is scheduled between the church and the school tomorrow to finalize an easement for a sidewalk along the Congregational Church property to allow kids traveling up Blanchard Road to Main Street to use the sidewalk to come up to a signalized crosswalk.

Robert Storey, President of the Cumberland Cemetery Association and the Town Manager met with four contractors in a pre-bid meeting at the cemetery at the intersection of Main Street and Tuttle Road for a site walk. The stones at the cemetery will be restored.
III. PUBLIC DISCUSSION
Chairman Stiles opened the public discussion portion of the meeting at 7:13 pm.
There was no discussion.
The public portion of the meeting was closed at 7:14 pm.

IV. LEGISLATION & POLICY

04-096. To hold a public hearing to consider and act on the authorization for the submission of a CDBG grant to study affordable housing for Chebeague Island.

Manager Shane stated that part of the requirements of the Community Development Block Grant is to hold a public hearing that is advertised. At the last meeting, the council was asked to suspend the rules to authorize the agreement.

Beth Howe, a resident of Chebeague and the Chairperson for the Islands Committee, stated that she wrote the grant that the Council has authorized. Housing values on the island have been going up dramatically. Between 1998 and 2003, the increase on valuation on the island was 62%. One quarter of the population of Chebeague Island is over the age of 65. There are no heads of households under the age of 35. One third of households have children under the age of 18. The median income for the year 2000 was $32,000; the mainland median income was $68,000. There are three possible constituencies that the market study could possibly find out:

1. The elderly, who mostly own their own homes and have no desire to move
2. Young families, both on the island and those off the island who may be interested in moving to the island
3. Single young people who have trouble finding places if they don’t live with family

Councilor Damon stated that one couple has been without a house for 10 years, living in 4 different places. A winter rental is available but a summer rental is more difficult. Single mothers are also having difficulty finding housing.

Henry Whetham stated that he has lived on the island for most of his life. He would like to stay on the island, but is having difficulty finding affordable housing.

Justin Doughty explained that he grew up on Chebeague Island and would like to continue living there.

Robert Vail, a resident of Cumberland, stated that the town could have a right of refusal. There may be several properties that are going to be coming on the market in the near future; it would be a good opportunity for the town to obtain property for affordable housing.

Anne Thaxter, a summer resident of Chebeague Island, stated that she is intending to retire there. Her concern was to have a community of mixed ages; not just a retirement community.

Councilor Damon moved that the Town Manager is authorized to sign a grant application request for a CDBG grant to study affordable housing on Chebeague Island.

Seconded by Councilor Savasuk. VOTE: UNANIMOUS (5)

04-097. To set an election date of September 21, 2004 for a SAD 15 Referendum Election and countersign Warrant.

Manager Shane explained that, as a member of the SAD district, the Town Council is required to authorize the election.

Councilor Damon moved to set an election date of September 21, 2004 for an SAD 51 Referendum Election and to countersign the Warrant.
Seconded by Councillor Savasuk. VOTE: IN FAVOR: 4 OPPosed: 1 (Kuntz)

04-098. To set a public hearing date to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club’s Labor Day Tournament at Twin Brook.

Manager Shane stated that this event is an annual event that is very well attended by many youth organizations throughout the state.

Councillor Kuntz moved to set a public hearing date of August 23, 2004 to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club’s Labor Day Tournament at Twin Brook.

Seconded by Councillor Damon.

Discussion:
Councillor Storey inquired as to increasing the fees at Twin Brook.
Manager Shane replied that the Twin Brook Advisory Committee would be reviewing the fees.

VOTE: UNANIMOUS (5)

04-99. To set a public hearing date to consider and act on the Chebeague Island Hall Bottle Club License.

Manager Shane explained that this is an annual renewal.

Councillor Storey moved to set a public hearing date of August 23, 2004 to consider and act on the Chebeague Island Hall Bottle Club License.

Seconded by Councillor Savasuk. VOTE: UNANIMOUS (5)

04-100. To set a public hearing date to consider and act on a Fire Protection Ordinance and related amendments to the Zoning and Subdivision Ordinances.

Manager Shane stated that he Planning Board has approved the Fire Protection Ordinance and is making the appropriate amendments to the Zoning and Subdivision Ordinances and hope to have the final ordinance ready by September 13, 2004.

Councillor Kuntz moved to set a public hearing date of September 13, 2004 to consider and act on a Fire Protection Ordinance and related amendments to the Zoning and Subdivision Ordinances.

Seconded by Councillor Storey. VOTE: UNANIMOUS (5)

04-101. To set a public hearing date to consider and act on a Contract Zone request for Dr Hanson’s property at 371 Tuttle Road.

Manager Shane explained that at the July meeting, Dr. Hanson requested that a contract zone be placed on his property so that he could develop four rental units, which would be new construction; the existing facility would be replaced with a new structure. The Planning Board has endorsed the request and is sending it back to the Town Council with four conditions:
1. Rents be affordable, as defined by language of the contract zone
2. Rental units be rented with preferential preference be given to existing residents of the property, town and SAD 51 employees
3. The Planning Board reviews the project for site plan review
4. The architectural design shall be subject to design review to assure the historical architecture and integrity is maintained in the center of town

Councillor Damon stated that she understood that Dr. Hanson's original intent was to rehab the existing building.
Robert Vail, General Contractor, stated that the building is very narrow and has no foundation under most of it. The original archway will be replicated. The existing building has limited usability.

Beth Howe, a member of the Planning Board, stated that she hoped that Dr. Hanson would consider keeping the original structure as much as possible.

Mr. Vail invited the councilors to do a site walk.

Councillor Kuntz moved to set a public hearing date of September 13, 2004 to consider and act on a Contract Zone request for Dr. Hanson’s property at 371 Tuttle Road.

Seconded by Councillor Storey. VOTE: UNANIMOUS (5)

04-102. To set a public hearing date to consider and act on a Restaurant/Lounge Liquor License and Special Amusement Permit for the Slow Bell Café, 2 Walker Road, Chebeague Island.

Mr. Shane stated that the Planning Board is scheduled to consider this application at the Planning Board meeting on Chebeague Island on August 17, 2004.

Councillor Storey moved to set a public hearing date of August 23, 2004 to consider and act on a Restaurant/Lounge Liquor License and Special Amusement Permit for the Slow Bell Café, 2 Walker Road, Chebeague Island.

Seconded by Councillor Savasuk.

Discussion:
Councillor Damon stated that she would like to have the Special Amusement Ordinance amended to allow the Town Council to set conditions on Special Amusement Permits.

Mr. Shane explained that the Town Clerk is preparing specific language to amend the Special Amusement Ordinance.

VOTE: UNANIMOUS (5)

04-103. To hear a presentation from Councillor Savasuk and Town Manager on Commercial Zones.

Mr. Shane presented two zoning maps, showing the commercial zones in Cumberland. There are approximately 148 acres on the Yarmouth end of Route 1 that may be developed within the next 10 years.

The Route 100 corridor entails several pieces of commercial zoning: Local Business, Highway Commercial, and the larger Industrial zone. Residential zones have encroached so close to the Commercial Zone that to do anything now would have a pretty significant impact. Less than 8% of the total land area is available for development.

Councillor Savasuk stated that developers looked at the population increase to support the area of Exit 10 in Falmouth. As the population increases in West Cumberland, Gray and Windham, in 10-15 years, there is a need to keep the area open in West Cumberland.

04-104. To set a public hearing date to consider and act on application by Megan Murphy, d/b/a Out to Sea Bakery, 31 South Road, Chebeague Island for a Victualer’s License.

Mr. Shane stated that there is one more inspection necessary and this application will be ready for the August 23, 2004 council agenda.

Councillor Savasuk moved to set a public hearing date of August 23, 2004 to consider and act on application by Megan Murphy, d/b/a Out to Sea Bakery, 31 South Road, for a Victualer’s License.
04-105. To set a public hearing date to consider and act on an amendment to sections 204.6, Local Business (LB), and 204.7, Highway Commercial District (HC), of the Cumberland Zoning Ordinance, to exempt home occupations from site plan review.

Mr. Shane stated that this item was on a previous agenda, however the public hearing was never advertised in a local newspaper. The proposed amendment allows home occupations to occur before a required zoning board review.

Councilor Storey moved to set a public hearing date of August 23, 2004 to consider and act on an amendment to sections 204.6, Local Business (LB), and 204.7, Highway Commercial District (HC), of the Cumberland Zoning Ordinance to exempt home occupations from site plan review.

Seconded by Councilor Kuntz. 

VOTE: UNANIMOUS (5)

V. NEW BUSINESS

Councilor Savasuk:
- Calls from residents concerning brown tail moth

Councilor Damon:
- LNG conference at Bowdoin College
- Town owned property at Chandler’s Cove: Being used as party center. Council should consider regulating hours to be open

Councilor Storey
None

Councilor Kuntz:
- Traffic light in West Cumberland

Councilor Stiles:
- Thank you to Councilor Damon for representing town at funeral of former Councilor Marylouise Smith

Manager Shane:
- Public facility ordinance for Council review at September meeting
- MDOT traffic light at West Cumberland: Council to pursue MDOT decision
- Cape Elizabeth citizen advisory group re: impending Palesky tax cap
- Request by Police Chief re: ordinance or amendment to existing ordinance regarding motorized golf carts on Chebeague Island
- Pay per bag issue. Set up meeting with Solid Waste Advisory Committee
- Meeting at Val Halla Golf & Recreation Center with area Town Managers regarding Palesky tax cap
- Annual Fire Academy, 22 kids attended, one half from Cumberland
- Dep. Clerk Flanigan filling in during the absence of Town Clerk Nadeen Daniels

VI. ADJOURN

Councilor Kuntz moved to adjourn the meeting at 8:47 p.m.

Seconded by Councilor Damon. 

VOTE: UNANIMOUS (5)
MINUTES
CUMBERLAND TOWN COUNCIL MEETING
Town Hall, 290 Tuttle Road
Monday, August 23, 2004

6:00 p.m. – Site walk of Hanson property
6:30 p.m. – EXECUTIVE SESSION re: property acquisition

Present: Chairman Stiles, Councilors Savasuk, Damon, Moriarty and Porter.
Excused: Councilors Storey and Kuntz.

Motion by Councilor Moriarty to go into Executive Session to discuss land acquisition and personnel matters;
Seconded by Councilor Damon.
VOTE: UNANIMOUS 5-0

Motion by Councilor Damon to return from Executive Session;
Seconded by Councilor Moriarty.
VOTE: UNANIMOUS 5-0

Time: 7:05 p.m.

I. APPROVAL OF MINUTES
   a) August 9, 2004

   Motion to table by Councilor Savasuk;
   Seconded by Councilor Damon.
   VOTE: UNANIMOUS 5-0

II. MANAGER’S REPORT

   Manager Shane announced that the online vehicle registration program will “go live” tomorrow for the mainland residents. “We’re still working...to get island registrations.” He expressed thanks to Excise Agent Tammy O’Donnell for “her tireless efforts in putting this together.” The Manager also indicated he has received several concerns related to trail destruction on the Rines Property.

III. PUBLIC DISCUSSION

   None.

IV. LEGISLATION AND POLICY

04 – 106. To hear a report from Prince Memorial Librarian Thomas Bennett.

   Librarian Bennett gave a brief PowerPoint presentation which included information related to the growth of the library over the last ten years, the usage of the library, services offered presently, and plan for future services. Since FY '95 the total number of registered users has increased from 5,140 to 8,495. During that time circulation has increased from 62,000 to 90,000 in 2002 and 82,731 this year. The municipal breakout of users is currently at 2,100 for North Yarmouth residents and 6,100 for Cumberland residents. Cumberland residents borrowed a high of 65,000 items in FY '02, and decreased
to 58,000 in FY '04. During that same period, North Yarmouth has seen a steady increase from 17,000 to 21,500. The total usage by town shows a decrease in Cumberland from 75.25% to 70%, compared against North Yarmouth’s increase from 21% to 26%. “Clearly their residents are borrowing more each year whereas Cumberland had a little peak and has since declined to about 70% of total usage.” Usage means “borrowing habits” and “does not include in-library usage of computers, reference materials, or other things we can not track.” These numbers also include the usage of the library by the Drowne Road School, which began in FY 98. Use by young adults has also increased. Our collection of materials is “a pretty solid collection for a library our size;” 46,000 books, videos and audio books. That number has increased approximately 25 percent over the last ten years. The library is open an average of 47 hours per week; open three evenings until 8:00 p.m. A number of services “not centered on our books” include five public computers with internet access and Microsoft office suite; three “just for our card catalogue.” A four week training course titled “Seniors on Line” is provided. Educational computers are provided in the young adult room and juvenile section. A walk-in wireless network is now available to provide internet service to owners of wireless laptops. The library also provides a wireless laptop, in addition to three network cards. “It really expands the use of the computers in the library for individuals who have a lot of their material on their laptop.” A dedicated Youth Services Librarian is provided for the juvenile and young adult population. Upcoming services will include a book discussion group with the Cumberland Adult Education program; a Coffee Cake and Conversation Series for Seniors; and Passport Agent services.

Councilor Damon expressed appreciation for the care given to and accessibility of old Town Reports.

04 – 107. To hold a public hearing to consider and act on a Victualer’s license application by Megan Murphy, d/b/a Out To Sea Bakery, 31 South Road, Chebeague Island.

Motion by Councilor Porter to approve the Victualer’s license for Megan Murphy, d/b/a Out To Sea Bakery, 31 South Road, Chebeague Island;
Seconded by Councilor Damon.
VOTE: UNANIMOUS 5-0

04 – 108. To hold a public hearing to consider and act on the Chebeague Island Hall Bottle Club license.

Town Manager Shane noted the applicant is also requesting a renewal of their Special Amusement Permit. During the public hearing, Beth Howe, Chebeague Island resident, questioned what “criteria” is considered when issuing Special Amusement Permits. The Town Manager explained while the town has adopted a Special Amusement Ordinance, it has not promulgated rules and regulations to consider when issuing the permit; however, town staff will prepare recommendations for the council to consider at a future date. He further explained the town council may hold a suspension or revocation hearing at any time during the license period as a result of “substantiated complaints.”

On behalf of the association, Councilor Damon questioned whether an additional officer could be available when the island officer is assigned to cover hall events. Chairman Stiles suggested the association contact the Police Chief with a request to hire another officer. Councilor Damon thanked the hall for their efforts to “regulate the noise.”

Motion by Councilor Porter to approve the Chebeague Island Hall Bottle Club License and Special Amusement Permit;
Seconded by Councilor Savasuk.
VOTE: UNANIMOUS 5-0

-2-
8/23/04
04 – 109. To hold a public hearing to consider and act on a Restaurant/Lounge Liquor License and Special Amusement Permit for the Slow Bell Café, 2 Walker Road, Chebeague Island.

Chairman Stiles clarified that the applicant also requires a Victualer’s License. Beth Howe, Chebeague Island resident, stated she supports the application for a restaurant, and is “grateful that he has been willing to accept a closing time of 9:00 p.m. I have no objection to his having a liquor license per se. My concern is with the noise in the summer time.” She is concerned with the “precedent that this would set for any future owners of the café.” Her husband requested the Planning Board set a decibel standard, but it was “voted down.” Steven Thomas, Chebeague Island resident and musician, spoke in favor of the license and suggested any concern with late night rowdiness has been addressed with Mr. Komlosy’s plan to close at 9:00 p.m. Because this establishment is within a business district, he is “a little scared” by any decibel limit proposal. “If things got too loud before 9:00 p.m….I’m sure somebody could call” the police.

Jonathan Komlosy, owner and applicant, informed the council it has “taken the past two and a half years to get the Slow Bell Café to where it is today.” To support the amusement permit, he referred to a printed article suggesting “music brings diverse ages together.” “I’m a little confused” he replied “about the concern initially for music on one side of the road if I can operate a piece of equipment at 120 decibels on the other side of the road without any problem.” Mr. Komlosy noted he has received EMT certification and a MDOT Specimen Collection Breath Alcohol Testing certification. With respect to the Commercial versus Island Residential Zone, he referenced an island bike rental business, saying “I welcome this” but this business has “twice as many people in the summer months than I can actually have at my café. The noise issue…equals itself out…if 80 to 90 people a day are coming” to that business.

Mr. Hale, abutter on two sides of this property, is “very appreciative” of the process followed by the town council and planning board. He believes all parties have “been dealt with fairly…and there’s been a good resolution. We do need to have some criteria and some teeth in that ordinance so that in the future we can continue to be good neighbors.”

Councilor Moriarty asked Mr. Komlosy when he plans to open. “Not ‘til (spring) 2005. There’s just no way,” delineating remaining items such as a water line and fire security system. Councilor Damon stated this “gives two or three months for him to be in operation before this is up for renewal again” and “by that time we would have had an opportunity to rewrite the ordinance so that we can come up with the conditions that we need and know whether there needs to be restrictions on that, whether it’s going to work or not work. I encourage Jon to go forward with at least the basic permits for tonight.” Councilor Damon suggested the conditions around food sales requirements, and the 9:00 p.m. closing time “is raising the comfort level” for many island residents. She encouraged all concerns be immediately addressed with Jonathan or the town. Manager Shane explained the conditions imposed by the Planning Board must be met prior to certificate of occupancy, therefore, any request to amend the hours of operation would require an amendment at the Planning Board level. Councilor Porter explained “there’s nothing in the ordinance that stops this from going forward. We have no ordinance that addresses the decibel level.”

Motion by Councilor Porter to approve the Victualers license for the Slow Bell Café, 2 Walker Road, Chebeague Island, pending final inspections by the Fire Chief and Code Enforcement Officer; Seconded by Councilor Moriarty.

VOTE: UNANIMOUS 5-0
Motion by Councilor Porter to approve the Restaurant/Liquor License for the Slow Bell Café, 2 Walker Road, Chebeague Island;
Seconded by Councilor Savasuk.
VOTE: UNANIMOUS 5-0

Motion by Councilor Moriarty to approve the Special Amusement Permit for the Slow Bell Café, 2 Walker Road, Chebeague Island, subject to the condition that the hours of operation shall be limited to 5:30 a.m. to 9:00 p.m.;
Seconded by Councilor Savasuk.
VOTE: UNANIMOUS 5-0

04 – 110. To hold a public hearing to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club’s Labor Day Tournament at Twin Brook.

No public comments.

Motion by Councilor Porter to approve the Mass Gathering Permit for the Cumberland Soccer Club’s Labor Day Tournament;
Seconded by Councilor Damon.
VOTE: UNANIMOUS 5-0

Councilor Moriarty stated that a fee was discussed and recommended by the Twin Brooks Advisory Committee for the five fields at Twin Brook which will be used during this tournament. He understands the proposed fee is “acceptable” and “something like this has been anticipated and budgeted for.”

Motion by Councilor Moriarty that for the purposes of this year’s soccer Club Labor Day Tournament we establish a fee usage at the rate of $150 per field, per day, for the five fields at Twin Brook. The motion does not include the fields at the schools which are subject to a different fee structure because we don’t own and operate the schools;
Seconded by Councilor Savasuk.
VOTE: UNANIMOUS 5-0

04 – 111. To hear a recommendation from the Town Manager regarding winter maintenance on private roads.

Manager Shane provided three recommendations for the council to consider, including (1) take no action; (2) continue the 2003 winter maintenance schedule with additional roads only upon town council approval; and (3) create a committee of private road representatives assigned to develop a Winter Road Maintenance Policy recommendation to the council by January, 2005. Along with the third recommendation, the Manager suggests the town council review the recommended policy for necessary revisions and adopt the policy to provide that private roads will be eligible for winter maintenance provided only that they meet the criteria contained in the policy. He further recommended such a new policy become effective for implementation during the 2005/06 winter season. He personally endorsed recommendation number three and suggested the committee openings be advertised as soon as possible.

Susan Bisbing, Spruce Lane, asked if the subcommittee will have access to the town attorney’s “legal expertise.” The Manager suggested all policies are reviewed by the town attorney. Chairman
Stiles suggested the Tax Cap Referendum will need to be heavily weighed when considering future policy. Bill Ward, Corey Road, extended his thanks and offer to serve on the committee.

Motion by Councilor Moriarty moved to take no action on this issue at this time and instruct the Manager to assemble a committee composed of private road residents, councilors and other interested and available public servants and report back to us at the Manager’s convenience – authorize the Manager to go ahead and do the preliminary work on that committee;
Seconded by Councilor Savasuk.
VOTE: UNANIMOUS 5-0

04 – 112. To hold a public hearing to consider and act on an amendment to Sections 204.6, Local Business (LB) and 204.7, Highway Commercial District (HC), of the Cumberland Zoning Ordinance, to except home occupations from site plan review.

This amendment exempts home occupations from site plan review, consistent with all other zones in town and is recommended by both the Planning Board and staff. Councilor Damon encouraged continued review of town ordinances “so that they are protecting the public but not being so onerous. This is heading in the right direction, and staff should be commended for picking it up.”

Motion by Councilor Moriarty moved to amend Sections 204.6 and 204.7 of the Zoning Ordinance to exempt home occupations from the Site Plan requirement;
Seconded by Councilor Damon.
VOTE: UNANIMOUS 5-0

04 – 113. To set a public hearing date to consider and act on a Mass Gathering Permit for the 133rd Cumberland Fair; September 26 – October 3, 2004 at the Cumberland Fairgrounds, 194 Blanchard Road.

Motion by Councilor Damon to set a public hearing date of September 13th;
Seconded by Councilor Moriarty.
VOTE: UNANIMOUS 5-0

04 - 114. To ratify the Agreement Between the Town of Cumberland and the Public Works/Val Halla Maintenance Employees Association for the period 7/1/04 through 6/30/07.

The town has reached agreement with the Public Works & Val Halla Association for a three year contract. The contract provides for a three percent annual wage increase and a ten percent contribution by employees to dependent health plans.

Motion by Councilor Porter to ratify the Agreement Between The Town of Cumberland and the Public Works/Val Halla Maintenance Employees Association for the period 7/01/04 through 6/30/07;
Seconded by Councilor Damon.
VOTE: UNANIMOUS 6-0

04 – 115. To authorize the Town Manager to post signs restricting unauthorized motorized vehicles on the Rines Forest property.

Manager Shane explained damage was incurred on the trails in the back section of this forest. The town has consistently posted No ATV use on town properties, and he requested authorization to
add this location to the list of town properties posted for no atv use.

Councilor Damon questioned whether this restriction would include snowmobiles and who will enforce the restriction. Manager Shane explained the restriction includes dirt bikes, and atv’s. Snowmobiles are not restricted. The police department will enforce the regulation based upon notification by landowners. Councilor Porter stated many abutters and committee members will serve as the “eyes and ears” to protect this property from such “destructive behavior.”

Motion by Councilor Savasuk to authorize the Town Manager to post signs restricting unauthorized motorized vehicles on the Rines Forest Property;
Seconded by Councilor Moriarty.
VOTE: UNANIMOUS 5-0

V. NEW BUSINESS
a) Second Tax Bill FY ‘05
b) August 24 – start of online auto registration

Councilor Savasuk – thanked the Manager for the repairs at the track crossings.
Councilor Damon – received questions regarding the status of affordable housing after last council meeting; we’re still working on the conservation easement; should have a public hearing or written material explaining how the conservation easement will work; asked to place a note in the Chebeague Island calendar stating islanders are still able to mail in their auto registrations; received concerns regarding increase to barging at Bennett’s Cove and raised the issue of investigating the possibility of looking at Sunset as an alternative barging location; no room in the recycling bins lately; recommended the council vote to write a letter to the Governor to call a special session before November to “try to come up with some kind of a tax reform package.”
Councilor Moriarty – responded that “an unsuccessful special session would be the very worst possible outcome for those who are concerned about the Palesky referendum.” The Land Trust is interested in discussing the possibility of buying out the town’s share or remaining portion of the property and pursuing on its own the development of affordable housing.

Councilor Moriarty moved to authorize the Town Manager to meet with the representatives of the Trust to discuss in concept the Trust’s buying out the town’s remaining share of the property for the purpose of pursuing affordable housing;
Seconded by Councilor Porter. Councilor Damon stated “it may be an attractive idea” but felt “completely blindsided.” She requested to be involved with the Manager’s discussions.
VOTE: UNANIMOUS 5-0

Councilor Porter – received an email with a proposal to locate a mini-astronomy outfit; one location suggested was Twin Brooks. While his initial reaction is “Twin Brooks is sacrosanct,” he suggested “at the least we need to have it reviewed by the Twin Brooks Advisory Committee.”
Chairman Stiles – a second half tax bill mailing was eliminated this year as part of the budget process. This year’s first half tax bill included the statement “This will be the only bill you receive.” We have typically mailed two tax bills. Requested this item be placed on the second November meeting agenda.
Manager Shane – the Cemetery Association will award a bid on Thursday for the restoration, cleaning and righting of monuments at the Congregational Cemetery. He requested an additional $5,000 in funds to complete the entire project prior to November; the additional monies to be found within this year’s budget. Councilor Damon questioned whether this will serve as “the beginning of a long-term plan for all the cemeteries.” The Val Halla Trustees has requested the council consider the sale of alcohol on the
course. State law became effective August 1, 2004 which permits golf courses to sell alcohol on the course via a mobile unit, upon local approval. A workshop may be in order.

Motion by Councilor Porter to authorize an additional $5,000 for the Cemetery Association restoration project;
Seconded by Councilor Damon.
VOTE: FAILED 3-2 (Chairman Stiles and Councilor Savasuk)

Motion by Councilor Porter to authorize an additional $5,000 for the Cemetery Association, “to be found elsewhere in the budget; there be no additional spending because of these two actions”;
Seconded by Councilor Damon.
VOTE: PASSAGE 4-1 (Chairman Stiles)

VI. ADJOURN

Motion to adjourn by Councilor Porter;
Seconded by Councilor Damon.
VOTE: UNANIMOUS 5-0
TIME: 9:01 p.m.

Respectfully submitted,

Nadeen Daniels, CMC
Town Clerk

8/23/04
MEMORANDUM

DATE: September 10, 2004
TO: TOWN COUNCIL MEMBERS
FROM: NADEEN DANIELS, TOWN CLERK
RE: CUMBERLAND FAIR VICTUALERS' LICENSES

Please find attached 15 applications from vendors seeking temporary victualers' licenses in order to sell food at the Cumberland Fair 2004, to be held at the Cumberland Fairgrounds, September 26 – October 3, 2004.

This list has been provided to the Town’s code officials, as well, who will inspect the vendors during opening day. The Chiefs have provided memos in your packet regarding their conversations and requirement. Eileen Wyatt and Dan Small plan to perform their inspections of the various food vendors on opening morning.

We recommend approval of the licenses, pending compliant inspections.

Thank you.
TOWN OF CUMBERLAND, MAINE

APPLICATION for VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: Cole Farms

Business Address: P.O. Box 679, Gray ME 04039

Name of Manager: Brad Pollard Business Phone: 652-4714

Date of event or new license: Cumberland Fair 9/26-10/2

Signature of authorized person: Brad Pollard Date: 9/29/04

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00

(b) Restaurant or Victualer serving malt beverages on the premises. $50.00

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet. $25.00

(e) Same as (d) but total area of the establishment is more than 10,000 square feet. $25.00

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00

(g) Establishment operated by Non-Profit organization. NO FEE

(h) Vending Machine. $10.00

(i) Temporary Vending Unit operating at a fair. (per unit): $10.00

Name & type of vending unit(s): Cole Farms portable

Enclose CHECK payable to: “Town of Cumberland”

SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021

Application received: 9/30/04 Date of issuance: ____________
COLE FARMS
PH: 657-4714
PO BOX 679
GRAY, ME 04039

PAY TO THE ORDER OF: Town of Cumberland

DATE: 08/27/2004

$10.00

Cole Farms

DOLLARS:

Androscoggin Bank
Gray, Maine

FOR因주주's license for fair

J. E. Sawyer

013768 211272520 000000003051
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: Cuve Culture
Business Address: 105 Country Club Pk, Hollis Center, ME 04042
Name of Manager: Wayne Toohey Business Phone: 207-229-1161
Date of event or new license: Cumberland Golf Fair and Cumberland Fair 9/25/04
Signature of authorized person: __________________________ Date: 4/12/04

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00 [X]
(b) Restaurant or Victualer serving malt beverages on the premises. $50.00
(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00
(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet. $25.00
(e) Same as (d) but total area of the establishment is more than 10,000 square feet. $25.00
(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00
(g) Establishment operated by Non-Profit organization. NO FEE
(h) Vending Machine. $10.00
(i) Temporary Vending Unit operating at a fair. (per unit): $10.00

Name & type of vending unit(s): __________________________

Enclose CHECK payable to: "Town of Cumberland"
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: 4-12-04 Date of issuance: ____________
Pay to the order of Town of Cumberland $50.00

Key Bank National Association
South Portland, Maine 04106
1-800-KEY2YOU® Key.com
TOWN OF CUMBERLAND, MAINE

APPLICATION for VICTUALER’S (Food Service Establishment) LICENSE

Business or Trade Name: Family Secrets

Business Address: 53 Addison St

Name of Manager: Dea

Business Phone: 7721471

Date of event or new license: 10 United We Craftsmen

Signature of authorized person: D. Roland

Date: 4/17/04

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00 ___

(b) Restaurant or Victualer serving malt beverages on the premises. $50.00 ___

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00 ___

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet. $25.00 ___

(e) Same as (d) but total area of the establishment is more than 10,000 square feet. $25.00 ___

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00 ___

(g) Establishment operated by Non-Profit organization. NO FEE ___

(h) Vending Machine. $10.00 ___

(i) Temporary Vending Unit operating at a fair. (per unit): $10.00 ___

Name & type of vending unit(s):

Endose CHECK payable to: "Town of Cumberland"

SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021

Application received: 5-3-04 Date of issuance: _________
Twentysfive dollars $25.00

DATE: 5/5/04

TO THE ORDER OF: Town of Cumberland

DESCRIPTION: UMC + Amb Fair

CHECK NO: 20

PAY

PEOPLES HERITAGE BANK
PORTLAND, MAINE 04101

DAN RUBINOFF
TOWN OF CUMBERLAND, MAINE
APPLICATION FOR VICTUALER’S (Food Service Establishment) LICENSE

Business or Trade Name: **Momma's Beverage Barn**

Business Address: **843 Union St. Bangor ME 04401**

Name of Manager: **Teena Stimpson** Bus. Phone: **207-940-3428**

Date of Event or New License: **Cumberland Fair (Sept 26th - Oct 2nd)**

Signature of Authorized Person: **Teena Stimpson** Date: **6-27-04**

CHECK THE PROPERTY CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises $50.00 __

(b) Restaurant or Victualer serving malt beverages on the premises $50.00 __

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor $50.00 __

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores, where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet $25.00 __

(e) Same as (d) but total area of the establishment is more than 10,000 square feet $25.00 __

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels and bed and breakfasts $100.00 __

(g) Establishment operated by Non-Profit organization NO FEE __

(h) Vending Machine $10.00 __

(i) Temporary Vending Unit operating at a fair. Per Unit: $10.00 **X**

Name & type of vending unit(s): **Momma's Beverage Barn**

Enclose CHECK payable to: Town of Cumberland
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland ME 04021

Application Rec’d: **6-29-04** Date of Issuance ____________ Cert No. ____________
TO THE ORDER OF J. Town of Cumberland

$10.00

Ten Dollars

Peoples Bank
One Portland Square
Portland, ME 04101

Stephen M. Stimson
Tina M. Stimson
843 Union St. Ph. 990-3978
Bangor, ME 04401
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: Vinnie's Fine Foods

Business Address: P.O. Box 98, Rosendale, NY 12472

Name of Manager: Vincent Nelson  Business Phone: (845) 654-7647

Date of event or new license: Cumberland Fair

Signature of authorized person: ________________________________ Date: ____________________

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises.  $50.00

(b) Restaurant or Victualer serving malt beverages on the premises.  $50.00

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor.  $50.00

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet.  $25.00

(e) Same as (d) but total area of the establishment is more than 10,000 square feet.  $25.00

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts.  $100.00

(g) Establishment operated by Non-Profit organization.  NO FEE

(h) Vending Machine.  $10.00

(i) Temporary Vending Unit operating at a fair. (per unit):  $10.00

Name & type of vending unit(s): Vinnie's Fine Foods / Pizza

Send to: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: 6-14-04  Date of issuance: ____________________

Enclose CHECK payable to: "Town of Cumberland"
POSTAL MONEY ORDER

UNITED STATES POSTAL SERVICE

SERIAL NUMBER 06589958186

YEAR, MONTH, DAY 2004-06-09

POST OFFICE 124490

U.S. DOLLARS AND CENTS $599.00

AMOUNT: TEN DOLLARS & 00c

PAY TO: Town of Cumberland

ADDRESS 290 Truffle Road

ADDRESS 99 Box 98

C.O.D. NO. OR USED FOR

SIGNATURE

NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS SEE REVERSE WARNING

FROM Vincent DeMar

CLerk 000

Cumberland ME 04021

Send...have? For...for

R. McHardy MD 15-76

0658995818614
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: Reel & Heel Show
Business Address: 291 Pecks Rd Pittsfield VIM 04221
Name of Manager: Betty Galletto Business Phone: 413-423-5229
Date of event or new license: Cumberland Fair
Signature of authorized person:

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:
(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00
(b) Restaurant or Victualer serving malt beverages on the premises. $50.00
(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00
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(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00
(g) Establishment operated by Non-Profit organization. NO FEE
(h) Vending Machine. $10.00
(i) Temporary Vending Unit operating at a fair. (per unit):
   Name & type of vending unit(s):

Enclose CHECK payable to: "Town of Cumberland"
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: 03-04 Date of issuance: 06-09-04
POSTAL MONEY ORDER

AMOUNT: FORTY DOLLARS & 00C

PAY TO: Town of Cumberland
ADDRESS: 290 Tuttle Rd
C.O.D. NO. OR USED FOR: 06270092706

NEGOTIABLE, ONLY IN THE U.S. AND POSSESSIONS
SEE REVERSE WARNING

FROM: Betty Guille
ADDRESS: 291 North Rd
CUMBERLAND, ME 04021

CLERK: 013

POTTSFIELD, ME 01201
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: KB Fries (Andrea Fairlie)

Business Address: 265 W Brandon Blvd, Bridgton, ME 04009

Name of Manager: Andrea Fairlie Business Phone: 813-731-7498

Date of event or new license: Sept 04 - Cumberland Fair

Signature of authorized person: Andrea Fairlie Date: 6-7-04

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00

(b) Restaurant or Victualer serving malt beverages on the premises. $50.00

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet. $25.00

(e) Same as (d) but total area of the establishment is more than 10,000 square feet. $25.00

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00

(g) Establishment operated by Non-Profit organization. NO FEE

(h) Vending Machine. $10.00

(i) Temporary Vending Unit operating at a fair. (per unit): $10.00

Name & type of vending unit(s): KB Fries (French Fries)

-----------------------------

Enclose CHECK payable to: "Town of Cumberland"

SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021

Application received: 6-23-04 Date of issuance: 6-7-04
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<th>ADDRESS</th>
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<th>ADDRESS</th>
<th>C.O.D. NO. OR USED FOR</th>
<th>REVERSE WARNING</th>
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<td>Town of Cumberland</td>
<td>990 Turtle Rd</td>
<td>Amanda Tortle</td>
<td>205 W Brandon Blvd</td>
<td>KBFries</td>
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<td>Cumberland, ME 04021</td>
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<td>Brandon, FL 33511</td>
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AMOUNT: TEN DOLLARS & 00C

NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

SERIAL NUMBER: 06270092684

YEAR, MONTH, DAY: 2004-05-14

POST OFFICE: 109401

U.S. DOLLARS AND CENTS: $00.00

CLERK: 013

UNITED STATES POSTAL SERVICE

POSTAL MONEY ORDER
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER’S (Food Service Establishment) LICENSE

Business or Trade Name: Big City Concessions
Business Address: POB 99 Raynham, NY 12472
Name of Manager: Jo Ann Navarro - Business Phone: 714-209-0073
Date of event or new license: Cumberland Fair
Signature of authorized person: [Signature] - Date: June 9, 2004

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00 ___
(b) Restaurant or Victualer serving malt beverages on the premises. $50.00 ___
(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00 ___
(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet. $25.00 ___
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(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00 ___
(g) Establishment operated by Non-Profit organization. NO FEE ___
(h) Vending Machine. $10.00 ___
(i) Temporary Vending Unit operating at a fair. (per unit): $10.00 
Name & type of vending unit(s): Big City Concessions

Enclose CHECK payable to: “Town of Cumberland”
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: 6-23-04 Date of issuance: ___
POSTAL MONEY ORDER

AMOUNT: TWENTY DOLLARS & 00C

PAY TO: Mrs. of Cumberland
ADDRESS: 290, Tewthold
CITY: Cumberland, ME 04021
C.O.D. NO. OR USED FOR: Cumberland Fair

DIRECTED TO: So Ann Neville
ADDRESS: P.O. Box 199
CITY: Rosegale, NY 12472

U.S. DOLLARS AND CENTS

SERIAL NUMBER 06270092695
YEAR, MONTH, DAY 2004-06-14
POST OFFICE 109401
CLERK 013

NEGOTIABLE: ONLY IN THE U.S. AND POSSESSIONS
SEE REVERSE WARNING

062700926951
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: MIKE'S ITALIAN ICE

Business Address: PO BOX 1035 BEAVER ME 04217

Name of Manager: MIKE LAWLER Business Phone: 877-984-1722

Date of event or new license: CUMBERLAND GATF FARE 8/12-9/5

Signature of authorized person: [Signature] Date: 6/27/04

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00

(b) Restaurant or Victualer serving malt beverages on the premises. $50.00

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet. $25.00

(e) Same as (d) but total area of the establishment is more than 10,000 square feet. $25.00

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00

(g) Establishment operated by Non-Profit organization. NO FEE

(h) Vending Machine. $10.00

(i) Temporary Vending Unit operating at a fair. (per unit): $10.00

Name & type of vending unit(s): MIKE'S ITALIAN ICE COLD CART

Enclose CHECK payable to: "Town of Cumberland"
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: 7-9-04 Date of issuance: ____________
MICHAEL LAWLOR
P.O. BOX 1039  PH. 207-824-2980
BETHEL, ME  04217

PAY TO THE ORDER OF Town of Cumberland $10.00

Northeast BANK
Auburn, Maine 04270

DATE 6/27/04

CORPORATE REWARDS

MEMO 2112745574 01 81 001355 0915
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: Plummer Concessions
Business Address: P.O. Box 803 Gorham ME 04038
Name of Manager: Paul Plummer  Business Phone: 207-839-6035
Date of event or new license: Aug 12 13 14 15 04
Signature of authorized person: Paul Plummer Date: July 12-04

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00
(b) Restaurant or Victualer serving malt beverages on the premises. $50.00
(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00
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(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00
(g) Establishment operated by Non-Profit organization. NO FEE
(h) Vending Machine. $10.00
(i) Temporary Vending Unit operating at a fair. (per unit): $10.00
Name & type of vending unit(s): Plummer Concessions Sweet Potato Fry

Enclose CHECK payable to: "Town of Cumberland"
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: 7-13-04 Date of issuance: 
PAUL M. PLUMMER
P. O. BOX 803
PH 207-839-6035
GORHAM, ME 04038-1038

PAY TO THE ORDER OF: Town of Cumberland

$10.00

KEYBANK NATIONAL ASSOCIATION
GORHAM, MAINE 04038
1-800-KEY2YOU

Temp. IC vending
Craft show Aug 12-15

Paul Plummer

July 12, 2004

52-60/112

Key Advantage
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER’S (Food Service Establishment) LICENSE

Business or Trade Name: The Spud Wagon

Business Address: 121 New Rd Lovell ME 04051

Name of Manager: Rose Garabrant
Business Phone: 207-925-3009

Date of event or new license: Cumberland Fair

Signature of authorized person:  [Signature]
Date: 7-25-09

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00

(b) Restaurant or Victualer serving malt beverages on the premises. $50.00

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00

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(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels, and bed and breakfasts. $100.00

(g) Establishment operated by Non-Profit organization. NO FEE

(h) Vending Machine. $10.00

(i) Temporary Vending Unit operating at a fair. (per unit): $10.00

Name & type of vending unit(s): The Spud Wagon Mobile Food Unit

Enclose CHECK payable to: "Town of Cumberland"
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: 7-29-04 Date of issuance: _______
WILLIAM M. GARRABRANTS
ROSELI GARRABRANTS
121 NEW RD
LOVELL, ME 04051
207-929-3009

Pay to the
Order of: Town of Cumberland $ 10 00

For: 02 27 455 803 002495

Date 7-25-04

Dollars 50 22/2 112

Guaranteed Safety Yellow 907 7
TOWN OF CUMBERLAND, MAINE
APPLICATION for VICTUALER’S (Food Service Establishment) LICENSE

Business or Trade Name: The Spud Wagon
Business Address: 181 New Rd Lovell ME 04051
Name of Manager: Rose Garabrant
Business Phone: 207-925-3009
Date of event or new license: Cumberland Fair
Signature of authorized person: [Signature] Date: 7-25-04

CHECK THE PROPER CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises. $50.00

(b) Restaurant or Victualer serving malt beverages on the premises. $50.00

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor. $50.00

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(g) Establishment operated by Non-Profit organization. NO FEE

(h) Vending Machine. $10.00

(i) Temporary Vending Unit operating at a fair. (per unit): $10.00 [✓]

Name & type of vending unit(s): The Spud Wagon Mobile Food Unit

Enclave CHECK payable to: "Town of Cumberland"
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland, ME 04021
Application received: ___________ Date of issuance: ___________
TOWN OF CUMBERLAND, MAINE
APPLICATION FOR VICTUALER’S (Food Service Establishment) LICENSE

Business or Trade Name: WHITE DOG CONCESSION

Business Address: 170 DOLI ROAD STANDISH ME 04084

Name of Manager: Sylvia Gordon Bus. Phone: 749-5318

Date of Event or New License: 9-26-10-7-09

Signature of Authorized Person: [Signature] Date: [Date]

CHECK THE PROPERTY CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises $50.00

(b) Restaurant or Victualer serving malt beverages on the premises $50.00

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor $50.00

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores, where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet $25.00

(e) Same as (d) but total area of the establishment is more than 10,000 square feet $25.00

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels and bed and breakfasts $100.00

(g) Establishment operated by Non-Profit organization NO FEE

(h) Vending Machine $10.00

(i) Temporary Vending Unit operating at a fair. Per Unit: $10.00
Name & type of vending unit(s): WHITE DOG CONCESSION

Enclose CHECK payable to: Town of Cumberland
SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland ME 04021

Application Rec’d: 8-23-09 Date of Issuance Cert No.
JOHN B. GORDON
DBA WHITE DOG
170 DOW ROAD
STANDISH, ME 04084
207-772-4824

PAY TO THE
ORDER OF

DATE 8-16-09

Town of Cumberland $10.00

DOLLARS

MEMO 10112884 171 701 22 04 22 52 41 05 72

Coast Line
Credit Union
www.coastlinecu.com

Signature
TOWN OF CUMBERLAND, MAINE
APPLICATION FOR VICTUALER'S (Food Service Establishment) LICENSE

Business or Trade Name: Smokin' Bones & Feathers

Business Address: 91 Oak St. Westbrook, ME 04092

Name of Manager: Dan Gierke

Bus. Phone: 207-954-3015

Date of Event or New License: 9-26 thru 10-2 2004

Signature of Authorized Person: Gierke

Date: 9-17-04

CHECK THE PROPERTY CATEGORY OF REQUESTED LICENSE:

(a) Restaurant or Victualer not serving malt beverages on the premises $50.00 ___

(b) Restaurant or Victualer serving malt beverages on the premises $50.00 ___

(c) Class A Restaurant, as defined by the Revised Statutes of Maine, serving both malt liquor and spirituous and vinous liquor $50.00 ___

(d) A business establishment such as, but not limited to, retail grocery stores, food storage warehouses, bakeries, delicatessen stores, and dairy product stores, where food is stored or is kept for sale and where the total area of the establishment is less than 10,000 square feet $25.00 ___

(e) Same as (d) but total area of the establishment is more than 10,000 square feet $25.00 ___

(f) Eating and Lodging places. Any place where eating and sleeping accommodations are furnished to the public such as hotels, motels and bed and breakfasts $100.00 ___

(g) Establishment operated by Non-Profit organization NO FEE ___

(h) Vending Machine $10.00 ___

(i) Temporary Vending Unit operating at a fair. Per Unit: $10.00 ___

Name & type of vending unit(s): Prepared foods, rubs, chicken, etc

Enclose CHECK payable to: Town of Cumberland

SEND TO: TOWN CLERK, 290 Tuttle Road, Cumberland ME 04021

Application Rec’d: 9-17-04 Date of Issuance Cert No. ___

Cash
Smokin' Bones & Feathers

Dan Girard
(207)854.3015
www.smokinbonesbbq.com

An Outdoor BBQ Catering Service
Notice of Decision

Date: July 21, 2004

To: Bill Shane, Town Manager
   290 Tuttle Road
   Cumberland, ME 04021

Re: Fire Protection Ordinance

This is to advise you that on July 20, 2004 the Planning Board voted to recommend the adoption of the proposed Fire Protection Ordinance with editorial revision to be approved by Chris Neagle and Carla Nixon, Planning Director.

Findings of Fact: None

Waivers granted: None

Waivers Denied: None

Standard Conditions 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.

Cumberland Planning Board

[Signature]

Philip Hunt, Chair

Cc: Dan Small, Fire Chief
Fire Protection Ordinance

101. TITLE

This Ordinance shall be known as the “Fire Protection Ordinance of the Town of Cumberland, Maine” and shall be referred to herein as the “Ordinance.”

102. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial buildings.

103.1 To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

103.2 To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

103.3 To better facilitate the needs of a volunteer fire department response.

103.4 To ensure that sound engineering practices are utilized when installing fire protection systems.
104. DEFINITIONS

**Commercial Property:** Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

**Major Subdivision:** A subdivision with 5 or more dwelling units.

**Minor Subdivision:** A subdivision with 4 or less dwelling units.

**Multi-Family Dwellings:** A building used or intended for residential use containing more than two attached dwelling units.

**Public Water System:** Water system maintained by the Portland Water District, including water mains and fire hydrants.

**Subdivision:** A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review, shall not be considered a lot in a subdivision.

105. APPLICABILITY

This Ordinance shall apply to all new commercial buildings in excess of 4000 square feet, all multi-family dwellings, all new residential dwelling units in major subdivisions (including manufactured housing), or any other buildings outlined in this ordinance within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland.
106. EXEMPTIONS

This Ordinance shall not apply to the following:

106.1 The repair, replacement, reconstruction or alteration of any existing building or structure, provided the number of dwellings units is not increased.

106.2 Any new single family residential dwelling units that are not located within a major subdivision.

107. ADMINISTRATION

107.1 Basic Requirements: All new commercial buildings in excess of 4,000 square feet, all new multi-family dwellings, and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following three subsections:

a. Public Water Hydrant: An extension of the Public Water System with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).

b. Automatic Sprinkler System: An automatic fire protection sprinkler system, approved by the Fire Department, capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to have a permit issued by the State Fire Marshal’s Office prior to installation.

c. Dry Hydrant: A water drafting source for fire department apparatus connected to either an underground storage tank or a body of water as described below. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designated agents, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items.

Dry hydrants should not be located more than 1000 feet from any dwelling units within a major subdivision.
(a) **Fire Pond:** A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including drought and freezing temperatures. Fire ponds must have been constructed prior to October 6, 2003 to qualify. No new fire ponds will be allowed.

(b) **Underground Storage Tanks:** A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications under this section shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

107.2 **Additional Requirements:** The fire department may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet. Additional requirements may include fire sprinkler protection, additional fire hydrants, building construction design(s) intended to reduce the spread of fire, or other accepted engineering practices. The Planning Board shall approve the fire department’s recommendation on any project being reviewed by the Planning Board.

107.2 **Distances** All distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial building including the driveway.

108. **CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES**

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.
109. **SEPARABILITY**

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

110. **EFFECTIVE DATE**

The effective date of this Ordinance shall be [Redacted], 2004.

111. **REVIEW PROCEDURE**

This Ordinance shall be reviewed by the Town Council in [Redacted], 2009 to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 11.

112. **AMENDMENTS**

An amendment to this Ordinance may be initiated by one of the following:

112.1 The Planning Board.

112.2 The Town Council.

112.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

113. **VIOLATIONS**

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet, a residential dwelling unit in a major subdivision, or any other building outlined in this ordinance without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.

113.2. If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet, new residential dwelling unit in a
major subdivision, or any other building outlined this ordinance until such approval has been duly issued.

114. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

115. PENALTIES

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet, any new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance being constructed or occupied in violation of this chapter may be liable to be fined [to be determined by the Town Council] when such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

115.2. If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been built in violation of this chapter and is then occupied the owner may be fined as provided in Section 14 A. of this Ordinance.

116. APPEALS

The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.
Zoning Ordinance

Section 206.8- page 81

Added 206.8.23 Fire Protection stating compliance with the Fire Protection Ordinance
Sec. 206.8 APPROVAL STANDARDS AND CRITERIA

.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.

.23 Fire Protection

The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a “Certificate of Compliance” once the applicant has met the design requirements of the Town’s Fire Protection Ordinance.

Sec. 206.9 LIMITATION OF APPROVAL

Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.
Subdivision Ordinance

Chapter 10 – Section 10- page 47

Modified to a single paragraph stating compliance with Fire Protection Ordinance
SECTION 10 FIRE PROTECTION WATER SUPPLY

Subdivisions shall comply with the Fire Protection Ordinance. Prior to Final Approval, all applicants must receive a written “Letter of Compliance from the Fire Chief or his/her designee stating the application is in compliance with the Town of Cumberland’s Fire Protection Ordinance.

40.1 Intent

Adequate water supply for fire protection shall be provided in any major subdivision where public water is not available for this purpose.
The standards contained herein are minimum standards for single family home developments. The Planning Board, after review by the Fire Department, may impose additional requirements for projects with multi-family dwellings, single family houses separated by less than 100 feet, or commercial structures as reasonably necessary for firefighting purposes.

10.2 Fire Protection Water Supply Plan Required
All major subdivision applications shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. This plan shall show the fire pond or existing water body; spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan. [amended, effective 4/12/99]

10.3 Performance Standards
Adequate fire protection water supply is defined as a minimum of both (a) 120,000 gallons of water per 15 single family residences in storage or available from an existing water body as certified by a registered professional engineer, and (b) ability to pump 600 GPM (gallons per minute) for a duration of two (2) hours.

10.4 Design and Construction Standards
A. Fire Pond
1. The fire pond shall be designed with a clay bottom of two (2) feet thick compacted clay or glacial till and have sides with a 2:1 pitched banking with a minimum depth of ten (10) feet.
2. The adequate water storage level as defined by Section 10.3 shall be maintained at all times by a spring, well point, pumping facility, or rain and snow run-off.
3. An overflow system shall be installed with proper drainage materials and facilities to handle the projected overflow.
4. The fire pond shall be provided with a minimum of five (5) foot high chain link security fence with padlocked gateways to prevent unauthorized entrance to the facility. Four (4) keys to each locked gate shall be provided to the Fire Department. Any landscaping around the fence shall be limited in order to ensure the visibility of children who may get inside the facility.

B. Access Road and Easement
1. When conditions are such that a dry hydrant cannot be located on a paved roadway due to the elevation or other geographic constraints, then an access road, built to Town road construction specifications, will be provided, with a minimum of 12 foot travel width and 20 foot easement. The access road shall be capable of supporting the weight of Fire Department apparatus in all seasons and weather conditions.
2. An easement in a form acceptable to the Town attorney shall be provided for the access road and for inspections and maintenance of the fire pond and or other facilities by Town personnel.

C. Dry Hydrants
1. A minimum of six (6) inch diameter piping and fittings shall be utilized throughout.
2. Piping and fittings shall be a minimum of schedule 40 rating. The steamer hose connection shall be bronze with a 4 1/2 inch National Standard Thread (NST).
3. The riser piping and 90 degree elbows shall be schedule 40 steel.
4. The piping from the suction screen to the 90 degree elbow below ground shall be schedule 40 PVC pipe capped off at the screen end.
5. All PVC pipe connections shall be cleaned and solvent cemented so as to provide airtight connections.
6. The 90 degree elbow below ground shall be provided with six (6) feet of cover over the elbow, and shall be secured by butting against a properly sized poured concrete thrust block prior to backfilling.
7. The maximum amount of lift permitted shall be fifteen (15) feet, as measured from the surface of the water to the center of the suction inlet of a pumper at draft at the dry hydrant.

8. The riser piping shall be exposed above ground level, twenty-four (24) inches as measured from the center of the hydrant opening to the grade level of the fire apparatus position.

9. The suction screen shall have a strainer area of 125 square inches and a total length of approximately 40 inches and shall be an approved U.S. Department of Agriculture suction screen, or a screen formed in the end of the PVC pipe by drilling 1,140 holes, 3/8-inch diameter spaced 1/2 inch apart along the piping, leaving a four (4) inch wide strip along the top of the pipe that is not drilled. The suction screen shall be raised off the bottom of any fire pond twenty-four (24) inches, and shall be twenty-four (24) inches from any sides of the fire pond. The screen shall be covered with twelve (12) inches of crushed stone to prevent silt and aquatic growth from clogging the strainer. Strainers in storage tanks shall be raised off the bottom of the tanks by five (5) inches, and shall be designed to only draw from the sides of the strainer.

10. The dry hydrant riser pipe at ground level shall be secured in position by pouring a concrete pad measuring 24" x 24" x 10" deep with the riser pipe centered in the pad.

11. All piping and fittings exposed to sunlight shall be primed and painted bright red with Scotchite (or equal) silver reflective paint around the hydrant cap, and a three (3) inch band painted around the circumference of the riser pipe below the 90 degree elbow.

10.5 Approval of Construction
The fire protection water supply with dry-hydrant(s) shall be installed in working order, and approved by the Fire Chief or his designee, prior to the issuance of any certificate(s) of occupancy for structures served by the system.

10.6 Maintenance
It shall be the responsibility of the owner(s) of the land in which the fire pond and/or other facilities are located, whether an individual or homeowner's association, to maintain the facilities as necessary, but no less than annually, such that they will continue to meet the
standards contained herein. The Fire Chief shall have the right periodically to inspect the facility to ensure proper maintenance.

10.7 Fire Pond Closure
If public water service becomes available to the subdivision for firefighting purposes and the Fire Chief certifies that the fire pond is no longer needed for fire protection, the owner(s) of the land in which the fire pond is located shall, within one year after such certification, apply to the Planning Board for permission to fill, grade, and seed the pond according to the specification of the Town Engineer if the pond is to be closed. [Amend. 11/13/89; Effective 12/13/89]
Fire Protection Ordinance
June 2004

Developed by
Fire Chief Daniel Small
Fire Protection Ordinance

101. TITLE

This Ordinance shall be known as the “Fire Protection Ordinance of the Town of Cumberland, Maine” and shall be referred to herein as the “Ordinance.”

102. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial occupancies.

103.1 To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

103.2 To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

103.3 To better facilitate the needs of a volunteer fire department response.

103.4 To ensure that sound engineering practices are utilized when installing fire protection systems.
104. DEFINITIONS

Approved: Acceptable to the authority having jurisdiction (AHJ).

Authority Having Jurisdiction: The organization, office, or individual responsible for approving equipment, materials, an installation, or a procedure.

Commercial Property: Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

Dry Hydrant: A drafting source for fire department apparatus connected to either an underground storage tank or a body of water. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designees, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items. Access roads must be maintained year round and will be the responsibility of the developer.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

Fire Pond: A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including draught and freezing temperatures. Ponds to be considered shall have been in place prior to October 6, 2003.

Major Subdivision: A Town of Cumberland Planning Board approved subdivision with 5 or more residential occupancies.
Minor Subdivision: A Town of Cumberland Planning Board approved subdivision with 4 or less residential occupancies.

Monitored Fire Alarm System: An approved automatic fire alarm system, with battery backup, shall be capable of detecting the presence of elevated heat temperatures, smoke conditions or sprinkler system water flow within a building and have the capability of calling an approved fire alarm monitoring company. The system shall meet all of the requirements as outlined in the National Fire Alarm Code.

Public Water System: Water system maintained by the Portland Water District, including water mains and fire hydrants.

Sprinkler System: An approved automatic fire protection sprinkler system shall be capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to be permitted by the State Fire Marshal’s Office prior to installation.

Subdivision: A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review shall not be considered a lot in a subdivision.

Underground Storage Tanks: A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.
105. **APPLICABILITY**

This Ordinance shall apply to all new commercial properties in excess of 4000 square feet and all new residential dwelling units in major subdivisions (including manufactured housing) within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland. The Planning Board, after review by the fire department, may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet.

106. **EXCEPTIONS**

This Ordinance shall not apply to the following:

106.1.1 The repair, replacement, reconstruction or alteration of any existing building or structure provided the number of units is not increased, regardless of the need for a variance.

106.1.2 Minor Subdivisions, and any new residential units that are not located within a major subdivision (5 or more dwelling units).

107. **ADMINISTRATION**

107.1 All new commercial properties in excess of 4000 square feet and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following subsections:

107.1a: An extension of the public water system with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).

107.1b: An Approved Automatic Sprinkler System

107.1c: A dry hydrant connected to one of the following may be allowed. Subdivisions protected by this section shall be designed with two entrances (maintained year round) to facilitate fire department tanker shuttle operations.
107.1.c1: Fire Pond (Pre-existing as of October 6, 2003)

107.1.c2: Underground storage tank(s)

107.2 Distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial property including the driveway.

108. CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

109. SEPARABILITY

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

110. EFFECTIVE DATE

The effective date of this Ordinance shall be Month/Day/Year.

111. REVIEW PROCEDURE

This Ordinance shall be reviewed by the Town Council in Month/Year to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 112 AMENDMENTS.
112. AMENDMENTS

112.1. An amendment to this Ordinance may be initiated by one of the following:

112.1.1 The Planning Board.

112.1.2 The Town Council.

112.1.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

113. VIOLATIONS

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet or a residential dwelling unit in a major subdivision, without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.

113.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet or new residential dwelling unit in a major subdivision until such approval has been duly issued.

114. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CODE ENFORCEMENT OFFICER shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.
115. PENALTIES

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet or any new residential dwelling unit in a major subdivision being constructed or occupied in violation of this chapter shall be liable to be fined not less than $100 or more than $2,500 for each day such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CODE ENFORCEMENT OFFICER.

115.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been built in violation of this chapter and is then occupied the owner may be fined as provided in Section 114. Notices Of Violations; Legal Action of this Ordinance.

116. APPEALS

116.1. The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.
FACSIMILE TRANSMISSION SHEET

JENSEN BAIRD GARDNER & HENRY

Ten Free Street
P.O. Box 4510
Portland, ME 04112-4510
(207) 775-7271
FAX: (207) 775-7935
www.jbgd.com

TO: Alyssa Daniels
FAX: 829-2214
CC:
FAX:
File Number

FROM: Ken Cole
E-MAIL:
DATE: August 5, 2004
NUMBER OF PAGES (including fax sheet) 7

The information contained in this facsimile message is confidential and, if addressed to our client or certain counsel, is subject to the attorney-client or work privilege, and is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service.

COMMENTS:

Alyssa → Natalie's + my comments are on the draft attached.

Ken
Fire Protection Ordinance

101. TITLE

This Ordinance shall be known as the “Fire Protection Ordinance of the Town of Cumberland, Maine” and shall be referred to herein as the “Ordinance.”

102. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial buildings.

103.1 To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

103.2 To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

103.3 To better facilitate the needs of a volunteer fire department response.

103.4 To ensure that sound engineering practices are utilized when installing fire protection systems.
104. DEFINITIONS

**Commercial Property:** Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

**Major Subdivision:** A subdivision with 5 or more dwelling units.

**Minor Subdivision:** A subdivision with 4 or fewer dwelling units.

**Multi-Family Dwellings:** A building used or intended for residential use containing more than two attached dwelling units.

**Public Water System:** Water system maintained by the Portland Water District, including water mains and fire hydrants.

**Subdivision:** A subdivision shall be defined by 30-A M.R.S.A. § 4401, as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review, shall not be considered a lot in a subdivision.

105. APPLICABILITY

This Ordinance shall apply to all new commercial buildings in excess of 4000 square feet, all multi-family dwellings, all new residential dwelling units in major subdivisions (including manufactured housing) or any other buildings outlined in this ordinance within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland.
106. **EXEMPTIONS**

This Ordinance shall not apply to the following:

106.1 The repair, replacement, reconstruction or alteration of any existing building or structure, provided the number of dwellings units is not increased.

106.2 Any new single family residential dwelling units that are not located within a major subdivision.

107. **ADMINISTRATION**

107.1 **Basic Requirements:** All new commercial buildings in excess of 4,000 square feet, all new multi-family dwellings, and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following three subsections:

a. **Public Water Hydrant:** An extension of the Public Water System with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).

b. **Automatic Sprinkler System:** An automatic fire protection sprinkler system, approved by the Fire Department, capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to have a permit issued by the State Fire Marshal's Office prior to installation.

c. **Dry Hydrant:** A water drafting source for fire department apparatus connected to either an underground storage tank or a body of water as described below. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designated agents, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items.

Dry hydrants should not be located more than 1000 feet from any dwelling units within a major subdivision.
I don't understand what these go with - dry hydrants? ?

(4) Fire Pond: A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including drought and freezing temperatures. Fire ponds must have been constructed prior to October 6, 2003 to qualify. No new fire ponds will be allowed after the effective date of this ordinance.

(5) Underground Storage Tanks: A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications under this section shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

107.2 Additional Requirements: The fire department may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet. Additional requirements may include fire sprinkler protection, additional fire hydrants, building construction design(s) intended to reduce the spread of fire, or other accepted engineering practices. The Planning Board shall approve the fire department's recommendation on any project being reviewed by the Planning Board.

107.2 Distances All distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial building including the driveway.

108. CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.
109. SEPARABILITY

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

110. EFFECTIVE DATE

The effective date of this Ordinance shall be [redacted], 2004.

111. REVIEW PROCEDURE

This Ordinance shall be reviewed by the Town Council in [redacted] to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 11.

112. AMENDMENTS

An amendment to this Ordinance may be initiated by one of the following:

112.1 The Planning Board.

112.2 The Town Council.

112.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

113. VIOLATIONS

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet, a residential dwelling unit in a major subdivision, or any other building outlined in this ordinance without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.

113.2. If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet, new residential dwelling unit in a
major subdivision, or any other building outlined this ordinance until such approval has been duly issued.

114. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

115. PENALTIES

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet, any new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance being constructed or occupied in violation of this chapter may be liable to be fined when such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

115.2. If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been built in violation of this chapter and is then occupied the owner may be fined as provided in Section 14 A. of this Ordinance.

116. APPEALS

The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.

CEO doesn't administer, only enforces are decisions of Fire Chief PB appealable?
Nadeen Daniels

From: Carla Nixon
Sent: Thursday, July 29, 2004 1:42 PM
To: Chris Neagle; D Small
Cc: Nadeen Daniels; William Shane
Subject: RE: ordinance with definition

Not to muddy the waters, but with the term "attached" you would not be covering a project such as the one Peter Kennedy has proposed---38 detached single family condos. They are on smaller lots, densely clustered, as per the contract zoning agreement.

Carla

From: Chris Neagle [mailto:CNeagle@troubhheisler.com]
Sent: Thursday, July 29, 2004 1:38 PM
To: Carla Nixon; D Small
Cc: Nadeen Daniels; William Shane
Subject: Re: ordinance with definition

Dan. Thanks. Your definition means the duplexes are not covered, which I assume is your intent.

Let me know if I can help more.

>>> "Chief Dan Small" <rcumber2@maine.rr.com> 7/29/2004 2:31:05 PM >>>

Chris,

Attached is the ordinance with the multi-family definition.

Regards,
Dan

Daniel R. Small, Chief
Cumberland Fire Department
366 Tuttle Road
Cumberland, ME 04021
Office # (207) 829-5421
Pager # (207) 821-5187
Fax # (207) 829-4256

www.cumberlandmaine.com
www.cfdsquad1.com

7/29/2004
Fire Protection Ordinance

101. TITLE

This Ordinance shall be known as the “Fire Protection Ordinance of the Town of Cumberland, Maine” and shall be referred to herein as the “Ordinance.”

102. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial occupancies.

103.1 To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

103.2 To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

103.3 To better facilitate the needs of a volunteer fire department response.

103.4 To ensure that sound engineering practices are utilized when installing fire protection systems.
104. DEFINITIONS

Commercial Property: Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

Major Subdivision: A subdivision with 5 or more dwelling units.

Minor Subdivision: A subdivision with 4 or less dwelling units.

Multi-Family Dwellings: A building used or intended for residential use containing more than two attached dwelling units.

Public Water System: Water system maintained by the Portland Water District, including water mains and fire hydrants.

Subdivision: A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review, shall not be considered a lot in a subdivision.

105. APPLICABILITY

This Ordinance shall apply to all new commercial buildings in excess of 4000 square feet, all multi-family dwellings, and all new residential dwelling units in major subdivisions (including manufactured housing) within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland.
106. EXEMPTIONS

This Ordinance shall not apply to the following:

106.1 The repair, replacement, reconstruction or alteration of any existing building or structure, provided the number of dwellings units is not increased.

106.2 Any new single family residential dwelling units that are not located within a major subdivision.

107. ADMINISTRATION

107.1 Basic Requirements: All new commercial buildings in excess of 4,000 square feet, all new multi-family dwellings, and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following three subsections:

a. Public Water Hydrant: An extension of the Public Water System with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).

b. Automatic Sprinkler System: An automatic fire protection sprinkler system, approved by the Fire Department, capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to have a permit issued by the State Fire Marshal’s Office prior to installation.

c. Dry Hydrant: A water drafting source for fire department apparatus connected to either an underground storage tank or a body of water as described below. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designated agents, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items.

Dry hydrants should not be located more than 1000 feet from any dwelling units within a major subdivision. Subdivisions protected by dry hydrants shall be
designed with two entrances (maintained year round) to facilitate fire department tanker shuttle operations. Access roads for dry hydrants must be maintained year round. Dry hydrants shall be connected to one of the following:

(a) Fire Pond: A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including drought and freezing temperatures. Fire ponds must have been constructed prior to October 6, 2003 to qualify. No new fire ponds will be allowed.

(b) Underground Storage Tanks: A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications under this section shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

107.2 Additional Requirements: The fire department may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet. Additional requirements may include fire sprinkler protection, additional fire hydrants, building construction design(s) intended to reduce the spread of fire, or other accepted engineering practices. The Planning Board shall approve the fire department’s recommendation on any project being reviewed by the Planning Board.

107.2 Distances All distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial building including the driveway.
108. CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

109. SEPARABILITY

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

110. EFFECTIVE DATE

The effective date of this Ordinance shall be __________, 2004.

111. REVIEW PROCEDURE

This Ordinance shall be reviewed by the Town Council in __________, 200 to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 11.

112. AMENDMENTS

An amendment to this Ordinance may be initiated by one of the following:

112.1 The Planning Board.

112.2 The Town Council.

112.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

113. VIOLATIONS

113.1 A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet or a residential dwelling unit in a major subdivision, without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.
113.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet or new residential dwelling unit in a major subdivision until such approval has been duly issued.

114. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

115. PENALTIES

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet or any new residential dwelling unit in a major subdivision being constructed or occupied in violation of this chapter shall be liable to be fined not less than $100 or more than $2,500 for each day such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

115.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been built in violation of this chapter and is then occupied the owner may be fined as provided in Section 14 A. of this Ordinance.

116. APPEALS

The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.
Nadeen Daniels

From: D Small
Sent: Thursday, July 29, 2004 2:31 PM
To: Chris Neagle; Carla Nixon
Cc: Nadeen Daniels; William Shane
Subject: ordinance with definition

Chris,

Attached is the ordinance with the multi-family definition.

Regards,
Dan

Daniel R. Small, Chief
Cumberland Fire Department
366 Tuttle Road
Cumberland, ME 04021

Office # (207) 829-5421
Pager # (207) 821-5187
Fax # (207) 829-4256

www.cumberlandmaine.com
www.cfdssquad1.com

7/29/2004
Bill and Carla,

Attached is the fire protection ordinance with the changes requested by the Planning Board at their June meeting. Carla, could you please review with your meeting notes to make sure I have not missed any of their desired improvements. I am at a loss on how to word the penalties section. Therefore, unless there is other precedent already existing within the zoning ordinance, I am suggesting that possibly the council determine how the penalty section should be worded.

I have worked on the document from my home and work computers so for some reason the colors for tracking the changes are blue and red.

Thanks,
Dan
Fire Protection Ordinance

101. TITLE

This Ordinance shall be known as the “Fire Protection Ordinance of the Town of Cumberland, Maine” and shall be referred to herein as the “Ordinance.”

102. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial buildings.

103.1 To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

103.2 To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

103.3 To better facilitate the needs of a volunteer fire department response.

103.4 To ensure that sound engineering practices are utilized when installing fire protection systems.

104. DEFINITIONS

Approved: Acceptable to the authority having jurisdiction (AHJ).

Authority Having Jurisdiction: The organization, office, or individual responsible for approving equipment, materials, an installation, or a procedure.

Commercial Property: Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

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DRAFT

July 5, 2004
Dry Hydrant: A drafting source for fire department apparatus connected to either an underground storage tank, a fire pond, or any other body of water. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designees, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items. Access roads must be maintained year round and will be the responsibility of the developer. Dry hydrants should not be located more than 1000 feet from any dwelling units within a major subdivision. Additional dry hydrants may need to be added in order to keep the hydrant spacing to less than 1000 feet.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

Fire Pond: A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including drought and freezing temperatures. Ponds to be considered shall have been in place prior to October 6, 2003. All applications shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the fire pond and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

Deleted: a

Deleted: May 24

Page 2 of 7  DRAFT  July 5, 2004
Major Subdivision: A Town of Cumberland Planning Board proposed subdivision with 5 or more dwelling units.

Minor Subdivision: A Town of Cumberland Planning Board proposed subdivision with 4 or less dwelling units.

Monitored Fire Alarm System: An approved automatic fire alarm system, with battery backup, shall be capable of detecting the presence of elevated heat temperatures, smoke conditions or sprinkler system water flow within a building and have the capability of calling an approved fire alarm monitoring company. The system shall meet all of the requirements as outlined in the National Fire Alarm Code.

Public Water System: Water system maintained by the Portland Water District, including water mains and fire hydrants.

Sprinkler System: An approved automatic fire protection sprinkler system shall be capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to be permitted by the State Fire Marshal's Office prior to installation.

Subdivision: A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review shall not be considered a lot in a subdivision. Adopted June 28, 2000 [Amended 3/26/01] [Amended 12/17/01, effective 1/1/02]

Underground Storage Tank(s): A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the underground storage tank(s), spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

Page 3 of 7  DRAFT  July 5, 2004
105. **APPLICABILITY**

This Ordinance shall apply to all new commercial properties in excess of 4000 square feet and all new residential dwelling units in major subdivisions (including manufactured housing) within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland. The Planning Board, after review by the fire department, may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet. Additional requirements may include, but shall not be limited to, fire sprinkler protection, additional fire hydrants, building construction design(s) intended to reduce the spread of fire, or other accepted engineering practices.

106. **EXEMPTIONS**

This Ordinance shall not apply to the following:

106.1.1 The repair, replacement, reconstruction or alteration of any existing building or structure provided the number of units is not increased, regardless of the need for a variance.

106.1.2 Minor Subdivisions, and any new residential units that are not located within a major subdivision (5 or more dwelling units).

107. **ADMINISTRATION**

107.1 All new commercial properties in excess of 4000 square feet and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following subsections:

107.1a: An extension of the public water system with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).

107.1b: An Approved Automatic Sprinkler System

107.1c: One or more dry hydrants connected to one of the following may be allowed:

107.1c1: Fire Ponds (Pre-existing as of October 6, 2003)
107.1.c2: Underground storage tank(s)

107.1.c3: Dry hydrants attached to fire ponds, underground storage tanks, or other bodies of water should not be located more than 1000 feet apart or from any dwelling units within a major subdivision. Additional dry hydrants may need to be added in order to keep the hydrant spacing to less than 1000 feet.

107.2 Distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial property including the driveway.

108. CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

109. SEPARABILITY

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

110. EFFECTIVE DATE

The effective date of this Ordinance shall be Month/Day/Year.

111. REVIEW PROCEDURE

This Ordinance shall be reviewed by the Town Council in Month/Year to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 11.

112. AMENDMENTS

112.1. An amendment to this Ordinance may be initiated by one of the following:
112.1.1 The Planning Board.

112.1.2 The Town Council.

112.1.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

113. VIOLATIONS

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet or a residential dwelling unit in a major subdivision, without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.

113.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet or new residential dwelling unit in a major subdivision until such approval has been duly issued.

114. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

115. PENALTIES

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet or any new residential dwelling unit in a major subdivision being constructed or occupied
in violation of this chapter may be liable to be fined (to be determined by Town Council) when such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

115.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been built in violation of this chapter and is then occupied the owner may be fined as provided in Section 14A of this Ordinance.

116. APPEALS

116.1. The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.
Fire Protection Ordinance

101. TITLE

This Ordinance shall be known as the “Fire Protection Ordinance of the Town of Cumberland, Maine” and shall be referred to herein as the “Ordinance.”

102. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial buildings.

103.1 To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

103.2 To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

103.3 To better facilitate the needs of a volunteer fire department response.

103.4 To ensure that sound engineering practices are utilized when installing fire protection systems.
104. DEFINITIONS

Commercial Property: Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

Major Subdivision: A subdivision with 5 or more dwelling units.

Minor Subdivision: A subdivision with 4 or fewer dwelling units.

Multi-Family Dwellings: A building used or intended for residential use containing more than two attached dwelling units.

Public Water System: Water system maintained by the Portland Water District, including water mains and fire hydrants.

Subdivision: A subdivision shall be defined by 30-A M.R.S.A. § 4401, as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review, shall not be considered a lot in a subdivision.

105. APPLICABILITY

This Ordinance shall apply to all new commercial buildings in excess of 4000 square feet, all multi-family dwellings, all new residential dwelling units in major subdivisions (including manufactured housing), or any other buildings outlined in this ordinance within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland.
106. EXEMPTIONS

This Ordinance shall not apply to the following:

106.1 The repair, replacement, reconstruction or alteration of any existing building or structure, provided the number of dwellings units is not increased.

106.2 Any new single family residential dwelling units that are not located within a major subdivision.

107. ADMINISTRATION

107.1 Basic Requirements: All new commercial buildings in excess of 4,000 square feet, all new multi-family dwellings, and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following three subsections:

a. **Public Water Hydrant:** An extension of the Public Water System with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).

b. **Automatic Sprinkler System:** An automatic fire protection sprinkler system, approved by the Fire Department, capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to have a permit issued by the State Fire Marshal's Office prior to installation.

c. **Dry Hydrant:** A water drafting source for fire department apparatus connected to either an underground storage tank or a body of water as described below. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designated agents, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items.

Dry hydrants shall be located within 1000 feet of any dwelling units within a major subdivision.
(i) **Fire Pond:** A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including drought and freezing temperatures. Fire ponds must have been constructed prior to October 6, 2003 to qualify. No new fire ponds will be allowed after the effective date of this ordinance.

(ii) **Underground Storage Tanks:** A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications under this section shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

107.2 Additional Requirements: The fire department may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet. Additional requirements may include fire sprinkler protection, additional fire hydrants, building construction design(s) intended to reduce the spread of fire, or other accepted engineering practices. The Planning Board shall approve the fire department’s recommendation on any project being reviewed by the Planning Board.

107.2 Distances All distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial building including the driveway.

108. **CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES**

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.
109. **SEPARABILITY**

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

110. **EFFECTIVE DATE**

The effective date of this Ordinance shall be **[Date]**, 2004.

111. **REVIEW PROCEDURE**

This Ordinance shall be reviewed by the Town Council in **[Date]**, 2004 to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 11.

112. **AMENDMENTS**

An amendment to this Ordinance may be initiated by one of the following:

112.1 The Planning Board.

112.2 The Town Council.

112.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

113. **VIOLATIONS**

113.1 A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet, a residential dwelling unit in a major subdivision, or any other building outlined in this ordinance without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.

113.2 If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet, new residential dwelling unit in a
major subdivision, or any other building outlined this ordinance until such approval has been duly issued.

114. **NOTICES OF VIOLATIONS; LEGAL ACTION**

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

115. **PENALTIES**

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet, any new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance being constructed or occupied in violation of this chapter may be liable to be fined [to be determined by the Town Council] when such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

115.2. If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been built in violation of this chapter and is then occupied the owner may be fined as provided in Section 14 A. of this Ordinance.

116. **APPEALS**

The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.
Hi Terry -

Here is the Fire Protection material you've requested.

Nadeen

ndaniels@cumberlandmaine.com
# Activity Report

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The Historical Society has made a request for financial assistance ($5,000 or really any amount) for Building Repairs to their structure on Blanchard Road. I have attached a copy of their recent Construction Evaluation by Criterium Engineers.
CONSTRUCTION EVALUATION

Cumberland Historical Society
Blanchard Road
Cumberland, Maine
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5.0  CONCLUSION ............................................................................................................. 4  

APPENDIX A – PHOTOGRAPHS  
APPENDIX B – RESUME
1.0 INTRODUCTION

At the request of Ms. Carolyn Small, an evaluation of the floor framing condition at the Cumberland Historical Society building at Blanchard Road, Cumberland, Maine was conducted to determine the cause of the sagging floor.

The investigation was conducted by, and this report written by, James P. Stump, P.E., Chief Engineer of Criterium – Mooney Engineers. A copy of his resume is included in Appendix B to this report.

2.0 DESCRIPTION

For clarification, for the purposes of this report, we consider the front of the building to be the side facing Blanchard Road. Therefore, all directions (left, right, front, rear, etc.) are based on that assumption.

The building was constructed in the mid-1800s as a school. It is a one-story brick building with a stone foundation. (See photo 1, Appendix A.)

3.0 STANDARDS AND LIMITATIONS

The following are some limitations inherent in this type of inspection. Please note them carefully.

This inspection report is limited to observations made from visual evidence and discussions with Carolyn Small. No destructive or invasive testing was performed. The report is not to be considered a guarantee of condition and no warranty is implied.

As Professional Engineers, it is our responsibility to evaluate available evidence relevant to the purpose of the evaluation. We are not, however, responsible for conditions that could not be seen or were not within the scope of our services at the time of the inspection.

For your reference while reading the report that follows, the following definitions may be helpful:

*Average* - Average compares the item to what is typical for construction in the geographic area in which the inspection occurs. It also compares it to buildings of similar age and construction type. Since construction practices vary from region to region, average is intended to be region specific.

*Excellent* - Component or system is in "as new" condition, requiring no rehabilitation, and should perform in accordance with expected performance.
Good - Component or system is sound and performing its function, although it may show signs of normal wear and tear. Some minor rehabilitation work may be required.

Fair - Component or system falls into one or more of the following categories: a) Evidence of previous repairs not in compliance with commonly accepted standards, b) Workmanship not in compliance with commonly accepted standards, c) Component or system is obsolete, d) Component or system approaching end of expected performance. Repair or replacement is required to prevent further deterioration or to prolong expected life.

Poor - Component or system has either failed, or cannot be relied upon to continue performing its original function as a result of having exceeded its expected performance, excessive deferred maintenance, or state of disrepair. Present condition could contribute or cause the deterioration of other adjoining elements or systems. Repair or replacement is required.

All ratings are determined by comparison to other buildings of similar age and construction type. Further, some details of workmanship and materials will be examined more closely in higher quality homes where such details of workmanship and materials typically become more relevant.

This inspection and report do not include code compliance, mold investigation, environmental investigation, indoor air quality analysis, municipal regulatory compliance, subsurface investigation, or records research related to this building.

4.0 OBSERVATIONS AND RECOMMENDATIONS

A site inspection was conducted by James P. Stump, P.E. on July 13, 2004. Carolyn Small provided access to the building property and provided valuable information about the building and the floor sag condition.

We noted a significant slope in the floor of the front portion of the building, i.e. the exhibit room, on the left side. The slope extends from a location approximately two-thirds of the length of the room from the front. The floor slopes to this location from the front, rear and middle of the room.

There is a progressive separation of the wall from the floor (See photo 2) along the left wall that outlines the floor slope.

There was no unusual distortion of the left wall and we noted no significant cracking of the wall or ceiling finishes that reflected the floor slope. This was an indicator that the wall and its support was not a contributor to the condition.
There is a crawl space under the front portion. We accessed the crawl space through a floor hatch at the right side of the front hallway. Although our access to portions of the crawl space was limited by the presence of metal heat duct, the entire space was visible.

In the crawl space we noted that the foundation is large granite blocks mortared in place (See photo 3). The floor of the crawl space is dirt. There was considerable debris on floor, e.g. brick, glass, tool parts, wood scraps, etc.

The granite foundation was generally in good condition. We noted no significant distortion or displacement of the blocks. In some locations, the mortar has disintegrated and fallen out. Some previous repair work had been done.

The floor framing is timber framed. Wood boards that were nailed to the underside of the floor framing to retain insulation limited visibility of the floor framing (See photo 4). It appears that the floor framing consists of three lines of 8x8 beams running left to right evenly spaced along the length (front to back) of the floor. The beams support 4x4 joists.

The 8x8 beams are supported by loose-laid stone piers (See photo 5 for typical). Although we noted no collapse or significant displacement of the piers, the Society should consider rebuilding these piers to provide a more stable support for the beams.

In the few locations where the floor framing was visible, with the exception of the locations discussed below, we noted no areas of significant decay in the floor framing. However, it should not be assumed that no rot exists in any of the inaccessible areas. Rot can result from moisture accumulating underneath the siding, behind trim, or within the wall or floor cavities should the normal drying process be restricted by insulation or other obstacles. Therefore, it is possible that you will encounter some rot in the course of repair or maintenance work that involves disassembly of the portions of this structure normally inaccessible to visual inspection. This is typical for any building of this type and age.

We noted that the left end of the third line of 8x8 beams has dropped (See photos 6 & 7). This location is directly below the low spot in the floor slope above. The end of the beam is broken and crushed. This damage to the beam is likely the result of decay at the end of the beam. The beam adjoins the stone foundation in an unfortunate location, that is, at the joint of two stone blocks. This increases its vulnerability to losing support. The 8x8 beams set directly on the stone foundation and are vulnerable to high moisture conditions that lead to decay.

Some previous effort to bolster this beam end has been done. A short wood column piece was inserted to provide some support. This temporary support is vulnerable to collapse at any time, which would likely cause the floor to drop further.

This drop of the 8x8 beam has caused the slope in the floor evident above. It has allowed the adjoining joists to also drop resulting in the sag of the entire area adjacent to the beam. We recommend that the 8x8 beam be replaced from the wall to the stone pier. This will entail temporary...
support of the adjoining joists. While it would be possible to do this repair work from below, it would best be done from above, which would include removal of a portion of the wood flooring and underlayment. Removal of the flooring is likely to result in the need for replacement of some flooring pieces. Matching the existing flooring will be difficult, at best, but repair from above will effect the most satisfactory structural repair.

We noted that the left end of the second line 8x8 beam has dropped due to decay at the end (See photo 8). We recommend that this beam end be repaired as well. The extent of damage at this location is not as advanced as that discussed above and, therefore, a splice repair from below may be possible. This would limit the amount of flooring removal necessary.

For consideration, clearing the crawl space floor of debris, installing a polyethylene vapor barrier, and providing some level of ventilation of the crawl space would reduce the amount of moisture migrating to the framing from below and would reduce the likelihood of future decay in the floor framing.

5.0 CONCLUSION

In summary, our inspection of the floor sag condition revealed a broken beam. We have recommended that the beam be replaced. In addition, we noted a beam with a damaged end and have recommended that it also be repaired.

It has been a pleasure working with you on this project. Thank you for the opportunity to provide you with this engineering service. Please call if you have any questions.

Sincerely,

James P. Stump, P.E.
Chief Engineer

Cumberland Historical Society, Blanchard Road, Cumberland, Maine
APPENDIX A

PHOTOGRAPHS
**Number 1.**

**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Building Front

---

**Number 2.**

**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Wall/Floor Separation
**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Stone Block Foundation

---

**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Wood Boards on Framing
**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Stone Pier, Typical

Number 5.

---

**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Broken Beam

Number 6.
**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Broken Beam

---

**Location:**
Blanchard Road
Cumberland, Maine

**Photo Taken By:**
James Stump, P.E.

**Date:**
July 13, 2004

**Description:**
Dropped Beam
APPENDIX B
RESUME
JAMES P. STUMP, P.E.

Areas of Expertise

Mr. Stump is Chief Engineer at Criterium – Mooney Engineers.

He has over 23 years experience in construction engineering, including over ten years as Project Manager/Engineer with Criterium – Mooney Engineers, four years as Capital Projects Manager on renovation and new construction projects at Bowdoin College, and eight years as self-employed building engineer/contractor.

Qualifications

The following are some projects that Mr. Stump has worked on recently:

- Freeport Outlet Mall, Freeport, ME – Property Condition Assessment and Environmental Site Assessment.
- Kings Wood Park Condominium, South Portland, ME – Building Evaluation and Reserve Fund Study.
- Maine Medical Center, Portland, ME – Commercial Construction Evaluation.
- 164 Deep Cove Road, Raymond, ME – Residential Construction Evaluation.
- 245 Commercial St., Portland, ME – Construction Management.
- St. Clair Condominium, Houston, TX – Building Evaluation and Reserve Fund Study.

The following are some of the projects for which Mr. Stump served as project manager at Bowdoin College in Brunswick, Maine:

- New Residence Hall/Dining Commons – Renovation/addition to 47,000 sq.ft. facility
- Chapel Renovation – Interior renovation of chapel originally built in mid-1800s
- New Squash Courts Building – 12,432 sq. ft. facility
- Fraternity Renovations – Renovation of three former fraternity buildings

Mr. Stump was project engineer for the following projects, among others, at Criterium – Mooney Engineers:

- Fort Knox Restoration, Prospect, ME
- Bates Mill Restoration, Lewiston, ME

Other design and construction engineering projects Mr. Stump has been involved in include:

- Kenmore Tower, Boston, MA
- Bar Harbor Ferry Terminal, Bar Harbor, ME
- Norman High School North, Norman, OK
- Mohegan Casino, Uncasville, CT

Education

M.S. Environmental and Resource Engineering, State University of New York
B.A. College of Wooster, Wooster, Ohio

Professional Registrations and Memberships

Professional Engineer, State of Maine, No. 8681
September 7, 2004

TO: TOWN COUNCIL MEMBERS

FROM: NADEEN DANIELS, TOWN CLERK

RE: APPOINTMENT OF WARDENT FOR 9/21/04 ELECTION

I am requesting you appoint me as Warden for the mainland polling place during the election of September 21, 2004. State law states “it does not constitute an incompatibility of office for the clerk to serve as Warden,” even as a non-resident clerk. I expect the day will be extremely slow and feel the cost can be lowered slightly if I reduce the usual number of poll workers to the minimum allowed, and personally serve in the role of Warden. With that said, however, I still anticipate this election to cost in the vicinity of $2,900.
$501. Wardens and ward clerks

1. In a city. In a city, the selection, term of office, compensation and partial duties of wardens and ward clerks are determined by the city charter. Additional duties are prescribed by this Title. [1987, c. 188, §4 (amd).]

2. In a town. In a town, with the approval of the municipal officers, the clerk of the municipality shall appoint a warden and may appoint one or more deputy wardens to assist in the duties on election day. If the clerk appoints another person as warden, the clerk may serve as deputy warden. It does not constitute an incompatibility of office for the clerk to serve as warden or deputy warden. The warden and deputy warden are entitled to a reasonable compensation as determined by the municipal officers. [1995, c. 459, §32 (amd).]

3. Provisions applicable to both towns and cities. A warden, ward clerk or any deputy warden may not be an officer of a municipal committee of a political party. Ward clerks or deputy wardens shall perform the duties of the warden when necessary and may not replace election clerks prescribed by this Title. The warden, ward clerk and deputy wardens must be registered voters of the municipality, except when a nonresident clerk is acting as either warden, ward clerk or deputy warden. Before assuming the duties of office, the warden is sworn by the municipal clerk, and the ward clerk or deputy warden is sworn by the municipal clerk or by the warden. [2001, c. 310, §27 (amd).]

Section History:
PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 188, §4 (AMD).
PL 1995, Ch. 459, §32 (AMD).
PL 1997, Ch. 436, §65 (AMD).
PL 2001, Ch. 310, §27 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes
7 State House Station
State House Room 108
Augusta, Maine 04333-0007

This page created on: 2003-11-08

http://janus.state.me.us/legis/statutes/21-A/title21-Asec501.html
§505. Municipal clerk

The clerk of the municipality is the supervisor of all elections and is entitled to a reasonable compensation as determined by the municipal officers and has the following duties: [1995, c. 459, §34 (new).]

1. Absentee voting. Administer the absentee voting procedures; [1995, c. 459, §34 (new).]

2. Instruction. Instruct election officials on election laws and procedures prior to election day; [1995, c. 459, §34 (new).]

3. Election officials. Coordinate and schedule election officials to work at the polls on election day; [1995, c. 459, §34 (new).]

4. Poll watchers and others. Make arrangements in advance of election day for poll watchers, petition circulators and others who request to be present at the polls; [1995, c. 459, §34 (new).]

5. Election materials and equipment. Prepare and deliver to and from the polls all election equipment and materials, including the ballots; [1995, c. 459, §34 (new).]

6. Advise warden. Advise the warden on election laws and procedures on election day; [1995, c. 459, §34 (new).]

7. Return of votes cast. Report the return of votes cast to the Secretary of State; [2001, c. 415, §3 (amd); §5 (aff).]

7-A. Training. Attend a training session that is approved by the Secretary of State at least once every 2 years in regard to the conduct of elections. The Secretary of State shall offer training sessions regionally at least once every 2 years at no fee. The Secretary of State shall encourage municipalities to provide training biennially to all election officials; and [2001, c. 415, §4 (new); §5 (aff).]

8. Other duties. Perform any other duties required for conducting an election. [1995, c. 459, §34 (new).]

Section History:
PL 1995, Ch. 459, §34 (NEW).
PL 2001, Ch. 415, §3, 4 (AMD).
PL 2001, Ch. 415, §5 (AFF).
§662. Warden

A warden has the following powers and duties. [1985, c. 161, §6 (new).]

1. Enforcement of election law. He shall enforce the law governing voting and counting procedures at the voting place over which he has jurisdiction on election day. [1985, c. 161, § 6 (new).]

2. Order at voting place. He shall keep order at all times in and around the voting place. He shall direct that any person who creates a disturbance or otherwise violates the law at the voting place be removed from it and, if necessary, confined until the polls are closed.

   A. On request of the warden, a peace officer shall remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place. [1985, c. 161, § 6 (new).] [1985, c. 161, § 6 (new).]

3. Control of election clerk. The election clerks at the voting place are under the supervision and control of the warden. He may assign their duties for convenience and efficiency and may delegate his ministerial duties to them. [1985, c. 161, § 6 (new).]

4. Collection of signatures. The warden may select and designate a specific location at the voting place, accessible and observable by the voters, where the collection of signatures may take place. Persons collecting signatures at the polls may make arrangements with the clerk prior to election day and with the warden on election day. The warden may limit the number of persons collecting signatures to one for each specific question, candidate or issue. Persons collecting signatures may not solicit a voter's signature until the voter has completed voting. The warden may direct the removal, under subsection 2, paragraph A, of any person collecting signatures who does not comply with the requirements of this subsection. [1995, c. 459, §57 (amd).]

Section History:
PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 225, § (AMD).
PL 1995, Ch. 459, §57 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a
Council Agenda Item

To Act on proposed Consent Agreement with James M. and Bethany G. Hanley regarding porch setback violation at 288 Blanchard Road, Cumberland. (Town Assessor Map R07, Lot 92)

Order

ORDERED that the Consent Agreement between James M. and Bethany G. Hanley and the Town of Cumberland be approved on payment by the Hanleys of $__________ representing the Town’s attorney’s fees and costs; be it further ORDERED that the Code Enforcement Officer is authorized and directed to execute the agreement on behalf of the Town in substantially the form as attached hereto.

CONSENT AGREEMENT

This Consent Agreement is entered into on this ___ day of August, 2004 by and between James M. Hanley and Bethany G. Hanley, resident individuals who own property located at 288 Blanchard Road, Cumberland, Maine (the “Hanleys”) and the Town of Cumberland, a municipal corporation located in the County of Cumberland and the State of Maine (the “Town”).

The Hanleys and the Town stipulate to the following facts.

1. The Town is a municipal corporation organized under the laws of the State of Maine. William Longley is the duly authorized Code Enforcement Officer of the Town and authorized under state law to administer and enforce the Town’s Zoning Ordinance.

2. In 1998, Linda Monko constructed a home at 288 Blanchard Road in Cumberland, Maine (the “Property”). The Property is located on 2.77 acres of land and includes a single family residence with a screened-in porch measuring 8x12. The building permit makes no mention of the porch. However, the porch was present when the certificate of occupancy was issued and included on the original property record card. The Property is shown on the Town’s Assessor Map as R07/92.

3. In 1998, the company hired to build the Property and/or Ms. Monko met with Robert Littlefield, the then current building inspector employed by the Town, to discuss the location of the house on the land. An annotated plot plan (the “Approved Plot Plan”) was prepared showing how the setback lines were to be measured. This Approved Plot Plan, a copy of which is attached as exhibit A, shows that the setback should be measured at a 90 degree angle from the house, resulting in a setback of 110 feet. The Approved Plot Plan bearing Mr. Littlefield’s signature included the following statement:

“Building Inspector of Cumberland recognizes that this procedure for establishing the front, rear, and side setbacks is accurate as show on this plot plan.”

4. The Zoning Ordinance requires a structure to be 75 feet from the backline.

5. The house and porch meet the setback requirements outlined in the Approved Plot Plan on record in the Town’s building file.

6. The Hanleys purchased the home in 2001 from Ms. Monko. She did not disclose that the porch was not included in the building permit. The Hanleys did not order a survey.

7. The Hanleys are in the process of selling the Property. The anticipated buyer is Janice McGrath.
8. Ms. McGrath ordered a property survey. The surveyor concluded that the porch was 71.5 feet from the backline by taking a 45 degree angle from the porch to the backline of the lot.

9. It is uncertain whether the angle of measurement in the surveyor’s measurement of 71.5 feet or the Approved Plot Plan of 110 feet is the proper measure of the distance between the porch and the backline.

10. Notwithstanding the foregoing dispute over the angle of measurement from the porch to the lotline, or the lack of evidence that the porch was included in the original building permit, the Code Enforcement Officer has investigating the case and has determined that even if there is a setback or building permit violation, these violations do not result in any significant health, safety, or welfare problem.

11. The Hanleys agree to pay the Town’s attorneys fees and costs associated in the amount of $_____. Such payment shall be made payable to the Town of Cumberland.

12. The existing house and porch shall be allowed to remain and be repaired in their current location.

13. The Town agrees to relinquish its rights to prosecute the Hanleys, their successors in real property interest, assigns and heirs, for any alleged violation arising from the setback or building permit disputes arising from the construction or location of the porch.

14. This Consent Agreement shall be binding upon the Hanleys, their successors in real property interest, assigns and heirs and it shall be duly recorded by the Hanleys in the Cumberland County Registry of Deeds within 30 days with a copy of the recorded instrument to be provided to the CEO.

14. At a meeting of the Town Council on September 13, 2004 [through the administrative process] the Town approved this resolution of the alleged zoning violation based upon the terms and conditions set forth in this Agreement and authorizes the CEO to sign this Consent Agreement on behalf of the Town.

Signature Page Follows
In Witness Whereof, the undersigned have executed this Agreement on the date appearing beside their names below.

Date: August __, 2004

__________________________________
James M. Hanley

Date: August __, 2004

__________________________________
James M. Hanley

TOWN OF CUMBERLAND

Date: August __, 2004

__________________________________
William Longley

State of Maine
Cumberland, ss

Then personally appeared before me James M. Hanley and Bethany G. Hanley and acknowledged the foregoing instrument to be their free act and deed.

Before me,

__________________________________
Attorney at Law / Notary
Print Name:
My Commission Expires:

State of Maine
Cumberland, ss

Then personally appeared before me William Longley and acknowledged the foregoing instrument to be their free act and deed.

Before me,

__________________________________
Attorney at Law / Notary
Print Name:
Re: Hanley Consent Agreement

Dear Bill:

Thank you for forwarding me the draft of the Hanley Consent Agreement. I have reviewed the same. Please accept this as my formal opinion for delivery at the Council meeting on September 13th, that Mr. Hanley has done an excellent job of drafting the Consent and laying out the issues involved. I do not have any suggested revision and would emphasize that Mr. Littlefield’s decision in 1998 to interpret the setback at a right angle from the structure rather than at the 45° angle that the recent survey showed was within his discretion at the time. However, if Mr. Hanley’s purchasers want absolute confirmation that the Town will not consider the porch construction and setback to be in violation, this is the appropriate method. Although the Hanleys could take an interpretation of this appeal to the Zoning Board to confirm Mr. Littlefield’s interpretation of the ordinance, this is probably the most direct solution and I would recommend that the Council approve the Consent Agreement.

If there is anything further that you need from me, please let me know.

Very truly yours,

Kenneth M. Cole III

KMC/ab

~ Over 50 Years of Service ~
BUILDING INSPECTOR OF CUMBERLAND recognises that this procedure for establishing the front, rear and side setbacks is accurate as shown on this plot plan. — Signed — [Signature]

TO SCALE
August 24, 2004

William R. Shane, Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland, ME 04021

Re: Hanley Consent Agreement

Dear Bill:

Thank you for forwarding me the draft of the Hanley Consent Agreement. I have reviewed the same. Please accept this as my formal opinion for delivery at the Council meeting on September 13th, that Mr. Hanley has done an excellent job of drafting the Consent and laying out the issues involved. I do not have any suggested revision and would emphasize that Mr. Littlefield’s decision in 1998 to interpret the setback at a right angle from the structure rather than at the 45° angle that the recent survey showed was within his discretion at the time. However, if Mr. Hanley’s purchasers want absolute confirmation that the Town will not consider the porch construction and setback to be in violation, this is the appropriate method. Although the Hanleys could take an interpretation of this appeal to the Zoning Board to confirm Mr. Littlefield’s interpretation of the ordinance, this is probably the most direct solution and I would recommend that the Council approve the Consent Agreement.

If there is anything further that you need from me, please let me know.

Very truly yours,

Kenneth M. Cole III

KMC/ab

~ Over 50 Years of Service ~
Jim,

The Town Attorney and I are recommending approval. I never like to predict how the Town Council will vote, but in this case the circumstances and interpretation by a former Code Officer lead me to believe a positive vote is likely.

Bill

William R. Shane, P.E.
Town Manager
290 Tuttle Road
Cumberland, Maine 04021

(207) 829-2205 Phone
(207) 829-2224 FAX
wshane@cumberlandmaine.com

-----Original Message-----
From: Jim Hanley [mailto:jhanley@AtlanticNationalTrust.com]
Sent: Thursday, August 26, 2004 9:08 AM
To: William Shane
Subject: RE: Hanley - 288 Blanchard Road

Bill,

Thanks for getting me on the Agenda. Do you have a feel for how the Board will rule. If you can't say, do you mind if I contact Town's attorney to see what he or she will recommend. I look forward to your response.

Regards,

Jim

-----Original Message-----
From: William Shane [mailto:wshane@cumberlandmaine.com]
Sent: Tuesday, August 24, 2004 7:47 AM
To: Jim Hanley
Cc: kcole@jbgf.com
Subject: RE: Hanley - 288 Blanchard Road

Thank you Jim,

You will be on the Sept. 13th agenda, I found out late yesterday it will require Town Council action. The fee will be between $500 - $1,000 (since you did all the preliminary work I believe it will be on the lower end).

I have forwarded the Documents to our Attorney and will ask that you or a representative be present on Sept. 13th.

Thank you,

Bill
William R. Shane, P.E.
Town Manager
290 Tuttle Road
Cumberland, Maine 04021

(207) 829-2205 Phone
(207) 829-2224 FAX
wshane@cumberlandmaine.com

-----Original Message-----
From: Jim Hanley [mailto:jhanley@AtlanticNationalTrust.com]
Sent: Monday, August 23, 2004 6:32 PM
To: William Shane
Subject: Hanley - 288 Blanchard Road

Dear Bill,

Thanks for your call today. I most appreciate your common sense, practical approach to this situation. I have attached a draft consent agreement and exhibit. Please let me know what additional information you will require. My contact information is provided below.

Regards,

James M. Hanley, Esq., CPA
CFO/General Counsel
Capital Servicing, Inc.
50 Portland Pier, Suite 400
Portland, ME 04101
Phone (207) 828-1080
Facsimile (207) 828-1048
E-mail: jhanley@atlanticnationaltrust.com

<<CONSENT AGREEMENT 082304.doc>>  <<Ex. A Approved Plot Plan.pdf>>
As requested, here is a copy of the original.

Thanks!

Nadeen
September 7, 2004

TO: TOWN COUNCIL MEMBERS

FROM: NADEEN DANIELS, TOWN CLERK

RE: APPOINTMENTS RE: WINTER ROAD MAINTENANCE

I advertised for openings for this committee as you requested at the last council meeting. We have received interest from the following individuals:

Susan Bisbing, Spruce Lane
Thomas Hinman, 55 Range Road
Greg Poitras, 5 Gayles Way
Ted Chadbourne, 50 Stockholm Drive

I am running the ad again in the 9/9 edition of the Forecaster.
I am volunteering to be a member of the above committee. If you would let me know one way or the other if I am on the committee and when the first meeting is, I would appreciate it. Thank you, Susan Bisbing
Nadeen Daniels

From: William Shane
Sent: Thursday, September 09, 2004 6:50 AM
To: 'Bob Simonds'
Cc: Nadeen Daniels
Subject: RE: Plowing Private Roads

You're on the list!

Thank you,

Bill

William R. Shane, P.E.
Town Manager
290 Tuttle Road
Cumberland, Maine 04021

(207) 829-2205 Phone
(207) 829-2224 FAX

wshane@cumberlandmaine.com

-----Original Message-----
From: Bob Simonds [mailto:bsimonds@maine.rr.com]
Sent: Wednesday, September 08, 2004 7:44 PM
To: William Shane
Subject: Plowing Private Roads

Is the Town still soliciting names of people interested in participating in the committee to review this item?
If so, please contact me
Thank you,

Bob Simonds
269 Bruce Hill Road
Cumberland, ME 04021
207 829-2066 phone/fax
207 318-6862 Cell Phone
CONTRACT ZONING AGREEMENT
BETWEEN DR. LOUIS HANSON AND
THE TOWN OF CUMBERLAND

This Contract Zoning Agreement, made this _____ day of _______ 2004, by and between the TOWN OF CUMBERLAND, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter “the Town”) and DR. LOUIS HANSON, (address).

WHEREAS, Dr. Louis Hanson ("Dr. Hanson") is the owner of a parcel of real estate located at 371 Tuttle Road in Cumberland, Maine, further described as Lot 4 on the Tax Assessor’s Map U11, consisting of 1.8 acres (hereinafter “the Property”); and

WHEREAS, the Property is currently located in the Medium Density Residential District as established by the Town's Zoning Ordinance; and

WHEREAS, the property is currently improved with two structures, a front building containing a medical office and a single dwelling unit and a rear building containing one dwelling unit; and

WHEREAS, Dr. Hanson seeks to replace the existing rear building with a new four dwelling-unit apartment building with rents to be maintained at an affordable level; and

WHEREAS, the current zoning of the property would not permit the creation of the number of units proposed by Dr. Hanson; and

WHEREAS, the Town seeks to encourage the development of affordable housing and is working on the development of a plan for affordable housing in the Town center; and

WHEREAS, the Property is served by public water and sewer; and

WHEREAS, the Town and Dr. Hanson seek to recognize the historic character of the Property and Dr. Hanson has provided to the Town interior and exterior photographs of the historic Property; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A.M.R.S.A. §4352(8) and Section 606 of the Cumberland Zoning Ordinance; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Cumberland Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the Town’s Comprehensive Plan, including but not limited to the Goals for Section 7 of the Plan, which seek to “encourage housing which provides for a mix of people from all income strata, long term residents, trade and professions” and “[e]ncourage development mechanisms to meet the requirements of the State Growth Management legislation”; and
restrictions on the use of the Property and shall be amended only upon further duly authorized amendment to this Agreement in accordance with all applicable provisions of law.

The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind Dr. Hanson, his heirs, successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Cumberland.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Cumberland and any applicable amendments thereto or replacement thereof. This Agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and Town Ordinance. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council shall have the authority, after written notice to Dr. Hanson and a reasonable opportunity to cure, to terminate the Agreement or rezone the Property Middle Density Residential or any successor zone. In such an event, the Property shall then be used only for such other uses as are otherwise allowed by law.

WITNESS:

__________________________

WITNESS:

__________________________

STATE OF MAINE
CUMBERLAND, ss

__________________________

Personally appeared the above-named William Shane, in his capacity as Town Manager for the Town of Cumberland, and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of the Town of Cumberland.

Notary Public/Attorney at Law
Notice of Decision

Date: July 21, 2004

To: Dr. Louis A. Hanson
371 Tuttle Road
Cumberland, ME 04021

Re: Recommendation to the Town Council on a proposed contract zoning for an increase in the number of rental units at 371 Tuttle Road, Tax Assessor Map U11, Lot 4, in the Medium Density Residential District.

This is to advise you that on July 20, 2004 the Planning Board voted to recommend the drafting of a contract zone to allow an increase in the number of rental units at 371 Tuttle Road with the following conditions:

1. Rents to be affordable as defined by the language of the contract zone. The affordable language must specify a mechanism for annual determination of affordable eligibility.
2. That the rental units be rented with preferential preference given to existing residents of the property; and Town and M.S.A.D.# 51 employees.
3. That the Planning Board reviews the project for Site Plan Review.
4. The architectural design shall be subject to design review to assure the historical architecture and integrity is maintained in the Center of Town.

Standard Conditions 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.

Cumberland Planning Board

Philip Hunt, Chair

Cc: Bill Shane, Cumberland Town Manager
Scott Decker, SYTDesign Consultants
Bob Vail
Date: July 15, 2004  
To: Planning Board  
From: Carla Nixon, Planning Director  
Subject: Contract Zoning Request for Dr. Hanson’s Property

You may have read about this in last week’s Forecaster, if not, Dr. Hanson’s cover letter clearly outlines his proposal. The Board is being asked to provide a recommendation to the Town Council on a proposal to renovate the existing carriage house behind Dr. Hanson’s office building into 4 affordable rental units. Currently there is one unit in this structure. The minimum lot size requirements do not permit this type of expansion, thus contract zoning is being proposed. You will find a memo I wrote for the Town Council describing the ways in which this proposal conforms to goals outlined in the current Comprehensive Plan.

If you have any questions, please call.
Nadeen Daniels

From: William Shane
Sent: Thursday, September 02, 2004 3:23 PM
To: 'Natalie L. Burns'; Carla Nixon
Cc: Pam Bosarge
Subject: RE: Updates

Natalie:

Thank you, I did not realize the extent of the legal requirements (It does makes a lot of sense). I'll ask Carla to proceed with the Notices and maps once the conditions are completed.

- Carla – you may want to give Doctor Hanson a heads-up too.
- Carla & Natalie- I’ll give the Council and Update on Sep 13th and hopefully we can get him back to the PB in September?

Thank you,

Bill

William R. Shane, P.E.
Town Manager
290 Tuttle Road
Cumberland, Maine 04021

(207) 829-2205 Phone
(207) 829-2224 FAX

wshane@cumberlandmaine.com

-----Original Message-----
From: Natalie L. Burns [mailto:nburns@JBGH.com]
Sent: Thursday, September 02, 2004 3:14 PM
To: William Shane; Carla Nixon
Subject: RE: Updates

Bill,

There is a special statutory notice requirement in 30-A M.R.S.A. Sec. 4352(8) for contract rezonings. The Planning Board has to hold a hearing and prior to it post a notice in the municipal office, publish it twice in the newspaper and send it to the property owner and all abutters. The notice has to include a map of the property and all of the proposed conditions and restrictions of the rezoning. The Planning Board’s role is still only recommendatory, but the statute requires the hearing and the notice.

Natalie

-----Original Message-----
From: William Shane [mailto:wshane@cumberlandmaine.com]
Sent: Thursday, September 02, 2004 3:06 PM
To: Carla Nixon
Cc: Natalie L. Burns
Subject: RE: Updates

The item is on the Sept 13th agenda for approval- I don't believe the Planning Board needs to approve the Contract Agreement since their opinion is only advisory to the Town Council and they
have already responded to the Council’s initial request.

Bill

William R. Shane, P.E.
Town Manager
290 Tuttle Road
Cumberland, Maine 04021

(207) 829-2205 Phone
(207) 829-2224 FAX

wshane@cumberlandmaine.com

-----Original Message-----
From: Carla Nixon
Sent: Thursday, September 02, 2004 2:44 PM
To: William Shane
Cc: Natalie L. Burns; Pam Bosarge (Pam Bosarge)
Subject: Updates

Hi Bill. Natalie left with the understanding that we need her to research the preference for Town/SAD employees issue, and incorporate the other changes that were discussed. We also talked about the sequencing of this process. She explained that the Planning Board is required to have another public hearing, with a review of the specific conditions of the proposed contract zoning agreement. If that is the case, then the Council should schedule its review as soon as possible (Sept. 27th?) so that the conditions can be finalized, then the Planning Board can hear it in October and then back to the Council for adoption, perhaps at its Oct. 26th meeting. The Planning Board can then begin review in November, if all goes well.

Let me know how this sounds to you.

Also, I had a voice message from Peter Kennedy when I returned. He said that he has decided to take my advice and do a master conceptual plan for the entire Cumberland portion of the site. This will better enable us to look at his needs in relation to the land that has already been given to the Town. I will keep you posted on this.

Carla

DISCLAIMER:
This e-mail and any file or attachment transmitted with it, is only intended for the use of the person and/or entity to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the recipient of this message is not the intended recipient or otherwise responsible for delivering the message to the intended recipient, be notified that any disclosure, distribution or copying of this information is strictly prohibited. If you received this communication in error, destroy all copies of this message, attachments and/or files in your possession, custody or control and any other copies you may have created, and notify the sender at (207) 775-7271 or at the sender's e-mail address listed above.
Fax Transmittal Form

To: Dr. Hanson
From: Carla

Fax number: 829-5329
Phone: 207-829-2206
Fax: 207-829-2224
Web: www.cumberlandmaine.com

Date sent: 9/10/04
Time sent: 10:00 A.M.
Number of pages including cover page: 5

Message:
Dr. Hanson -

You will see that additions are

underlined. Please fill in

your address (1st paragraph)

So - schedule is as follows:

Oct. 19 - Planning Bd. public

Oct. 25 - Council to consider

adopting the

agreement.

Next comes site plan review by plng. Bd.

The deadline for the November agenda

is Oct. 26th. That's when all the site

plan materials need to be in to my office

Carla
CONTRACT ZONING AGREEMENT
BETWEEN DR. LOUIS HANSON AND
THE TOWN OF CUMBERLAND

This Contract Zoning Agreement, made this ______ day of ______ 2004, by and between the TOWN OF CUMBERLAND, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter "the Town") and DR. LOUIS HANSON, (address).

WHEREAS, Dr. Louis Hanson ("Dr. Hanson") is the owner of a parcel of real estate located at 371 Tuttle Road in Cumberland, Maine, further described as Lot 4 on the Tax Assessor’s Map U11, consisting of 1.8 acres (hereinafter “the Property”); and

WHEREAS, the Property is currently located in the Medium Density Residential District as established by the Town's Zoning Ordinance; and

WHEREAS, the property is currently improved with two structures, a front building containing a medical office and a single dwelling unit and a rear building containing one dwelling unit; and

WHEREAS, Dr. Hanson seeks to replace the existing rear building with a new four dwelling-unit apartment building with rents to be maintained at an affordable level; and

WHEREAS, the current zoning of the property would not permit the creation of the number of units proposed by Dr. Hanson; and

WHEREAS, the Town seeks to encourage the development of affordable housing and is working on the development of a plan for affordable housing in the Town center; and

WHEREAS, the Property is served by public water and sewer; and

WHEREAS, the Town and Dr. Hanson seek to recognize the historic character of the Property and Dr. Hanson has provided to the Town interior and exterior photographs of the historic Property; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. §4352(8) and Section 606 of the Cumberland Zoning Ordinance; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Cumberland Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the Town’s Comprehensive Plan, including but not limited to the Goals for Section 7 of the Plan, which seek to “encourage housing which provides for a mix of people from all income strata, long term residents, trade and professions” and “encourage development mechanisms to meet the requirements of the State Growth Management legislation”; and
WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town's Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on __________, 2004;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Cumberland, as amended, a copy of which is on file at the Cumberland Town Hall and which is incorporated by reference in the Zoning Ordinance, Section 201, by adopting the map change amendment shown on Attachment 1.

2. Dr. Hanson is authorized to maintain the existing front building on the property with one professional office and one apartment. The existing professional office use may be converted to a different professional office use, or the entire front building may be converted to one single-family dwelling unit. Dr. Hanson is further authorized to establish on the property a 4-
dwelling unit apartment building. The development shall be substantially in accordance with the plan attached hereto as Exhibit B.

3. Dr. Hanson shall maintain the four new apartments as affordable rental units. For purposes of this Agreement, the term "affordable rental units" is defined as: (this section should also include the mechanisms for annual review and for keeping rents at affordable levels).

4. Preference in rentals shall be given to employees of the Town of Cumberland or employees of Maine School Administrative District #51 where such preference is not inconsistent with requirements of State and Federal law.

5. Dr. Hanson shall have no more than __ parking spaces on the Property to serve the uses permitted herein. Parking shall be screened by fencing or by planting of non-deciduous trees.

6. Dimensional requirements for the project shall be as follows:

7. Dr. Hanson shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Cumberland Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

8. The project shall be subject to all applicable review and permitting requirements, including but not limited to subdivision and site plan review.

9. (Historic review condition; establish procedure, standards and requirement for hiring of consultant to assist Town in review).

10. The provisions of this Contract Zoning Agreement shall be deemed
restrictions on the use of the Property and shall be amended only upon further duly authorized amendment to this Agreement in accordance with all applicable provisions of law.

The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind Dr. Hanson, his heirs, successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Cumberland.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Cumberland and any applicable amendments thereto or replacement thereof. This Agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and Town Ordinance. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council shall have the authority, after written notice to Dr. Hanson and a reasonable opportunity to cure, to terminate the Agreement or rezone the Property Middle Density Residential or any successor zone. In such an event, the Property shall then be used only for such other uses as are otherwise allowed by law.

WITNESS:

____________________________________________

William Shane, Town Manager
(duly authorized by vote of the Cumberland
Town Council on __________, 2004

WITNESS:

____________________________________________

Dr. Louis Hanson

STATE OF MAINE
CUMBERLAND, ss

___________, 2004

Personally appeared the above-named William Shane, in his capacity as Town Manager for the Town of Cumberland, and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of the Town of Cumberland.

____________________________________________

Notary Public/Attorney at Law
STATE OF MAINE
CUMBERLAND, ss

____________, 2004

Personally appeared the above-named Dr. Louis Hanson and made oath that the foregoing instrument is his free act and deed.

Notary Public/Attorney at Law

____________

Print Name
Inland Fisheries and Wildlife

2. Resolves penalty ambiguities in accordance with recommendations made by the Department of Inland Fisheries and Wildlife and brings penalty provisions into compliance with current drafting standards and the requirements of the Maine Criminal Justice Information System (i.e., all prohibited acts drafted so that each sanctionable offense is in its own discreet provision with its own discreet penalty provision);

3. Makes technical changes to further increase clarity and readability; and

4. Amends the effective date of laws passed in the Second Regular Session and Second Special Session of the 121st Legislature that affect the recodified laws (Public Law 2003, chapters 527, 552, 573, 587 and 592) to make those effective on the same date as the Recodification. The Recodification originally had an effective date of 90 days after the adjournment of Second Regular Session of the 121st Legislature, however, the Legislature adjourned on January 30, 2004 ending the Second Regular Session earlier than anticipated necessitating a change to the effective date of the Recodification to avoid conflicts and unintended consequences. Public Law 2003, chapter 614 changed the effective date of the Recodification to August 31, 2004.

Public Law 2003, chapter 655 was enacted as an emergency. Those portions of Public Law 2003, chapter 655 that amended the effective dates of laws passed in the Second Regular Session and Second Special Session of the 121st Legislature took effect on April 22, 2004. All other provisions of Public Law 2003, chapter 655 have an effective date of August 31, 2004.

PUBLIC 662  An Act To Establish Family Fishing Days  LD 1932
EMERGENCY

Sponsor(s)  Committee Report  Amendments Adopted
DAVIS P  OTP-AM  S-485

Public Law 2003, chapter 662 creates "Family Fishing Days" as free fishing days and repeals the provision of law that makes Father's Day weekend a free fishing weekend.

Public Law 2003, chapter 662 was enacted as an emergency measure effective April 22, 2004.

PUBLIC 695  An Act To Implement Certain Recommendations of the Governor's Task Force on ATV Issues  LD 1912
EMERGENCY

Sponsor(s)  Committee Report  Amendments Adopted
LANDRY  OTP-AM  H-881; S-509
BRYANT

Public Law 2003, chapter 695 accomplishes, with some refinement, many of the recommendations of the Governor's task force on ATV issues.
Inland Fisheries and Wildlife

1. It broadens the purpose of the ATV Recreational Management Fund to allow for purchase or lease of real estate and acquisition of easements for ATV trails or sport-riding facility acquisition and permits its use for grants-in-aid to organizations for the purchase of ATV-related equipment.

2. It creates an ATV law enforcement grant program to make enforcement grants to the warden service as well as to other enforcement agencies and dedicates the Department of Inland Fisheries and Wildlife's ATV gas tax revenues under the Maine Revised Statutes, Title 36, section 2903-D to the ATV law enforcement grant program. It authorizes the program to accept and disburse donated materials and equipment.

3. It increases the penalty for failure of an ATV operator to stop for a law enforcement officer to a Class D crime with a mandatory $1,000 fine. It provides that attempting to elude a law enforcement officer is subject to the same penalties.

4. It requires the suspension of all licenses and permits issued by the Department of Inland Fisheries and Wildlife and allows suspension of registrations issued by the department for certain violations of ATV laws (operating an ATV on a temporarily closed trail, abuse of another person's property, operating under the influence under 21 years of age, operating to endanger, reckless operation, operating on land of another without permission, failure to stop or attempting to elude an officer). It requires the violator to complete mandatory training in order to have the suspension lifted.

5. It changes the law regarding payment of sales and use tax on ATV purchases by nonresidents to parallel the law relating to snowmobiles: it eliminates the requirement that non-residents pay a sales and use tax (currently they must pay the tax if they use the ATV in the State for more than 30 days in any 12 month period).

6. Current law is ambiguous as to the areas where children under 10 years of age or unaccompanied children under 16 years of age who have not completed required training may operate an ATV; Public Law 2003, chapter 695 clarifies the law and adds safety-training sites to the list of areas where operation by such children is permitted. Specifically it provides that a child under 10 years of age or an unaccompanied child under 16 years of age who has not completed required training may operate an ATV only on land on which the child is domiciled, land owned or leased by the child's parent or guardian or in a safety-training site approved by the department.

7. It prohibits snorkel kits and similar kits designed to allow ATV use in deep water, except at racing events. Violation of this provision is a civil violation subject to a $100 to $500 fine.

8. It requires a parent or guardian to attend ATV training with children under 16 years of age.

9. It requires visible identification on both the front and rear of all ATVs in the form of a sticker. Violation of this provision is a civil violation subject to a $100 to $500 fine.

10. It establishes a legislative finding that abusive use of ATVs places access to private property for recreation at risk.

11. It prohibits operating an ATV on the land of another without the permission of the landowner or lessee. It creates a presumption of permission on posted ATV trails and on land open to ATVs by landowner policy. It requires written permission on cropland, pastureland and orchard (currently written permission is required on cropland and pastureland only).
Inland Fisheries and Wildlife

12. It repeals the law providing for a special 15-month registration fee; it provides that registrations issued prior to July 1st (the beginning of the normal registration period) but after May 1st are valid from the date of issuance through June 31st of the following year.

13. It prohibits operation of an ATV on a portion of trail posted as temporarily closed. Violation of this provision is a civil violation subject to a $100 to $500 fine.

14. It changes the maximum allowable ATV sound level to 96 decibels in a 20-inch test, to reflect national standards.

15. It adds rivers, brooks, streams, great ponds, nonforested wetlands, vernal pools and source water protection areas of public drinking water supplies to the list of areas where ATV operation is prohibited when the ground is not frozen. It provides exceptions for designated trails and for certain maintenance and inspection activities and for governmental officials performing their duties provided certain conditions are met.

16. It adds destruction of signs and posted notices to the current provision prohibiting abuse of another person's property by an ATV operator.

Public Law 2003, chapter 695 was enacted as an emergency measure effective May 7, 2004. Only the portion of the law relating to temporary closures of ATV trails takes effect on that date. All other portions of the law have an effective date of August 31, the date the recodification of the fisheries and wildlife laws take effect.

RESOLVE 103 Resolve, Regarding the Condition and Operation of the Little River LD 173 Dam

Sponsor(s) Committee Report Amendments Adopted
LEMOINE OTP-AM H-677

Resolve 2003, chapter 103 requires the Department of Inland Fisheries and Wildlife to monitor the dam on the Little River located near the Town of Scarborough for problems with flooding or with the effective operation of the dam's fishway and fish trap. The resolve requires the Commissioner of Inland Fisheries and Wildlife to report back the department's finding along with any recommended legislation to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters by January 1, 2006.
Greely Renovation Referendum Vote
September 21st

Maine School Administrative District #51
Cumberland-North Yarmouth
P.O. Box 6A
Cumberland, Maine 04021

Postal Patron

For The Communities of
MSAD 51
Significant increases in enrollment have caused severe space shortages throughout our school district. The district's 1999 Long Range Plan set forth a series of capital improvements designed to address this issue. In 2001, voters approved bond issues of $2 million toward the construction of a new Middle School (with the remaining $16 million funded by the State), and $5 million toward the renovation and conversion of the old Junior High into High School space. With the Middle School now completed, the district is preparing for the Junior High renovation. This June, the MSAD 51 Board of Directors approved another referendum (scheduled for September 21) requesting additional debt of up to $1.5 million to complete the Junior High project.

Q: Now that the Middle School is complete, what are the plans for the old Jr. High?
A: The vacated Junior High will be used to alleviate some of the urgent program and classroom space needs at the High School. The renovation project will allow continued, cost-effective use of these prominent and historically significant buildings.

Q: What type of classroom space is included in this project?
A: Specifically, the original Gyger Gym and current Junior High gym are being renovated to create urgently-needed performance and display spaces for the arts programs (music, visual and performing arts) at Greely. While not part of the renovation project, twelve Junior High Classrooms will be temporarily occupied, reducing the number of portable classrooms on the campus and providing a significant savings to the district.

Q: What's wrong with the existing arts facilities?
A: Current spaces are poorly-functioning, inadequate, and insufficient to support Maine Learning Results requirements. Performance space is confined to the cafeteria, which is too small and poorly ventilated. Music programs are held in the gym, which is acoustically lacking. There is only one room in the school for visual arts classes. The disparate locations of the program spaces severely limit collaboration potential. As the facilities now stand, Greely High is unable to host inter-scholastic music, performance, or academic competitions.

Q: Who benefits from the new facilities?
A: We ALL do! In addition to vastly-improved opportunities for students, the new facility will be a resource for the entire community. The auditorium and music performance spaces will be available for use by numerous community groups for lectures, concerts, meetings, etc.

Q: I thought we already voted on a bond for this. Why are additional funds needed?
A: The original design was prepared four years ago, and was only conceptual in nature. Since that time, the design has been fully developed and construction costs have risen significantly — dramatically in the case of certain materials. The recently completed Middle School project was designed and awarded State funding with the understanding that the Junior High renovation project, including an auditorium, would be completed and locally funded. At this juncture, additional State funding for this project is unavailable.

Q: Could the project be scaled back to fit the original budget?
A: In an effort to reduce costs as much as possible, the renovation committee and the district’s architects have cut more than $750,000 of costs from the preliminary design. Further cuts would not solve the current space and program needs, and would seriously compromise the integrity of the project.

Q: Would new space be more cost-effective than renovation?
A: The architects have emphasized that the current design is the best and most efficient use of the existing large spaces. To build these program spaces as part of a new building project on the Greely site would be equally expensive. The renovation approach will preserve prominent and historic community structures.

Q: Is fund-raising a part of this project?
A: Yes. The goal is to raise $500,000 in private donations toward the cost of the project prior to completion to defray the cost to taxpayers. Strong community support is anticipated.

Q: Are there future program and classroom space needs at Greely High?
A: Yes. Although the use of the Junior High classrooms will temporarily reduce the need for portables, the 1999 Long Range Plan and the 2003 High School Task Force have identified and reaffirmed additional classroom, program, and renovation needs at the High School. State funding will be sought for these projects.

Q: Will there be any other referendum questions in September?
A: The MSAD 51 Board of Directors has also approved a plan to refinance the remaining debt from the 1993 Mabel I. Wilson renovation and expansion, which will require voter approval. This action will provide significant cost savings to the district.

The Junior High renovation will preserve and create valuable community assets for many years of use, and will be financed over twenty years at historically low interest rates. Please remember to vote on September 21!

Prepared by the Junior High Renovation Communications Committee
Co-chairs:
Laura Charest charestl@maine.rr.com
Herb Hamel hamelh@mercyme.com
Joel Harris hjoeel@hotmail.com
Town of Cumberland
Tax Cap
Informational Questions and Answers
Draft 9-10-04

What is the Palesky Tax Cap Proposal?

It is a statewide referendum question on the November 2 ballot that, if approved by voters, will:
1. Roll back the property values to 1996 assessed levels
2. Limit property taxes to 1 percent ($10 per $1,000*) of the assessed value (plus a portion of citizen-approved debt service)
3. Limit increases of the assessed values of the property to 2 percent per year

*The current tax rate in Cumberland is $19.20 (per $1000 assessed value. Under Palesky, property taxes would be limited to $10.00 per $1000 assessed value (Our $500,000 of Annual Debt payments is not allowed to be added to our mill rate because our Citizen’s approved Town Charter does not provide for a referendum mechanism to have all debt vote upon. The 42 cents per thousand dollars of value will be the debt payment included in the 10 mil tax rate calculation)

What does this mean for Cumberland?

If the Palesky proposal passes:
- Town and school services will sustain major cuts
- New and increased fees will be implemented for Town services and School programs
- Property taxes will be reduced

What would be the property tax savings for a home in Cumberland?

If the referendum passes, the tax savings for every home will be different. You can see what your actual tax bill would be under the proposal at town hall.
Some examples of properties in Cumberland:

<table>
<thead>
<tr>
<th>Location</th>
<th>Current Assessed Value</th>
<th>2004-05 Tax</th>
<th>Post Palesky Tax</th>
<th>Net Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bar Point Road</td>
<td>$289,600</td>
<td>$5,560</td>
<td>$2,896</td>
<td>$2,664</td>
</tr>
<tr>
<td>Crestwood Road</td>
<td>$238,000</td>
<td>$4,570</td>
<td>$2,380</td>
<td>$2,190</td>
</tr>
<tr>
<td>Ledge Road</td>
<td>$433,000</td>
<td>$8,314</td>
<td>$4,330</td>
<td>$3,984</td>
</tr>
<tr>
<td>Gray Road</td>
<td>$159,800</td>
<td>$3,068</td>
<td>$1,598</td>
<td>$1,470</td>
</tr>
</tbody>
</table>

Net Impact may not be realized if all properties are assessed at 100% of Equalized Value. Currently properties on average are at 72 % of Equalized Value.
How much money would have to be cut from the town budget?

If the referendum passes the Town of Cumberland’s budget will be cut by approximately $4.70 million. As the referendum is written, assessed values of property must be rolled back to 1996-97 levels, so the proposal’s fiscal impact is actually over $9 million loss. The Maine Municipal Association studying the potential impact of the tax cap in Cumberland determined the $4.70 million figure to be realistic after extensive review of the data and reading the Maine Supreme Court advisory opinion that the provision in the bill to roll back taxes to the 1996 level would violate the Maine Constitution.

What is the Town of Cumberland’s budget currently?

For fiscal year 2005 it is approximately $16.10 million, to be raised from property taxes broken down as follows:

<table>
<thead>
<tr>
<th>Fiscal Year 2005</th>
<th>** School System MSAD 51 and the County Taxes are exempt from the Tax Cap. The Assessment is sent and we are legally obligated to pay.</th>
</tr>
</thead>
<tbody>
<tr>
<td>School **</td>
<td>$12.33 million</td>
</tr>
<tr>
<td>Municipal</td>
<td>$2.64 million</td>
</tr>
<tr>
<td>County**</td>
<td>$0.63 million</td>
</tr>
<tr>
<td>Debt Service</td>
<td>$0.50 million</td>
</tr>
</tbody>
</table>

How would the $4.70 million be cut from the town budget?

The Town Council and MSAD 51 Board Members would solicit citizen input and then be required to make cuts.

- Using the current Town / School Budget Ratio

  - School $12.33 million
    - Town $ 2.64 million
    - County $ 0.63 million
    - Debt $ 0.50 million
    - $ 3.77 million

  76.50% 23.50%

  $4.7 Million = $3.60 million (School) + $1.1 Million (Town)
What changes in town services would we see?
There is no way to know exactly what would change until the actual cuts are determined, but it is anticipated that many services will be severely reduced:

- Reduction in Town employees
- Significant Reduction in Police Coverage
- Library hours reduced significantly
- Reduction in road maintenance, paving and major road repairs
- Fees for Trash Disposal
- Entrance fees for Twin Brooks and the Rines Forest
- Reduction in Winter Maintenance efforts
- Reduction in Fire Services
- Elimination of Regional Paramedic Program
- Reduction in Town Hall Hours
- Reduction or Elimination of Contributions to Cumberland Non-Profits such as Cemeteries, PROP, CI Recreation, CI Library

What changes would we see in the schools?

Our School Board and Superintendent are developing a list of cuts that would be specific to our School District and will be ready later this month.

In Cape Elizabeth, for example, here is what their Superintendent developed as their primary round of program cuts:

Cape Elizabeth

- 46 teachers and support staff would be eliminated
- All athletic and co-curricular activities would be fully supported by participant fees or eliminated
- Class sizes would be increased
- School day would be shortened by one hour
- 20 percent cut to equipment
- 20 percent cut to supplies

What kind of fees might we see in Cumberland?

- Trash Bag Costs for Curbside disposal $2.75 per 33 gallon bag- Avg Household of 4 may use 2 bags/week = $5.50 x 52 = $286/year
- Twin Brook: $5 per visit or Season Pass
- Building permits: 50 percent increase- presently lowest in the area
- Community Services fees increase
- Rescue Fees increased
- Fire Dept. fees implemented

What kind of fees might we see in the Schools?

*Cape Elizabeth School Information*

- High school sport: $450 or $900 per player per season depending on the sport (Expensive sports are ice hockey, girls and boys basketball, Nordic skiing, and swim teams which may be dropped if the pool is closed)*
- Middle school sport: $110 or $200 per player per season depending on the sport
- Speech and debate: $430
- High school student parking: $200 per year
- Drama/theater: $80/production

*Sports fees would be in addition to the approximate $2.00,000+ that boosters currently contribute annually to the sports programs.*

Will any town fees be deductible from my income tax?

No. Your property tax is a deductible item, but fees are not.

Can Cumberland vote this proposal down or override it in some way?

No. It is a statewide referendum, so even if the referendum is defeated in Cumberland but passes statewide, it will apply to Cumberland. There is no local override provision in the proposal, unlike the tax cap in Massachusetts, Proposition 2.5, which does have a local override.

Are these all just scare tactics, or will these things really be eliminated in Cumberland?

These are not scare tactics, but realistic estimates of things that would be cut from our Town and School budgets. A 4.7 million cut from our town budget will require very real and significant sacrifices.

How does all of this fit in with Question 1, which passed in June?

Question 1 requires the state of Maine to increase its portion of school funding from approximately 43 percent to 55 percent. This additional funding could allow towns to lower property taxes since there would be more money for education available from the State.

What other states have similar tax cap proposals? What have been the results?

Several other states have tax caps. Each state is unique and the success of these caps are subject to debate and interpretation. Carol Palesky used California’s Proposition 13 as the model for her tax cap, and there appears to be general consensus that education in California has suffered. California has fallen from one of the highest achieving states in the nation in education to one of the lowest in the 25 years since Proposition 13 passed.
Where can I get more information?

A complete copy of the Palesky proposal is available at:

http://www.memun.org/resources/Public/news/pp/question.htm
Additional web sites with information:
http://www.capeelizabeth.com/
www.memun.org/resources/Public/news/pp/main.htm
www.4.fosters.com/May2004/may_17/News/ap_me_0517f.asp
http://home.gwi.net/mainetaxreform/
www.mecep.org

A Special Thanks to the Cape Elizabeth Citizen’s Tax Cap Task Force that developed the Format and the questions for this important document.