AGENDA
Cumberland Town Council Meeting
Town Council Chambers
MONDAY, April 9, 2018
6:00 P.M. Workshop
7:00 P.M. Call to Order

I. 6:00 P.M. WORKSHOP re: Aging in Place program

II. CALL TO ORDER

III. APPROVAL OF MINUTES
March 26, 2018

IV. MANAGER’S REPORT

V. PUBLIC DISCUSSION

VI. LEGISLATION AND POLICY

18 – 044 To hear a presentation re: Brown Tail Moth spraying program for 2018.

18 – 045 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Cumberland/North Yarmouth Youth Lacrosse Girls Round Robin Tournament to be held on May 19th, 2018, at Twin Brook.

18 – 046 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Cumberland/North Yarmouth Youth Lacrosse Boys Jamboree Tournament to be held on June 9th, 2018, at Twin Brook.

18 – 047 To set the week of May 14th - 18th for Spring Bulky Item Pick Up Week.

18 – 048 To appoint Democratic and Republican Election Clerks.

18 – 049 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Penobscot Valley Kennel Club Chickadee Classic Dog Show to be held from June 22nd – 25th, 2018 at the Cumberland Fair Grounds.

18 – 050 To accept the Contract Zone Agreement amendment #5 for Heritage Village Development (CFV) and begin the CZA amendment process.

18 – 051 To set a Public Hearing date of April 23rd to consider and act on a Contract Zone Agreement for John Paynter, 445 Greely Road Extension.

18 – 052 To hold a Public Hearing to consider and act on adoption of the FY2019 Municipal Budget.

18 – 053 To consider and act on authorizing the CEO to execute a Consent Agreement with the owners of 37 Stirling Way.

VII. NEW BUSINESS

VIII. ADJOURNMENT
6:00 P.M. Workshop with the Ordinance Committee to review ordinance amendments

7:00 P.M. Call to Order
Present: Councilors Bingham, Copp, Edes, Gruber, Stiles, Storey-King and Turner

I. APPROVAL OF MINUTES
Motion by Councilor Copp, seconded by Councilor Bingham, to accept the March 12, 2018 meeting minutes as presented.
VOTE: 7-0 UNANIMOUS

II. MANAGER’S REPORT
None

III. PUBLIC DISCUSSION
Cathy Wright of 60 Skillin Road said that she does not support the Town purchasing additional land in the Rines Forest. She would prefer that the Town keep the money and look for property for public access to Forest Lake.

Mrs. Wright added that in regard to moving the Town garage, since the Town purchased the land adjacent to the Town Forest as a site to relocate the garage, they should stick to that plan or leave it where it is.

Mrs. Wright reminded people that if they are walking their dogs off leash on Town owned land, please remember that there are people who may be afraid of dogs and do not appreciate being jumped on by them.

IV. LEGISLATION AND POLICY
18 – 033 To hold a Public Hearing to consider and act on forwarding a Contract Zone Agreement for John Paynter, 445 Greely Road Extension, to the Planning Board for a Public Hearing and recommendation.

Town Manager Shane explained that the Town will purchase 19 acres of land from Mr. Paynter around Knight’s Pond, which will complete the loop around the pond in Cumberland. This Contract Zone Agreement is necessary so Mr. Paynter won’t have to move his existing garage and shed due to setback requirements.

Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Stiles, to forward the Contract Zone Agreement for John Paynter, 445 Greely Road Extension, to the Planning Board for a Public Hearing and recommendation.
VOTE: 7-0 UNANIMOUS
To consider and act on authorizing the Town Manager to accept a warranty deed for Theresa and Robert Chamard for property located on George Road, Tax Map U20/Lot 19.

Town Manager Shane explained that this is a lot of land that abuts the turnpike and is the last parcel along this strip that the Town does not own (see photo below). The Chamard’s have offered to give the land to the Town. The Turnpike has expressed interest in purchasing these lots from the Town as a buffer. These are not buildable lots due to the small size and setback requirements.

Motion by Councilor Bingham, seconded by Councilor Copp, to authorize the Town Manager to accept a warranty deed for Theresa and Robert Chamard for property located on George Road, Tax Map U20/Lot 19.

VOTE: 7-0 UNANIMOUS

To hold a Public Hearing to consider and act on a Mass Gathering Permit application for Girls on the Run 5K to be held on June 3, 2018 from 8:00 a.m. to 1:00 p.m. at the Cumberland Fair Grounds.

Chairman Edes opened the Public Hearing.

Public discussion: none

Chairman Edes closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Gruber, to approve the Mass Gathering Permit application for Girls on the Run 5K to be held on June 3, 2018 from 8:00 a.m. to 1:00 p.m. at the Cumberland Fair Grounds.

VOTE: 7-0 UNANIMOUS

To hold a Public Hearing to consider and act on a Mass Gathering Permit application for the Zerbini Family Circus to be held on July 27, 2018 from 8:00 a.m. to 10:00 p.m. at the Cumberland Fair Grounds.

Mike Timmons of the Cumberland Farmer’s Club explained that this is a new event. It is a very well organized event, they have all the necessary insurance in place, and the references that he checked were all very good. There will be 2 shows that can seat up to 800 people.
Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Copp, to approve the Mass Gathering Permit application for the Zerbini Family Circus to be held on July 27, 2018 from 8:00 a.m. to 10:00 p.m. at the Cumberland Fair Grounds.
VOTE: 7-0 UNANIMOUS

18 – 037 To hold a Public Hearing to consider and act on amendments to Chapter 30 (Boards and Commissions) of the Cumberland Code, as recommended by the Ordinance Committee.
Councilor Storey-King explained that the Council met in workshop earlier to review the many ordinance amendments being considered this evening. This one adds language that will allow the Chair of the two sub-committees of the Lands and Conservation Commission (LCC) to be active, voting members of the LCC.

Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Turner, to amend Chapter 30 (Boards and Commissions) of the Cumberland Code, as recommended by the Ordinance Committee.
VOTE: 6-1 (Edes opposed) MOTION PASSES

18 – 038 To hold a Public Hearing to consider and act on amendments to Chapter 48 (Coastal Waters) of the Cumberland Code, as recommended by the Ordinance Committee.
Mike Schwindt, Vice-Chairman of the Coastal Waters Commission explained that some changes were made to clarify some of the definitions and language was added in regard to moorings.

Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Stiles, to amend Chapter 48 (Coastal Waters) of the Cumberland Code, as recommended by the Ordinance Committee.
VOTE: 7-0 UNANIMOUS

18 – 039 To hold a Public Hearing to consider and act on amendments to Chapter 162 (Mass Gatherings) of the Cumberland Code, as recommended by the Ordinance Committee.
Councilor Storey-King explained that a few weeks ago, Councilor Stiles raised concerns about the abundance of public safety personnel at the Cumberland Fair and the Farmer’s Club being billed large amounts for excessive coverage. The language was amended in order to give the authority for determining the number of police officers needed at any large event to the Police Chief.

Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.
Motion by Councilor Turner, seconded by Councilor Copp, to amend Chapter 162 (Mass Gatherings) of the Cumberland Code, as recommended by the Ordinance Committee.
VOTE: 7-0 UNANIMOUS

18 – 040 To hold a Public Hearing to consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 229 (Site Plan Review) of the Cumberland Code, as recommended by the Ordinance Committee.
Councilor Storey-King explained that if major changes are to be made to a piece of property, depending on the size of the project, this ordinance has different levels of approval. It identifies square footage of land being effected or the quantity of earth being moved. It designates whether it needs major staff review or Planning Board site review. It does not apply to subdivisions.

Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Stiles, to forward to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 229 (Site Plan Review) of the Cumberland Code, as recommended by the Ordinance Committee.
VOTE: 7-0 UNANIMOUS

18 – 041 To hold a Public Hearing to consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 226 (Shoreland Zoning) of the Cumberland Code, as recommended by the Ordinance Committee.
Councilor Storey-King explained that these amendments to the Shoreland Zoning Ordinance have to do with bridges and who has authority over bridges. This clarifies that bridges, regardless of the zone they are located in, will come under the authority of the Code Enforcement Officer. All other structures in coastal waters or coastal wetlands will come under the authority of the Coastal Waters Commission.

Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Turner, to forward to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 226 (Shoreland Zoning) of the Cumberland Code, as recommended by the Ordinance Committee.
VOTE: 7-0 UNANIMOUS

18 – 042 To hold a Public Hearing to consider and act on amendments to Chapter 84 (Fees and Fines), Section 12 (Moorings) of the Cumberland Code, as recommended by the Coastal Waters Commission.
Councilor Storey-King explained that this is the final piece in the clean-up of the Coastal Waters Ordinance and amending or adding mooring related fees
Chairman Edes opened the Public Hearing.
Public discussion: none
Chairman Edes closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Gruber, to amend Chapter 84 (Fees and Fines), Section 12 (Moorings) of the Cumberland Code, as recommended by the Coastal Waters Commission.
VOTE: 7-0 UNANIMOUS

18 – 043 To consider and act on a historical sign request on Town Landing Road.
Town Manager Shane explained that the sign below will be placed at the bottom of Town Landing Road. Descendants of the Felt family reached out to the Town and asked if a sign could be placed on Route 88, near Felt’s Stream. Since the sign that the Coastal Waters Commission developed already listed a reference to George Felt, the family asked if the sign could be modified. We agreed that the sign could be modified to read “George Felt (1601 – 1693) one of Cumberland’s first settlers, pioneer and trader with native people, built a sawmill on Felt’s Stream”.

Motion by Councilor Gruber, seconded by Councilor Storey-King, to accept the new wording for the historical sign request at the end of Town Landing Road, as recommended by the Coastal Waters Commission.
VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS
Councilor Bingham – None

Councilor Gruber – The Town Council had their final budget workshop last Saturday. He appreciates all the hard work of Town staff and the Town Council. We have a good budget process and he feels comfortable that we are presenting a good budget.
Councilor Storey-King – In regard to the purchase of land in the Rines Forest and Mrs. Wright’s comments, she had a conversation with her uncle, Robert Storey, about this. His thoughts are if the Town does not buy it and it is developed, it will be more expensive to the Town if 10 houses are built there, with 2 students each at $19,000 per student cost. He encouraged her not to have a narrow view on this.

She met with a resident of Village Green who is concerned about the Town Garage and the salt shed. That neighborhood will likely request a meeting or workshop with the Town Council in May to voice their concerns.

In mid-May, people may want to consider finding an alternative route instead of traveling on Middle Road as construction will begin again.

Councilor Copp – He passed along a two donations to the 4-H auction to Councilor Stiles that he received from a couple of very generous senior residents.

Chairman Edes – None

Councilor Stiles – He thanked everyone who donated to the 4-H auction fund for the Food Pantry. Councilor Copp donated himself and passed along donations from Bill Thurston and Dean Dakin. Councilor Copp has been very helpful in collecting donations for this worthy cause. If just 1,000 residents of Cumberland and North Yarmouth donate $10.00, he will reach his goal of $10,000.

The Public Hearing on the FY’19 budget will be on April 9th.

Councilor Turner – He thanked Mrs. Wright for her comments during public discussion regarding the dogs on Town land. It is frustrating when people know their dogs should be on a leash but they allow them to run free.

Town Manager Shane – At the last Coastal Waters Commission meeting, it was requested that the Town Manager seek authorization from the Town Council to obtain a separate bid proposal for the demolition and removal of the existing pier at Broad Cove Reserve. The thought process was if contractors are working in the area, they could bid on our demolition project while their barge and equipment are already close by.

The Council agreed to seek the bids for demolition of the existing pier at Broad Cove Reserve.

VI. ADJOURNMENT

Motion by Councilor Gruber, seconded by Councilor Storey-King, to adjourn.

VOTE: 7-0 UNANIMOUS

TIME: 7:58 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary
ITEM
18-044

To hear a presentation re: Brown Tail Moth spraying program for 2018.
April 4, 2018

RE: Brown Tail Moth Tree Spraying Program 2018

Dear Cumberland Foreside & Middle Road Residents:

The Town is spraying for Brown Tail Moth’s beginning in early May depending on weather conditions. We are asking for your permission to allow Whitney Tree Service to spray from the roadway in front of your home with a truck mounted sprayer. The truck will be traveling along the road at about 2.5 miles per hour while applying the spray. The chemical used this year will be the same as last year – Conserve (brand name) or Spinosyn. The chemical safety sheet for this organic insecticide is available on our website www.cumberlandmaine.com. As we are spraying from the street and not the air, this is becoming more of a street tree preservation program versus a brown tail moth eradication program. Our hope is that this will help with the melting of hairs from these caterpillars which can cause rashes, and in some cases, respiratory issues.

If the majority of residents choose to participate on your street, the spray application program will occur in early May. The spray application begins in the morning around 4:30 AM and is typically completed by 7:00 AM.

If you do not want to participate in this program, please return the attached refusal form as soon as possible, but no later than April 26, 2018. If too many homes opt out of the spray program, the effectiveness is greatly diminished and your street may be skipped over for this year. Failure to return this refusal form will be deemed consent to spray.
Additional information can be found on the Town’s website at www.cumberlandmaine.com. If you have any questions, please call 207-558-9137 and leave a message on the Brown Tail Moth dedicated line. A Town Hall employee will return your call as soon as possible.

Sincerely,

William R. Shane
Town Manager
ITEM
18-045

To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Cumberland/North Yarmouth Youth Lacrosse Girls Round Robin Tournament to be held on May 19th, 2018, at Twin Brook.
MEMORANDUM

To: William Shane, Town Manager
From: Tamara O’Donnell, Deputy Town Clerk
Re: Girls Round Robin Lacrosse Tournament, May 19, 2018

I held a meeting at 10:00 a.m., on Tuesday, April 3, 2018, with Mr. Johnathan Becker Representative for Cumberland Boys and Girls Youth Lacrosse, Fire Department Representative Patty Normandeau, Police Chief Chip Rumsey, Deputy Town Clerk Eliza Porter, and Assistant Recreation Director, Peter Bingham.

I reviewed in detail the requirements of the Mass Gathering Ordinance with Mr. Becker. The following represents our mutual understanding:

- The tournament hours will be Saturday, May 19, 2018, will be 8 a.m.-5 p.m., with a rain date of (May 20th). Attendance is estimated to be around 500.

- There will be one Police Officer on duty from 10:00 a.m.-2:00 p.m. on Saturday, May 19, during the busiest times for game turnover and traffic.

- There will be 1 EMT, 1 Rescue personnel on site, on Saturday, May 19, from 9:00 a.m.-3:00 p.m.

- The Lacrosse Boosters will be running the Snack Shack.

- Recreation staff will be on site during the event.

- Communication will be by cell phone between all parties.

- Insurance certificate is attached.

- Contact person for this event is Johnathan Becker, 347-9476.

I believe that we have covered in full, all of the details required for this event. Mr. Bingham and his staff have done a terrific job managing this event in past years, and Mr. Becker has several years of experience. I have attached our new Mass Gathering Event
Public Safety Sign-Off Sheet with the estimated Public Safety costs based on the event numbers and hours provided to us.

I wish the Lacrosse Club another successful event, and hope for sunny, warm days.

Best Regards,
Tammy
TOWN OF CUMBERLAND
MASS GATHERING EVENT SAFETY SIGN-OFF

Date of event: May 19, 2018
Name of event: Girls Round Robin Lacrosse Tournament
Location of event: Twin Brook
Estimated attendance: 500

Police Chief recommendation for event coverage: 1 Officer, 4 hr. detail
10 a.m. - 2 p.m. $59.08/hr.

Police event coverage cost: $236.32

Fire Chief recommendation for event coverage: 1 Rescue, 1 EMT
9 a.m. - 3 p.m. $25.44/hr.

Fire Department event coverage cost: $305.28

Total safety cost for event coverage: $541.60

*This is a cost estimate based on the numbers you provided. If the event changes & additional staff is required, costs will increase.

Event Coordinator Signature: [Signature]
Mass Gathering Application—Minor Large Outdoor Event
(500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event. Application must be accompanied by a non-refundable fee of $250.00.

Name of Applicant: Cumberland/North Yarmouth Youth Lacrosse

Address of Applicant: 66 Schooner Ridge RD.

Name of Event: Girls Round Robin on May 19th and Boys Jamboree on June 9th and 10th

Facility where the event will be held: Twin Brook

Is the facility owned by the applicant: _______ yes; X ______ no, (if no, attach a copy of the contract with The owner which allows use of property)

Name of promoter (if different from above): ________________________________

Telephone number: 207-347-9476

Date of Event: May 19th (20th Rain date) and June 9th and 10th

Time (start and finish times): 8-5PM

Number of tickets available: ______________________

Expected attendance: 200 for May 19th and 500 for June 9th and 10th

Description of event: ________________________________

Youth Lacrosse Tournament throughout the day. Total spectators for the day are expected, not all at one time

Will any food vendors be serving at the event? X ______ yes, ______ no, (if yes, how many, and what types)

High School Boosters will run concessions at both events from the barn: drinks, pizza and hot dogs

Will any alcohol vendors be serving at the event? ______ yes, X ______ no (if yes, list name and attach A copy of the vendors license to sell alcohol, describe what alcohol will be served)

Boys is two day tournament June 9+10 Sunday is from 12:30-4:30pm but does not meet the size or criterion of mass gathering. Only Saturday June 9 does
Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Round Robin and Jamboree for last three years: 2015, 2016 and 2017

2. __________________________________________

3. __________________________________________

Description of facility:

A. Seating capacity: ________ permanent; ________ temporary

B. Other seating capacity: ________ festival; ________ standing room only (sq. ft.)

C. Number of toilets available: ________ permanent; ________ portable

D. Number of parking spaces available: ________ on-site; ________ off-site

E. Are all parking lots lighted (applicable only if event runs into evening hours): ________ yes; ________ no, if no, which lots are not lighted

F. Source of potable water: ________ At shed

G. Refuse containers available, number and size: ________ yes throughout twin brook = 20

H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse)

I. When will refuse be picked up? ________ Twin Brook will be picked up - refuse to the dumpsters

Public Safety:

J. Describe first aid facilities: ________ Cumberland EMTs on site

K. Describe emergency facilities: ________ Cumberland EMTS on site

L. Describe communication facilities: ________ cell phones from all coaches

M. Number of certified police officers: ________ At least 1

N. Other security personnel (include company name and qualification):

O. Describe fire personnel: ________ Cumberland Fire Dept
Other:

P. Name of liability insurance Markel
Amount of coverage $1mm; amount of property insurance

Q. Preferred type of performance guarantee (i.e. escrow account, irrevocable letter of credit)

__________________________________________
Jonathan Becker
Authorized Signature

On 3-22-2018 (date), I received a copy of the Cumberland Mass Gathering Ordinance.

__________________________________________
Authorized Signature
I certify that the team, league, or event on whose behalf I am requesting this certificate mandates 100% membership in US Lacrosse. In addition, I have verified our team's or league's events roster and all participants are currently registered members of US Lacrosse. I certify that this is true and I understand that liability coverage is only extended to our team, league, or event if all participants are current members of US Lacrosse. Further, I acknowledge by clicking on this box that event liability claims may be denied for coverage if our team/league/event is not 100% registered with US Lacrosse.

Name: Jonathan Becker
Organization: Cumberland/North Yarmouth Youth Lacrosse
Date: 03/22/2018
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
BOLLINGER, Inc.
150 JPK PARKWAY, 4TH FLOOR
PO Box 390
SHORT HILLS, NJ 07078
PHONE: 1-800-446-5311 FAX: 973-921-8474

INSURED
US Lacrosse, Inc.
2 Loveton Circle
Sparks, MD 21152
Re: Cumberland/North Yamouth Youth Lacrosse

COVERAGES

COVERAGE NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL OF THE TERMS, LIMITS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSTR LTR TYPE OF INSURANCE ADDL INSUR SUBVR VWV POLICY NUMBER POLICY EFF (MM/DD/YYYY) POLICY EXP (MM/DD/YYYY) LIMITS

A GENERAL LIABILITY

A COMMERCIAL GENERAL LIABILITY

INCLUSIVE

X CLAIMS-MADE

X OCCUR

8502AH221369 01/01/2018 01/01/2019

Sexual Abuse & Molestation Liab per occurrence: $1,000,000
Sexual Abuse & Molestation Aggregate limit: $2,000,000

A AUTOMOBILE LIABILITY

A ALL OWNED AUTOS

SCHEDULED AUTOS

NON-OWNED AUTOS

A UMBRELLA LIABILITY

A EXCESS LIABILITY

DED RETENTION $

4602AH221370 01/01/2018 01/01/2019

A WORKERS COMPENSATION AND EMPLOYER'S LIABILITY

A FOOD TRUCK LIABILITY

A ANY PROPRIETOR/OWNER/EXECUTIVE OFFICER MEMBER EXCLUDED (Mandatory in NH)

A DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

A CERTIFICATE HOLDER

Cumberland/North Yamouth Youth Lacrosse
66 Schooner Ridge
Cumberland Foreside, ME 04110

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ITEM
18-046

To hold a Public Hearing to consider and act on Mass Gathering Permit for the Cumberland/North Yarmouth Youth Lacrosse Boys Jamboree Tournament to be held on June 9th, 2018, at Twin Brook.
MEMORANDUM

To: William Shane, Town Manager

From: Tamara O’Donnell, Deputy Town Clerk

Re: Boys Jamboree Lacrosse Tournament, June 9 & 10, 2018

I held a meeting at 10:00 a.m., on Tuesday, April 3, 2018, with Mr. Johnathan Becker Representative for Cumberland Boys and Girls Youth Lacrosse, Fire Department Representative Patty Normandeau, Police Chief Chip Rumsey, Deputy Town Clerk Eliza Porter, and Assistant Recreation Director, Peter Bingham.

I reviewed in detail the requirements of the Mass Gathering Ordinance with Mr. Becker. The following represents our mutual understanding:

- The tournament hours on Saturday, June 9, 2018, will be 8 a.m.-5 p.m. Attendance is estimated to be around 750-800.

- The tournament hours on Sunday, June 10, 2018, will be 12:30 p.m.-4:30 p.m. The attendance on Sunday is expected to be well below the 500 threshold required for the Mass Gathering Permits.

- There will be one Police Officer on duty from 10:00 a.m.-2:00 p.m. on Saturday, June 9, during the busiest times for game turnover and traffic.

- There will be 1 EMT, 1 Rescue personnel on site, on Saturday, June 9, from 9:00 a.m.-3:00 p.m.

- The Lacrosse Boosters will be running the Snack Shack.

- Recreation staff will be on site during the event.

- Communication will be by cell phone between all parties.

- Insurance certificate is attached.

- Contact person for this event is Johnathan Becker, 347-9476.
I believe that we have covered in full, all of the details required for this event. Mr. Bingham and his staff have done a terrific job managing this event in past years, and Mr. Becker has several years of experience. I have attached our new Mass Gathering Event Public Safety Sign-Off Sheet with the estimated Public Safety costs based on the event numbers and hours provided to us.

I wish the Lacrosse Club another successful event, and hope for sunny, warm days.

Best Regards,
Tammy
Date of event: June 9th & 10th, 2018
Name of event: Boys Lacrosse Jamboree
Location of event: Twin Brook
Estimated attendance: 750

Police Chief recommendation for event coverage: 1 Officer, 4 hr detail
10 am - 2 pm: $59.08/hr.

Police event coverage cost: $236.32

Fire Chief recommendation for event coverage: 1 Rescue/1 EMT
9 am - 3 pm:

Fire Department event coverage cost: $305.28

Total safety cost for event coverage: $541.60

*This is a cost estimate based on the numbers you provided. If the event changes & additional staff is required, costs will increase.

Event Coordinator Signature: [Signature]
TOWN OF CUMBERLAND

Mass Gathering Application-Minor Large Outdoor Event
(500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event. Application must be accompanied by a non-refundable fee of $250.00.

Name of Applicant: Cumberland/North Yarmouth Youth Lacrosse

Address of Applicant: 66 Schooner Ridge RD.

Name of Event: Girls Round Robin on May 19th and Boys Jamboree on June 9th-10th

Facility where the event will be held: Twin Brook

Is the facility owned by the applicant: yes; X no, (if no, attach a copy of the contract with The owner which allows use of property)

Name of promoter (if different from above):

Telephone number: 207-347-9476

Date of Event: May 19th (20th Rain date) and June 9th and 10th

Time (start and finish times): 8-5PM

Number of tickets available: _________________

Expected attendance: 200 for May 19th and 500 for June 9th and 10th

Description of event:

Youth Lacrosse Tournament throughout the day. Total spectators for the day are expected, not all at one time

Will any food vendors be serving at the event: X yes, ________ no, (if yes, how many, and what types)

High School Boosters will run concessions at both events from the barn: drinks, pizza and hot dogs

Will any alcohol vendors be serving at the event? yes, X no (if yes, list name and attach A copy of the vendors license to sell alcohol, describe what alcohol will be served)

Boys is two day tournament June 9+10
Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Round Robin and Jamboree for last three years: 2015, 2016 and 2017
2. 
3. 

Description of facility:

A. Seating capacity: ________ permanent; ________ temporary
B. Other seating capacity: ________ festival; ________ standing room only (sq. ft.)
C. Number of toilets available: ________ permanent; ________ portable
D. Number of parking spaces available: ________ on-site; ________ off-site
E. Are all parking lots lighted (applicable only if event runs into evening hours): ________ yes; ________ no, if no, which lots are not lighted: ________
F. Source of potable water: ________ At shed
G. Refuse containers available, number and size: ________ yes throughout twin brook = 20
H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse):
I. When will refuse be picked up? ________ Twin Brook will be picked up - refuse to the dumpsters

Public Safety:

J. Describe first aid facilities: ________ Cumberland EMTs on site
K. Describe emergency facilities: ________ Cumberland EMTS on site
L. Describe communication facilities: ________ cell phones from all coaches
M. Number of certified police officers: ________ At least 1
N. Other security personnel (include company name and qualification):
O. Describe fire personnel: ________ Cumberland Fire Dept
Other:

P. Name of liability insurance  Markel
   Amount of coverage  $1mm
   ; amount of property insurance

Q. Preferred type of performance guarantee (i.e. escrow account, irrevocable letter of credit)

Authorized Signature

Jonathan Becker

On 3-22-2018 (date), I received a copy of the Cumberland Mass Gathering Ordinance.

Authorized Signature
I certify that the team, league, or event on whose behalf I am requesting this certificate mandates 100% membership in US Lacrosse. In addition, I have verified our team's or league's events roster and all participants are currently registered members of US Lacrosse. I certify that this is true and I understand that liability coverage is only extended to our team, league, or event if all participants are current members of US Lacrosse. Further, I acknowledge by clicking on this box that event liability claims may be denied for coverage if our team/league/event is not 100% registered with US Lacrosse.

Name: Jonathan Becker
Organization: Cumberland/North Yarmouth Youth Lacrosse
Date: 03/22/2018
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
BOLLINGER, Inc.
150 JFK PARKWAY, 4TH FLOOR
PO Box 350
SHORT HILLS, NJ 07078
PHONE: 1-800-448-5311 FAX: 973-921-8474

INSURED
US Lacrosse, Inc.
2 Lovejoy Circle
Sparks, MD 21132
Re: Cumberland/North Yarmouth Youth Lacrosse

CONTACT
NAME: [Redacted]
PHONE: (ARC. No. Ext): 800-448-5311 FAX: 973-921-8474

INSURER(S) AFFORDING COVERAGE
INSURER A: Market Insurance Company
NAIC #: 38970

COVERAGES

THERE IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR TYPE OF INSURANCE ADDL INSR SUB WD POLICY NUMBER POLICY EFF (MM/DD/YYYY) POLICY EXP (MM/DD/YYYY) LIMITS
A GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY X OCCUR 8502AH221369 01/01/2018 01/01/2019 EACH OCCURRENCE $1,000,000
Sexual Abuse & Molestation Liab per occurrence: $1,000,000
Sexual Abuse & Molestation Aggregate limit: $2,000,000

AUTOMOBILE LIABILITY ANY AUTO X SCHEDULED AUTOS X OCCUR 4602AH221370 01/01/2018 01/01/2019 EACH OCCURRENCE $2,000,000

UMBRELLA LIABILITY Y EXCESS LB X OCCUR 4602AH221370 01/01/2018 01/01/2019 EACH OCCURRENCE $2,000,000

WORKERS COMPENSATION AND EMPLOYERS’ LIABILITY YES SIMPLIFIED [Redacted] [1] [Redacted]

ACCIDENT MEDICAL DISASTROUS ACC 4102AH025220 01/01/2018 01/01/2019 Accident Limit: $100,000
Catastrophic Limit: $1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES [Attach ACORD 161, Additional Remarks Schedule, if more space is required]
Coverage applies to teams/leagues comprised of 100% US Lacrosse members participants during scheduled and supervised Lacrosse activities.

CERTIFICATE HOLDER
Cumberland/North Yarmouth Youth Lacrosse
66 Schooner Ridge
Cumberland Foreside, ME 04110

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ACORD 25 (2010/05) The ACORD name and logo are registered marks of ACORD
ITEM
18-047

To set the week of May 14^{th}-18^{th} for Spring Bulky Item Pick Up Week.
SPRING BULKY WASTE PICK-UP WEEK
May 14th -18th

Items will be collected on your regular pick-up day.

Items accepted at curbside:
• Bathroom Fixtures
• Box Springs
• Cabinets
• Carpets
• Chairs
• Dressers
• Bicycles
• Large Metal Items
• Large Toys
• Mattresses
• Recliners
• Sofas
• Stoves
• Tables
• 2 Tires without rims
• Washers & Dryers

Items NOT accepted at curbside:
• No wood products, including picnic tables or fencing
• No appliances containing Freon (e.g., refrigerators, freezers or air conditioners)
• No brush, construction/demolition/remodeling debris (C/D) including lumber, shingles, brick or cement
• No Hazardous Waste including oil, automotive or household batteries or mercury products.
• No propane tanks
• No windows or Glass items
• No yard or tree waste
• No liquid waste
• No plastic bags
• No clothing or textiles
• No tires (with rims)
• No computers or monitors
• No fluorescent light bulbs
• No TV’s
**Bulky Item Pick-Up Notice:**

If an item, or group of items, fits in a Town of Cumberland PAYT bag, the material **IS NOT BULKY WASTE** and **WILL NOT BE PICKED UP** unless it is in a Town of Cumberland PAYT bag.

Only residential waste is accepted - no commercial trash is permitted.

A Bulky Item Pickup Week was designed to assist the Residents of Cumberland in the disposal of large, oversized items that cannot fit into the Town’s PAYT bags in the weekly trash or be recycled in regular curbside recycling.

Examples of items that could be included in the Bulky Waste Pickup are chairs, couches, mattresses, large metal items such as electric water heaters and bicycles.

Phones, computers, TV’s and appliances containing Freon are **NOT ACCEPTED** as part of this event. Look for information on disposal options on the Cumberland Town Website.

2 Tires per household will be accepted if the rim has been removed.

Paint Cans that are OPEN and DRY will be picked up during Bulky Waste Week only, at no other time during the year.

Items not accepted curbside may be taken to Riverside Recycling in Portland for a fee. They are located at 910 Riverside Street and their number is 797-6200.

Please contact the Salvation Army, Goodwill Industries or the Resale Store for donation possibilities.

If you have any other questions, please contact the Cumberland Public Works Department for more information at 829-2220.
ITEM
18-048

To appoint Democratic and Republican Election Clerks.
<table>
<thead>
<tr>
<th>ADDRESS</th>
<th>NAME</th>
<th>PARTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 Maple Street</td>
<td>Sue Larabee</td>
<td>Democrat</td>
</tr>
<tr>
<td>341 Main Street</td>
<td>Linda Phiniam</td>
<td>Democrat</td>
</tr>
<tr>
<td>78 Foreside Road</td>
<td>Thomas Glubler</td>
<td>Democrat</td>
</tr>
<tr>
<td>21 Wyman Way</td>
<td>Elizabeth Simmons</td>
<td>Democrat</td>
</tr>
<tr>
<td>138 Orchard Road</td>
<td>Emily Sege</td>
<td>Democrat</td>
</tr>
<tr>
<td>176 Foreside Road</td>
<td>Stacy Collins</td>
<td>Democrat</td>
</tr>
<tr>
<td>12 Drowne Road Apt. 208</td>
<td>Pat Muzzy</td>
<td>Democrat</td>
</tr>
<tr>
<td>121 Longwoods Road</td>
<td>Elies Rivers</td>
<td>Democrat</td>
</tr>
<tr>
<td>17 Granite Ridge Road</td>
<td>Matthew Goldthard</td>
<td>Democrat</td>
</tr>
<tr>
<td>12 Pinewood Dr.</td>
<td>Ritchie Dow</td>
<td>Democrat</td>
</tr>
<tr>
<td>68 Hawthorne Court</td>
<td>Nancy Jones</td>
<td>Democrat</td>
</tr>
<tr>
<td>35 Schooner Ridge</td>
<td>Linda Benezra</td>
<td>Democrat</td>
</tr>
<tr>
<td>6 Linden Court</td>
<td>Katherine Brookes</td>
<td>Democrat</td>
</tr>
<tr>
<td>6 Orchard Rd.</td>
<td>Betty Melchier</td>
<td>Democrat</td>
</tr>
</tbody>
</table>

2018 ELECTION WORKER LIST
ITEM 18-049

To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Penobscot Valley Kennel Club Chickadee Classic Dog Show to be held from June 22\textsuperscript{nd}-25\textsuperscript{th}, 2018, at the Cumberland Fairgrounds.
MEMORANDUM

To: William Shane, Town Manager  
From: Tamara O'Donnell, Town Clerk  
Re: Penobscot Valley Kennel Club Inc.

I held a meeting at 10:00 a.m., on Tuesday, February 28, 2018, with Cumberland Farmer’s Club President Mike Timmons, Police Chief Chip Rumsey, Lt. Dave Young, Fire Chief Dan Small, and Deputy Clerk Eliza Porter.

I reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

- The event will run for four days this year, June 22nd thru June 25th, 2018. The gates will be open from 8 a.m.-4 p.m. The 22nd will be a set up day for the event.
- There will be fee of $3.00 per car at the gate. Vehicles will be entering through the East Gate entrance to the parking area.
- No parking fee will be charged.
- Trash collection will be by Toriano Waste Company. Trash barrels will be provided and dumped daily by the Cumberland Farmers Club.
- Attendance levels are expected to be approximately 500 per day. As a result, Police Chief Rumsey and Fire Chief Small do not require a presence of Police on site or to have an ambulance dedicated to the event. Both departments will be on call and staff appropriately. The event will be reviewed yearly by the Police Department and the Fire Department.
- Communication by parties will be by cell phone and radio.
- The food will be handled by the Cumberland Fairgrounds.
- There will be four portable restrooms available.

The Mass Gathering Permit fee of $250.00 has been received by the Town. There will not be any additional fees unless Police presence or Fire presence is necessary. Fees for the event are as follows:

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I hope the weather cooperates, and they have a wonderful turnout. Thank you.

Fees:  
Mass Gathering $250.00
TOWN OF CUMBERLAND

Mass Gathering Application-Minor Large Outdoor Event
(500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event. Application must be accompanied by a non-refundable fee of $250.00.

Name of Applicant: Penobscot Valley Kennel Club Inc.
Address of Applicant: PO Box 354 Brewer, ME 04412-0354
Name of Event: Chickadee Classic Dog Show
Facility where the event will be held: CUMBERLAND FIELDS GROUNDS
Is the facility owned by the applicant: yes; no, (if no, attach a copy of the contract with The owner which allows use of property)
Name of promoter (if different from above): Penobscot Valley Kennel Club

Telephone number: ____________________________

Date of Event: June 22-23, 2023 Time (start and finish times): 8 AM-4 PM

Number of tickets available: 500 Visitors Per Day

Expected attendance: 500 x 4 = 2000

Description of event: Classic Dog Show

Will any food vendors be serving at the event: yes, no, (if yes, how many, and what types) Fat Cats Vendor

Will any alcohol vendors be serving at the event: yes, no (if yes, list name and attach A copy of the vendors license to sell alcohol, describe what alcohol will be served)
Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Cumberland Fair - 2016
2. Cumberland Fair Grounds 2015
3. Cumberland Fair Grounds 2014

Description of facility:

A. Seating capacity: N/A permanent; ________ temporary
B. Other seating capacity: ________ festival; ________ standing room only (sq. ft.)
C. Number of toilets available: 6 permanent; 6 portable
D. Number of parking spaces available: 3000 on-site; ________ off-site
E. Are all parking lots lighted (applicable only if event runs into evening hours): yes; ________ no, if no, which lots are not lighted ________ all areas lighted - 24 hrs.
F. Source of potable water: Town water
G. Refuse containers available, number and size: 10 yds
H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse) Triano-
I. When will refuse be picked up? cleaned up 6 am daily

Public Safety:

J. Describe first aid facilities: On Call - Cumberland
K. Describe emergency facilities: On Call Cumberland
L. Describe communication facilities: Public
M. Number of certified police officers: On Call
N. Other security personnel (include company name and qualification): on staff
O. Describe fire personnel: Cumberland On Call
ITEM
18-050

To accept the Contract Zone Agreement amendment #5 for Heritage Village Development (CFV) and begin the CZA amendment process.
To: Town Council
From: William R. Shane, Town Manager
Date: April 4, 2018
Re: CZA Amendment #5 – Kennedy – Formerly Chase

This is the first step in the process. It is ready to move forward- fee has been paid, copy submitted to the Town Attorney.

Carla and I have also reached out to the abutting HOA’s on Rt 1 and will be meeting with them prior to the “Council- Neighborhood” meeting the week of April 16th. It’s very early in the process and we are allowing the applicant to propose the changes. Staff is not in agreement with many of the requests, but the applicant has the right to ask, so we are allowing the process to move forward. We will withhold our comments until the Council- Planning Board Workshop to be held at the end of the month.
Submit Application to Town Manager with $2,000 fee may be more if complex project

Town Planner & Town Manager Recommendation to Town Council Consistency with Comp Plan

Council Votes to Accept or Not Accept the Application

Not Accepted - End Process

Accepted

Council Facilitated Neighborhood Meeting

Town Council & Planning Board Workshop

Town Attorney to Review & Assist in Drafting the CZA for Town Council Review

Town Council Public Hearing & Decision to forward to the Planning Board

Planning Board Public Hearing & Recommendation to Town Council

Town Council Public Hearing & Vote

Amendments ??
Back to the Top to Step 1
April 3, 2018

William Shane, Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland, Maine 04021

Re: Application for Amendment to Contract Zone Agreement
Heritage Village Development Group, LLC (formerly Cumberland Foreside Village, LLC)

Dear Bill,

Our office represents Heritage Village Development Group, LLC, which as you know purchased land subject to the Contract Zone Agreement from Cumberland Foreside Village last year. Thank you for the opportunity to present this proposed amendment to the Agreement.

We understand that you will review this package for completeness and forward it to the Town Council for their initial review. We respectfully request to be included on the Town Council’s April 9, 2018 agenda.

The proposed amendment would make the following changes to the existing Contract Zone Agreement, among other clarifying edits:

1. Section II.A., Light manufacturing and residential care facilities are expressly included as permitted uses (rather than relying on the underlying zoning district where they are already permitted uses).
2. Section II.D., the buffering requirements for indoor warehouse and storage facilities and whole distribution facilities do not apply to Lots 4, 5 and the portion of 8 west of Clipper Street.
3. Section III. A. 2, side yard setbacks for interior commercial lots have been reduced from 20 to 15 feet.
4. Section III.A. 2., the 10 foot driveway setback is removed for driveways shared by 2 or more lots.
5. Section III.A.4, the side yard setback is reduced from 25 to 15 feet for indoor warehouse and storage and wholesale distribution facilities.
6. Section III.A.4, the rear yard setback is reduced from 25 feet to 20 feet for indoor warehouse and storage and wholesale distribution facilities.
7. Section III. B., the frontage requirement for interior lots is reduced from 150 feet to 75 feet.
8. Section III.C., the requirements for interior roads, other than driveways and alleyways, serving commercial lots have been clarified to require an enclosed storm drainage system and must be constructed in accordance with the geometric design standards for commercial subdivisions found in Chapter 250 of the Cumberland Code.
9. Section III.J., the minimum lot size for commercial lots has been reduced from 60,000 square feet to 35,000 square feet.
10. Section III.M. has added with the following requirements for assisted living facilities and residential care facilities: minimum lot size of two acres; site coverage of 30%; open space of 25%, and maximum building height of 50 feet.
11. Exhibit A, Contract Zone Illustrative Plan, has been amended to show the former Lot 9 as two lots, among other clarifying edits.
12. Exhibit A-1, Legal Description, has been clarified to include Lots 9A and 9B as previously intended.
13. Exhibit B, Estimated Schedule of Completion, has been updated.
14. Exhibit C, Design Guidelines, has been amended as follows:
   - Under Specific Design, first guideline, the following text has been removed: “The use of split-face concrete block should be used in limited quantities.”
   - Under Specific Design, third guideline, the text “should be avoided” has been replaced by “not allowed.”
   - Under Specific Design, sixth guideline, in line two, the minimum roof pitch has been changed from “8 in 12” to “6 in 12.”
   - Under Specific Design, ninth guideline, the following text has been added to the end of the sentence “shielded from view from the street.”
   - Under Specific Design, fourteenth guideline, the word “paved” has been removed in reference to the path along Route 1 since the path is no longer required to be paved per previous amendments.

Finally, reference to the approved (and amended) subdivision plan for the property has been deleted to avoid confusion with the Contract Zone Illustrative Plan.

Enclosed with this letter please find the following:

1. A draft amendment to the Contract Zone Agreement, including Exhibits A-E.
2. A check in the amount of $2,000.00 for the deposit and application fee.
We look forward to working with you and will provide any additional information you need for your review.

Sincerely,

Philip Saucier

Enclosures

cc: Peter Kennedy, Sole Member, Heritage Village Development Group, LLC
    Stephen Mohr, Mohr & Seredin
    Philip Gleason
    Alyssa Tibbetts, Jensen Baird
Heritage Village

Route 1 - CZA

5TH AMENDMENT

Apr. 1 2018
AMENDED AND RESTATED CONTRACT ZONING AGREEMENT
BY AND BETWEEN THE TOWN OF CUMBERLAND

AND

CUMBERLAND FORESIDE VILLAGE, LLC
CHERITAGE VILLAGE
DEVELOPMENT GROUP, LLC

RELATING TO THE CUMBERLAND FORESIDE HERITAGE VILLAGE
(formerly "HERITAGE CUMBERLAND FORESIDE VILLAGE") SUBDIVISION
ROUTE 1, CUMBERLAND, MAINE

This Amended and Restated Contract Zoning Agreement is entered into this
day of ____________, 2017/2018, by and between the Town of Cumberland, a municipal
corporation (the "Town"), and Cumberland Foreside Village, LLC/Heritage Village
Development Group, LLC, a Maine-Florida limited liability company qualified to do
conduct business in Maine ("the Developer"), pursuant to the Conditional and Contract
Rezoning Provisions set forth in 30-A M.R.S.A. Section 4352 (the "Act") and Section
315-79 of the Cumberland Code, as may be amended from time to time.

WHEREAS, the Town and Peter Kennedy ("Kennedy") entered into a Contract
Zoning Agreement dated September 10, 2002, which is recorded at the Cumberland
County Registry of Deeds in Book 18114, Page 330 (the "Original Agreement"); and

WHEREAS, Kennedy conveyed his property which is subject to the Agreement to
the Developer Cumberland Foreside Village, LLC ("CFV") by Deed dated December 27,
2005 and recorded at the Cumberland County Registry of Deeds in Book 23549, Page
231; and

WHEREAS, Kennedy assigned his interest in the Original Agreement to the Developer
CFV by Assignment of Contract Zoning Agreement dated December 27, 2005
and recorded at the Cumberland County Registry of Deeds in Book 23652, Page 65; and

WHEREAS, the Town and the Developer CFV amended and restated the Original
Agreement in its entirety in the Amended and Restated Contract Zoning Agreement dated
January 31, 2007, which is recorded at the Cumberland County Registry of Deeds in Book 24825, Page 242 (the "Amended and Restated Agreement"); and

WHEREAS, the Town and the Developer CFV amended the Amended and
Restated Agreement on October 23, 2014 by document titled First Amendment to
Amended and Restated Contract Zoning Agreement (the "First Amendment"), which is
recorded at the Cumberland County Registry of Deeds in Book 31899, Page 262; and

WHEREAS, the Town and the Developer CFV amended and restated the Original
Agreement and the First Amendment in its entirety on February 27, 2015 by document
titled Amended and Restated Contract Zoning Agreement, which is recorded at the
Cumberland County Registry of Deeds in Book 32162, Page 191 (the “2015 Amended and Restated Agreement”); and

WHEREAS, the Town and the Developer CFV amended and restated the Original Agreement in its entirety in order to incorporate subsequent amendments (the Amended and Restated Agreement, the First Amendment and the 2015 Amended and Restated Agreement), and proposed additional amendments to expand the permitted residential development and revise the lot lines of the parcels consistent with the development goals of the Original Agreement, which is recorded at the Cumberland County Registry of Deeds in Book 33880, Page 87 (the “2016 Amended and Restated Agreement”); and

WHEREAS, the Town and CFV amended and restated the 2016 Amended and Restated Agreement in its entirety on May 11, 2017 in order to amend and clarify the requirements set forth herein related to the common walkway/path and the buffers along Interstate 295 and Route 1 corridors, which is recorded at the Cumberland County Registry of Deeds in Book 34000, Page 177 (the “2017 Amended and Restated Agreement”); and

WHEREAS, CFV conveyed its property which is subject to the 2017 Agreement to the Developer by Deeds dated October 10, 2017 and recorded at the Cumberland County Registry of Deeds in Book 34376, Page 330 and to David Chase (as to Lot 9A/B only) by Deed dated October 10, 2017 and recorded at the Cumberland County Registry of Deeds in Book 34376, Page 332.

WHEREAS, the Town and the Developer desire to amend and restate the 2016 Amended and Restated Agreement in its entirety in order to amend and clarify the requirements set forth herein related to the common walkway/path and the buffers along the Interstate 295 and Route 1 corridor; the development of the commercial lots; and

NOW THEREFORE, the 2016 Amended and Restated Agreement is hereby amended and restated in its entirety, as follows, it being understood that this Amended and Restated Contract Zoning Agreement supersedes and replaces the Original Agreement, the former Amended and Restated Agreement dated January 31, 2007, the First Amendment dated October 23, 2014, the 2015 Amended and Restated Contract Zoning Agreement dated February 27, 2015—and the 2016 Amended and Restated Contract Zoning Agreement dated April 12, 2016, the 2017 Amended and Restated Contract Zoning Agreement dated May 11, 2017, which shall be of no further force and effect:

WHEREAS, the property subject to this Amended and Restated Contract Zoning Agreement consists of the approximately 74.90 acre parcel of land (the “Project”) located off U.S. Route One, depicted as Lots 1 – 9-103 on Exhibit A (the “Plan”) prepared by Mohr & Seredin dated March 12, 2018 and more particularly described in Exhibit A-1 attached hereto; and

WHEREAS, the Developer CFV received subdivision approval from the Cumberland Planning Board on August 16, 2016, in accordance with the subdivision plan prepared by Owen Haskell dated August 18, 2016 and recorded in the Cumberland
WHEREAS, the Developer’s Updated Estimated Schedule of Completion of the Project is attached hereto as Exhibit B; and

WHEREAS, in order for the Project to be financially feasible for the construction and sale of commercial buildings and residential dwelling units while meeting all applicable codes, certain amendments with respect to density, setbacks, road lengths and certain other performance standards of the Cumberland Code are required; and

WHEREAS, on March 28, 2017, the Cumberland Town Council approved the execution of this Amended and Restated Contract Zoning Agreement, subject to later compliance with Subdivision and Site Plan Standards as set forth in Chapter 229 and Chapter 250 the Cumberland Code, provided such Ordinance provisions are not in conflict with the Act.

NOW THEREFORE, pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code (as may be amended from time to time), the Cumberland Town Council hereby finds that this Amended and Restated Contract Zoning Agreement:

A) is consistent with the Comprehensive Plan duly adopted by the Town of Cumberland on April 14, 2014; and

B) establishes a contract zone area consistent with the existing and permitted uses in the original zone of the area involved; and

C) only includes conditions and restrictions which relate to the physical development and future operation of the proposed development; and

D) imposes those conditions and restrictions which are necessary and appropriate for the protection of the public health, safety and general welfare of the Town of Cumberland.

The parties agree as follows:

I. Establishment of the Contract Zone:

The Town hereby agrees that the approximately 74.90 acres shown on the Plan shall be a Contract Zone pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code.

II. Permitted Uses Within the Contract Zone:
The development permitted within the Contract Zone established in paragraph 1 above shall be as follows (Note: References to lot numbers herein shall be to those lot numbers as shown on the Plan attached hereto as Exhibit A, unless expressly stated otherwise):

A) All uses authorized as of the date of execution of this Amended and Restated Contract Zoning Agreement and as may be amended hereafter either as permitted uses or special exceptions in the Office Commercial South District, including assisted living and residential care facilities and light manufacturing as defined in Section 315-4 of the Cumberland Code.

B) Up to 150 residential dwelling units, which may be either detached dwelling units (single family) or attached duplex or multiplex dwellings, on Lots 10A and 10B as shown on the Plan; said residential development to include buffering as set forth in Section III of this Agreement. Individual house lots shall contain not less than 5,000 square feet. Multiplex dwelling units shall be developed for rent or lease only and shall not be converted to condominiums for private sale without prior approval of the Town Council. At least one dwelling unit contained within each multiplex dwelling structure developed under this Paragraph must be occupied by a tenant that is 55 years of age or older and at least 20% (not less than nineteen) of the total dwelling units contained within all of the multiplex dwelling structures developed under this Paragraph must be occupied by a tenant that is 55 years of age or older. The Developer shall have the right to (i) vary the mix between detached dwelling units, duplex and multiplex dwellings, and (ii) convey or subcontract all or any portion of the Project to one or more third parties, subject to the provisions of this Agreement. The residential development permitted under this Paragraph shall be subject to the net residential density requirements of Section 315-43(E); provided, however, that the requirements of Section 315-43(E) shall not apply to the development of multiplex dwellings under this Paragraph. The development of multiplex dwellings permitted under this Paragraph shall also be exempt from the regulations of Section 315-44 of the Cumberland Code related to multiplex dwellings.

C) Commercial development of not less than six (6) lots, as shown on the Plan; said commercial development to be developed with buffering from the adjacent residential areas of the Project as set forth in Section III of this Agreement.

D) On proposed Lots 7 and 8 only (and on any lots created by further subdivision of Lots 7 and 8), indoor warehouse and storage facilities and wholesale distribution facilities as defined in Section 315-4 of the Cumberland Code shall be permitted, provided that such facilities are set back at least 300 feet from the U.S. Route One right of way and only if no residential use is created or existing on the same lot. Indoor warehouse and storage facilities shall include enclosed buildings for the keeping of nonhazardous goods, commodities, equipment, materials or supplies in which buildings there are not any sales, manufacturing, production or repair activity, except on an incidental or occasional basis. Outdoor storage of any goods, commodities, equipment, materials or supplies in conjunction with an indoor warehouse and storage facility shall not be permitted. If an indoor warehouse and storage facility or a wholesale distribution facility is adjacent to residential property, the buffering requirements set forth in Section
III of this Agreement shall apply except for Lots 4 and 5 on Route 1 and the portion of Lot 8 west of Clipper Street. Nothing in this section shall preclude the establishment of any other commercial use allowed by the terms of this Agreement.

E) A communications tower properly buffered from all residential uses in accordance with Section 315-72 of the Cumberland Code.

F) On Lot 1 only, retail stores (uses may include any shop or store for the retail sale of goods or personal services, excluding any drive-up service, freestanding retail stand, gasoline and motor vehicle repair service, new and used car sales and service, and trailer and mobile home sales and service).

G) Tradesmen's offices (i.e., the office of a self-employed craftsman or person in a skilled trade) involving only the management of the business; interior storage of materials and goods related to the business; and outdoor storage of vehicles, equipment and material ancillary to the business provided that such items are not visible from a public way. No on-site retail sales or wholesale distribution shall be permitted as part of such use, except as otherwise permitted within the Office Commercial South District.

H) Site preparation activities including grading and aggregate processing, as defined in Section 315-4 of the Cumberland Code, which substantially alter terrain and site character shall be permitted subject to the requirements set forth herein. Site preparation activities shall be permitted by the Developer and/or his subcontractor and shall include aggregate processing of materials on site for use in conjunction with the development of the site or off-site, but shall not be permitted unless in preparation of the site for proposed or approved development. The foregoing activities shall be performed in accordance with Maine Department of Environmental Protection requirements for ledge removal and materials processing, regardless of whether such use actually requires a permit from the Maine Department of Environmental Protection. If a permit from the Maine Department of Environmental Protection is not required for the use, the Town shall have the authority to enforce these requirements. Any such activities and any other site work proposed on the site, including development permitted under the terms of this Agreement shall be subject to review and approval by the Planning Board and shall be completed pursuant to all applicable sections of the Cumberland Code including, but not limited to, Sections 315-48 and 315-49. All site preparation activities must be completed within one year of approval unless an extension is requested by the Developer from the Planning Board prior to the expiration date. The Planning Board is authorized to extend the project completion not more than two times for a period of up to six months each time. The Planning Board shall deny a request for extension if the site preparation activities are not at least 35% completed within one year from the date of approval and if an application for site plan and/or subdivision including the area for which site preparation activity was permitted has not been approved.

III. Restrictions within the Contract Zone:
A) The setback provisions within the Contract Zone shall be as follows. All setbacks shall be measured from the exterior wall of the structure and shall not include overhangs, which overhangs shall not exceed one foot on any side of the structure.

(1) setbacks for detached dwelling units:
   - Front yard setback not less than 15 feet.
   - Side yard setback not less than 9 feet each side.
   - Rear yard setback not less than 15 feet.
   - Driveway setback not less than 5 feet.
   - If a residential lot is adjacent to a commercial lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(2) setbacks for commercial lots:
   - Front yard setback not less than 25 feet.
   - Side yard setback not less than 20 feet each side for lots with frontage on Route 1; not less than 15 feet on each side for interior lots.
   - Rear yard setback not less than 40 feet.
   - Driveway setback not less than 10 feet, unless driveways are shared for access by 2 or more lots in which case there are no driveway setback requirements.
   - If a commercial lot is adjacent to a residential lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(3) setbacks for assisted living facilities and duplex and multiplex dwellings:
   - Front yard setback not less than 50 feet.
- Side yard setback not less than 30 feet each side.
- Rear yard setback not less than 50 feet.
- Driveway setback not less than 5 feet.
- If an assisted living facility, duplex or multiplex dwelling is adjacent to a commercial lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

- Any building that is constructed for the sole purpose of and used exclusively in connection with the development of multiplex dwellings and located on the same lot as the multiplex dwellings, such as a community center or rental office, shall be subject to the setback requirements of this section; provided, however, that the rear setback for such building shall be not less than 25 feet.

(4) Setbacks for indoor warehouse and storage and wholesale distribution facilities:

- Front yard setback not less than 25 feet.
- Side yard setback not less than 25-15 feet each side.
- Rear yard setback not less than 25-20 feet.
- If indoor storage and warehouse facilities or wholesale distribution facilities are adjacent to residential development, the above minimum setbacks shall be increased to 60 feet and there shall be a 75 foot undisturbed or replanted buffer on the property line between the commercial and residential uses. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 75 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(5) A setback of not less than 100 feet shall be maintained along the entire length of the property boundary that borders the Interstate 295 highway. The setback shall be measured from the edge of the I-295 right of way and shall remain at all times undisturbed. The Town shall periodically survey this setback to ensure that it has been maintained.

7
the event that this area is disturbed for any reason, the Developer shall be required to prepare and submit a landscape plan to be approved by the Town Council and shall be required to complete plantings in accordance with the approved plan within a timeframe designated by the Town Council. Additional plantings consisting of evergreen trees shall be field located with Town staff. Plantings shall be at least five feet (5') tall when planted. Plantings shall be required within the portion of the setback that runs along Lot 100 the Cumberland Foreshore Village Apartments, as shown on Exhibit B A to provide a visual buffer of the multiplex dwelling units constructed on that lot.

B) The minimum frontage on the street providing access to each residential lot shall be 50 feet and for each commercial lot shall be 150 feet for lots with frontage on Route 1 and 75 feet for interior lots.

C) The length of Skyview Drive, the dead-end road serving the commercial portion(s) of the Project, shall be not more than 3,000 feet, and the road right-of-way be established at 50 feet in width, with a paved width of at least 24 feet (base shall be 30 feet wide), a five foot paved sidewalk for Skyview Drive, a four foot esplanade and an enclosed drainage system. All other roads, except for driveways and alleyways, within the interior commercial lots in the project shall be constructed with a paved width of at least 24 feet, and do not shall require an enclosed drainage system, curbing and a five foot paved sidewalk, and be constructed in accordance with the geometric design standards for commercial subdivisions found in Chapter 250 of the Cumberland Code.

D) The height restriction on all nonresidential structures and multiplex dwellings shall be 50 feet and the height restriction on all detached (single family) and duplex dwellings shall be 40 feet.

E) There shall be no other variances from the Cumberland Zoning Ordinance granted to any lot owner beyond those expressly set forth herein, unless the Town and Developer agree by written and duly authorized amendment to this Agreement.

F) This Agreement shall be subject to the Town’s Impact Fee Ordinance to the extent applicable. Impact Fees shall be calculated based on the gross floor area of the total structure for each multiplex dwelling structure constructed under Section II(B) of this Agreement. The gross floor area of the multiplex dwelling structure shall be reduced by the gross floor area of any dwelling unit within that structure that is designated to be occupied by a tenant that is 55 years of age or older. The residential development permitted under Section II (B) of this Agreement shall be exempt from the requirements of the Town’s Growth Management Ordinance pursuant to Section 118-6(D) of the Cumberland Code; provided, however, that the Developer shall be responsible to pay a fee of $100 per multiplex dwelling unit in lieu of a growth permit.

G) Any commercial development or multiplex dwelling development shall be subject to the “Design Guidelines for Commercial Properties & Multiplex Dwellings” which are attached hereto as Exhibit DC.
H) The Route 1 buffer shown on the Plan shall be 35 feet from the Route 1 right of way. 25 feet of the Route 1 buffer shall be undisturbed vegetation and the remaining 10 feet shall be used for a common walkway/path. The common walkway/path shall be constructed within the Route 1 right of way beginning at Sky View Drive and ending at the northerly lot line of Lot 5, subject to approval by the Town, or within 25 feet of the Route 1 right of way beginning at Sky View Drive and ending at Lot 11-C of the Town of Cumberland's Tax Map R01, shown as the "Seafax" Lot (Seafax) as shown on Exhibit ED. The common walkway/path shall be completed prior to the occupancy of any residential dwellings constructed pursuant to Section II(B). No additional buffer shall be required along Route 1 for Lots 9A and 9B as shown on Exhibit BA, provided that the front setback for the property as set forth in Section III(A) is met and that the setback area includes undisturbed vegetation to the greatest extent practicable and additional plantings as necessary to create a sufficient vegetated buffer within the setback.

I) Notwithstanding anything in Section III(A) above to the contrary, the building setback from Route 1 shall be 65 feet from the Route 1 right of way, except that the building setback from Route 1 on Lots 9A and 9B only shall be 25 feet from the Route 1 right of way.

J) The minimum lot size for commercial lots shall be 60,000 square feet, except that the minimum lot size for Lots 9A and 9B shall be 35,000 square feet.

K) The use of bituminous or concrete curb throughout the road network and on site plans shall be allowed at the developer's option.

L) The parking requirements of Section 315-57 of the Cumberland Code shall apply to development under this Agreement; provided, however, that the minimum number of parking spaces required for multiplex dwellings under Section II(B) shall be two (2) spaces per dwelling unit. A landscaped berm shall be installed on the exterior perimeter of each parking area designated for the multiplex dwelling structures developed under Section II(B). Such berms shall be designed and constructed to provide screening from vehicle headlights within the parking area facing outward in both easterly and westerly directions.

M) Notwithstanding anything in the Town's Zoning Ordinance to the contrary, assisted living facilities and residential care facilities shall be subject to the following requirements:

1) Minimum lot size of two acres;

2) Site coverage. The facility, as measured by the area of the building footprint of all structures, shall not cover more than 30% of any site's gross acreage. This limitation on site coverage applies only to structures and does not apply to drives, parking areas, walkways, and gardens;

3) Open Space. At least 25% of the gross site acreage shall be devoted to vegetated open space. The open space may include lawn areas, forest areas, areas
with a vegetative cover, and gardens. Open space shall not include areas covered by structures, parking areas, drives, walkways, swimming pools, tennis courts, or similar improvements; and

(4) Height. The maximum building height shall not exceed 50 feet.

Subject to the following, the Cumberland Planning Board shall have review authority under the applicable provisions of the Cumberland Subdivision, Site Plan and Zoning Ordinances to impose conditions of approval pursuant to said Ordinances relating to the development and construction of the Project.

IV. Miscellaneous Provisions:

A) Offsite Improvements: The Developer and the Town agree to negotiate the respective obligations of each party as it relates to shall be responsible for the design, engineering and construction of all offsite improvements as may be required by the owners or operators of property within the Project or as may be required by rule, regulation, law or determination of a governmental agency or utility in conjunction with the development of any Lots within the Project, except that the Town shall be responsible for the widening, paving and striping of a designated portion of Route 1 as may be necessary pursuant to the plan titled “Route 1 Roadway Improvements” drafted by Gorrill-Palmer Consulting Engineers and dated July 2007 [November 15, 2016], attached hereto as Exhibit FE, or as otherwise approved by the Town Council.

B) Survival Clause: The terms and conditions of this Agreement shall run with the land and be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of the parties hereto except as specifically set forth herein. A true copy of this Agreement shall be recorded in the Cumberland County Registry of Deeds.

C) Arbitration Clause: In the event of any dispute between the parties hereto arising out of the Town’s approval of (or failure to approve) eligible and qualified purchasers, such dispute shall be submitted to arbitration pursuant to the rules and regulations of the American Arbitration Association, or such other similar arbitration tribunal as the parties may select. The decision of such arbitration panel shall be final, binding and conclusive as to all issues arbitrated therein. Any and all other disputes, claims, counterclaims, and other matters in question between the parties hereto arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction.

D) Further Assurances: In order to effectively and properly implement this Agreement, the parties agree to negotiate in good faith the terms and conditions of such further instruments and agreements as may be reasonably necessary from time to time to give effect to this Agreement.

E) Maine Agreement: This contract is a Maine agreement, entered into in the State of Maine and shall be governed by and enforced in accordance with the laws of the State of Maine.
F) **Binding Covenants:** The above-stated restrictions, provisions, and conditions are an essential part of this contract and shall run with the subject premises, shall bind the Developer, its successors and assigns with respect to the Project or any part thereof or any 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, by and through its duly authorized representatives. However, if all site work related to the infrastructure on the subdivision plan is not substantially completed within five (5) years from the date of this Amended and Restated Agreement, then the Town Council shall review the status of the project and shall determine whether to initiate a rezoning of the property to the current zoning classification as it exists at the time of the rezoning determination.

G) **Severability:** In the event any one or more clauses of this Agreement shall be held to be void or unenforceable for any reason by any court of competent jurisdiction, such clause or clauses shall be deemed to be severable and of no force or effect in such jurisdiction, and the remainder of this Agreement shall be deemed to be valid and in full force and effect, and the terms of this Agreement shall be equitably adjusted if possible so as to compensate the appropriate party for any consideration lost because of the elimination of such clause or clauses.

[SIGNATURE PAGE TO FOLLOW]
IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed as of the day and year first above written.

WITNESS:                                  TOWN OF CUMBERLAND

Name:                                      By: ________________________________

                                      William R. Shane
                                      Town Manager

VILLAGE HERITAGE VILLAGE DEVELOPMENT GROUP, LLC

                                      ________________________________
                                      David Chase
                                      Peter D. Kennedy
                                      Sole Member and Manager

State of Maine
County of Cumberland, ss.
20172018

Then personally appeared the above-named William R. Shane in his capacity as Town Manager of the Town of Cumberland and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Town of Cumberland.

Before me,

Notary Public
Print Name: ________________________________
Commission Expires: ________________________________
Description of Amended Contract Zone 3-21-2018

A certain lot or parcel of land situated on the westerly side of U.S. Route One in the Town of Cumberland, County of Cumberland, and State of Maine bounded and described as follows:

Beginning at the intersection of the westerly sideline of said U.S. Route One and the Cumberland/Falmouth town line;

Thence, N-55°-09'-09"-W along said town line 1034.93 feet to the Easterly sideline of I-295;

Thence, Northerly by the following courses and distances along the Easterly sideline of Said I-295:

Thence, Northerly along a curve to the right having a radius of 22,668.32 feet an arc length of 595.32 feet

Thence, N-54°-46'-38"-E 100.00 feet;

Thence Northerly along a curve to the right having a radius of 22,768.32 feet an arc length of 992.02 feet;

Thence N-37°-43'-09"-E 661.39 feet;

Thence Northerly along a curve to the left having a radius of 6073.58 feet an arc length of 1206.99 feet;

Thence S-55°-06'-49"-E along land of Eleanor A. Randall 278.96 feet;

Thence N-36°-43'-05"-E along land of said Randall 396.71 feet;

Thence S-54°-17'-11"-E along land of said Randall 274.45 feet to Said U.S. Route One;

Thence Southerly along said U.S. Route One and along a curve to the right having a radius of 7092.03 feet an arc length of 774.63 feet;

Thence N-62°-15'-59"-W along land now or formally of BBW Real Estate LLC 367.24 feet;
Thence S-19°-34'32"-W along land of said BBW Real Estate LLC 327.21 feet to land of the Town of Cumberland;

Thence S-51°-07'-38"-E along the common line between the land of said BBW Real Estate LLC and said Town of Cumberland 368.93 feet to said U.S. Route One;

Thence Southerly along a curve to the right having a radius of 7902.03 feet and along said U.S. Route One and arc length of 909.60 feet;

Thence S-36°-58'-14"-W along said U.S. Route One 86.37 feet;

Thence S-30°-44'-43"-W along said U.S. Route One 1737.04 feet to the point of beginning; all bearings are magnetic.
Updated Estimated Schedule of Completion of the Project
Cumberland Foreside Village
March 2018

A. Schedule of Regulatory Reviews
   - Complete project plans and supporting documents
     2018
     1-2 months (May/June 2018)
   - Planning Board Subdivision Review
     1-4 months (May - August 2018)
   - Planning Board Site Plan Review (concurrent with subdivision)
     1-4 months (May - August 2018)
   - Planning Board anticipated approval within
     4 months (May - August 2018)
   - DEP SLODA review and approval
     1-3 months (May - July 2018)

B. Anticipated Construction Schedule
   - Start construction within 1 month of approval (cul-de-sac & berm)
     August 2018 – December 2020
     June 2018
     12 - 18 months
   - Construction of subdivision private drive and infrastructure
     12 - 24 months
   - Sitework – Lots 10 through 13
     24 - 30 months
   - Sitework Lots 3, 4, and 5
Cumberland Foreside/Heritage Village Contract Zone

Design Requirements for Commercial Properties and Multiplex Dwellings

The following design guidelines have been prepared as a part of the Contract Zone for the Cumberland Foreside/Heritage Village Subdivision. These will serve to assist in the development of the parcel in an orderly manner and will establish the design criteria to guide the development of the individual buildings on all lots used for commercial purposes or as multiplex dwellings. The overall intent of these design guidelines is to assure that the building designs are well thought through and have coordinated architectural forms, massing, materials and color ranges.

A. General Design Guidelines:
   • The design for the buildings at Cumberland Foreside (CFV)/Heritage Village (HV) are to be encouraged to draw upon elements found in traditional New England vernacular architecture.
   • All buildings proposed for CFV/HV should be designed by an architect registered in the State of Maine; buildings designed by Engineers are acceptable as long as the guidelines contained herein are closely followed.
   • Individual building designs should have all of the elements coordinated to achieve harmony and continuity in the structure’s appearance.
   • Adjacent structures must be considered in the design for all new buildings. This should include scale of building, use of materials, and general building form.
   • Buildings within 200 feet of US Route One, and in particular building elevations directly fronting on US Route One, need to have well designed, carefully detailed facades that have architectural interest and appeal. The existing Seafax and Exactitude structures can be referred to with regard to this guideline.

B. Specific Design:
   • Exterior siding materials are encouraged to be traditional appearing building materials common to Northern New England. The use of asphalt shingles, T-111, or highly reflective siding materials is not permitted.
   • The mass of larger structures needs to be broken down through the use of architectural detailing, changes in materials or other means so as to create visual interest. Main entrances to the buildings should be emphasized by architectural detailing, glazing, lighting, etc.
   • Arbitrary or frequent changes in siding materials, applied embellishments, or the addition of architectural details that are not integrated into the building form or function are not allowed.
   • All functional elements visible on the exterior of the structure (e.g., meters, service connection, downspouts, vents, etc.) shall be treated as integral parts of, and incorporated into, the building design.
   • All buildings shall provide an appropriate proportion of windows, doors or other fenestration so as to break up the building façade visible from Route 1 and any public view. The building fenestration should provide sufficient transparency to provide views to the interior of the building as functionally appropriate. Careful attention must be paid to the relative size, detailing and positioning of all openings in the building elevations.
• On small buildings, eg. those under 5,000 s.f., flat roofs should be avoided on one-story structures. Pitched roofs with traditional slopes (eg. higher than 6 in 12) are encouraged. Where the roof will be visible from adjoining public ways, the roofing materials should be selected so as to complement the buildings façade. Preferred roofing materials shall include architectural grade asphalt shingles, standing-seam metal roofing, or natural materials.
• Color selected for the exterior surfaces of buildings should be earth-toned, or colors that are earth-tones, muted and not garish. The use of bright colors must be limited to areas where accents are desired (eg. doors, window trim, entrances, etc.).
• Where roofs are flat, parapets or other architectural elements should be used to break up a large expanse (eg. greater than 80 feet) of flat roof-line. Roof-top mounted mechanical or other equipment shall be screened/shielded from view from the street.
• Long horizontal facades of buildings (those greater than 80 feet in length) should be made more interesting through either changes in the façade plane or selection of materials to provide interest through color, shadow, non-functional windows, etc.
• Buildings with multiple entrances or uses shall be designed to be visually unified through complimentary detailing and use of materials, with no awnings allowed.
• Separate accessory structures on the same lot as a principal structure shall have consistent architectural detail so as to provide unified project design.
• Underground utility connections are required.
• Sidewalks along buildings and a trail in the I-295 buffer are required.
• A 5' walkway, with 10' of cleared space, is required within the Route 1 buffer zone as shown in Exhibit D.
• Signage shall consist of natural materials (wood, stone, etc.) and shall not be internally lit.
DESIGNATED PATH ENVELOPE
SKYVIEW DRIVE TO LOT 5

DESIGNATED PATH ENVELOPE:
26 FEET ALONG THE ROUTE ONE RIGHT-OF-WAY FROM SKYVIEW DRIVE TO SEAFAX'S DRIVEWAY
26 FEET ALONG THE ROUTE ONE RIGHT-OF-WAY GIVE CUMBERLAND FORESCE VILLAGE LOTS 3, 4, 5 AND THE CASCO BAY DRIVE RIGHT-OF-WAY AND ADJACENT OPEN SPACE OF CFV HOUSING.

GRAPHIC SCALE

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ITEM
18-051

To set a Public Hearing date of April 23rd to consider and act on a Contract Zone Agreement for John Paynter, 445 Greely Road Extension.
To: Town Council
From: William R. Shane, Town Manager
Date: April 4, 2018
Re: Paynter CZA

This will be at the Planning Board this month. I expect it to return to your agenda on April 23rd for Final Action.
To: Steve Moriarty, Chairman of the Planning Board
From: William R. Shane, Town Manager
Date: March 6, 2018
Re: Paynter CZA

In December 2017, the Town Council approved the purchase of the remaining land around Knight's Pond. The purchase was a combination of a gift letter for tax proposes and annual payments over 10 years. In order to complete this purchase, the Town Council will need to authorize a Contract Zone Agreement because the current configuration of John’s property on his lot would not allow the sale of existing land consistent with his possible development plans for the future.

A Contract Zone Agreement (CZA) would allow existing structures to remain in place. Those structures would be identified on a plan and would be part of the CZA requirement. The CZA is specific to setbacks to existing structures only. No other density bonuses or changes to the underlying zoning requirements of the RR 2 district would be allowed.

A copy of the signed P&S, survey plan and CZA are attached. We will follow the neighborhood meeting at 6 PM with a Council / Planning Board Workshop at 6:30 PM. Where this is truly about a setback to two existing storage buildings on his property, I don’t expect a lot of concern with the CZA, as the public benefit is connecting the final piece of this amazing property in Cumberland. The 21 acre conveyance will ultimately be encumbered with a Conservation Easement as is the rest of the Knight’s Pond Preserve.
PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made as of January 12, 2018 (the "Effective Date"), by and between JOHN W. PAYNTER, an individual with a mailing address of 445 GREELY RD. EXT. CUMBERLAND, ME. 04021 ("Seller"), and the Town of Cumberland, a municipal corporation organized and existing under the laws of the State of Maine, with a mailing address of 290 Tuttle Road, Cumberland, Maine 04021 ("Buyer").

1. Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller agrees to sell and convey and Buyer agrees to purchase the following property (collectively referred to herein as the "Premises"):

Approximately 24.9 acres, being a portion of a certain lot or parcel of land on the Northeasterly side of Greely Road Extension, but not adjacent thereto, in the Town of Cumberland, County of Cumberland, State of Maine, including any improvements thereon, as shown on a plan entitled "Land Procurement, 24.9 Acres to Town of Cumberland from John Paynter, Cumberland, Maine" dated October 24, 2017 and prepared by Boundary Points Professional Land Surveying, LLC. Being a portion of the premises described in a deed from James W. Smith and Patricia B. Smith to John W. Paynter dated March 17, 2004 and recorded in Cumberland County Registry of Deeds in Book 20996, Page 303.

2. Purchase Price. The Purchase Price for the Property is Ninety Thousand Dollars ($90,000.00) (the "Purchase Price"), payable to Seller pursuant to the terms of a promissory note to be delivered at Closing (defined hereafter). The promissory note will provide that Buyer shall make payments to Seller of the principal amount of Ninety Thousand Dollars ($90,000.00), in one hundred twenty (120) successive monthly payments of principal in the amount of Seven Hundred Fifty Dollars ($750.00) each, together with all interest then accrued on the unpaid principal outstanding from time to time at the rate of Five Percent (5.0%) per annum, all as set forth in the payment schedule attached as Exhibit A to the promissory note.

The Buyer intends for this transaction to qualify as a bargain sale, and the Buyer shall have the right, at his expense, to have the Premises appraised prior to Closing if the Buyer so chooses.

3. Adjustments and Costs. The following items shall be prorated, adjusted, and paid as follows:

(a) All applicable real estate taxes, utility charges and other charges and assessments affecting the Premises shall be apportioned between Seller and Buyer as of the Closing Date (as defined below). Seller shall be responsible for all such items for the period prior to and including the Closing Date.

(b) Each party shall pay one-half of the Maine real estate transfer tax, if applicable.
(c) Each party shall pay all costs and expenses incurred by such party in connection with the transactions contemplated by this Agreement not adjusted as set forth in this Section or otherwise provided for in this Agreement.

4. Title. Seller shall convey the Premises to Buyer by Warranty Deed (the "Deed"). Buyer shall be responsible for the cost of any title insurance premium imposed in connection with any title insurance policy issued to Buyer.

5. Due Diligence Deliverables. Within ten (10) days of the Effective Date, Seller shall provide Buyer with copies of any and all surveys, title insurance policies, environmental reports, leases, and other contracts, if any, pertaining to the Premises.

6. Buyer’s Contingency. Buyer’s obligations under this Agreement are subject to the following contingencies, which, if not met after good faith efforts, shall entitle either party to terminate this Agreement by giving the other written notice of termination prior to the expiration of the time period specified, in which event neither party shall be under any further obligations under this Agreement:

(a) The approval and ratification of this Agreement by the Cumberland Town Council. The date of such approval and ratification shall be referred to as the "Approval Date," and is expected to occur on or before March 1, 2018.

(b) Buyer or its agent conducting an inspection of the physical condition of the Premises, including environmental conditions, which inspection shall have results acceptable to Buyer, in its discretion, within fifteen (15) days from the Approval Date.

(c) Buyer or its agent conducting an inspection of the condition of the title to the Premises, including but not limited to access, easements, restrictions, and covenants, which review shall have results acceptable to Buyer, in its discretion.

After the Approval Date, Buyer and its agents shall have the right to enter upon the Premises at reasonable times and after reasonable prior notice to Seller to undertake such inspections. Any such entry shall be at Buyer’s own risk.

7. Seller’s Contingency. Seller’s obligations under this Agreement are subject to Seller obtaining approval from the Town of Cumberland of a proposed contract zoning agreement acceptable to Seller. If such approval cannot be obtained after good faith efforts, Seller may terminate this Agreement by giving Buyer written notice of termination prior to Closing, in which event neither party shall be under any further obligations under this Agreement:

8. Further Encumbrances. Seller covenants and agrees with Buyer that between the Effective Date and the Closing, Seller shall not voluntarily dispose of any interest in the Premises, enter into any new leases affecting the Premises, or enter into any other agreement relating to the Premises that would survive the Closing contemplated
9. Closing.

(a) The consummation of the transactions contemplated hereby (the "Closing") shall take place at the office of Buyer’s attorney or title company on a mutually convenient date on or before April 1, 2018 (the "Closing Date").

(b) Possession of the Premises shall be delivered to Buyer at Closing free and clear of all leases, tenancies, or other third party rights of possession.

(c) The following shall occur at the Closing, each being a condition precedent to the others and all being considered as occurring simultaneously:

(i) Seller shall execute, have acknowledged, and deliver to Buyer the Deed;

(ii) Seller shall execute and deliver to Buyer an affidavit indicating that Seller is not a foreign person within the meaning of 26 U.S.C. § 1445, or in lieu thereof, Buyer shall be entitled to withhold and account for a portion of the Purchase Price as required by law unless another exemption applies;

(iii) Seller shall execute and deliver to Buyer an affidavit indicating that Seller is a Maine resident, or in lieu thereof, Buyer shall be entitled to withhold and account for a portion of the Purchase Price as required by law unless another exemption applies;

(iv) Seller shall execute and deliver to Buyer usual and customary title affidavits as required by Buyer’s title insurance company;

(v) each party shall execute and deliver to the other a settlement statement in form and substance reasonably acceptable to the parties;

(vi) Buyer shall approve and execute the contract zoning agreement referenced in Paragraph 7 hereof, and deliver to Seller a copy of the same; and

(vii) each party shall deliver to the other such other documents as may be required herein or as may be necessary to carry out the obligations under this Agreement.


(a) Risk of loss to the Premises prior to the Closing shall be on Seller. If between the Effective Date and the Closing any material portion of the Premises is damaged by fire or other casualty, Buyer shall have the right to
terminate this Agreement by giving written notice to Seller on or before the Closing Date.

(b) If Buyer does not elect to terminate this Agreement pursuant to Section 9(a), Seller and Buyer shall perform their respective obligations under this Agreement and Seller shall (i) deliver to Buyer at the Closing any insurance proceeds or condemnation awards actually received by Seller as a result of any occurrence specified in Section 9(a) with respect to or allocable to the Premises; and (ii) assign to Buyer all of Seller’s right, title, and interest in and to any insurance proceeds and condemnation proceeds allocable to the Premises which have not yet been received by Seller on the Closing Date, provided, however, that Seller shall in all events be entitled to retain any such proceeds to the extent the same exceed the Purchase Price.

11. Remedies.

(a) If the purchase and sale of the Premises is not consummated in accordance with the terms and conditions of this Agreement due to default or breach on the part of Buyer, Seller’s sole remedy shall be to terminate this Agreement.

(b) If the purchase and sale of the Premises is not consummated in accordance with the terms and conditions of this Agreement due to default or breach on the part of Seller, Buyer’s sole remedy shall be to terminate this Agreement.

12. Notices. Any notice relating in any way to this Agreement shall be in writing and shall be hand delivered, or sent by registered or certified mail, return receipt requested, or sent by recognized overnight courier service which provides evidence of delivery (such as FedEx) addressed to the party to receive such notice at the address set forth for such party in the first paragraph of this Agreement, and such notice shall be deemed delivered when so delivered by hand, or when so posted or when so deposited with such overnight courier. Either party may, by such manner of notice, substitute persons or addresses for the giving of notices under this Agreement.

13. Seller’s Representations. Seller represents and warrants to Buyer that:

(a) Seller has the legal right, power and authority to enter into this Agreement and to perform all of his obligations hereunder, and the execution and delivery of this Agreement and the performance by Seller of his obligations hereunder will not conflict with any agreement to which Seller is a party or by which Seller is bound;

(b) Seller has good and marketable title to the Property, and there are no lawsuits or other proceedings currently pending by or against the Seller or the Property that would affect the ownership, future development, ability to finance or enjoyment of
any of the Property; and

(c) Seller has not generated, released, stored, disposed of, dumped, flushed or in any way introduced on to the Property oil, hazardous material, hazardous waste or hazardous substances (hereinafter collectively called “Hazardous Substances”) as those terms are defined by any applicable federal, state or local law, rule or regulation (hereinafter referred to as “Applicable Environmental Laws”), and Seller has not received notice and is not otherwise aware of any incident which would have required the filing of notice or notification pursuant to any Applicable Environmental Laws applicable to the Property.

It shall be a condition of Buyer’s obligation to close under this Agreement that these representations and warranties made by Seller hereunder are true, both as of the date hereof and as of the Closing, and Seller shall take all reasonable actions required to make the foregoing representations true.

14. Brokers. Seller and Buyer warrant and represent to each other that they have not employed or engaged any real estate broker or agent in connection with the transaction contemplated by this Agreement. Each party agrees to hold the other party harmless from and against any and all costs, expenses, claims, losses, or damages, including reasonable attorneys’ fees, resulting from a breach of such party’s representation or covenant contained in this Section. The provisions of this Section shall survive the Closing.

15. Miscellaneous.

(a) Any reference herein to time periods of less than seven days shall be computed to exclude Saturdays, Sundays, and legal holidays, and any time period provided for herein which ends on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next business day.

(b) This Agreement shall be binding upon and shall inure to the benefit of Seller and Buyer and their respective heirs, personal representatives, successors and assigns. Buyer may assign this agreement to an agency or entity owned or controlled by Buyer.

(c) All understandings, agreements, warranties and representations, either oral or in writing, heretofore between the parties hereto are merged into this Agreement. This Agreement fully and completely expresses the parties’ agreement with respect to the transactions covered hereby. This Agreement may not be modified in any manner except by an instrument in writing signed by Seller and Buyer.

(d) This Agreement shall be governed by and interpreted in accordance with the laws of the State of Maine without regard to or application of its conflicts of law principles. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which, taken together, shall constitute a single instrument.
(e) In the event of a dispute arising out of or related to this Agreement, directly or indirectly, the substantially prevailing party shall be entitled to recover its reasonable attorney's fees and costs (including paralegal fees) related to said dispute and the enforcement of any judgment related thereto.

(signatures on following page)

IN WITNESS WHEREOF, the parties have executed this Purchase and Sale Agreement as of the Effective Date.

SELLER:

[Signature]

John W. Paynter
Jan. 12, 2018

BUYER:

IN WITNESS WHEREOF, the parties have set their hands and seals as of the date first written above.

THE TOWN OF CUMBERLAND

[Signature]

By William Shane
Its Town Manager

Witness
19.6 Total Acres

6.72 A Land

19.6 Acre +/- offer from John Paynter 2017
CONTRACT ZONE AGREEMENT

This Contract Zone Agreement made this ___ day of _________, 2018, by and between the TOWN OF CUMBERLAND, a municipal corporation ("Town"), of the County of Cumberland and State of Maine, and JOHN W. PAYNTER, an individual with a mailing address of 445 Greely Road Ext., Cumberland, Maine ("Paynter").

WITNESSETH:

WHEREAS, Paynter owns certain property located at 445 Greely Road Ext. in Cumberland, referenced as Lot 29 of the Town of Cumberland Tax Map R06 (hereinafter the “Property”), and wishes to convey a portion of the Property to the Town for open space and recreation purposes, as well as subdivide another portion of the Property for future residential development; and

WHEREAS, the portions of the Property to be conveyed to the Town and to be subdivided for residential purposes are proposed to be accessed by a Private Way to be constructed from Greely Road Extension running in a northeasterly direction along the southerly boundary of the Property; and

WHEREAS, Paynter currently occupies a residential dwelling unit on the Property, which includes accessory structures (a shed and garage) that would not conform to the setback requirements of the proposed Private Way; and

WHEREAS, Title 30-A § 4352 of the Maine Revised Statutes permits conditional/contract rezoning in regard to conditions which relate to the physical development or operation of property; and

WHEREAS, Section 315-78 of the Cumberland Code also authorizes the same;
NOW THEREFORE, pursuant to the aforesaid provisions, the Cumberland Town Council seeks to advance the desired land use objectives set forth herein and finds this Contract Zoning Agreement is (a) consistent with the Comprehensive Plan duly appointed by the Town of Cumberland; (b) establishes a contract zone consistent with the existing permitted uses in the original zone of the area involved; (c) only includes conditions and restrictions which relate to the physical development of this site; (d) imposes such conditions and restrictions as are necessary and appropriate for the protection of the public health, safety, and general welfare of the Town of Cumberland; and (e) the land use objective sought herein further a desired public purpose or benefit.

THE PARTIES AGREE AS FOLLOWS:

1. Site: The Town hereby agrees that the Property as shown on Exhibit A hereto shall be deemed a contract zone pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code (hereinafter referred to as the “Paynter Contract Zone”).

2. Lot Standards Within the Zone: Development permitted within the Paynter Contract Zone established above shall be consistent with all requirements of the Rural Residential District 2 (RR2). However, following the conveyance of a ____ acre parcel to the Town to be used for open space and recreation purposes around Knight’s Pond (hereinafter the “Town Parcel”), the setback requirements of the RR2 shall not apply to existing non-conforming structures in place as of the date of this Agreement and as shown on Exhibit A hereto. In the event existing non-conforming structures are removed for any reason, they may only be rebuilt in conformance with the then applicable setbacks for front, rear and side yards in the underlying RR2 District. All other applicable lot standards, ordinance provisions, and building codes shall be enforced with regard to all future development or construction within the Paynter Contract Zone.

3. Consideration: Paynter shall convey to the Town the fee to the Town Parcel as shown on Exhibit B for use as an open space and recreation area around Knight’s Pond.
4. **Further Assurances:** Until this Contract is effective and properly implemented, the parties agree to negotiate in good faith the terms and conditions of such further instruments and agreements as may be reasonably necessary from time to time to implement this Contract.

5. **Maine Agreement:** This Contract Zone Agreement is a Maine agreement entered into pursuant to the laws of the State of Maine and shall be enforced in accordance with the same.

6. **Binding Covenants:** The above stated restrictions, provisions and conditions are an essential part of this Contract and shall run with the Property and bind the parties, and their respective successors, heirs and assigns, or any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town.

7. **Recording:** A true copy of this Contract shall be recorded in the Cumberland County Registry of Deeds.

8. **Severability:** If any one or more clauses of this Contract is held to be void or unenforceable, such clause or clauses shall deem to be severable and the remainder of this Contract shall be deemed to be valid and in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first above written.

WITNESS

TOWN OF CUMBERLAND

3
By: ____________________________

William R. Shane
Its Town Manager

______________________________

John W. Paynter

State of Maine
County of Cumberland, ss. ____________________________, 2018

Then personally appeared the above-named William R. Shane, Town Manager of the Town of Cumberland and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Town of Cumberland.

Before me,

______________________________
Attorney at Law/Notary Public
Printed Name: ____________________________
Commission expires: ____________________________

STATE OF MAINE
County of Cumberland, ss. ____________________________, 2018

Then personally appeared the above-named John W. Paynter and acknowledged the foregoing instrument to be his free act and deed.

Before me,

______________________________
Attorney at Law/Notary Public
Printed Name: ____________________________
Commission expires: ____________________________
ITEM 18-053

To consider and act on authorizing the CEO to execute a Consent Agreement with the owners of 37 Stirling Way.
CONSENT AGREEMENT

THIS AGREEMENT IS ENTERED INTO this ___ day of April, 2018, by and between the Town Of Cumberland, a municipal corporation located in the County of Cumberland and State of Maine (hereinafter “Cumberland”) and Mark A. Axelsen, II and Nichole R. Axelsen of Cumberland, County of Cumberland, State of Maine (hereinafter “Axelsen”)

WHEREAS, Mark A. Axelsen, II was deeded a parcel of land, in Cumberland, County of Cumberland and State of Maine by deed of Meredith T. Kerr, dated December 21, 2011, and recorded in the Cumberland County Registry of Deeds in Book 29222, Page 230; and the subsequent deed of Mark A. Axelsen, II to Mark A. Axelsen and Nichole R. Axelsen dated February 5, 2015, and recorded in the Cumberland County Registry of Deeds in Book 32065, Page 253, (“Property”) and,

WHEREAS, the Property is shown as Lot 7 on the plan entitled, “Amended Standard Boundary Survey on Greely Road, Cumberland, Maine for Scott S. Kerr” prepared by Wayne T. Wood & Co. dated August 1999 and recorded at the Cumberland County Registry of Deeds in Plan Book 199, Page 406, (“Plan”), and

WHEREAS, the Plan establishes a Right of Way named “Stirling Way” that is 100 feet wide, and

WHEREAS, Axelsen constructed a single family dwelling (“House”) with a detached garage (“Garage”) on the Property as shown on the Mortgage Inspection dated March 15, 2018 by Livingston-Hughes Professional Land Surveyors (“Survey”), attached as Exhibit A, and

WHEREAS, the Town of Cumberland Zoning Ordinance requires a 50 foot setback for structures and that setback is to be measured from the edge of any right of way, and

WHEREAS, the House is located approximately 12 feet from the right of way and the Garage encroaches into the right of way in violation of the Town of Cumberland Zoning Ordinance, and,

WHEREAS, Axelsen wishes to convey the Property free of any claim of the Town of Cumberland regarding a possible setback violation.

NOW THEREFORE, in exchange for the mutual promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. Cumberland shall take no enforcement action and relinquishes its right to prosecute Axelsen or their successors-in-interest to the Property for the violation of the Town of Cumberland Zoning Ordinance.

2. The House and Garage shall be allowed to remain, be repaired and replaced in their current location. The House and Garage shall not be expanded except in conformance with the requirements of the Town of Cumberland Zoning Ordinance.

3. This Consent Agreement shall be binding upon Axelsen, their successors in real property interest, assigns and heirs and it shall be recorded in the Cumberland County Registry of Deeds within 30 days, with a copy of the recorded instrument to be provided to the Code Enforcement Officer.
4. Axelsen agrees to pay the sum of $500.00 to the Town of Cumberland to offset expenses incurred by the Town in connection with this Agreement.

5. At a meeting of the Town Council on April __, 2018, the Town approved this resolution of the setback violation based upon the terms and conditions set forth in this Consent Agreement and authorizes the CEO to sign this Consent Agreement on behalf of the Town.

6. This is the entire agreement of the parties and is intended to inure to the benefit of their respective heirs, successors and/or assigns.

IN WITNESS WHEREOF, the undersigned have executed this Consent Agreement on the date appearing beside their names below.

Date: April __, 2018

Mark A. Axelsen, II

Date: April __, 2018

Nichole R. Axelsen

STATE OF MAINE
COUNTY OF CUMBERLAND

April __, 2018

Personally appeared Mark A. Axelsen, II and Nichole R. Axelsen and acknowledged this Consent Agreement to be their free act and deed.

Notary Public/Attorney at Law

[Remainder of page intentionally left blank]
Town of Cumberland Maine

Date: April __, 2018

By: William Longley
Its: Code Enforcement Officer

STATE OF MAINE
COUNTY OF CUMBERLAND

April __, 2018

Personally appeared William Longley in their official capacities as the Code Enforcement Officer of the Town of Cumberland and acknowledged this Consent Agreement to be his free act and deed in said capacity and the free act and deed of the Town of Cumberland.

Notary Public/Attorney at Law
THIS IS NOT A BOUNDARY SURVEY

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MORTGAGE INSPECTION OF: DEED BOOK 32085 PAGE 253 COUNTY Cumberland
PLAN BOOK 129 PAGE 406 LOT 7

ADDRESS: 37 Stirling Way, Cumberland, Maine

Buyer: Genevieve Hatcher Gardner
Seller: Mark A. Axelsen, II

Job Number: 973-61
Inspection Date: 3-15-18
Scale: 1" = 80'
Client File #: 18SOP000122

PRELIMINARY

I HEREBY CERTIFY TO: H&D Title & Closing Services; Residential Mortgage Services and its title insurer.

Monuments found did not conflict with the deed description.
The dwelling setbacks do XXX violate town zoning requirements.
As delineated on the Federal Emergency Management Agency Community Panel 230162-0016 C:
The structure does not fall within the special flood hazard zone.
The land does not fall within the special flood hazard zone.
A wetlands study has not been performed.

APPARENT EASEMENTS AND RIGHTS OF WAY ARE SHOWN. OTHER ENCUMBRANCES, RECORDED OR NOT, MAY EXIST. THIS SKETCH WILL NOT REVEAL ABUTTING DEED CONFLICTS, IF ANY.

Livingston-Hughes
Professional Land Surveyors
86 Guinea Road
Kennebunkport, Maine 04046
207-967-9761 phone 207-967-4831 fax
www.livingstonhughes.com

THIS SKETCH IS FOR MORTGAGE PURPOSES ONLY