

## **AGENDA**

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, August 24, 2020**

**6:00 P.M.** Finance Committee Meeting

**7:00 P.M.** Call to Order

Streaming on YouTube - Town of Cumberland Maine and broadcast live  
on Spectrum Channel 1301

### **I. CALL TO ORDER**

### **II. APPROVAL OF MINUTES**

August 10, 2020

### **III. MANAGER'S REPORT**

Portland Regional Chamber of Commerce solicitation of support for business statement for racial equality

### **IV. PUBLIC DISCUSSION**

### **V. LEGISLATION AND POLICY**

**20 – 059** To hear a report from the Town Attorney re: discontinuance of a portion of Turkey Lane from Range Road to the snowmobile bridge, and to set a Public Hearing date of September 14th to hear public testimony on the order of discontinuance.

**20 – 060** To hold a Public Hearing to consider and act on a zone change request for a 3.35 acre parcel located in the Village Center Commercial (VCC) zone to the Village Medium Density Residential (VMDR) zone, as recommended by the Planning Board.

**TABLED BY APPLICANT**

**20 – 061** To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards and Criteria), Sub-section H (Exterior Lighting) of the Cumberland Code, as recommended by the Planning Board.

**20 – 062** To authorize the issuance of Senior Property Tax Assistance Program payments.

**20 – 063** To consider and act on forwarding to the Planning Board to develop setback requirements for residential solar arrays, as recommended by the Ordinance Committee.

**20 – 064** To consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 315 (Zoning), Section 21 (Town Center District), B-12 (Day Care Centers and Nursery Schools), to increase the number of children allowed from 20 to 28, as recommended by the Ordinance Committee.

## **VI. NEW BUSINESS**

## **VII. ADJOURNMENT**

# MINUTES

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, August 10, 2020**

**6:00 P.M. Finance Committee Meeting**

## **7:00 P.M. Call to Order**

Present: Councilors Copp, Foster, Gruber, Storey-King, Turner and Vail

Excused: Councilor Edes

## **I. APPROVAL OF MINUTES**

Motion by Councilor Copp, seconded by Councilor Vail, to accept the July 27, 2020 meeting minutes as presented.

VOTE: 6-0                      UNANIMOUS

## **II. MANAGER'S REPORT**

Town Manager Shane gave an overview of the Public Works garage project, explaining that the project will now be broken into 2 phases. He showed a drawing of the project without the administrative building, which was part of the original plan. The original Council order anticipated using some reserve funds to complete this project. The budget today does not allow us to complete the project without the use of reserve funds. Given the uncertainty of the current financial times due to the pandemic, he feels that it will be wise to phase the Town garage project into two phases. Phase 1 will include the bays for the Town equipment and the school busses. Phase 2 will be the administrative building, currently estimated at around \$900,000 to build. Phasing in the administrative building would allow the time to maneuver through the current economic uncertainty and build reserves up to complete the project. We could sub-contract the administrative building ourselves in the future, if we choose to.

Motion by Councilor Storey-King, seconded by Councilor Copp, to add an additional item to the August 10<sup>th</sup> agenda as recommended by the Finance Committee (this additional item will be placed at the end of the Council agenda #20-058).

## **III. PUBLIC DISCUSSION**

None

## **IV. LEGISLATION AND POLICY**

### **20 – 051 To hold a Public Hearing to consider and act on amendments to Chapter 84 (Fees and Fines) of the Cumberland code, as recommended by the Ordinance Committee.**

Town Manager Shane explained that these fee amendments were reviewed in detail at the last meeting. The fees related to building and code enforcement have not been updated for 15 years. The fee increases will bring us into alignment with our neighboring Towns. Going forward we will review them every 5 years.

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Councilor Storey-King said that she feels this is a great idea, but the timing is wrong.

Councilor Foster agreed with Councilor Storey-King that the timing may be off, but we haven't increased these fees in 15 years.

Councilor Vail said that he is in favor of this. It has been a long time coming, the costs are not onerous, and they are in line with our neighboring towns. Someone applying for a building permit is not going to be swayed by a small increase in fees.

Councilor Copp agreed. It's been 15 years and the increase is only a few dollars.

Councilor Turner said that he is in favor of this. He has more heartburn with impact fees and not these basic fees.

Motion by Councilor Copp, seconded by Councilor Vail, to amend Chapter 84 (Fees and Fines) of the Cumberland code, as recommended by the Ordinance Committee.

VOTE: 5-1 (Storey-King opposed) MOTION PASSES

**20 – 052 To hold a Public Hearing to consider and act on amendments to Chapter 9 (Alarms) of the Cumberland code, as recommended by the Ordinance Committee.**

Town Manager Shane explained that the Police Chief was at the last meeting and reviewed the amendments to the Alarm Ordinance. With the numerous types of online alarm systems available today, those who were coming forward to register their alarm systems were being treated unfairly by having to pay a fee. One of the amendments in the previous item to amend the Fees & Fines Ordinance included the elimination of alarm fees. The penalty fees for multiple false alarms were not removed.

Chairman Gruber opened the Public Hearing,

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Vail, seconded by Councilor Turner, to amend Chapter 9 (Alarms) of the Cumberland code, as recommended by the Ordinance Committee.

VOTE: 6-0 UNANIMOUS

**20 – 053 To consider and act on adopting standards to develop and maintain trails on Town owned properties and Town owned easements, as recommended by the Lands & Conservation Commission.**

John Jensenius, Chairman of the Trails subcommittee of the Lands & Conservation Commission presented the following overview of the recommended trail standards for the Town trails:

Proposed  
**Town of Cumberland**  
**Trail Construction and Maintenance Standards**

- Applies to Town-owned properties and easements, except any previous agreements for the management of trails on Town-owned properties shall be honored.
- All trail maintenance and construction must be done in conjunction with the Recreational Trails subcommittee and/or Lands and Conservation Commission.
- Construction and maintenance on Town-owned properties which are covered by an easement must also be coordinated with the holder of the easement.

## Trails Uses

Rural trail use increased dramatically this past spring with the COVID-19 pandemic. The increased trail use and wet weather put a strain on trail surfaces and has increased the need for trail maintenance.

- Hiking/Walking
- Dog walking
- Biking
- Running
- Snowshoeing
- Cross country skiing
- Horseback riding
- Snowmobiling

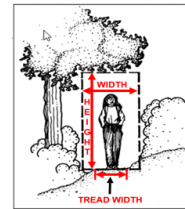
## Types of Town Trails

- **Urban Trails** – Sidewalks and paved pathways. Maintained by Public Works.
- **Semi-rural trails** – High-use trails that have been hardened with gravel. Maintained mainly by the Public Works Department with assistance from volunteers when needed. (Town Forest, Twin Brook)
- **Rural trails** – Maintained mainly by volunteers with assistance from Public Works when needed. (Rines Forest, Greely Woods)
- **Snowmobile trails** – Generally, rural trails that are specifically designated for snowmobiles. Maintained mainly by volunteers with assistance from Public Works when needed.
- **Handicap-accessible trails** – Maintained by Public Works with assistance from volunteers when needed.

## Recommended tread width, trail width, trail height, and surface type for Town of Cumberland trails.

Standard	Urban	Semi-rural	Rural	Snowmobile	Accessible
Tread width	4-6 ft	8-10 ft	1.5-3 ft	6-10 ft	4 ft
Trail width	8-10 ft	12-14 ft	3-5 ft	6-10 ft	6 ft
Trail Height	8 ft*	8 ft*	8 ft*	8 ft*	8 ft*
Tread Surface	Concrete/ Asphalt	Sand/gravel aggregate or Natural	Natural, Sand/gravel aggregate where necessary	Natural, Sand/gravel aggregate where necessary	Concrete/ Asphalt

\* Note that trail height recommendations do not apply when heavy snow loads weigh down branches.



## Hardening the Trail

Goal: In soft areas, prevent an ever-expanding spiderweb of paths around and ever expanding mucky areas.



## Trail Structures

**Bridges** – Primarily constructed for stream crossing

Width – At least as wide as the recommended tread width but no less than 4 feet.

Height – Bridges more than 4 feet above the ground or water surface must have a railing of at least 42 inches in height.

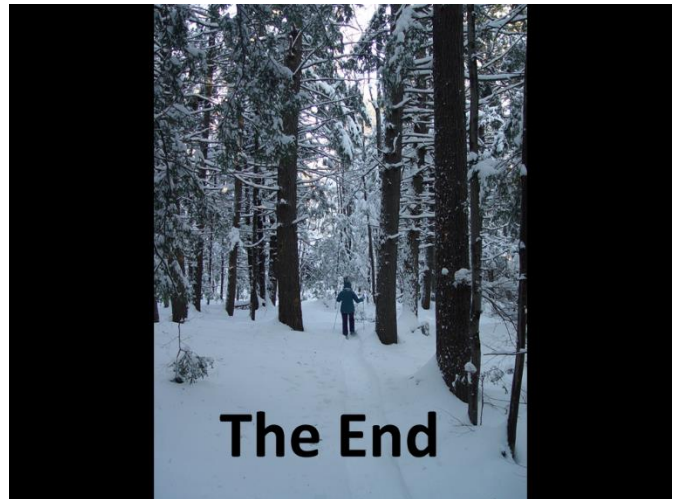
Bridges of any size that do not have a railing must have a curb along both sides of the tread.

**Walkways** – Primarily constructed in very soft or wetland areas

Width – At least as wide as the recommended tread width but no less than 2 feet.

Height – Walkways are typically about a foot above the ground or water surface and may or may not have curbs.

Note: Walkways are allowed on snowmobile trails as long as they are a minimum of 8 ft wide.



Chairman Gruber asked for any public comment on this item. Penny Asherman, President of the Chebeague & Cumberland Land Trust said that the Trust has been working with John on the proposed trail standards. The Land Trust has reviewed and approved them and they look forward to working with the Lands & Conservation Commission on keeping up the trails.

Motion by Councilor Copp, seconded by Councilor Foster, to adopt standards to develop and maintain trails on Town owned properties and Town owned easements, as recommended by the Lands & Conservation Commission.  
VOTE: 6-0                      UNANIMOUS

**20 – 054    To hear a report from the Town Manager re: discontinuance of a portion of Turkey Lane from Range Road to the snowmobile bridge.**

Town Manager Shane explained that Turkey Lane is a road owned by the Town that begins on Range Road and ends at Route 9. The road has not been maintained by the Town for over 40 years and there are presently no homes on the Range Road end of it. The Gallaudet's own the land on both sides of Turkey Lane. If we discontinue the road, it would become a 20' wide public easement that the Town would retain. Many years ago, homes were built on an undeveloped portion of Harris Road and those residents sued the Town to get us to build the road to Town standard. The Town lost that lawsuit and had to spend hundreds of thousands of dollars to build Harris Road. The Gallaudet's own the land on both sides of Turkey Lane and are willing to work with the Town and will not require us to upgrade the road. We will preserve a public easement over it, which will allow the public to walk from Range Road to Route 9.

Chairman Gruber asked for any public comment on this item.  
No public comment.

Councilor Vail said that he is not in favor of this because it will set a precedent. He is very hesitant to give up rights to a public way and an easement is not the same as maintaining ownership. It is a beautiful spot and the public access is too much to give up.

Councilor Copp asked where the discontinuance would begin.

Town Manager Shane said that it would start at the Range Road end of Turkey Lane and end at the snowmobile bridge. If the land ever got developed, the owner would have to come before the Town Council and ask for a license to build a house there, because the Town would own the easement.

Councilor Copp said that he is also a little leery of giving up the rights to Turkey Lane.

Motion by Councilor Vail, seconded by Councilor Turner, to table.  
VOTE: 6-0                      UNANIMOUS

**20 – 055    To accept a bequest of \$50,000 for a scholarship fund to be set up for a Greely senior.**

Town Manager Shane explained that the family has requested that a scholarship be set up for a Cumberland Greely Senior. The scholarship fund will be set up with the principal amount (\$50,000) and the interest that is earned will be dedicated to the scholarship. Typically, these types of accounts will yield approximately 2% annually. It will be called the David Scully Memorial Scholarship Fund. He recommended that Councilor Storey-King be appointed to the scholarship committee so she can report back to the Town Council and to be sure that the Cumberland only student requirement is maintained.

Chairman Gruber asked for any public comment.  
No public comment.

Motion by Councilor Turner, seconded by Councilor Foster, to accept a bequest of \$50,000 for a scholarship fund to be set up for a Greely senior and to appoint Shirley Storey-King to the Greely Scholarship Committee.

VOTE: 6-0                      UNANIMOUS

**20 – 056    To set a Public Hearing date of August 24<sup>th</sup> to consider and act on a zone change request for a 3.35 acre parcel located in the Village Center Commercial (VCC) zone to the Village Medium Density Residential (VMDR) zone, as recommended by the Planning Board.**

Town Manager Shane said that the Planning Board will consider this item at their August 18<sup>th</sup> meeting and will forward their recommendation to the Town Council for their August 24<sup>th</sup> meeting.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Vail, seconded by Councilor Copp, to set a Public Hearing date of August 24<sup>th</sup> to consider and act on a zone change request for a 3.35 acre parcel located in the Village Center Commercial (VCC) zone to the Village Medium Density Residential (VMDR) zone, as recommended by the Planning Board.

VOTE: 6-0                      UNANIMOUS

**20 – 057    To set a Public Hearing date of August 24<sup>th</sup> to consider and act on amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards and Criteria), Sub-section H (Exterior Lighting) of the Cumberland Code, as recommended by the Planning Board.**

Town Manager Shane said that this item is also going to the Planning Board on August 18<sup>th</sup> and they will forward their recommendation to the Town Council for their August 24<sup>th</sup> meeting.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Foster, to set a Public Hearing date of August 24<sup>th</sup> to consider and act on amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards and Criteria), sub-section H (Exterior Lighting) of the Cumberland Code, as recommended by the Planning Board.

VOTE:

**20 – 058    To authorize the Town Manager to work with the Finance Committee, to execute contracts with Ledgewood, Inc. for a guaranteed maximum price not to exceed \$3.7 million and to split into two phases the Town garage project.**

Motion by Councilor Vail, seconded by Councilor Storey-King, to authorize the Town Manager to work with the Finance Committee, to execute contracts with Ledgewood, Inc. for a guaranteed maximum price not to exceed \$3.7 million and to split into two phases the Town garage project. Phase 1 will be the garage bays and will move forward under this project, as recommended by the Finance Committee.

VOTE: 6-0                      UNANIMOUS

**V.        NEW BUSINESS**

**Councilor Storey-King – none**

**Councilor Vail** – he saw a notice in the Crier that the school is soliciting offers of land for a new school. He feels that there should be a conversation with the School Board and the Town Council about a new school being located in the Town of Cumberland. He requested that the Chairman and the Town Manager discuss this.

The Town Manager forwarded a letter from the Portland Regional Chamber of Commerce to the Council (see below) entitled “Standing in Solidarity Against Racial and Social Injustice”. There was some discussion amongst the Town Council via email regarding this and he feels that it is appropriate that we ask the Director of the Chamber of Commerce come to the next Town Council meeting to explain what the insight was in developing this letter, and wanting the Cumberland Town Council to support it. The CEO of L.L. Bean signed it and he would invite him to the meeting to explain why he feels that businesses are in favor of supporting the letter. The Town Council may or may not decide to support the letter, but he feels that it is important to hear what these individuals have to say. He requested that the Chairman and the Town Manager put this on the agenda for the next meeting.

### ***Standing in Solidarity Against Racial and Social Injustice***

*We have been living through a transformational time. The deaths of George Floyd, Ahmaud Arbery, and Breonna Taylor were a catalyst for peaceful demonstrations which we support and important conversations on racial and social injustice around the world. Maine companies, organizations, and communities are part of a global movement to address systemic racism and improve the quality of life, access to opportunities, and economic inclusion for Black, Indigenous and People of Color.*

*We, as leaders of Maine organizations, understand that when it comes to racial and social justice, silence is not an option. We recognize that we have a responsibility to advocate for positive change and demonstrate our commitment to racial equity in our areas of influence, such as inclusive recruitment practices, addressing barriers to hiring and retaining foreign-trained professionals, and workplace programs to promote cross-cultural understanding. We condemn racism in any form, have zero tolerance for discrimination and pledge to participate in authentic dialogues about race, diversity, equity and inclusion.*

*As employers in a state where the majority of the population identifies as white, we will advocate for positive change and focus on the critical work of anti-racism.*

*We commit to continuously evaluate our own practices to ensure they live up to these values and standards and to educating our employees on racism and engaging in programs that advance racial equity. With openness, humility and respect, we can learn from each other and from the communities where we live and work.*

*We encourage our colleagues, our community partners, and each of our neighbors to join us as we promote racial and social justice throughout Maine.*

*Our employees, customers, and communities deserve nothing less.*

*Anthem Blue Cross Blue Shield of Maine  
Denise McDonough, President*

*Bank of America  
Bill Williamson, Maine Market President*

*Pierce Atwood LLP  
David Barry, Managing Partner*

*Portland Regional Chamber  
Quincy Hentzel, President and CEO*

*Bernstein Shur*  
*Joan M. Fortin, Chief Executive Officer*

*Covetrus*  
*Ben Wolin, President and CEO*

*Edward Jones Investments*  
*Jeremy Urquhart, Financial Advisor*

*Evergreen Credit Union*  
*Jason Lindstrom, President and CEO*

*Harvard Pilgrim Health Care*  
*Bill Whitmore, Maine Market Vice President*

*Hannaford Supermarkets*  
*Michael Vail, President*

*IDEXX*  
*Jay Mazelsky, President and CEO*

*L.L. Bean*  
*Stephen Smith, President and CEO*

*MaineHealth*  
*Bill Caron, Chief Executive Officer*

*Maine State Chamber*  
*Dana Connors, President and CEO*

*Portland Sea Dogs*  
*Geoff Iacuesa, President and GM*

*SMRT Architects and Engineers*  
*Ellen Belknap, President*

*TD Bank*  
*Larry Wold, Marketing President, Maine*

*University of Southern Maine*  
*Dr. Glenn Cummings, President*

*UNUM Group*  
*Michael Q. Simonds, Chief Operating Officer*

*Verrill Dana LLP*  
*K.C. Jones, Managing Partner*

*The VIA Agency*  
*Leeann Leahy, CEO*

*WEX*  
*Melissa Smith, Chair and CEO*

*Woodard & Curran*  
*Doug McKeown, CEO and Chairman*

*The MEMIC Group*  
*Michael P. Borque, President and CEO*

**Chairman Gruber** – the Food Pantry served over 60 families again last Friday. Thank you to Hannaford in Yarmouth and Good Shepard Food Bank for their support. Thank you to our faithful volunteers who help in the Food Pantry every week.

The Ordinance Committee is continuing their good work. Thank you to Shirley, George and Mike. Town Planner, Carla Nixon and Code Enforcement Officer, Bill Longley both gave good presentations at the last Ordinance Committee meeting.

Thank you to the Fire Department for helping with the use of medical equipment. His 93 year old mother-in-law moved in to his house recently and they were a great help.

**Councilor Foster** – none

**Councilor Turner** – none

**Councilor Copp** – the Planning Board will meet on August 18<sup>th</sup> to discuss rezoning of the Board Barn property. It is important that the abutters know what is being considered. Right now, that property is zoned commercial and a commercial business could operate on the Old Gray Road. The property owner wants to change the zoning to residential. If you're an abutter or a resident of West Cumberland and you have concerns, it is very important that you come to the Planning Board meeting to voice your concerns.

He reminded everyone that the 4-H auction will continue in some form this year. This is a worthy cause and donations to the 4-H/Food Pantry fund will allow meat to be purchased for the Food Pantry.

**VI. ADJOURNMENT**

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

VOTE: 6-0 UNANIMOUS

TIME: 8:05 P.M.

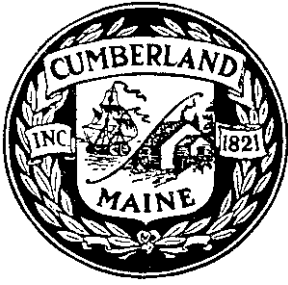
Respectfully submitted by,

Brenda L. Moore  
Council Secretary

# ITEM

## 20-059

To hear a report from the Town Attorney re: discontinuance of a portion of Turkey Lane from Range Road to the snowmobile bridge, and to set a Public Hearing date of September 14<sup>th</sup> to hear public testimony on the order of discontinuance



# M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE  
290 TUTTLE ROAD  
CUMBERLAND, MAINE 04021  
TEL: 207-829-2205 FAX: 829-2224

**To:** Town Council  
**From:** William R. Shane, Town Manager  
**Date:** August 6, 2020  
**Re:** **20-054 Turkey Lane – Range Road End**

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Turkey Lane is a road which had a bridge across a stream and has been abandoned for over 40 years. As a Town we have a responsibility to maintain public roads. This road however does not serve any homes and has lacked any real maintenance other than a snowmobile bridge for a very long time.

The landowner who owns both sides of this section of road has asked the Town to consider an abandonment or discontinuance of the road. This action is a very specific legal action and is outlined in the attached documents written by the Town Attorney.

Tonight, is step one in the process. To hear the report and overview of the request. The next step is to set a public hearing for abutters to voice concerns, support, or give input. After the Public hearing on August 24<sup>th</sup>, you will have to set another Public Hearing for a Council vote on September 14<sup>th</sup>.

I believe this is the right thing to do and it preserves a public easement for pedestrian and snowmobiles. This will need a recommendation from the LCC which could be scheduled at their September meeting.

## **DISCONTINUANCE OF PORTION OF TURKEY LANE PROCEDURES AND SCHEDULE**

1. The Town Council holds a meeting to discuss the proposed discontinuance and files an order of discontinuance with the Town Clerk. **Prior to that meeting, the Town must give best practicable notice to all abutting property owners of the proposed discontinuance.** Notice must include a description of the discontinuance, information concerning the retention of the public easement and maintenance obligations for and the right of access to the way under the continuance of a public easement; it should also inform abutting property owners that they have the right to enter into agreements regarding maintenance of and access to the discontinued way. (D-1-abutter notice; D-2-draft discontinuance order). Note: the draft discontinuance order does not have to be included with the abutter notice

**Anticipated date: August 10, 2020**

2. The order of discontinuance must set forth:

- a. The location of the town way to be discontinued.
- b. The names of abutting property owners.
- c. The amount of damages, if any determined by the municipal officers to be paid to each abutter.
- d. Whether a public easement will be retained. Because the public easement is to be less than the full area of the road, the order should contain a good description of the area to be retained. In addition, this should include a list of the uses to which the easement will be limited.

Note: under the statute an easement for public utility facilities “necessary to provide or maintain service remains in a discontinued town way regardless of whether a public easement is retained.”

3. The Town Council holds a public hearing on the order of discontinuance at a subsequent meeting.

**Anticipated date: August 24, 2020**

4. The Town Council then votes on the order 10 or more business days after the public hearing. It must approve the order of discontinuance and the damage awards and, if necessary to appropriate the necessary funds to pay the damages.

Related to this, the Town Council can approve the license for the installation and maintenance of the desired improvements in the retained public easement area.)

**(D-3-license agreement) (to be provided)**

**Anticipated date: September 14, 2020**

5. The Town Clerk must record an attested certificate of discontinuance in the Registry of Deeds. The certificate must include the name of the town way, the Town's name and the names of the abutting property owners. The discontinuance is effective on the date of recording. The Town Clerk must provide a copy of the certificate to the MDOT Bureau of Maintenance and Operations.

**(D-4-certificate of discontinuance).**

## **Order of Discontinuance of a Portion of a Town Way**

**To:** Residents of the Town of Cumberland and other interested persons

**From:** Municipal Officers of the Town of Cumberland

Pursuant to 23 M.R.S.A. § 3026-A, the Municipal Officers of the Town of Cumberland hereby order the discontinuance as a Town way of that portion of Turkey Lane running from Range Road up to, but not including, the bridge on Turkey Lane, as further shown on Exhibit A, for a distance of approximately 1,040 feet.

Having given best practicable notice to all abutting property owners, a list of whom is attached to this Order, and the Town Planning Board, we further order that no damages be awarded to the abutting property owners because they have requested this discontinuance.

Further, said Municipal Officers in their capacity as the Town Council and the legislative body of the Town of Cumberland, hereby approve said order of the municipal officers and further order that said portion of Turkey Lane be discontinued immediately, without damages to abutters and with a public easement retained as described and set forth in Exhibit B.

Date: \_\_\_\_\_,

\_\_\_\_\_  
Thomas Gruber

\_\_\_\_\_  
Robert Vail

\_\_\_\_\_  
Ronald Copp, Jr.

\_\_\_\_\_  
Allison Foster

\_\_\_\_\_  
Michael Edes

\_\_\_\_\_  
Shirley Storey-King

\_\_\_\_\_  
George Turner

Municipal Officers/Town Council

## **LIST OF ABUTTING PROPERTY OWNERS**

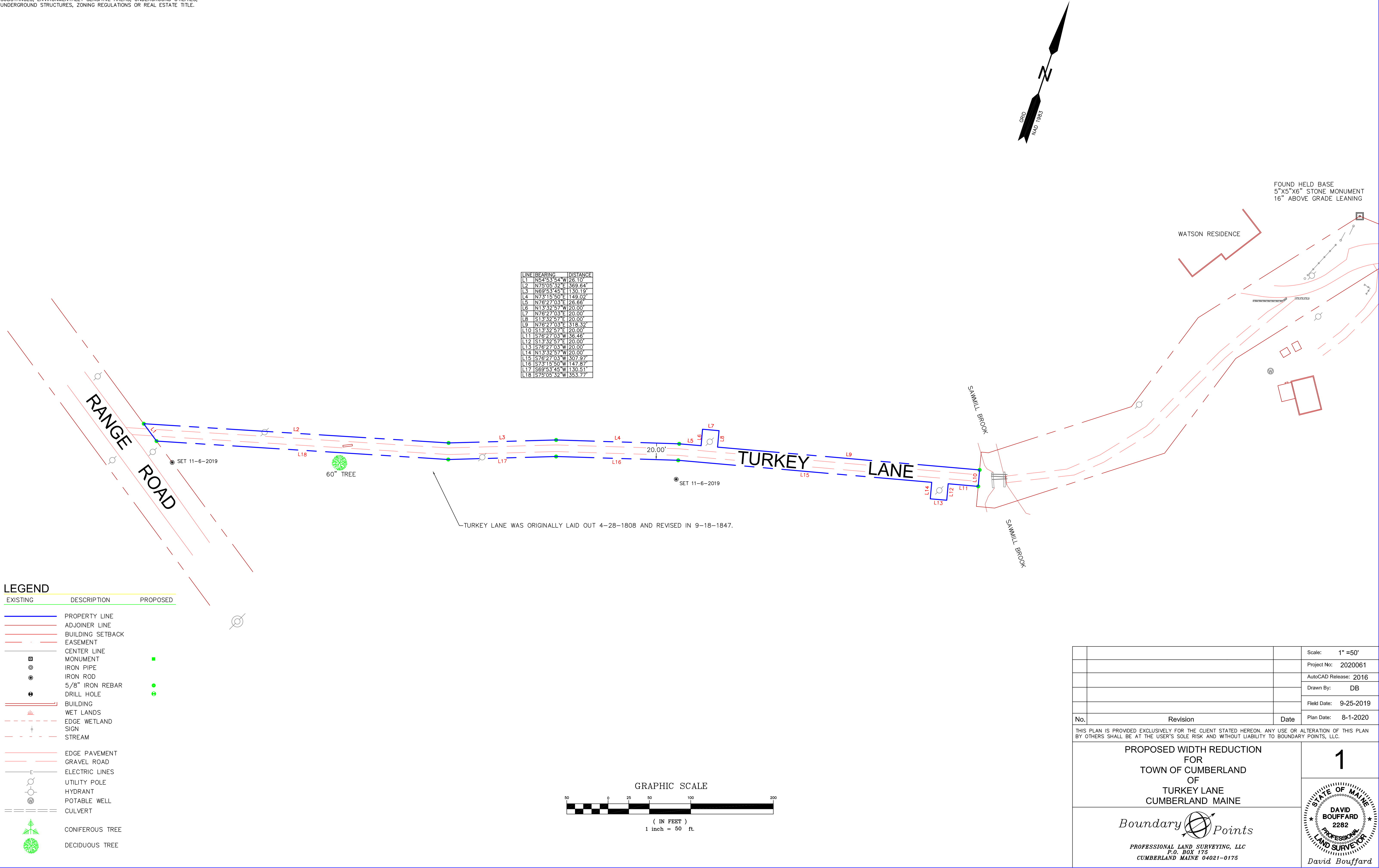
1. Bella LLC  
60 Range Road  
Cumberland Center, Maine 04021  
Tax Map R05, Lot 14
2. Trustees of Revocable Inter Vivos Trust Agreement of Mary Lucile Gallaudet  
67 Range Road  
Cumberland Center, Maine 04021  
Tax Map R05, Lot 15A

**EXHIBIT A**  
**DESCRIPTION OF PORTION OF TURKEY LANE TO BE DISCONTINUED**

SURVEYOR'S NOTES

ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF I CERTIFY EXCLUSIVELY TO THE CLIENT THAT THIS SURVEY PLAN, MADE TO THE NORMAL STANDARD OF CARE, SUBSTANTIALLY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR LAND SURVEYOR STANDARDS.

NO CERTIFICATION IS MADE TO THE EXISTENCE OR NONEXISTENCE OF HAZARDOUS SUBSTANCES, ENVIRONMENTALLY SENSITIVE AREAS, UNDERGROUND UTILITIES, UNDERGROUND STRUCTURES, ZONING REGULATIONS OR REAL ESTATE TITLE.



**EXHIBIT B**  
**DESCRIPTION OF PUBLIC EASMENT TO BE RETAINED**

A certain lot or parcel of land with any improvements thereon, located on the northeasterly side of Range Road in the Town of Cumberland, County of Cumberland, State of Maine and more particularly bounded and described as follows:

**BEGINNING** at an iron rebar on the easterly side of Range Road at the corner of Turkey Lane about 10 feet off the center of existing travelled way;

Thence the following courses and distances along Turkey Lane:

**N 54°53'54" W, a distance of 26.10'**  
**N 75°05'32" E, a distance of 369.64'**  
**N 69°53'45" E, a distance of 130.19'**  
**N 73°15'50" E, a distance of 149.02'**  
**N 76°27'03" E, a distance of 364.98'**  
**S 13°32'57" E, a distance of 20.00'**  
**S 76°27'03" W, a distance of 364.43'**  
**S 73°15'50" W, a distance of 147.87'**  
**S 69°53'45" W, a distance of 130.51'**  
**S 75°05'32" W, a distance of 353.77'**

To the **Point of Beginning**.

Containing an area of **0.47 Acre**

The basis of bearings for this description was the Maine State Grid Plane North American Datum 1983 located in the West Zone.

Together with the right to install and maintain utilities.

Meaning and intending to reduce the width of a portion of Turkey Lane from 66 feet wide down to a width of 20 feet wide and approximately centered on the old travelled way.

Use of the public easement will be limited to use by pedestrians, snowmobiles, non-motorized vehicles and emergency vehicles.

TO: Bella LLC  
60 Range Road  
Cumberland Center, Maine 04021  
Tax Map R05, Lot 14

FROM: Cumberland Town Council, as the Municipal Officers of the Town

Dear Property Owner:

Our records show that you own property abutting Turkey Lane. This letter is to notify you that the Town Council proposes to initiate the process to consider whether to issue an order to discontinue Turkey Lane from its intersection with the Range Road to, but not including, the bridge on Turkey Lane, for a distance of approximately 1,040 feet and will determine damages, if any, to be paid to abutting property owners.

This section of Turkey Lane is now a town way, subject to a winter closure order, that is approximately sixty-six feet wide and is shown more particularly on Assessor's Tax Map R05, on file at Cumberland Town Hall, 290 Tuttle Road, Cumberland, ME (sketch enclosed). The Town Council intends to retain a public easement in the road. The public easement will be limited to twenty feet in width and will be further limited for use by pedestrians, snowmobiles, non-motorized vehicles and emergency vehicles.

If an Order of Discontinuance is issued and subsequently approved by vote of the Town Council, as the legislative body of the Town, the Town will have no obligation to maintain, repair or plow that section of Turkey Lane, but the public will still have the right to utilize the public easement as limited above, unless the public easement is extinguished as well. If the public easement is also extinguished, the Town will have no obligation to maintain, repair or plow the public easement road and the public will not have a right to utilize it in any manner. Ownership of the road is generally presumed to revert to the abutting landowners to the center line, but the Town cannot provide legal advice to you on ownership of any discontinued portion of the road.

As an abutting property owner, you would have the right to maintain a discontinued road and to form a road association or enter private agreements to maintain, plow and repair the road if it is discontinued with or without a public easement. Abutting property owners have the right to establish private easements to provide access to their property if they do not already possess a private right of access over a discontinued road.

Our records show that both properties abutting this portion of Turkey Lane are otherwise accessible by another public way. If you believe that your property is not otherwise accessible by another public way, please notify the Town at your earliest convenience. The Town considers your property to be accessible by another public way if it has the required frontage on that public way, regardless of whether you ultimately choose to utilize Turkey Lane as your driveway access.

On August 10, 2020, the Town Council will meet to determine whether to: (1) proceed with the discontinuance process and retain a public easement in the discontinued road as described and limited above; or (2) proceed with discontinuance of the road without retaining a public easement.

These matters will be discussed at this meeting of the Town Council and at a public hearing to be held on August 24, 2020. As an abutter, you or your designated agent are invited to attend that meeting, and to attend and be heard at the public hearing.

If you have any immediate questions, please do not hesitate to contact the Town Manager, Bill Shane, at (207) 829-2205. Thank you.

---

Thomas Gruber  
Town Council Chair

Enclosure:  
Tax Map sketch

TO: Trustees of Revocable Inter Vivos Trust Agreement of Mary Lucile Gallaudet  
67 Range Road  
Cumberland Center, Maine 04021  
Tax Map R05, Lot 15A

FROM: Cumberland Town Council, as the Municipal Officers of the Town

Dear Property Owner:

Our records show that you own property abutting Turkey Lane. This letter is to notify you that the Town Council proposes to initiate the process to consider whether to issue an order to discontinue Turkey Lane from its intersection with the Range Road to, but not including, the bridge on Turkey Lane, for a distance of approximately 1,040 feet and will determine damages, if any, to be paid to abutting property owners.

This section of Turkey Lane is now a town way, subject to a winter closure order, that is approximately sixty-six feet wide and is shown more particularly on Assessor's Tax Map R05, on file at Cumberland Town Hall, 290 Tuttle Road, Cumberland, ME (sketch enclosed). The Town Council intends to retain a public easement in the road. The public easement will be limited to twenty feet in width and will be further limited for use by pedestrians, snowmobiles, non-motorized vehicles and emergency vehicles.

If an Order of Discontinuance is issued and subsequently approved by vote of the Town Council, as the legislative body of the Town, the Town will have no obligation to maintain, repair or plow that section of Turkey Lane, but the public will still have the right to utilize the public easement as limited above, unless the public easement is extinguished as well. If the public easement is also extinguished, the Town will have no obligation to maintain, repair or plow the public easement road and the public will not have a right to utilize it in any manner. Ownership of the road is generally presumed to revert to the abutting landowners to the center line, but the Town cannot provide legal advice to you on ownership of any discontinued portion of the road.

As an abutting property owner, you would have the right to maintain a discontinued road and to form a road association or enter private agreements to maintain, plow and repair the road if it is discontinued with or without a public easement. Abutting property owners have the right to establish private easements to provide access to their property if they do not already possess a private right of access over a discontinued road.

Our records show that both properties abutting this portion of Turkey Lane are otherwise accessible by another public way. If you believe that your property is not otherwise accessible by another public way, please notify the Town at your earliest convenience. The Town considers your property to be accessible by another public way if it has the required frontage on that public way, regardless of whether you ultimately choose to utilize Turkey Lane as your driveway access.

On August 10, 2020, the Town Council will meet to determine whether to: (1) proceed with the discontinuance process and retain a public easement in the discontinued road as described and limited above; or (2) proceed with discontinuance of the road without retaining a public easement.

These matters will be discussed at this meeting of the Town Council and at a public hearing to be held on August 24, 2020. As an abutter, you or your designated agent are invited to attend that meeting, and to attend and be heard at the public hearing.

If you have any immediate questions, please do not hesitate to contact the Town Manager, Bill Shane, at (207) 829-2205. Thank you.

---

Thomas Gruber  
Town Council Chair

Enclosure:  
Tax Map sketch

# ITEM

# 20-060

To hold a Public Hearing to consider and act on a zone change request for a 3.35 acre parcel located in the Village Center Commercial (VCC) zone to the Village Medium Density Residential (VMDR) zone, as recommended by the Planning Board

**TABLED BY APPLICANT**

## Notice of Decision

**Date:** August 19, 2020

**To:** William Shane, Town Manager

**From:** Carla Nixon, Town Planner

**Re:** Public Hearing: Recommendation to the Town Council on a proposed zone change to rezone a 3.35 acre portion of a 7.16 acre lot located at 222 Gray Rd., Tax Assessor Map U20, Lot 66 from the Village Center Commercial (VCC) zone to the Village Medium Density Residential (VMDR) zone.

This is to advise you that on Tuesday, August 18, 2020, the Planning Board conducted a Public Hearing on a request to provide a recommendation to the Town Council on a proposed zone change to rezone a 3.35 acre portion of a 7.16 acre lot located at 222 Gray Rd., Tax Assessor Map U20, Lot 66 from the Village Center Commercial (VCC) zone to the Village Medium Density Residential (VMDR) zone. The Planning Board's vote to positively recommend the proposed zone change to the Town Council failed by a vote of five to one, with one Planning Board member absent. Some members of the Planning Board suggested that the zoning in this area of Route 100 be looked at again now that there is public water available in some areas.

Cumberland Planning Board

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Paul Auclair, Chairman



**Zone Change Request - Board Barn property - 3.35 Acres to VMDR from VCC**



707 Sable Oaks Drive | Suite 30  
South Portland, Maine 04106  
207.772.2515

July 14, 2020

**Mr. William Shane**

Town Manager  
Town of Cumberland  
290 Tuttle Road  
Cumberland, ME 04021

**Subject: Rezone Application - Board Barn  
222 Gray Road  
Tax Map U20/Lot 66**

Dear Bill,

The Applicant, Michael Record, has retained **Gorrill Palmer (GP)** to assist with the preparation of the permitting documents and plans for a project site located at 222 Gray Road. Currently, the project is located within the Village Center Commercial Zone and the applicant is requesting a zone change request for a portion of a 7.15-acre parcel between New Gray Road (Route 100/26) and Old Gray Road in Cumberland. Currently, the front portion of the property on New Gray Road is developed with the existing Board Barn. The remainder of the parcel remains undeveloped with wooded cover and has frontage on Old Gray Road.

**BACKGROUND AND EXISTING CONDITIONS**

The subject parcel shown by Assessor's Map U20, Lot 66 is 7.15 acres and is currently zoned as Village Center Commercial (VCC). The Village Medium Density Residential (VMDR) Zone abuts the parcel on its southern and western property boundaries. Currently, the parcel is developed with the Board Barn on the parcel's eastern frontage along New Gray Road. The remainder of the parcel is undeveloped and with mostly wooded cover. We have included an excerpt of the Town GIS Website depicting the current zoning of in the vicinity of the site and the area to be rezoned for ease of review.

**PROPOSED ZONE CHANGE**

The applicant is proposing to rezone approximately 3.35 acres of the property which fronts Old Gray Road from the VCC zone to the VMDR Zone which does allow for residential use. As shown on Figure 1 included with this letter, we have depicted the portion of the parcel to be rezoned. This frontage of the parcel on Old Gray Road, which is proposed to be rezoned, abuts the existing VMDR zoned parcels. Subsequent to approval of the zone change, the intent of the applicant is to subdivide the overall parcel into five lots which would consist



of the existing Board Barn and four new residential lots. The residential lots would consist of three single family lots with 20,000 SF of net residential area and a duplex on the fourth lot with 40,000 SF of net residential area. A Preliminary Lot Division Plan depicting the proposed lots and necessary easements for the subdivision is attached to this letter as Attachment 2. The development of this Subdivision would require Planning Board Review.

It is noted that a proposed 15-foot drainage easement, to benefit the Town of Cumberland is included as part of the proposed subdivision. The easement is located along the northern boundary of the parcel and its area has been deducted from the net residential area calculations for the duplex lot. The easement will allow Town drainage

### **CLOSURE**

It is our understanding, based upon discussions with you, that you will present our proposal to the Ordinance Committee prior to the July 27, 2020 Town Council meeting. Subsequent to approval of the rezone the applicant will apply for a Subdivision Application with the Town of Cumberland to allow the parcel to be subdivided into 5 lots. As shown in Attachment 2, the lots will consist of the Board Barn, 3 single family lots, and a multi-family (duplex) lot.

Based upon a favorable review from the Committee, the proposal would then be reviewed by the Planning Board and subsequently the Town Council for final action.

We look forward to the review of our proposal and if you have any questions or require further additional information, please feel free to contact our office.

Sincerely,

**GORRILL PALMER**

Douglas Reynolds, PE  
Project Manager

c: Michael Record

Attachments:

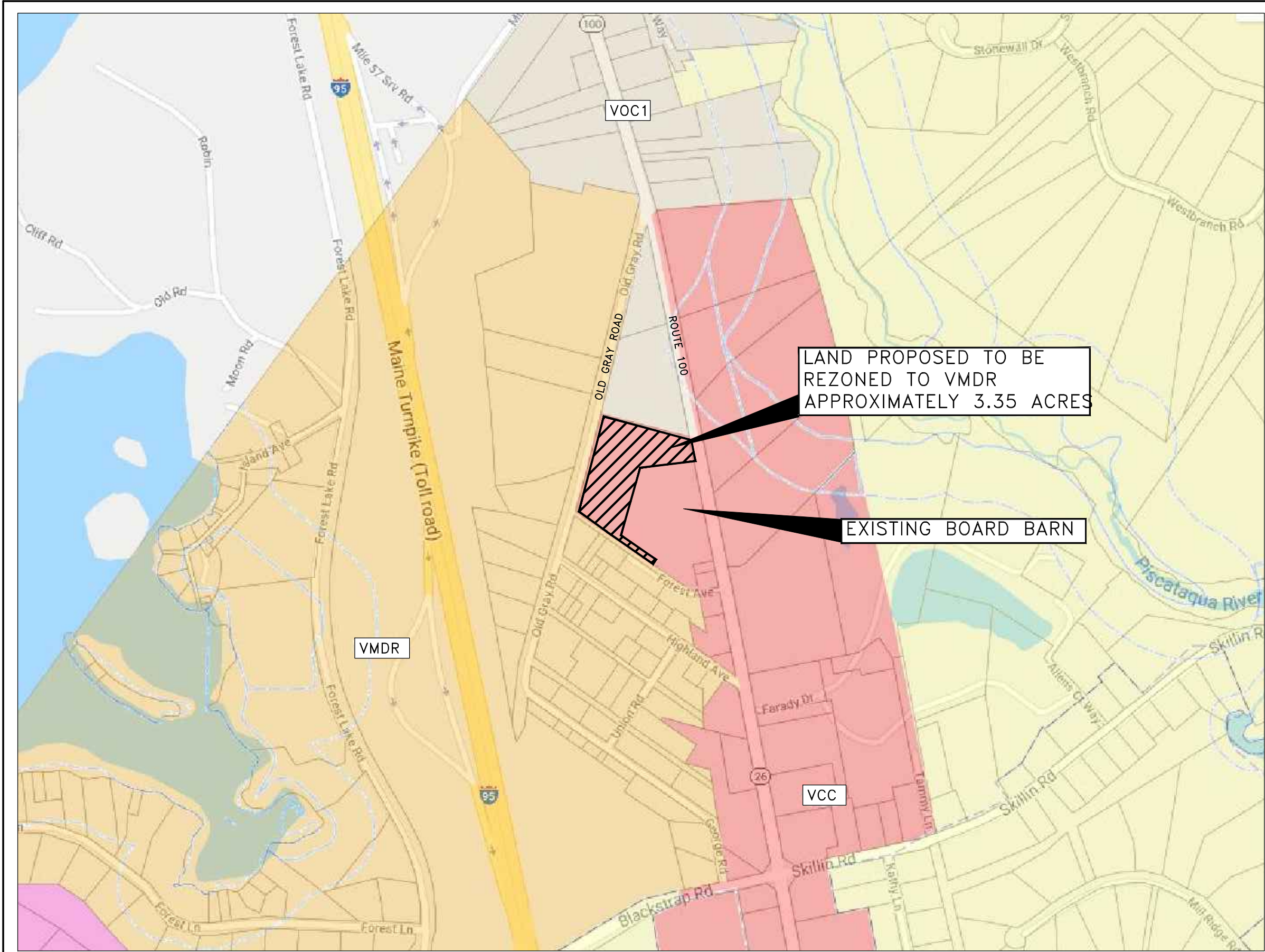
Town GIS Excerpt Map – Figure 1  
Preliminary Lot Division Plan



## **ATTACHMENT 1**

### **TOWN GIS EXCERPT MAP**

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LEGEND	
	VOC1 – VILLAGE OFFICE COMMERCIAL 1
	VCC– VILLAGE CENTER COMMERCIAL
	VMDR– VILLAGE MEDIUM DENSITY RESIDENTIAL

Rev.	Date	Revision
–	–	–

Design:	BG	Date:	JUNE 2020
Draft:	CH	Job No.:	2406
Checked:	DER	Scale:	NTS
File Name: 2046-ZONE.dwg			

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207.772.2515

Drawing Name:	Proposed Zone Change
Project:	BOARD BARN

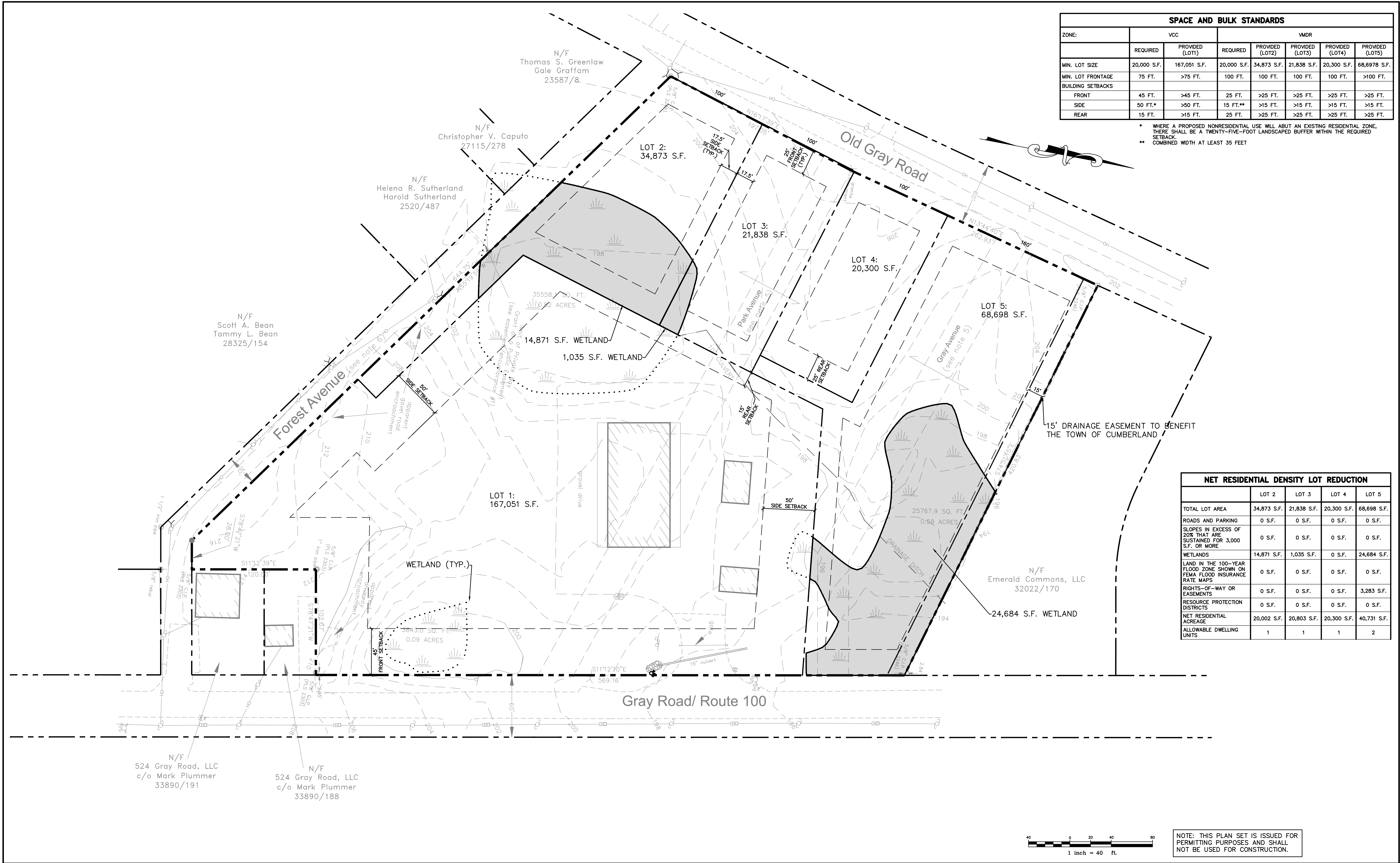


## **ATTACHMENT 2**

### **PRELIMINARY LOT DIVISION PLAN**

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U:\2406.01 Record Lumber - Subdivision - Cumberland V - CAD\DWG\2406-01-SUBD.dwg 7/14/2020 1:30 PM



Rev.	Date	Revision

ZONE CHANGE	7/14/20	DER
Issued For	Date	By

Design: BG	Draft: CH	Date: JUNE 2020
Checked: DER	Scale: 1"=40'	Job No.: 2406.01
File Name: 2406-01-SUBD.dwg		
This plan shall not be modified without written permission from Gorrill Palmer. Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to Gorrill Palmer.		



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www.gorrillpalmer.com  
207.772.2515

Drawing Name:	Preliminary Lot Division Plan
Project:	Board Barn 222 Gray Road, Cumberland, Maine 04021
Client:	Michael Record 2 Riverside Drive, Falmouth, Maine 04105

Drawing No.
1

# ITEM

# 20-061

To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards and Criteria), Sub-section H (Exterior Lighting) of the Cumberland Code, as recommended by the Planning Board

## Notice of Decision

**Date:** August 19, 2020

**To:** William Shane, Town Manager

**From:** Carla Nixon, Town Planner

**Re:** Public Hearing: Recommendation to the Town Council on proposed amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards and Criteria), Subsection H (Exterior Lighting) of the Cumberland Code.

This is to advise you that on Tuesday, August 18, 2020, the Planning Board conducted a Public Hearing on a request to provide a recommendation to the Town Council on proposed amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards and Criteria), Subsection H (Exterior Lighting) of the Cumberland Code. The Planning Board suggested keeping one sentence from the original language that is proposed to be stricken and to insert "for a reasonable period of time" at the end of a proposed new sentence. Town Planner Carla Nixon read the revised proposed language and the Planning Board voted unanimously to recommend amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards and Criteria), Subsection H (Exterior Lighting) of the Cumberland Code as follows:

H. Exterior lighting. The use of exterior lights shall be minimized to the greatest extent possible. Exterior lighting of commercial buildings, parking areas and signs shall only be allowed during the actual hours of operation and one hour prior to and one hour following the hours of operation. Low level pedestrian lighting (no greater than 14' in height) is permitted at doorways but must be shielded to restrict the maximum apex angle of the cone of illuminations to 150 degrees. The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All other light fixtures shall be motion-sensing set to illuminate a limited area when motion is detected and turned off when the detected motion ceases for a reasonable period of time. All exterior lighting must utilize full cut-off fixtures to avoid glare and adverse impact on neighboring properties and rights-of-way, and the unnecessary lighting of the night sky. ~~designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights-of-way, and the unnecessary lighting of the night sky.~~

Cumberland Planning Board

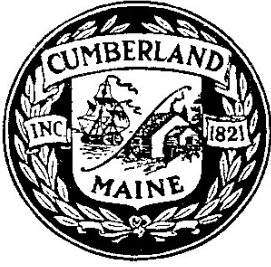
---

Paul Auclair, Chairman

# ITEM

# 20-062

To authorize the issuance of Senior Property Tax Assistance Program  
payments



# MEMORANDUM

Town of Cumberland, Maine  
290 Tuttle Road  
Cumberland, ME 04021  
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, *Town Manager*

From: Eliza Porter, *Deputy Town Clerk*

Date: August 20, 2020

Re: Senior Property Tax Assistance Program

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Below are the totals from the 2020 Senior Property Tax Assistance Program. To qualify, residents had to be 70 years of age or older, have a homestead in Cumberland, have been a resident for at least 10 years, and have a combined household income that did not exceed \$90,820.

**190** residents qualified for the tax assistance program and will be receiving a refund check to apply towards their FY21 property taxes. The refunds total to **\$59,872.84**.

	Owner	Renter
<i>Total Refund</i>	\$57,772.84	\$2,100.00
<i>Average Refund</i>	\$323.74	\$175.00
<i>Lowest Refund</i>	\$50	\$50
<i>Highest Refund</i>	\$581.24	\$350

Attached are the eligible recipients for this program.

# ITEM

# 20-063

To consider and act on forwarding to the Planning Board to develop setback requirements for residential solar arrays, as recommended by the Ordinance Committee

## Brenda Moore

---

**From:** Jason Adams <Jason.Adams@Ni2health.com>  
**Sent:** Tuesday, August 18, 2020 3:20 PM  
**To:** William Shane  
**Cc:** Carla Nixon; William Longley; taylor@mgmbuilders.com; Mike Edes; Shirley Storey-King; George Turner; Brenda Moore; Jason Adams  
**Subject:** RE: Setback for Solar Arrays  
**Attachments:** IMG\_0776.JPEG; IMG\_0775.JPEG

Bill –

First, thank you for your detailed reply and information, it is much appreciated. I also appreciated our call and discussion. In follow-up to that discussion I wanted to provide everyone with 2 pictures that can help illuminate the location of the 2 ground Solar Arrays I wish to install. Both pictures are attached and within the pictures you can see the grade stakes that are in the ground that show the approximate locations of 4 posts that need to be installed and then 2 rows of Solar Arrays will be installed on the posts from Revision Energy.

Key points:

- 1) No trees will need to be cut to install these 2 arrays. They are being installed in already open space at the rear of my property.
- 2) The developer has agreed to plant trees in the "Path" that has always been there that leads into the 10 acre common area so anyone using the "Walking Trail" will not see my solar arrays or my house due to the planting of trees behind my proposed solar arrays
- 3) The solar arrays will not be seen from the street as they will be 100% behind my house
- 4) The solar arrays will not be seen by Mr. Bunker as the woods to the left of my house are far too thick
  - a. Plus, considering his solar FARM, I would think he would be an advocate for my proposed solar arrays
- 5) The arrays will be 75' from the left property line (And NOT disturb the "forbidden area" and the rear stake will be 15' from the rear property line
  - a. These are important markers because this is the only way I can have solar on my land and fit the two 34' long solar arrays on my property and not have my house or the existing trees block the sun from hitting the arrays and producing energy

I do hope that everyone involved in this decision can see this as a positive and reasonable request to decrease a residential carbon footprint into the future and that I am not disturbing any further trees to install these arrays. Thank you for your consideration.

**Jason Adams, FACHE**  
Principal & Chief Executive  
Ni2 Health  
Office: 844-642-4584 x700  
Cell: 207-808-9767  
[www.ni2health.com](http://www.ni2health.com)



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received this e-mail in error, please immediately purge it and all attachments and notify the sender by reply email or contact Ni2 Health toll free at 844-642-4584 and press zero (0) for immediate assistance.

**From:** William Shane <[wshane@cumberlandmaine.com](mailto:wshane@cumberlandmaine.com)>  
**Sent:** Tuesday, August 18, 2020 2:34 PM  
**To:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Cc:** Carla Nixon <[cnixon@cumberlandmaine.com](mailto:cnixon@cumberlandmaine.com)>; William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>; taylor@mgmbuilders.com; Mike Edes <[michael.edes@yahoo.com](mailto:michael.edes@yahoo.com)>; Shirley Storey-King <[ssstoreyking@gmail.com](mailto:ssstoreyking@gmail.com)>; George Turner <[turnerg085@gmail.com](mailto:turnerg085@gmail.com)>; Brenda Moore <[bmoore@cumberlandmaine.com](mailto:bmoore@cumberlandmaine.com)>  
**Subject:** RE: Setback for Solar Arrays

Hi Jason,

You are on the right path, only the Town Council can change the zoning requirements. You have another way to appeal Bill Longley's decision to the Board of Appeals, but I don't believe you will be successful.

I will bring your request to the ordinance committee tomorrow morning. We have a full agenda, but If they wish to consider your request it could be scheduled for their next meeting ( it may be next week if not the following week at 7:30 AM- Wednesday morning)

Staff does not have the authority to grant your request and the Code Officer is charged with the interpretation of the the ordinance. I'm confident the Council will hear your request.....with two 75- setbacks you are in a unique situation. I don't believe 75' or 15' is the correct distance as one is too far and the other may be too close to neighbors. This is a fairly new issue with solar fields for residential homes, so you may be our first to ask for the setback reduction. I'll let you know about the next meeting date tomorrow morning. Let Brenda or me know if you have any additional questions. Mike, Shirley and George are members of the Council's Ordinance Committee. If they agree to a reduction, the full Council votes to send it to the Planning Board for a recommendation, then after the Planning Board's recommendation it returns the Council for a final vote and becomes law if voted in the affirmative.

Your issue is timing. The Council won't hear this item until Sept. 14<sup>th</sup> and the Planning Board is the 15<sup>th</sup>, and all items need to be into the town Planner 3 weeks prior to the meeting ( September 1<sup>st</sup>)- so it's a little bit of a chicken and egg issue for us for September. Let me see if I can work with staff to have something ready for Sept. 1. Your email below clearly explains your request and the process that you have been through to date.

Thank you

Bill



William R. Shane P.E.  
Town Manager  
Town of Cumberland  
207 829 2205  
[www.cumberlandmaine.com](http://www.cumberlandmaine.com)  
290 Tuttle Road, Cumberland, Maine 04021



**From:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Sent:** Tuesday, August 18, 2020 12:35 PM  
**To:** William Shane <[wshane@cumberlandmaine.com](mailto:wshane@cumberlandmaine.com)>

**Cc:** Carla Nixon <[cnixon@cumberlandmaine.com](mailto:cnixon@cumberlandmaine.com)>; William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>; [taylor@mgmbuilders.com](mailto:taylor@mgmbuilders.com); Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Subject:** FW: Setback for Solar Arrays  
**Importance:** High

Mr. Shane –

I just got off the phone with Carla Nixon and Bill Longley. They advised me that if I desire to install Solar Arrays at my property in Cumberland outside of the approved “Building Envelope” I need to send you a formal request for this and that you will take this request to the Town Council for consideration. Can you please let me know what you will need from me for this request to move forward?

My specific request is the following:

I would like to install Solar Arrays in the rear of my property that will be within the property boundaries of 75’ from the left set-back and 15’ from the rear property line. I am well aware of the “no disturbance” area along the left property line due to the sub-division plan and the Solar Arrays will not be in this area at all and I am asking that the Solar Array be granted the 15’ set-back in the rear of the property just like a Shed is. The area that the Solar Arrays are being installed is in an area that is already an open area on the property and I am requesting this for your consideration and approval if that is the correct process. It would be physically impossible for me to install Solar Arrays on my property if they had to be within the “Building Envelope” and feel this is a very reasonable request for consideration.

Please let me know if you need anything further from me.

**Jason Adams, FACHE**  
Principal & Chief Executive  
Ni2 Health  
Office: 844-642-4584 x700  
Cell: 207-808-9767  
[www.ni2health.com](http://www.ni2health.com)



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**From:** Jason Adams  
**Sent:** Tuesday, August 18, 2020 12:21 PM  
**To:** William Shane <[wshane@cumberlandmaine.com](mailto:wshane@cumberlandmaine.com)>  
**Cc:** Carla Nixon <[cnixon@cumberlandmaine.com](mailto:cnixon@cumberlandmaine.com)>; William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>; [taylor@mgmbuilders.com](mailto:taylor@mgmbuilders.com)  
**Subject:** FW: Setback for Solar Arrays

Bill –

Allow me to introduce myself via e-mail. I am a home owner building in the new Christmas Creek Sub-division off Tuttle Road. It appears that everyone at Town Hall knows where this is so I won't get into further details as I am sure you are

up to speed. I have been attempting to communicate with Carla Nixon via e-mail and voicemail with no success. I understand from Bill that she has been working from home. Independent of the work from home status I would like to now connect with you in regards to putting solar panels up at my property. Since this is new construction everyone's eyes from the Town are on it and I am trying to do the right thing and follow process.

Bill has sent me information around Town Zoning which is SILENT to Solar Arrays since these zoning regulations were developed many years ago. To state a solar array needs to be installed within a "Building Envelope" is illogical to me. The town allows for a Shed to be built within 15 feet from the rear of the property (Which I have an approved building permit for) however, Bill is telling me a Solar Array needs to be constructed within the Building envelope. This would put the Solar Array right next to my house and limit the sun exposure which would defeat the purpose of even having solar.

My gut tells me these zoning regulations have not been updated and have not taken into consideration Solar Arrays. Who do I need to speak with to ensure that I can install Solar Arrays in my back yard and go OUTSIDE my building envelope?

**Jason Adams, FACHE**  
Principal & Chief Executive  
Ni2 Health  
Office: 844-642-4584 x700  
Cell: 207-808-9767  
[www.ni2health.com](http://www.ni2health.com)



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**From:** William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Sent:** Tuesday, August 18, 2020 11:59 AM  
**To:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Cc:** [taylor@mngmbuilders.com](mailto:taylor@mngmbuilders.com); Christina Silberman <[csilberman@cumberlandmaine.com](mailto:csilberman@cumberlandmaine.com)>; William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>; Carla Nixon <[cnixon@cumberlandmaine.com](mailto:cnixon@cumberlandmaine.com)>  
**Subject:** RE: Setback for Solar Arrays

Jason,

I think you have confused the definition of a shed or driveway and the allowance in zoning for a shed or driveway which differs than for structures and zoning setbacks for structures. As I stated earlier the solar must meet and be sited with-in the defined building envelope and can be no closer than the setback lines as shown on the attached plan (highlighted in yellow) as signed by the Planning Board. I hope this is clearer now. (see attached zoning setback)  
Please call me if you wish to discuss further.

Bill L.



William "Bill" Longley  
Code Enforcement Officer, Town of Cumberland  
207-829-2207  
[www.cumberlandmaine.com](http://www.cumberlandmaine.com)  
290 Tuttle Road, Cumberland, Maine 04021



**From:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Sent:** Tuesday, August 18, 2020 11:08 AM  
**To:** William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Cc:** [taylor@mgbbuilders.com](mailto:taylor@mgbbuilders.com); Christina Silberman <[csilberman@cumberlandmaine.com](mailto:csilberman@cumberlandmaine.com)>; Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Subject:** RE: Setback for Solar Arrays

Bill – Thanks for confirming that the set-back for the rear property is 15 feet since a solar array by the Town's definition is a "structure" just like a shed. Per Town building code that means the array just needs to be 15 feet from the back property line. Thanks for your reply as this was very helpful. I hope you have a great balance of your week!

**Jason Adams, FACHE**  
Principal & Chief Executive  
Ni2 Health  
Office: 844-642-4584 x700  
Cell: 207-808-9767  
[www.ni2health.com](http://www.ni2health.com)



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**From:** William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Sent:** Tuesday, August 18, 2020 11:04 AM  
**To:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Cc:** [taylor@mgbbuilders.com](mailto:taylor@mgbbuilders.com); Christina Silberman <[csilberman@cumberlandmaine.com](mailto:csilberman@cumberlandmaine.com)>; William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Subject:** RE: Setback for Solar Arrays

Jason,

All structures (and a solar array is a structure) must be in the building envelope as shown on your plans signed by the Planning Board.

I hope this helps answer your question.

Bill L:



William "Bill" Longley  
Code Enforcement Officer, Town of Cumberland  
207-829-2207  
[www.cumberlandmaine.com](http://www.cumberlandmaine.com)  
290 Tuttle Road, Cumberland, Maine 04021



**From:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Sent:** Tuesday, August 18, 2020 10:39 AM  
**To:** William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Cc:** [taylor@mghbuilders.com](mailto:taylor@mghbuilders.com); Christina Silberman <[csilberman@cumberlandmaine.com](mailto:csilberman@cumberlandmaine.com)>  
**Subject:** RE: Setback for Solar Arrays

Bill – These are going to be ground solar arrays so I am talking about property line set-backs on the ground.

**Jason Adams, FACHE**  
Principal & Chief Executive  
Ni2 Health  
Office: 844-642-4584 x700  
Cell: 207-808-9767  
[www.ni2health.com](http://www.ni2health.com)



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**From:** William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Sent:** Tuesday, August 18, 2020 10:37 AM  
**To:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Cc:** [taylor@mghbuilders.com](mailto:taylor@mghbuilders.com); Christina Silberman <[csilberman@cumberlandmaine.com](mailto:csilberman@cumberlandmaine.com)>; William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Subject:** RE: Setback for Solar Arrays

Jason,

Are you talking setback from a property line or walk around area for a firefighter on the roof ?

Bill L

**From:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>  
**Sent:** Tuesday, August 18, 2020 9:48 AM  
**To:** William Longley <[wlongley@cumberlandmaine.com](mailto:wlongley@cumberlandmaine.com)>  
**Cc:** Jason Adams <[Jason.Adams@Ni2health.com](mailto:Jason.Adams@Ni2health.com)>; [taylor@mngmbuilders.com](mailto:taylor@mngmbuilders.com)  
**Subject:** Setback for Solar Arrays

Bill –

I wanted to check in and confirm the set-back requirements for Solar Arrays. The national guidance is 1.5 feet from a rear set-back as long as the array is less than 20 feet tall. If the array is over 20' tall then the set-back is 15 feet. Is this consistent with the Town of Cumberland?

**Jason Adams, FACHE**  
Principal & Chief Executive  
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# Jason Adams- Setbacks for Solar





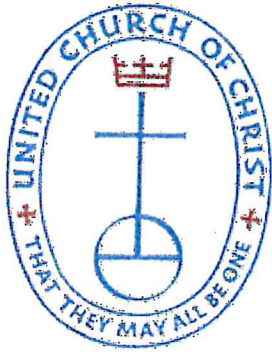
# Jason Adams- Setbacks for Solar



# ITEM

# 20-064

To consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 315 (Zoning), Section 21 (Town Center District), B-12 (Day Care Centers and Nursery Schools), to increase the number of children allowed from 20 to 28, as recommended by the Ordinance Committee



## CONGREGATIONAL CHURCH IN CUMBERLAND

...at the Center of Cumberland

282 Main Street

P O Box 247

Cumberland Center ME 04021

Telephone: (207) 829-3419

Email: [office@cumberlanducc.org](mailto:office@cumberlanducc.org)

Website: [www.cumberlanducc.org](http://www.cumberlanducc.org)

Carla Nixon, Town Planner  
Town of Cumberland  
290 Tuttle Road  
Cumberland, ME 04021

### **RE: Request by the Main Street Children's Center for a Change in the Town Zoning Ordinance**

Dear Ms. Nixon:

Section 315-21(B)(12) of the Town Zoning Ordinance permits the operation of "day care centers and nursery schools for no more than 20 children" in the Town Center District. The Congregational Church in Cumberland has operated a day care center—the Main Street Children's Center (MSCC)—for the past twelve years. We believe that altering the ordinance to allow us to care for 28 children would benefit the community.

State licensing authorities have advised us that our facilities can accommodate 28 children and that the State would approve a revision of our current license to allow us to care for this number. Of course, if the Town were to approve our request, we would continue to adhere to State-mandated child-teacher ratios.

In 2019, the Cumberland-North Yarmouth School District (MSAD #51) began a pre-kindergarten program that operated four days per week (Mondays, Tuesdays, Thursdays, and Fridays). The parents of children enrolled in this program sought care for their children from MSCC on Wednesdays and on other days during hours that the School District's pre-K program was not in operation. To accommodate these parents and their children, we allowed children to enroll in our Core Preschool Program from 9:00 am to noon only on Wednesdays and then to obtain extended-hours care on other days as well. In 2019-20, five children did enroll in our Wednesday-only Core program.

Because the Town ordinance allows us to serve only 20 children at a time, the new Wednesday-only program required us to limit the number of children enrolled in our Core

program five days per week to 15. Historically, we have been fully enrolled or close to it with 20 children receiving Core-program care five days per week. Accommodating the School District program thus led us to reduce the total amount of childcare we provide. The change to the Zoning Ordinance we request would enable us to accommodate the School District program by increasing (slightly) the total amount of care we provide. The Superintendent of MSAD #51, Jeff Porter, has advised us that he supports our request.

Our request for revision of the Zoning Ordinance is not tied to the School District program. We would like to be able ultimately to increase our enrollment to 28 children five days per week. Initially, however, we would expect to care for more than 20 children only on Wednesdays. We have the ability to provide an additional teacher on Wednesdays, as MSCC's Director, Susan Novak, can take on that task.

Please contact me ([a-alschuler@law.northwestern.edu](mailto:a-alschuler@law.northwestern.edu), 773-896-7427) or Susan Novak ([susan@cumberlanducc.org](mailto:susan@cumberlanducc.org), 207-829-3419) with any questions or concerns.

The Main Street Children's Center, which is open to all regardless of religious affiliation, has nurtured hundreds of young members of the Cumberland community over the years. As our community has grown and life patterns have changed, the demand for quality childcare has increased. See *As Workplaces Reopen, Maine Parents Scramble for Child Care Made Short by Pandemic*, PORTLAND PRESS HERALD, July 4, 2020. In partnership with the Town, the School District, and the parents of Cumberland, we would like to do more.

Sincerely yours,

A handwritten signature in black ink, reading "Albert W. Alschuler", followed by a horizontal line.

Albert W. Alschuler  
Moderator, the Congregational Church in Cumberland

Cc: Bill Shane, Town Manager  
Jeff Porter, Superintendent, MSAD #51

**§ 315-21. Town Center District (TCD).**

- A. The purpose of the Town Center District (TCD) is to provide an area in the center of Town that will allow for a mix of residential and low-intensity commercial uses that will enhance the livability and sustainability of the community.
- (1) All multiplex and nonresidential development shall be subject to the Town Center District Design Standards.<sup>1</sup>
  - (2) All multiplex and nonresidential uses shall be subject to Chapter 229, Site Plan Review.
  - (3) All development in this area shall be connected to public water and sewer, when available.
- B. The following uses are permitted in the TCD:
- (1) Single-family dwellings.
  - (2) Duplex dwellings.
  - (3) Multiplex dwellings, subject to the provisions of § 315-44, Multiplex dwellings.
  - (4) An accessory dwelling unit as permitted in § 315-45A. **[Added 11-26-2012<sup>2</sup>]**
  - (5) Personal services.
  - (6) Business and professional offices.
  - (7) Retail stores, maximum 2,000 square feet. Square footage shall not include internal storage areas.
  - (8) Small markets, maximum 2,500 square feet, with no drive-through. Square footage shall not include internal storage areas.
  - (9) Cafes, maximum 2,500 square feet, with no drive-through and in accordance with § 315-18F(3). Square footage shall not include internal storage areas and outdoor seating areas. Square footage shall include bathrooms, prep areas, cooking area and dining area. **[Amended 6-1-2015]**
  - (10) Residential care facilities, subject to § 315-71.

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1. **Editor's Note: The Town Center District Design Standards are included as an attachment to this chapter.**

2. **Editor's Note: This ordinance also redesignated former Subsection B(4) through (14) as Subsection B(5) through (15), respectively.**

- (11) Health and fitness studio.
  - (12) Day-care centers and nursery schools for no more than 20 children, subject to the provisions of § 315-47 and site plan review.
  - (13) Municipal uses and buildings.
  - (14) Sewer pumping stations, subject to the provisions of § 315-59D.
  - (15) Uses and buildings accessory to those above, except that no accessory storage units and buildings for nonresidential uses shall be permitted.
- C. The following uses are allowed as special exceptions in the TCD, requiring the approval of the Board of Adjustment and Appeals:
- (1) Home occupations.
  - (2) Home-based occupations.
  - (3) Home-based retail (subject to site plan review).
  - (4) Bed-and-breakfasts.
  - (5) Day-care homes.
  - (6) Adult day care.
  - (7) Accessory structures of public utilities.
  - (8) Aboveground utility lines.
  - (9) Uses and buildings accessory to those above.
- D. The following lot standards shall apply within the TCD:
- (1) Minimum lot size of 10,000 square feet per unit if on public sewer; 20,000 square feet if not on public sewer.
  - (2) In the case of duplex or multiplex developments, the minimum lot area per dwelling unit shall be no less than 5,000 square feet if on public sewer.
  - (3) There shall be no less than 80 feet of lot frontage. This provision shall not apply to Map U13 Lot 109.
  - (4) There may be multiple uses on one parcel as long as each use meets the required lot standards.

- E. The following minimum setbacks are required for all structures in the TCD, except that sheds and driveways are permitted to a minimum setback of eight feet from the side and rear lot lines:
- (1) Front: 15 feet.
  - (2) Rear: 15 feet.
  - (3) Side: 10 feet.
- F. The following performance standards shall apply within the TCD; provided, however that the Planning Board may determine, based on the specific elements of a proposed development, that the standards be modified. For additional requirements relating to building and site improvements, refer to the Town Center District Design Standards.
- (1) Building design. New structures, excluding single-family homes, within the district shall be of a New England architectural style and materials consistent with Section 2.1 of the Design Standards.
  - (2) Lighting. The use of exterior lighting shall be only as required for safety and to identify, during business hours only, businesses, parking areas and sidewalks. Fixtures shall be fully shielded, giving off no light above the horizontal plane. There shall be no internally illuminated signs. No greater than one footcandle of lighting is permitted on the site, and there shall be zero footcandle at the property line.
  - (3) Cafe standards.
    - (a) Seating shall be limited to 48 seats.
    - (b) No more than 20 square feet of advertising shall be permitted on site. There shall be no advertising placed in windows or doorways of the building. Advertising shall not include internally illuminated signs.
    - (c) Kitchen ventilation hoods will not be mounted on the front door street side of the building and will be located to minimize impact on neighboring properties.
    - (d) Outdoor seating is permitted but must be buffered from adjacent uses by fencing and plantings unless located between the front of the structure and the public right-of-way. Outdoor seating shall not be counted toward the total seating referenced in Subsection F(3)(a). Outdoor seating shall be permitted for up to 16 seats unless the

Planning Board finds the unique characteristics of the site allows for additional outdoor seating. No additional parking shall be required for outdoor seating. **[Amended 6-1-2015]**

- (e) All parking and loading facilities shall be located to the side or rear of the building and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height.
- (f) Rest room facilities for the patrons shall be provided on the premises.
- (4) Parking standards. Parking shall be located to the side or rear of multiplex residential and nonresidential structures.
- (5) Buffering and landscaping. All nonresidential uses must provide for the buffering of adjacent uses, where there is a transition from one type of use to another use, and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade and/or a combination of these or other techniques.
- (6) Hours of operation. All nonresidential uses in the TCD shall be open for business only within the time frame of 6:00 a.m. to 9:00 p.m.
- (7) Commercial deliveries. Commercial deliveries shall be limited to the hours of 7:00 a.m. to 7:00 p.m. for all nonresidential uses added to the district after April 11, 2011.
- (8) Noise.
  - (a) Intent. These performance standards governing noise are intended to ensure that the rights of property owners, as well as the overall health and general welfare of the district, are not diminished by unreasonable noise levels generated by any permitted or special exception use within the district.
  - (b) Maximum permissible sound level. The maximum permissible sound level produced by any continuous, regular, or frequent source of sound or noise shall not exceed a measurable level of 75 dB beyond the property

boundaries of the site upon which the sound or noise is generated or originates.

(c) Sound or noise abatement. In order to comply with these maximum sound level requirements, sound or noise level abatement techniques may be used to mitigate levels of site-generated sound or noise. To this end, modern acoustical technology may be applied to achieve compliance with these regulations.

(d) Measurement of sound or noise. In cases where sound measurements are required in order to ensure compliance with these regulations, measurements shall be:

[1] Taken with a device meeting the standards of the American National Standards Institute, American Standard Specifications for General Purpose Sound Level Meters;

[2] Taken at a height of four feet above prevailing grade at the property boundary in question;

[3] Taken with the instrument set to the A-weighted response scale; and

[4] Recorded by an individual familiar with sound measurement and the particular device being used.

(e) Exemptions.

[1] Activities related to public and private construction or maintenance work, agriculture, emergency warning devices, and other similar short-term or temporary uses may be administratively exempted from the requirements of this section if, in the opinion of the Code Enforcement Officer or his/her agent, sufficient reason exists to do so.

[2] In these special circumstances, the Code Enforcement Officer may place reasonable conditions (such as time limitations and hours of operation) on such an exemption.