

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, December 28, 2020

6:15 P.M. Finance Committee Meeting

6:45 P.M. TIF Committee Meeting

7:00 P.M. Call to Order

I. CALL TO ORDER

II. APPROVAL OF MINUTES

December 14, 2020

III. MANAGER'S REPORT

IV. PUBLIC DISCUSSION

Public discussion is for comments on items that are not on the agenda. Comments are limited to 5 minutes per person. Rebuttal comments will be limited to 2 minutes. Public discussion topics will be brought up again under New Business for further Council discussion.

V. LEGISLATION AND POLICY

20 – 114. To update the Rines Forest Management Plan, as recommended by the Lands & Conservation Commission.

20 – 115. To hear a report from the Social Justice Committee.

20 – 116. To hold a Public Hearing to consider and act on a Liquor License renewal for Cumberland House of Pizza.

20 – 117. To hold a Public Hearing to consider and act on a Liquor License renewal for Flannel Shirt Food Company, LLC d/b/a Cumberland Food Company.

20 – 118. To hold a Public Hearing to consider and act on a Liquor License renewal for Louie's Grille.

20 – 119. To appoint John Brushwein as Tax Assessor for the period of January 1, 2021 through December 31, 2023.

20 – 120. To appoint members to Boards & Committees.

20 – 121. To approve increasing the number of Prince Memorial Library Board members from 8 to 11, as recommended by the Nominating Committee.

20 – 122. To hold a Public Hearing to consider and act on amendments to Chapter 315 (Zoning), Section 2 (Purpose) and Section 4 (Word Usage and Definitions – Agriculture) of the Cumberland Code, as recommended by the Planning Board. **TABLED TO JANUARY**

20 – 123. To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review) to add agriculture related language to the Cumberland Code, as recommended by the Planning Board. **TABLED TO JANUARY**

20 – 124. To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review), Section 5 (Minor Staff Review Procedure), Section 6 (Major Staff Review Procedure), Section 7 (Planning Board Review Procedure), to change the abutter notice radius from 200 to 500 feet, and Chapter 315 (Zoning), Section 53 (Home Occupations and Home-Based Occupations) and Section 77-C (Board of Adjustments & Appeals - Hearings), of the Cumberland Code, to change the abutter notice radius from 300 to 500 feet, as recommended by the Planning Board. **TABLED TO JANUARY**

20 – 125. To set a Public Hearing date of January 11th to consider and act on an amendment to the Credit Enhancement Agreement with Integrative Health Center of Maine to add 15 Sky View Holdings, LLC.

VI. NEW BUSINESS

VII. ADJOURNMENT

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, December 14, 2020

6:00 Nominating 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 Turner, to accept the November 23, 2020 meeting minutes as presented.

VOTE: 6-0

Point of order by Mr. Doyle. The Chairman did not ask for any discussion prior to vote.

Chairman Gruber asked for any discussion.

No discussion.

VOTE: 6-0 UNANIMOUS

Motion by Councilor Copp, seconded by Councilor Turner, to accept the December 1, 2020 Special Meeting minutes as presented.

Chairman Gruber asked for any discussion.

No discussion.

VOTE: 6-0 UNANIMOUS

II. MANAGER'S REPORT

Mike Schwindt, Chairman of the Lands and Conservation Commission reported on the following items:

I-295 Noise abatement: There was an issue with increased noise coming from I-295 after trees were removed primarily affecting the Schooner Ridge neighborhood. Lands and Conservation Commission member, Riva Krut got the ball rolling by contacting MDOT about noise abatement. Subsequently, Riva, Bill Shane and I spoke with several members of the MDOT including their landscape architect. As a result, three different evergreen species 8-10' tall, as well as some bushes, will be planted this spring for about 500' adjacent to the I-295 emergency pullout. We anticipate some of the willows cut further south will regenerate to provide some added noise buffering. This \$25,000 - \$30,000 project, will, in the long run, provide sound suppression to the neighborhood. MDOT was most cooperative. It's a win-win for everyone and new area of service for the LCC.

Mr. Schwindt said that he would also like to take this opportunity to update the Town Council on some of the other activities involving the Lands and Conservation Commission, just in the past six months.

Our ordinance established two standing subcommittees for managing our trails and forests. Some of their major accomplishments include:

Trails, chaired by John Jensenius, has developed the trails standards to serve as the guide for trail construction and maintenance on Town-owned properties.

Additionally, primarily John and Steve Fitzgerald constructed two bridges and 8 walkways in Rines Forest and Greely Woods. They also added over 2,700 linear feet of gravel pathways to harden the trails.

Forests, chaired by Sally Stockwell, has been working with the Town Forester to do timber surveys on Knights Pond and Rines Forest as part of the Project Canopy grant. Additionally, they have monitored the trails in the town's forests and worked with the Trails Committee on how to improve and preserve the trails we do have.

We added three more subcommittees.

Invasives, we have a lot of them. Just looking at invasive plants, this fall, he and Paul Larrivee did a quick walkabout around the Town Hall. We noted a number of native trees and shrubs in the immediate area. Unfortunately, the invasives constituted most of the plants growing in the immediate area. Lots of maple; unfortunately, most were Norway Maple. Also identified another unfamiliar invasive species – Autumn Olive – right out the back door, across the parking lot. We are looking forward to the results next year when we see how the cut-and-spray process worked on some test plots in the Town Forest. Also, we are hoping the staff can cut through about 10 acres of the buckthorn this winter.

The Climate Action Subcommittee, chaired by Denny Gallaudet, has wrapped up a town-wide survey asking citizens their thoughts in a number of areas. This, along with other information is being incorporated into Phase 1 of a Climate Action Plan for Cumberland. You can look forward to that report, most likely next month.

The Farmland assessment group has met a couple of times and is slated to begin a series of meetings to better get our arms around the issue and reach a solution.

These things are not happening in isolation – they fit together. For example, the timber surveys provide information on carbon sequestration, and that's part of Climate Action Team's efforts. Killing off the invasives frees up areas within the forests for desirable trees and shrubs to flourish. For that to happen, perhaps we will need to give mother nature a boost by planting some of the more desirable species to get ahead of the dormant invasives – and again, that ties back into tree planting which is what people said we need to do more of. And, perhaps raising the consciousness of everyone by getting the Town designated a Tree City is another step in that direction.

Other challenges are coming. For example, do we need to consider closing trails when soft or when heavy usage is damaging them? We did not close our trails this year as our neighboring towns did. We want to work with the user groups to hear what they have to say and so they know why we may need to take steps to preserve what we have.

Do we need to have agreements with using groups to help avoid snafus? How best to eradicate the invasives from the Town's land? Assuming we can solve that, how does the Town get invasive-free when one considers all the seed sources residing on private property? How do we get and stay invasives free? The reality is if we don't get these under control, invasives will take over the forests, fields and waterways of our town. Time is on their side.

I'm intrigued with some of the possibilities of the Town being food self-sufficient. For starters, how about leasing out town land to enable someone wanting to operate a truck garden to actually do so without mortgaging their future trying to buy a few acres? Can we find ways for landowners to work with those eager to raise foods? How much more tillable land will be available after the invasives are gone? Most younger folks don't have the opportunity to dig in the dirt like I had. How do they gain

the skills needed to become self-sufficient? Will people know how to preserve the fruits of their labor so that it lasts until the next crop is ready? Do we find ways for residents to have access to a greater variety of home-grown fruits?

On the not-so-heavy side – next year, please stop by the butterfly garden, enjoy the new bench, donated by the Foreside Garden Club, and enjoy the peonies. Thanks to the White Pine Community church, we managed to recover a number of these unique plants from the briars and brambles and plant them next to the butterfly garden.

These are just some things your Lands and Conservation Commission have been and will be working on.

Fire Chief, Dan Small, gave an update on the paramedicine program.

This licensing process started 2 years ago with the Maine Department of Public Safety. Our committee included:

- Deputy Chief Chris Copp, Captain Evariste Bernier and EMT Brian Cashin
- Dr. John Martell---Our Department Medical Director
- Dr. Sue-Ann Hammond, Northern Light Health---Program Medical Director

We will fulfill the following goals:

- Provide health and wellness services, education, and medical monitoring.
- Increase the availability of our department's emergency response by reducing unnecessary hospital transports. Some residents who don't have a medical condition that requires immediate emergency care will dial 9-1-1 because they may not be financially stable and subsequently cannot afford healthcare. This program will allow scheduling of their medical concern while maintaining our on-duty crew availability to respond to medical and fire emergencies.
- Provide more clinical experiences for all EMS-licensed personnel to enhance their patient assessment, treatment and referral skills.
- We'll work directly with primary-care providers or hospitals to deliver routine medical care outside of a doctor's office or hospital. Instead of going to a doctor's office to evaluate post-operative wound care by cleaning and redressing bandaging.
- We'll also deliver health education that ranges from one-on-one to classroom settings.
- In home inspections for safety evaluations---example will be safety handrails which could be supplemented through our durable medical equipment program.

LICENSING: Maine EMS

- Annual license renewal
- We're the only municipal department in the State of Maine to have the community paramedicine license. Eleven others are private ambulance services that require a cost for service business model. We will provide these services at no charge.

FACILITY: Central Station

- Medical Room - this was designed into the central station plans. The State was excited to see what our vision was for the room design and equipment. Exam table, cardiac monitor and other patient evaluation equipment.
- Community Room

COMMUNITY PARAMEDICINE

- We are limiting our one-on-one services due to COVID-19 concerns to our staff
- What we are providing:
 - Flu Shots
 - Health and Wellness classes
 - Diabetes
 - Asthma
 - Hypertension
 - COPD---Chronic, Obstructive, Pulmonary Disease
 - CHF---Congestive Heart Failure
- Providing COVID Vaccines
 - Lots of uncertainties
 - We don't feel that it's a matter of "if" rather "when"
 - Meeting on Thursday with County Emergency Management and next Monday with our medical director, Dr. John Martell and other departments in Cumberland County.
 - Unknown time frames:
 - Hospitals --- short term
 - Fire/EMS/Police --- medium term
 - Public --- next summer

Police Chief Rumsey gave the following update on an investigation which began in early September regarding a complaint of biased based policing. This information has been approved for release by our administration as well as the Cumberland Police Benevolent Association, which is the police union:

Background: On September 2, 2020, the Cumberland Police Department and Town officials were made aware of an article published in the *Maine Bar Journal* (Vol. 35, No. 3, 2020, pp. 110-113). The article was written by Attorney Krystal Williams and titled "Why White Privilege Is a Necessary Part of Any Conversation on Racism." The article included the following text, referencing contact with Cumberland officers on traffic stops in early 2019: *When I am stopped by a Cumberland police officer because – allegedly – the small light that illuminates my license plate is out on one side – it's personal. And when that same officer sees my ACLU and Maine Law tote bags in my back seat and "lets" me go only to follow me until I reach my house – it's personal. When I am stopped on my way to the gym by a Cumberland police officer who approaches my car yelling, "Do you have a gun?!" – it's personal.*

Initial Steps: Immediately upon learning of the article, we considered it a complaint of bias- based policing against the Cumberland Police Department, and we promptly notified the Maine Attorney General's Office of Investigations of the complaint. Due to the very public nature of the allegations, and at the request of the complainant, I contacted an outside agency, the Augusta Police Department, and requested that it assign an investigator to conduct a thorough, independent investigation. The investigation was conducted to determine if there was any evidence that officers of the Cumberland Police Department violated any department policies or state laws regarding their contacts with Ms. Williams. The Cumberland Police Department, like all Maine law enforcement agencies, has a policy that prohibits bias based policing. Bias based policing is defined as "*targeting an individual based on a trait common to a group for law enforcement action to include, but not limited to, race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry.*" The Cumberland Police Department also has policies prohibiting criminal conduct and any

conduct that casts doubt on the integrity, honesty, judgement, or character of officers, or that brings discredit to the agency, or impairs the agency's efficient and effective operation.

Investigation: The external investigation conducted by Augusta Police Department revealed that Ms. Williams was stopped two separate times, about a month apart in the spring of 2019, by two different officers for two minor traffic violations. Both officers, when interviewed by the Augusta police detective, said that they follow routine steps during traffic stops that include a question about weapons in the vehicle. The officers said that they routinely ask this question, as well as other questions, of motorists they stop, regardless of traits common to a group or seriousness of a perceived offense. In the first traffic stop, the investigation determined that the stop took place approximately .68 miles from where Ms. Williams was living – a drive of approximately 1 minute and 9 seconds from the location of the stop to Williams' residence. Neither officer had any recollection of their contacts with Ms. Williams.

Upon completion of the investigation by the Augusta Police, the investigator's report was reviewed by the Attorney General's Office of Investigations, which found the investigation to have been thorough and complete.

Conclusion: Captain David Young and I carefully reviewed the investigative report provided by the Augusta Police Department and concluded that it contains no evidence of violations of department policy or state law. Accordingly, no disciplinary action will be taken against the officers in question. The investigative report provided by Augusta Police Department is confidential under state law. See 30-A M.R.S. §2702(1)(B)(5).

We encourage any individual who feels he or she has had an interaction with a member of the Cumberland Police Department where inappropriate, unprofessional, or illegal conduct occurred to contact us as soon as possible. Timely reports increase the likelihood that vital information and evidence will be available to investigators.

The Cumberland Police Department is engaged at the state and local level in working to ensure that our policies, training, and conduct are fair, constitutional, and free from bias. Every member of the department has been trained in implicit human bias and cultural awareness, and we will continue to provide our officers annual training on these and other topics. These allegations of bias-based policing took place about 18 months ago, and department video retention policies for citizen contacts where no enforcement action was taken did not allow for review of the traffic stops in question during the investigation. Our retention policies have been increased with a goal of allowing for the retrieval and review of such videos for approximately 24 months. We will continue to strive to achieve best practice policing in a community where we are proud – and fortunate – to serve. Our core values are dedication, respect, integrity, vigilance, excellence, and nobility. These values drive our intentions and actions every day.

III. PUBLIC DISCUSSION

Chris Neagle of 76 Orchard Road said that he was disappointed by the press release from the Police Department. He feels that having another police department investigate our police department is not a good idea. He had hoped to find out what happened, and the report sheds no light on what happened. There is no new information. The report concludes that there was no biased based policing. This means that they don't believe Ms. Williams. They are calling her a liar. Someone's statement is evidence, and it shows an incredible bias against someone who claimed to be a victim. The police department's response was that they don't remember. If this were a court case, Ms. Williams would tell her story, the Cumberland Police Department would say that they don't remember, and the judge would have to rule

that Ms. Williams statement were true. The Augusta Police Department had the gall to report that there is no evidence of any misdoings. If the report had concluded that there was no independent evidence to corroborate what Ms. Williams alleges, he would not be standing here this evening. He had hoped that this report would be something that he could send to the Maine Bar Journal, which alerted him to this situation, and telling them that his community took this seriously. He cannot do that. This report is nothing and it failed. He fully supports our police department and thinks that they do an excellent job. In his opinion, this incident and this report will always be a black eye for them.

Mike Doyle of Portsmouth, New Hampshire said that he has lived in this area for most of his life, except for the last two and a half years, when he moved to New Hampshire. He would like to report to the Council on two different items. First, the Town is very lucky to have Bill Shane as Town Manager. He has saved the Town thousands and thousands of dollars in legal fees by him not suing the Town. When he asks Mr. Shane a question, he has the information for him right away and goes overboard to give him more information than he asked for. This keeps him from asking one freedom of access question after another. If you don't think this is a big problem, talk to Nathan Poore in Falmouth and see how his behavior with Mr. Doyle has caused him to have 15 questions regarding which file the information is in before he can get to it. He asks Bill Shane a question at 6:30 on a Sunday night, and many times, Bill will answer his question at 9:30 that same night. This is the kind of outstanding service that Bill provides. He is going to sue the School Board for an ADA violation in the next few days and their guy who runs the video laughed about this.

The second item is directed at Councilor Vail. He resented his comment about Mr. Doyle having a patriotism test, which was the furthest thing from his mind. When he moved to Portsmouth two years ago, he joined the peace greeters. He has past military experience and he sent a lot of people to Vietnam. Some of his friends died over there. When he was a peace greeter, he met hundreds of flights going to or returning from the Middle East, 200 to 300 people at a time. These passengers would be on the ground for 2 to 3 hours at a time and he would visit with them. Many Officer's went through there, and they said it was the best place either leave the country from or come back to the country from. There were many times when there would be a unit with a person who died over there, and they would say the pledge of allegiance and have a moment of silence for that person. For someone to say that he is doing this as a patriotism test is an insult to him and he resents it. He told Councilor Vail that he should apologize for what he said because it was completely uncalled for. He drove 120 miles round trip to come here and say this. That is how strongly he feels about it.

Councilor Vail told Mr. Doyle that if he offended him, he apologizes. He would have viewed the situation with deep suspicion had he been sitting at that School Board meeting. He wasn't there, but if he was offended by his comment, he apologizes.

IV. LEGISLATION AND POLICY

20 – 103 To hear a report from the Social Justice & Equity Committee.

Councilor Foster reported that the committee is not ready to give a full, detailed update yet. They had hoped to go through the 3-phase approach, the first being bringing together a small group on both sides of the table for an intimate mediation session. Unfortunately, the critical step in this is having all sides willing to participate, and that has not been able to come together. The committee will be getting together next week, and it is a public meeting, so folks are welcome to come and participate. The proposed scope for the committee is about providing the required resource so that all people have the same possibility of achieving the objective. This will include an equitable policy for both municipal services as well as employment practices.

20 – 104 To adopt the Forest Management Guiding Principles, as recommended by the Forestry Subcommittee of the Lands and Conservation Commission.

Mike Schwindt, Chairman of the Lands and Conservation Commission said that the Commission requests that the Town Council adopt the Forest Management Guiding Principles, which were developed by the Forestry subcommittee, with guidance from our previous State Forester. They have been using the principles successfully over the last 3-years. Sally Stockwell presented these same principles to the Town Council 3 years ago, but at that time no action was taken to adopt them.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Copp, to adopt the Forest Management Guiding Principles, as recommended by the Forestry Subcommittee of the Lands and Conservation Commission.

VOTE: 6-0 UNANIMOUS

20 – 105 To approve a 3-year contract renewal for the Town Forrester, Paul Larrivee, as recommended by the Lands and Conservation Commission.

Mr. Schwindt explained that we have had Mr. Larrivee under contract for a year and the contract is up at the end of this month. He is very pleased with his work and this contract is for 3 years. The Lands and Conservation Commission is recommending approval.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Copp, seconded by Councilor Turner, to approve a new, 3-year contract for the Town Forrester, Paul Larrivee, as recommended by the Lands and Conservation Commission.

VOTE: 6-0 UNANIMOUS

20 – 106 To appoint Tamara O'Donnell as Registrar of Voters.

Town Manager Shane explained that it is required by law to appoint a Registrar of Voters every other year. He is recommending that Tammy O'Donnell be reappointed.

Motion by Councilor Vail, seconded by Councilor Storey-King, to appoint Tamara O'Donnell as Registrar of Voters.

VOTE: 6-0 UNANIMOUS

20 – 107 To authorize the sale of the Town owned gravel pit in North Yarmouth.

Town Manager Shane said that he is requesting authorization to sell the gravel pit within the terms of the Purchase and Sale Agreement. The agreement includes \$290,000 in cash and has a 99-year lease agreement on a 2-acre parcel that is adjacent to the land that the Yarmouth Water District owns on Greely Road. This would allow the Town to use it for Val Halla and Parks Department equipment and materials. If the PUC will not allow Yarmouth Water District to lease the land to the Town, the Water District has agreed to match the offer made by the highest bidder. That amount is \$325,000.00 submitted by A.H. Grover.

Chairman Gruber asked for any public comment.

Eric Gagnon, of the Yarmouth Water District, thanked the Council for the open process. Thank you to everyone who supported the District with this purchase. It is very much appreciated.

Motion by Councilor Copp, seconded by Councilor Vail, to authorize the sale of the Town owned gravel pit in North Yarmouth to the Yarmouth Water District pursuant to the terms of the Purchase and Sale Agreement.

VOTE: 5-0-1 (Turner abstained) MOTION PASSES

20 – 108 To set a Public Hearing date of December 28th to consider and act on a Liquor License renewal for Cumberland House of Pizza.

Town Manager Shane said that staff is recommending a Public Hearing on December 28th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Vail, to set a Public Hearing date of December 28th to consider and act on a Liquor License renewal for Cumberland House of Pizza.

VOTE: 6-0 UNANIMOUS

20 – 109 To set a Public Hearing date of December 28th to consider and act on a Liquor License renewal for Flannel Shirt Food Company, LLC d/b/a Cumberland Food Company.

Town Manager Shane said that staff is recommending a Public Hearing on December 28th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Vail, to set a Public Hearing date of December 28th to consider and act on a Liquor License renewal for Flannel Shirt Food Company, LLC d/b/a Cumberland Food Company.

VOTE: 6-0 UNANIMOUS

20 – 110 To set a Public Hearing date of December 28th to consider and act on Liquor License renewal for Louie's Grille.

Town Manager Shane said that staff is recommending a Public Hearing on December 28th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Vail, to set a Public Hearing date of December 28th to consider and act on Liquor License renewal for Louie's Grille.

VOTE: 6-0 UNANIMOUS

20 – 111 To set a Public Hearing date of December 28th to consider and act on amendments to Chapter 315 (Zoning), Section 2 (Purpose) and Section 4 (Word Usage and Definitions – Agriculture) of the Cumberland Code, as recommended by the Planning Board.

Town Manager Shane said that staff is recommending a Public Hearing on December 28th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Vail, seconded by Councilor Storey-King, to set a Public Hearing date of December 28th to consider and act on amendments to Chapter 315 (Zoning), Section 2 (Purpose) and Section 4 (Word Usage and Definitions – Agriculture) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

20 – 112 To set a Public Hearing date of December 28th to consider and act on amendments to Chapter 229 (Site Plan Review) to add agriculture related language to the Cumberland Code, as recommended by the Planning Board.

Town Manager Shane said that staff is recommending a Public Hearing on December 28th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Vail, seconded by Councilor Storey-King, to set a Public Hearing date of December 28th to consider and act on amendments to Chapter 229 (Site Plan Review) to add agriculture related language to the Cumberland Code, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

20 – 113 To set a Public Hearing date of December 28th to consider and act on amendments to Chapter 229 (Site Plan Review), Section 5 (Minor Staff Review Procedure), Section 6 (Major Staff Review Procedure), Section 7 (Planning Board Review Procedure), to change the abutter notice radius from 200 to 500 feet, and Chapter 315 (Zoning), Section 53 (Home Occupations and Home Based Occupations) and Section 77-C (Board of Adjustments & Appeals - Hearings), of the Cumberland Code, to change the abutter notice radius from 300 to 500 feet, as recommended by the Planning Board.

Town Manager Shane said that staff is recommending a Public Hearing on December 28th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Vail, to set a Public Hearing date of December 28th to consider and act on amendments to Chapter 229 (Site Plan Review), Section 5 (Minor Staff Review Procedure), Section 6 (Major Staff Review Procedure), Section 7 (Planning Board Review Procedure), to change the abutter notice radius from 200 to 500 feet, and Chapter 315 (Zoning), Section 53 (Home Occupations and Home Based Occupations) and Section 77-C (Board of Adjustments & Appeals - Hearings), of the Cumberland Code, to change the abutter notice radius from 300 to 500 feet, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

V. NEW BUSINESS

Town Manager Shane – Friday night was a tough night for the Town and our Public Works Department. Our employee of 44 years, Bert Copp passed away. Bert had been struggling with health issues lately but worked right up until the last day he possible could. He fought until the very end and he will be missed. Bert could fix or fabricate anything. He built or rebuilt most of our Public Works equipment. He always has a positive, can-do attitude. We will all miss Bert tremendously.

Councilor Copp – Bert was the kind of guy who loved a challenge. We had an old Town truck that the cab was rusted out on, but truck still ran well. Bert decided he could change the cab, and he did! If Bert has his way, he would have been in that Public Works garage working on the day he passed. He was a genuine, good man.

Councilor Turner – He has a neighbor who is in her mid-80's who lost her husband in June. She had a problem getting a new title to her car and she came to Town Hall and Town staff sat her down and spent quite a bit of time straightening this out for her. She was very appreciative, and this is reminiscent of the employees of this Town. Bert Copp was at the top of the pyramid as far a dedication is concerned. It's those little things that make all the difference in the world to our residents.

Councilor Foster – She wished everyone a happy holiday.

Chairman Gruber – The food pantry is prepared to distribute over 80 holiday baskets. Any family in need will receive a bag full of food and a gift card to Hannaford for a turkey or a ham.

Councilor Vail –No new business.

Councilor Storey-King – She extended her condolences to the Copp family, specifically to Diana Copp, Bert's wife. Diana works for the School district and she is equally loyal and loving to the community. She wants Diana to know that she is in our thoughts.

The Library Advisory Board and Bicentennial Committee both met recently. Both committees are very busy and trying to still work through the pandemic and the holidays to get their work done. Our 200th birthday is coming up in March, so hold on to your hats!

On Sunday, she was visited by a cousin, her husband and their 4 small children who live in Cumberland Center. They came down to Storey-land to hand deliver Christmas cards. What a great idea this was. She encouraged others to do this.

She wished everyone a Merry Christmas, Happy New Year and Happy Hannukah.

VI. EXECUTIVE SESSION pursuant to Title 36 M.R.S.A. Section 841(2) to consider and act on an application for tax abatement based on hardship.

Motion by Councilor Vail, seconded by Councilor Copp, to recess to Executive Session pursuant to Title 36 M.R.S.A. Section 841(2) to consider and act on an application for tax abatement based on hardship.

VOTE: 6-0 UNANIMOUS

TIME: 8:42 P.M.

Reconvene to regular session at 9:06 P.M.

I move to approve the property tax abatement request for case number 2021-001HA in the amount of \$2,773.20 (50% of the first half of the tax bill for the 2021 tax year), per the findings of fact and conclusions as discussed in Executive Session.

VOTE: 6-0 UNANIMOUS

VII. ADJOURNMENT

Motion by Councilor Foster, seconded by Councilor Copp, to adjourn.

VOTE: 6-0 UNANIMOUS

TIME: 9:08 P.M.

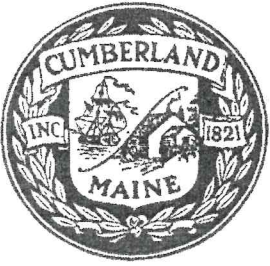
Respectfully submitted by

Brenda L. Moore
Council Secretary

ITEM

20-114

To update the Rines Forest Management Plan, as recommended by the
Lands & Conservation Commission



LANDS AND CONSERVATION COMMISSION

Town of Cumberland
290 Tuttle Road
Cumberland, ME 04021

December 22, 2020

Tom Gruber, Chair
Cumberland Town Council
290 Tuttle Road
Cumberland, ME 04021

Dear Mr. Gruber:

Enclosed is the recently revised Rines Forest Management Plan for your approval and acceptance.

This Plan uses the Guiding Principles the Town Council adopted at its December 14 meeting and incorporates the Godsoe and Milliken land donations along with the Rines properties into a single management unit.

Should the Plan meet with your approval, we also request discussions commence with CCLT to incorporate the Godsoe and Milliken donations with the Rines portion of the permanent conservation easement.

Sincerely,

Mike Schwindt
Chair

Rines Forest

General Management Plan

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Executive Summary

The 2010 Rines Forest Management Plan was developed by the volunteer citizen Rines Forest Advisory Committee with guidance and input from Town Manager Bill Shane, Town Councilors Jeff Porter and Steve Moriarty, and contract forester Jay Braunscheidel. The committee was ably supported by Nancy Stroud and Anne Brushwein. The Plan was updated in 2020 by the Forestry Subcommittee of the Cumberland Lands and Conservation Commission (CLCC) and approved by the Town Council.

The overall goal of the plan is to ensure the Rines Forest will be managed to:

- forever conserve the area as a forest
- improve the condition and diversity of the forest and wildlife habitat
- provide opportunity for passive recreation
- maintain the snowmobile trail connecting Bruce Hill and Blanchard Roads with Range Road
- encourage educational use of the property
- periodically harvest timber and pulpwood

The Property is governed by a permanent Conservation Easement held by the Chebeague and Cumberland Land Trust (CCLT) to "protect the Forest's natural beauty, wildlife and varied ecosystems." The Easement states "The Protected Property shall be used only for conservation and low-impact outdoor recreation and educational activities that do not rely on substantial alteration to the natural resources."

The Easement also states "...any cutting of trees should be done under the guidance of a forest management plan developed by a professional forester with input from a professional wildlife biologist. The forest management plan must include provisions for protecting soils, water quality and high value plant and animal habitat."

This Management Plan was designed to meet the conservation goals outlined in the Conservation Easement. It includes background and history of the Rines Forest, physical and biological descriptions of the Forest, a copy of the Conservation Easement, a list of allowable and prohibited uses, and a detailed matrix of management recommendations for recreational / educational activities and natural resources. There is also a short discussion of how this property fits into a larger vision for conserving open space in the town of Cumberland.

The Appendix includes copies of the deed, trail map, warranty deeds, conservation easement and its amendment, a zoning map of the region, and an extensive forest management plan.

The acquisition and conservation of the Rines Forest by the Town of Cumberland, along with the recommendations included in the Rines Forest Management Plan, meet many of the goals of the 2014 Comprehensive Plan as they relate to sustainability, critical natural resources, environmental protection, land use planning, recreation, and open space.

The Comprehensive Plan notes that while other resources discussed in the plan can be built (infrastructure, public utilities) or enhanced (fiscal capacity), natural resources are finite and usually irreplaceable. Consequently, their protection is of paramount importance. The plan goes on to state that, *the largest threat to habitat and natural resources in Cumberland has been and continues to be incremental growth. As the landscape is divided up into smaller and smaller pieces, it becomes*

inhospitable to a greater number of species, both plant and animal. As development increases, not only does the character of the town change, but such development can cause other adverse impacts to the natural resources such as non-point source pollution (i.e., run-off that contains pesticides and fertilizers), oil spills, etc., can pollute the rivers, streams and coastline and diminish our shellfish and fishery resources.

Please see the Introduction to the Forest Management Plan for an overview of the goals and plans for sustainable management and harvesting of the forest. As stated there, the Rines Forest will be managed to provide timber and pulpwood for local markets at a sustainable rate; to protect soils, water, and wildlife habitat; to grow older successional forests that will add to the diversity of forest types across the landscape; and to provide a variety of recreational opportunities for the people of Cumberland and their neighbors. All harvesting will be done in accordance with the *Cumberland Town Forests Management Guiding Principles* adopted in 2017 using state-of-the-art equipment and Best Management Practices. The Forest Management Plan will be reviewed and updated as needed approximately every 10 years.

Introduction

The Rines Forest Management Plan is intended to provide guidance in the oversight and maintenance of the Rines Forest according to the *Rines Forest Mission Statement* and *Rines Forest Stewardship Principles*. As with sound management practices, this is a living document, which should be reviewed periodically to ensure that it is achieving the goals of the Mission Statement and Stewardship Principles. The Plan acknowledges the balancing act required between changes in ecological practices and needs as outside pressures impact the property while encouraging passive recreation by members of the community. In addition, we recognize the Rines Forest is a cornerstone of a multi-town greenbelt that stretches from the Hadlock Forest in Falmouth to Knight's Pond and Blueberry Hill in Cumberland/North Yarmouth, and is adjacent to CCLT's Frog Pond and Salamander Swamp along Range Road.

The Rines Forest is an undeveloped parcel, approximately 300 acres in size, located off of Range Road in the Town of Cumberland, Cumberland County, Maine. The Rines Forest comprises 268 acres previously owned by the Rines family, 30 acres previously owned by the Godsoe Family, and 4 acres previously owned by the Milliken Family. The conservation easement held by the Chebeague & Cumberland Land Trust encumbers the 268-acre portion previously owned by the Rines family.

At the time the Town acquired the first 216 acres in 2003, the Rines family of Gorham had maintained the parcel as a tree farm. A large block had been planted to red pine in the 1940's and managed for harvest. Management activities up to the time of purchase included thinning, trimming, and selective harvesting according to common forest practices. The primary access to the site was from Range Road, within the 52-acre parcel retained by Dale and Elizabeth Rines, but purchased by the town in 2019. The woods road runs from Range Road northward approximately ¼ mile where it divides, one branch going to the northwest corner of the property while the other branch goes to the northeast. Skidder trails crisscross the site. The 216-acre property was last harvested by Dale Rines in 1999 and again by the town in 2011, and the 52-acre property was last harvested in the winter of 2018.

There are two small borrow pits on the site, which were used as a source of material for construction of the access road. The portion of the site not planted to red pine is primarily mixed forest of hemlock, red oak, white pine and maple. The eastern half of the site is riddled with a series of hillocks and steep ravines associated with tributaries of Mill Brook. The western half of the site is gently rolling, moderately to well-drained soils. Forested wetlands occur along the western property boundary, and within the northeastern portion of the property bordering Mill Brook and associated tributaries.

The Godsoe property, donated in 2013, consists of a mixed hardwood-softwood stand, with some small scrub shrub wetlands interspersed, and a large scrub shrub wetland just to the east of the property. Much of the land was harvested in approximately 2010. Roger and Margo Milliken donated approximately 4 acres of woodland in 2016 that sat at the back of their lot on Blanchard Road and abuts the Rines Forest on the northcentral edge near the waterfall, plus a linear sliver of land along the side of their fields for a trail to connect from Blanchard Road to the Rines Forest. That section of forest has not been harvested recently, and consists of a hardwood-dominated forest on the upper flat areas but a mixedwood forest, dominated by hemlock and pine, on the slopes and floodplains leading to and surrounding Mill Brook. The following document provides an overview of the history of the parcel prior to acquisition by the Town, an inventory of natural resources, and management recommendations relative to recreational/educational activities, resource management, and general maintenance.

Purpose and Objective of Management Plan

Through the direction of the Cumberland Town Council, the Rines Forest Citizens Advisory Committee was established in 2003. The Advisory Committee's primary focus was to provide guidance to the Council regarding matters related to the management of this community resource by developing a management plan for the Rines Forest. In 2017, the Town Council disbanded the Rines Forest Advisory Committee and moved the responsibility for overseeing the Rines Forest to a new Forestry Subcommittee of the Cumberland Lands and Conservation Commission. Recommendations from the Forestry Subcommittee are forwarded to the CLCC for final approval before being acted upon or being sent to the Town Council.

The purpose and objective of the management plan is to incorporate the mission statement and stewardship principles into a living document that will be used as a guide by the citizens of the Town of Cumberland pertaining to the use, improvement and preservation of the Rines Forest.

Town Council Charge

The Town Council has charged the Forestry and Natural Resources Subcommittee of the Cumberland Lands and Conservation Commission with the following responsibilities, per Chapter 30 of the Town Code, Boards and Commissions:

B. The Forestry and Natural Resources subcommittee shall make recommendations to the Commission on all matters pertaining to the use, preservation, management and maintenance of the town forests and other natural resources.

The subcommittee will:

1. Create programs to promote public awareness of and appreciation for the town forests and to enhance the use of these forests for educational and conservation purposes.
2. Create and maintain trails through the forests to facilitate public access and to encourage the use of the forests for educational and recreational purposes.
3. Create a forest management plan, to include recommendations for planting, pruning, harvesting, and replacing trees and other vegetation within the forests, and such other recommendations to protect the conservation values of the forests as may be necessary.
4. Retain a licensed forester or similarly qualified individual to provide advice in all aspects of forest management and maintenance.
5. Create programs or plans to coordinate the use and management of the town forests with other Town-owned properties.
6. Provide, execute and monitor forestry management and conservation management plans for each of the larger forested parcels owned by the Town.

7. Ensure sustainability and conservation of the properties.
8. Identify, monitor and mitigate invasive plant/insect species where cost-effective.
9. Identify and monitor wildlife habitats and corridors.

Rines Forest Mission Statement

The Cumberland Town Council holds that the Rines Forest property is a unique tract of land that shall remain forever in its undeveloped forested state. To this end, it is the collective responsibility of the community to protect the Forest's natural beauty, wildlife and varied ecosystems. Citizens and friends are encouraged to passively recreate within the property's boundaries while conserving its natural environment.

Rines Forest Stewardship Principles

1. The Town Council endorses the maintenance of the Forest to assure its present undeveloped forested state and will, *within limits established by the Town Council*, provide the human and fiscal resources necessary to do so.
2. A Forest Management Plan will be adopted and updated approximately every 10 years.
3. Within the scope of the management plan, areas determined to be environmentally sensitive and vulnerable shall receive specific attention.
4. A citizen-based Forestry Subcommittee of the CLCC shall submit a summary of activities to the CLCC, which will incorporate that into an annual report to the Town Council.
5. A network of trails including access from Range Road shall be maintained and improved.
6. Future acquisition for connectivity is encouraged and future planning shall be coordinated with the Town Lands and Conservation Commission and the Chebeague and Cumberland Land Trust.
7. Citizens are encouraged to passively recreate within the boundaries of the forest.
8. Educational use of the property for individuals or organizations shall be encouraged.
9. A list of acceptable uses of the Forest will be created and incorporated into a "Use Policy".
10. An informational brochure outlining the property's environmental attributes, a map of trails, and other related issues of interest will be published and maintained.

Description of Land and Natural Resources

The Rines Forest today is a mixture of 70-year-old red pine plantations, old pasture fields grown up to mixed hardwood-softwood stands, hemlock stands, scrub-shrub wetlands, forested wetlands, and floodplain forests. The red pine plantations predominate but some sections have been regularly pruned and harvested leaving an intermittent canopy with scattered understory saplings and other sections have abundant hardwoods and softwoods of different ages mixed in with the pines. Hemlock stands can be found on steep slopes rising from the streams, while hardwood floodplain forests are common along the flatter, meandering stretches.

The property has large sections of relatively flat sandy soils and terrain where the red pines were planted and a smaller area to the south that is characterized by steep rolling hills interspersed with intermittent cascading streams. The northern and northwestern perimeters of the former Rines property are dominated by forested

wetlands, with shallow standing water much of the year.

Several streams run through the Rines Forest, the largest being Mill Brook, which begins at Knight's Pond and eventually feeds into the Piscataqua River, which feeds into the Presumpscot River and then Casco Bay. Several permanent and intermittent streams feed into Mill Brook as well. These generally flow down steep, rocky beds between upland ridges and carry especially heavy flows during and after large rainstorms. Mill Brook meanders through flat sandy floodplain forests in the upper reaches, cascades over rocky falls and through a small rocky canyon in the middle section, and then spreads out into shrubby or open marshes in the lower sections before leaving the property and heading towards Winn Road. The streams are generally clear except following rainstorms or snowmelt when they are laden with eroded sediment from upstream of the property. A variety of aquatic invertebrates, dusky salamanders and small brook trout can all be found in Mill Brook.

Because the Rines Forest has a variety of habitats and terrain and sits in the middle of the single largest forested area remaining in Cumberland, it is home to many wildlife species. Amphibians include red-backed salamanders that live under downed logs or in the forest duff; spotted salamanders and wood frogs that live in and under the forest floor but breed in vernal pools (especially Frog Pond on the west side of Range Road); and American toads that live above ground in the forest but migrate to and from shallow wetlands to breed. A number of bird species are residents of the forest, including black-capped chickadees, downy and hairy woodpeckers, ruffed grouse, American crows, and wild turkeys. These birds feed on seeds, buds, or insect larvae, which they can find any time of the year. Barred and great-horned owls have been heard calling in the forest; they nest in early spring and hunt smaller birds and mammals for their food. Other bird species use the forest as an important stopover during migration, including the palm warbler, black-and-white warbler, and dark-eyed junco; these species all breed further north where they can successfully raise their young on the abundant insects. Others, including black-throated-green warblers, black-throated blue warblers, yellow-rumped warblers, ovenbirds, eastern wood peewees, great crested flycatchers, hermit thrushes, veery, and blue jays return to the forest each spring from the south to breed, nest and raise their young.

Mammals seen commonly in the Forest include white-footed mice, red-backed voles, gray, red and flying squirrels, snowshoe hare, and white-tailed deer. River otter, fisher, porcupine, red foxes and coyotes also can be found in the forest but probably wander on and off the property in search of food, mates, and den sites. Signs of black bears and moose have been seen on the property in the past but these were probably only dispersing juveniles looking for a more permanent home.

Woods roads are common throughout the Forest, most only temporary and covered with slash, but two are more permanent, underlain with sand and gravel taken from a gravel pit on site. The two permanent roads form the backbone of a trail network, and some of the other woods roads have been integrated into a rustic trail network, although several sections need to be upgraded to better handle the increased amount of public use that has occurred since the Town purchased the property. During the fall hunters use these woods roads and in winter they are frequently used for cross-country skiing, snowshoeing and fat tire biking. At other times of the year, the trail network is regularly used for walking, running, bird-watching, berry picking, and mountain biking, and occasionally horseback riding. Raspberry and blackberry bushes are common along the woods roads, especially where cutting has occurred recently.

Historic Uses of the Land

Cumberland's Rines Forest is a beautiful, tranquil natural environment. Within its 302 acres grow large hemlock and white pine trees, as well as a sprinkling of red oak, ash, birch, poplar and maple. It is a perfect canopy for the forest's diverse wildlife, which includes white-tail deer, coyote, fox, wild turkey, ruffed grouse and numerous songbirds. Along its boundaries flows Mill Brook which winds its way through the forest providing visitors with beautiful waterfalls and places of solitude. Except for an occasional rock wall and a logging road or two, one can easily sense that they have escaped to a remote oak-pine forest far removed

from a suburb of Maine's largest city.

Although the core tract of land where the forest exists today was first surveyed by the E.G. Jordan Company of Portland in 1918 for J. Henry Rines, the history of the area suggests that the property experienced considerable change from the late 1700's until the turn of the twentieth century. Prior to 1821, when Cumberland became a town, settlers of ancient North Yarmouth were occupied primarily with hunting, fishing and lumbering. Because Cumberland had as many as six sawmills and two grist mills during the early 1800's with at least two found on Mill Brook, it's reasonable to assume that much of the land was initially forest. The wood from the Rines tract of land was most probably used not only for constructing homes, barns and the like but also for ship building. We know that the towering "king pine" trees found in nearby Gorham, North Yarmouth and other surrounding communities were used for ship's masts. Since there were boat yards in North Yarmouth, Yarmouth and Cumberland well into the nineteenth century, it is likely that the timber from the area was also used for boat building.

It wasn't long before the forests of Cumberland and North Yarmouth were cleared of timber and replaced with farmland, mostly pasture for sheep and cattle. Certainly, the remnants of rock walls found on the Rines Forest property suggests that the land was used for farming purposes by the mid 1800's. Supporting this claim is the fact that by 1860 Cumberland had 230 buildings and a population of approximately 1,700 people, with their primary occupation being agriculture.

In 1918, J. Henry Rines combined several parcels of land totaling 275 acres along Range Road. The land was to be used as pasture for his cattle which were walked each spring thirteen miles to Cumberland from the main farm in Gorham. The property had a house, two barns and a well. According to Dale Rines, great-grandson of J. Rines, the property on Range Road was a typical farm with its cleared land enclosed by stone walls. For approximately twenty years the Rines family maintained the property for farming and supporting their livestock. In 1941, Dale Rines' grandfather decided to return the property to forest land. Seventy acres of open fields were planted with red pine and white spruce. From this point until the 1960's the forest grew and was pretty much left alone until the Rines family began to thin the forest. It was also at this time when the forest's major woods roads were built by Dale Rines and his father. This enabled the Rines family to harvest wood from the front to the rear of the lot. In more recent years Dale Rines, a forest engineer by training, has managed the property by thinning and selectively harvesting trees as well as maintaining the land. The result is a healthy working forest.

The Town of Cumberland acquired 216.15 acres of the Rines Forest property in 2003, and the remaining 52 acres in 2019. It is currently part of a 900-acre contiguous "block of unfragmented forest habitat," with the remaining acreage owned by a variety of private individuals. A comprehensive management plan for the property has been developed by the Town's Forestry Subcommittee of the Cumberland Lands and Conservation Commission. for the expressed purpose of ensuring that the Forest will remain in its undeveloped state. In addition to management considerations, the Cumberland Town Council voted to place the property under the protection of a conservation easement, in perpetuity, with the Chebeague and Cumberland Land Trust on September 12, 2005. When the additional 52 acres was purchased, the conservation easement was amended to include this additional acreage. Funding for the acquisition came in part from a grant from the US Forest Service's Community Forest Program.

References

Everts and Peck, History of Cumberland County, Philadelphia: J.B. Lippincott, 1880.

Mitchell, Russell and Strout, The Cumberland / North Yarmouth Register of 1904, Salem, Massachusetts: Higginson Bock Co., 1955.

Rines, Dale, Cumberland "Rines Forest" History, unpublished paper, 2004.

Sweetser, Phyllis Sturdivant, Cumberland Maine, Town of Cumberland, Maine: 1976.

Town Open Space Goals

The acquisition and conservation of the Rines Forest ("Rines") by the Town of Cumberland meets many of the highest priority objectives identified in the Cumberland Open Space plan ("plan") which was adopted in 1998.

In general, the Rines conservation easement meets four of eight broad goals outlined in the plan:

- Preservation of significant land for future generations
- Preservation or postponement of development
- Expansion of recreational opportunities for residents
- Preservation of wildlife habitat and corridors

Rines meets all of the listed reasons for preserving forest land as identified in the plan:

- To preserve the aesthetics of large wooded tracts of land
- To keep land out of development
- Preserve wildlife habitat
- Preserve historic trails
- Preserve woodland
- Prevent the further fragmentation of contiguous forestland
- Establish a greenbelt buffering the developed parts of Cumberland from the less developed areas

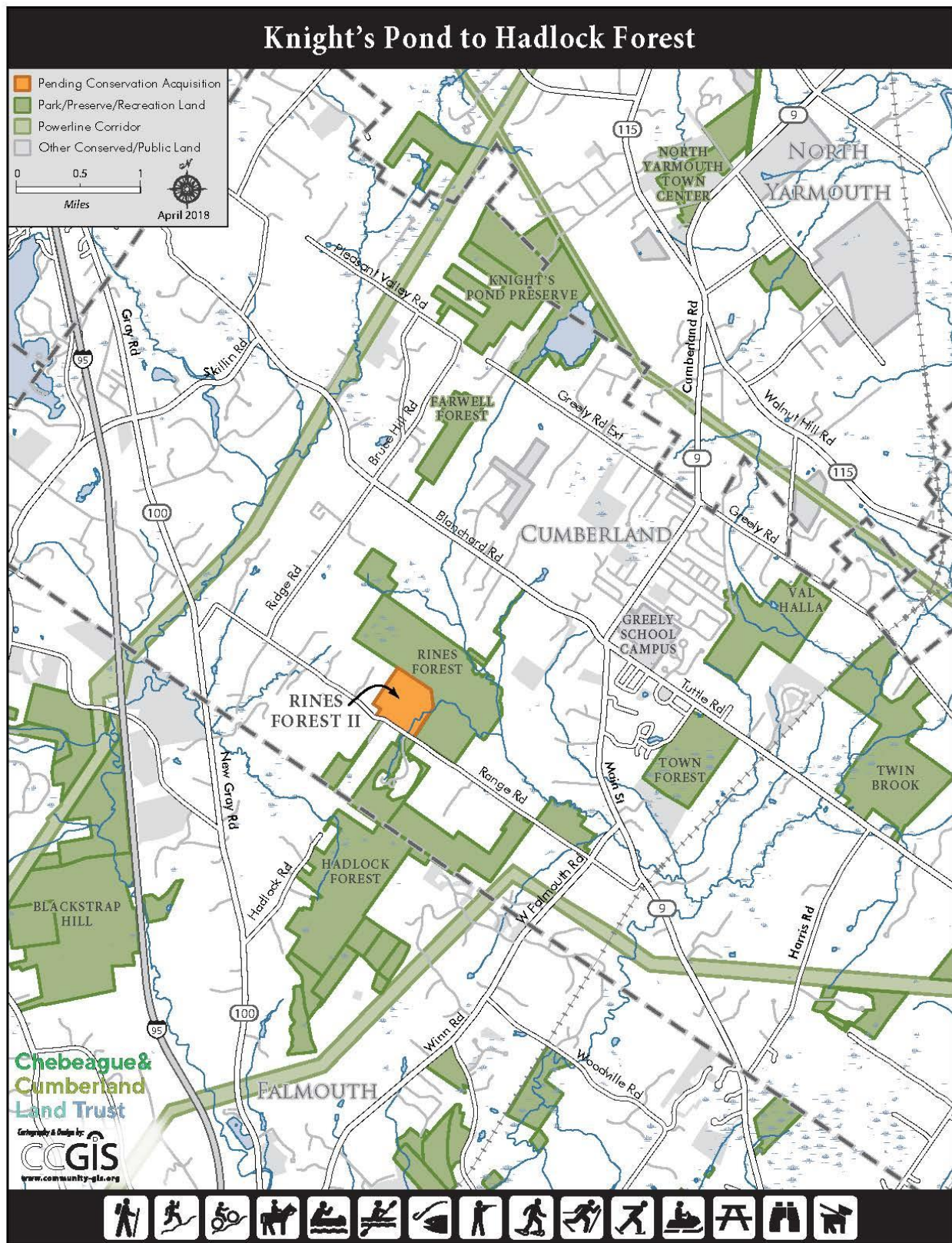
The plan strives to apply a ranking system to forested property with the concept that greater acreage equates to a higher value. At the same time it singles out the exceptional value of individual parcels of forested land of more than 50 acres. It should be noted that the Rines property is approximately 300 acres.

In regards to preserving wildlife natural resources, the plan states that large blocks of forest provide habitat for many more species than do smaller blocks, especially if streams and wetlands traverse them. The Rines Forest contains several streams and includes at least two waterfalls of exceptional note.

The plan notes that to promote the preservation of forest the Town should purchase conservation easements and rights-of-first-refusal, along with maintaining public access of trails if appropriate. As noted above, today the Rines Forest comprises four different parcels totaling 302 acres, yet this is a small portion of the total 900-acre undeveloped forest block, so there are still opportunities to add to the long-term conservation of this forest through additional purchases or conservation easements from willing adjacent landowners. The Rines conservation easement, which currently encumbers 268 acres of the Rines Forest, stipulates that there shall be no future development on the property, and provides for continued public access and a trail system, as long as they are consistent with the conservation goals of the easement.

Finally, the plan notes that the Chebeague and Cumberland Land Trust (CCLT) plays a significant role in the preservation of land, especially environmentally sensitive land such as wildlife habitat. The plan also states that the Town Council should work with CCLT to achieve the goals of this Plan.

Location of the Rines Forest



Current Uses

The Rines Forest provides an ideal site for low-impact passive recreation. In an effort to maintain the property in its natural state, uses may be subject to change or suspension when overuse or negative impact to the land is identified. The list of current uses is below. Please also refer to the General Management Matrix for more specific information regarding user's responsibility and/or limitations for each activity.

- Cross country skiing
- Educational study
- Fishing
- Geocaching
- Horseback riding
- Dog walking
- Picnicking
- Hiking
- Hunting
- Snowmobiling on designated trails
- Trapping
- Mountain biking and fat tire biking

Rines Forest Trail Map



These rules have been adopted by the Cumberland Town Council to govern activities at Rines Forest:

Allowable Uses:

The Rines Forest provides an ideal site for low-impact outdoor recreation, including, but not limited to, nature study, cross country skiing, snowshoeing, snowmobiling on designated trails, mountain biking and fat tire biking, horseback riding, pet walking, fishing, hunting, temporary tree stands (daily removal required), picnicking, hiking, plant study, and bird-watching by the general public. The Forest is home to numerous plant and animal species and habitats.

The Town of Cumberland is experiencing steady, accelerated development that often closes or restricts access to open space traditionally used and enjoyed by the public and therefore has established the Forestry Subcommittee of the CLCC to review and periodically update the Rines Forest Stewardship Principles, a Forest Management Plan, and to oversee the general management of this Town protected Property.

The Forest is protected by a conservation easement which ensures the permanent availability of the Forest for traditional recreational uses by the general public. The easement will permanently preserve the property's important recreational, scenic and natural resources and habitat for indigenous flora and fauna, while providing permanent public access.

Prohibited Uses:

- No unauthorized motor vehicles, ATV's or motorbikes.
- No camping except by written permission of the Town Manager.
- No open fires or charcoal fires.
- Carry In - Carry Out - No littering or trash disposal; all activities and users to remove all refuse carried in.
- No target shooting.
- Except for brushing and maintenance of approved trail systems, no cutting of trees, limbs, bushes, or removal of vegetation except as approved by the CLCC.
- No application of herbicides, pesticides or fungicides except with the approval of the CLCC.
- No person shall deface, injure, remove or destroy any fences, signs, gates or any other structures or creations in or on the Forest.
- No construction or improvements are allowed without the express written permission of the CLCC.
- The Rines Forest shall use, but not be limited to, the State of Maine hunting, fishing and trapping laws.

Any person aggrieved by the decision of the Town Manager or CLCC may appeal to the Town Council.

Future Acquisitions

The map displays the Rines Forest area in Pleasanton, California. Key features include:

- Streets:** Pleasanton Blvd, Rines Forest Rd, Rines Forest Dr, Rines Forest Ln, Rines Forest Way, Rines Forest Ct, Rines Forest Pl, Rines Forest St, Rines Forest Dr, Rines Forest Ln, Rines Forest Way, Rines Forest Ct, Rines Forest Pl, Rines Forest St.
- Parks and Recreation:** Rines Forest Park, Rines Forest Golf Course.
- Other Landmarks:** Rines Forest, Rines Forest.

The current 302-acre Rines Forest is a wonderful asset for the Town, yet it is a small part of a much larger 900-acre unfragmented forest that is also connected to other natural lands in Falmouth, Cumberland, and North Yarmouth. The Forestry Subcommittee of CLCC encourages the Town and CCLT to work together to acquire additional lands, conservation easements, and/or rights of way to further enhance the Rines Forest natural environment and trail network. The purchase of development rights by allowing denser development in the center of the community while preserving more rural lands may help protect the remaining large forest block. Funding from the Town's Open Space Fund, the Land for Maine's Future Fund, and USDA Community Forest programs may be available to help achieve these goals.

The current Forest Management Plan was developed by Jay Braunscheidel, a licensed professional forester, in concert with the Rines Forest Citizen Advisory Committee and Town Manager Bill Shane. Jay patiently met many times with the Committee to discuss various management goals, strategies, and techniques that could be adopted in the plan. Following is the collective wisdom of this group.

Rines Forest General Management Plan

the *Cumberland Town Forests Management Guiding Principles* to guide forest management on all town-owned forest lands, including the Rines Forest. Based on these guiding principles and a review of the current plan and the results of harvesting during the past 10 years, the Forestry Subcommittee of the CLCC is planning to update the Forest Management Plan during 2020, working with our current licensed professional forester Paul Larrivee, and under the guidance of Cumberland's Code Enforcement Officer, Bill Longley.

Following is a summary of the current plan, finalized and adopted in 2009:

The Plan is designed to build on the good forest stewardship of the previous owners, Dale Rines and his father and grandfather, and slowly transform large areas planted to red pine in the 1940s to a more diverse forest characterized by a mixture of white pine, red and white oak, sugar maple, beech and hemlock - all species that naturally occur at the site, but in many places are overshadowed by the plantation of red pines. In addition, the management plan is designed to encourage a diversity of ages and sizes of trees, allow for a few small openings that mimic natural disturbances, and especially to foster the growth of older trees that are becoming increasingly uncommon across the Maine landscape.

This will be accomplished by carefully thinning and removing certain trees to provide light and room for other trees to grow up and out over time - just like thinning the carrots or beets in your garden. And just like in the garden, one thinning usually isn't enough.

Thus, the current plan includes harvesting strategies for 2010, 2020, and 2025-2030, with different sections of the forest and different amounts of thinning planned for each harvesting.

The plan is also designed to protect key natural assets of the forest, including streams, wetlands, steep slopes and riparian areas (areas alongside water) and to protect and maintain productive soil, clean water, and diverse wildlife habitat. This means there will be no cutting near streams, wetlands or on the steepest slopes and that no new skid trails or harvesting equipment will be allowed in these sensitive areas. Also, special features important to wildlife such as dead standing trees, fruit and nut trees, and dead wood on the forest floor will be retained.

A forest reserve of at least 20 and up to 60 acres will be established in the southern area of the forest where steep slopes, streams, wetlands, riparian habitat and some older trees can be found and where no cutting will be allowed.

The future forest should provide habitat for animals with large home ranges, such as white-tailed deer, fisher, river otter, goshawks, and barred owls; nesting songbirds that need expansive "interior" forest habitat to successfully breed, such as ovenbirds, wood thrush, and black-throated blue warblers; cavity-nesting species like black-capped chickadees, pileated woodpeckers, flying squirrels, and raccoons; and species needing dead and down wood on the forest floor such as red-backed and spotted salamanders, long-tailed weasels, and ruffed grouse. A few small openings of early successional forest may provide habitat for species like chestnut-sided warblers and eastern towhee.

Invasive species such as the glossy buckthorn, which is widespread throughout the forest and on adjacent lands and is out-competing native species that provide food and shelter for our native wildlife, will be aggressively reduced through active mechanical thinning and herbicide control where necessary.

All cutting will be done using state-of-the-art equipment and Best Management Practices, including harvesting only on frozen ground so as not to disturb the forest floor or leave ruts, and will be directly supervised by Mr. Braunscheidel.

Under this plan, the Rines Forest will be managed to provide timber and pulpwood for local markets at a sustainable rate; to protect soils, water, and wildlife habitat; to grow older successional forests that will add to the diversity of forest types across the landscape; and to provide a variety of recreational opportunities for the people of Cumberland and their neighbors.

Because it was important to the members of the Rines Forest Citizen Advisory Committee to adopt exemplary sustainable forestry practices, the Rines Forest will be certified under the internationally recognized gold standards of the Forest Stewardship Council, with periodic audits to ensure we continue to meet the standards. We hope the management of the Rines Forest may serve as an example for other landowners in the region who also may want to manage their forest lands for multiple purposes in a sustainable way.

Future Forest Management Plan

Following a January 2020 walk through the Rines Forest with the Forestry Subcommittee and Town Forester Paul Larrivee, the subcommittee decided that the next update to the current plan will likely focus on enlarging the reserve area and directing any near-term harvesting in the red pine plantations, using expanding small gap openings to both increase diversity of the plants and animals in the plantation, and manage the invasive buckthorn that has formed a thick mat underneath. The Plan will adhere to and follow the Town of Cumberland Forest Management Guidelines, included below.

Cumberland Town Forests Management Guiding Principles

The Town of Cumberland owns multiple properties that are forested and may be appropriate for active forest management. Below is a list of forest management goals for all primary town-owned forest sites, including as of July 2017 the Town Forest, Rines Forest, Knights Pond, and Twin Brook. This list refers specifically to forest management and related activities and not to all other management considerations that are pertinent to each site, such as what types of use are allowed. That will be covered in the other parts of the Management Plan for each property. A site-specific Forest Management Plan shall be developed for each primary forest site that is consistent with these guiding principles and is designed to protect and reflect the unique characteristics of each of the town's forested properties (such as landscape setting, geography, important natural resources, and public use). The Town will strive to manage the town's forests as models of a well-managed community forest.

- Maintain and protect productive soils and water quality, including using *Stream Smart* crossings, with a particular emphasis on the Mill Creek and Presumpscot River watersheds (see Maine Forest Service 2017 Water Quality BMPs).
- Protect special ecological features and functionality intrinsic to each Forest (i.e. rare plant or animal sites, wetlands, riparian areas, vernal pools, deer wintering areas, rare or exemplary natural communities, late successional forests, dead and downed wood, etc.).
- Manage forest stands in a manner that maintains or improves habitat and the overall biodiversity of native plant communities and fish and wildlife species to the extent possible. Particular emphasis will be on maintaining and expanding structurally complex, mature portions of the forest, balanced by special and unique areas, small gaps of early successional habitat, and reserve areas. Two programs that can help guide this approach are *Focus Species Forestry* and *Forestry for Maine Birds*.
- Identify and protect reserve areas as forest stands or compartments which express the following attributes: large blocks of forest, older forest, unusual natural areas (e.g. streams, wetlands, riparian areas, rare natural communities), presence of legacy trees, and topographically or geologically diverse or interesting areas.
- Focus long-rotation silvicultural efforts on stands and compartments with productive soils, good access and of reasonable size and quality. Long-term goals may include increasing structural and species diversity, emphasizing the growth of high-quality sawlogs of commercially important species, promoting the continued sequestration of carbon, and contributing to the local wood products market.
- Maintain resilience of native biodiversity and ecosystem processes in the face of climate change. Increase resilience by managing for multiple age classes; managing for the forest types and species best suited to the site; avoiding conversion to other types (e.g. spruce-fir dominated to hardwood-dominated); and using natural regeneration to retain and increase species diversity characteristic of the site and forest type, including the proportion of species predicted to be better adapted to future conditions, such as white pine and red oak. In addition, plan for high-volume runoff by using *Stream Smart* crossings.

- The actual balance of forest type, age, and silvicultural treatment recommended within each forest should be determined in consideration of the habitat matrix of the surrounding landscape. This would include an analysis of the extent and age-class structure of habitats in the surrounding lands as well as opportunities for maintaining and enhancing both terrestrial and aquatic habitat connections and recreational trail connections; and management opportunities across all town forests. In other words, different properties may be managed for different site-specific goals as long as the sum of the whole meets the overall town's forest management goals.
- Make every reasonable effort to control invasive plant species in the forest while reaching out to adjacent landowners to encourage the same.
- Implement exemplary forest management that is consistent with sustainable forestry standards such as those provided by the Forest Stewardship Council (FSC).
- Strive to keep forest harvesting activities revenue neutral over the long run (this is separate from the cost of managing other activities in the forests such as reducing invasive species, building and maintaining trails, and providing educational signs etc.).
- Offer quality aesthetic, educational and recreational opportunities to the community for the benefit of the public as long as it doesn't detract from above goals. All trails should be built and maintained to minimize soil erosion and compaction and limit disturbance to fish and wildlife.
- Conduct all harvests in a manner that minimizes impacts to soil, water, and fish and wildlife, including avoiding or minimizing the use of new roads and road-stream crossings; using Stream Smart crossings where crossings are needed; putting unused roads to bed; giving preference to harvesting on frozen ground or dry-soil conditions; avoiding harvesting during peak amphibian and bird nesting times (April 1-July 31); and using appropriate equipment given the silvicultural goals.

Management Matrix

A. Recreational/Educational Activities

Cumberland Lands & Conservation Commission (LCC)

Activity	Potential Natural Conflict	Potential <i>Neighbor Relation</i> Conflicts	Management Activities
Walking / Hiking	Habitat disturbance Tree carving Erosion / soil compaction	Disturbance of solitude-seekers. Littering	Evaluate condition of trails on a yearly basis. Repair natural or human damage in a timely manner. Develop limited number of trails including some loops. Close trails to give the land time to recover. Establish 'Carry-In / Carry-Out' policy for litter management. Pick up after pets and abide with Town leash laws.
Picnicking	Soil compaction Localized habitat disturbance Forest fire	Littering Disturbance to trail users	Establish strict regulations regarding fire. 'Carry-In / Carry-Out'. No Open Fires
Cross Country skiing	Erosion/compaction of soil without enough snow cover	Accidents on steep slopes, difficult turns Collisions at intersections	Designated Trails not anticipated X-Country Skiing to have a shared use with snowmobiles Caution signs displayed on Trails to warn of Shared Usage
Horseback Riding	Soil erosion adjacent to trails Sedimentation of streams and wetlands Additional width may degrade trail edge	Messes left by horses in trails Surprise encounters with walkers and other non-horse users	Develop guidelines for horseback use if/when the need arises.

A. Recreational/Educational Activities cont.

Activity	Potential Natural Conflict	Potential <i>Neighbor Relation</i> Conflicts	Management Activities
Snowmobiling	Minor habitat disturbance Trails provide access for predators	Noise Trail crowding Encounters with those seeking quieter forms of recreation	Limit to existing snowmobile trail. Post/maintain warning signs alerting skiers to snowmobilers, and vice-versa. Signage at entrance points directing snowmobilers to existing trails. Ongoing Review for connectivity and Subject to local agreements with local snowmobile club.
Mountain & Fat Tire Biking	Wear on trails	Surprising walkers, skiers, snowshoers Speeding on trails - potential for collisions	Periodically assess level of use and impact on trails. Consider designating certain trails for biking, similar to snowmobiles. Establish clear signage as needed.
Educational Programs	Over-collecting Minor habitat disturbance	Noise Trail crowding	Discourage active collecting of live materials. Group sizes over 25 require a permit. Ensure educational materials are up to date and well cared for.
Hunting Fishing Trapping			Shared Forest with Hunters- Warning Signs posted Subject to Maine IF&W laws Shot guns only in Cumberland No Sunday Hunting allowed Wear Blaze Orange when in the Forest Trapping allowed only by written permission from Town
Geocaching	Foreign object in forest	Off-trail traffic Tampering with cache	Review placement and upkeep of all geocaches
Additional Uses	Determine on a case-by-case basis	Determine on a case-by-case basis	Any additional uses must be reviewed and Approved by the Lands & Conservation Commission(LCC)

B. Resource Management Activities

Resource	Responsibility	Desired Results	Recommendations
Forest Management	Coordinated by LCC. Management practices carried out under supervision of licensed foresters, coordinated with wildlife biologist.	Retain the diversity of the forest types and other habitats found within the Forest. Create a model of biodiversity in a small-scale community forest, with multiple management objectives. Retain features that add to the diversity of the Forest, mimicking natural disturbance regimes.	Consult with a wildlife specialist to develop a long-term management plan for the present Forest and any additional lands that are added to it. Develop an interpretive program (brochures, signs, guided walks) to inform the public about the forest management objectives of Rines Forest. Leave dead trees >8" standing unless they present a danger to Forest users. Limited activities to control nuisance or invasive plant species.

Resource	Responsibility	Desired Results	Recommendations
Wildlife Management	Coordinated by LCC. Management practices carried out under supervision of wildlife biologist, coordinated with forester.	Conserve biodiversity in a small scale community forest, with multiple management objectives. Prevent overpopulation of wild-life species or the establishment of exotic, invasive species. Retain features with significant wildlife value.	Consult with a wildlife biologist and forester to develop a long-term management plan that will enhance the value of the Forest for wildlife. Develop an interpretive program (brochures, signs, guided walks) to inform the public about the wildlife management objectives of Rines Forest. Leave most dead trees > 8" standing for woodpeckers and other species unless they present a danger to Forest users.

Resource	Responsibility	Desired Results	Recommendations

Erosion Control	Coordinated by LCC using the Maine Forest Service Best Management Practices under the guidance of the Cumberland County Soil and Water Conservation District (CCSWCD) and carried out under the supervision of a wildlife biologist, coordinated with forester.	Prevent siltation of wetlands, brooks, and streams using natural measures whenever possible.	<p>Follow Best Management Practices for all work done in the Forest.</p> <p>Rely upon bio-engineering methods to stabilize slopes, protect banks, and prevent further degradation.</p> <p>Minimize the use of structural means to control erosion.</p> <p>Evaluate all site improvements for their erosion potential.</p> <p>Coordinate all work with CCSWCD.</p> <p>Site new trails where there will be a minimum of erosion.</p>
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C. Trail Maintenance

Activity	Responsibility	Desired Results	Management Activities
Trail Maintenance	Public Works. LCC.	Trails maintained in a safe, attractive manner that invites responsible use.	<p>Sponsor trail maintenance activities to bring trails back up to standards. Provide training sessions and proper tools for volunteers.</p> <p>Monitor trail conditions on a regular basis. Be prepared to close sections of trails as required to prevent environmental degradation or to protect specific habitats.</p> <p>Ref: Trail Construction and Maintenance Notebook.</p>

Activity	Responsibility	Desired Results	Management Activities

Trail Building	<p>Lands & Conservation - Trails and Forestry Subcommittees.</p> <p>Public Works.</p> <p>Volunteers.</p>	<p>Attractive new trails – or trail relocation – as required that fit into the character of the landscape without degrading the natural environment or infringing on the privacy of nearby homes.</p> <p>Avoid constructing additional trails.</p>	<p>Develop a Trail Master Plan.</p> <p>Use BMP's for all trail construction activity within Forest.</p> <p>Limit number of new trails.</p> <p>Avoid constructing trails that may be too steep, cross wetlands, or disturb critical habitat.</p> <p>Evaluate existing use levels on a yearly basis before making decisions regarding new trail construction.</p> <p>Prohibit unauthorized trail building.</p> <p>LCC should oversee any new trail construction and repair.</p>
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ITEM

20-116

To hold a Public Hearing to consider and act on a Liquor License renewal
for Cumberland House of Pizza

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☐ Yes ☒ No
If business is NEW or under new ownership, indicate starting date: _____
Requested inspection date: _____ Business hours: Monday - Sunday 11:00 AM - 9:00 PM
INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:
☒ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL, FOOD OPTIONAL (Class I-A) ☐ BED & BREAKFAST (Class V)
☐ CLUB w/o Catering (Class V) ☐ CLUB with CATERING (Class I) ☐ GOLF COURSE (Class I,II,III,IV)
☐ TAVERN (Class IV) ☐ QUALIFIED CATERING ☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Comberland House of Pizza</u>		Business Name (D/B/A) <u>Comberland House of Pizza</u>	
APPLICANT(S) - (Sole Proprietor) <u>Violeta Dobra</u> DOB: <u>[REDACTED]</u>		Physical Location: <u>176 Gray Rd</u>	
<u>Andrew Tucci</u> DOB: <u>[REDACTED]</u>		City/Town <u>Comberland</u>	State <u>Me</u>
Address <u>[REDACTED]</u>		Zip Code <u>04021</u>	
Mailing Address <u>P.O. Box 297</u>			
City/Town <u>Windham</u>	State <u>ME</u>	Zip Code <u>04062</u>	
Telephone Number <u>207-829-5400</u>	Fax Number <u>207-829-5400</u>	Business Telephone Number <u>207-829-5400</u>	Fax Number <u></u>
Federal I.D. # <u>20-5046874</u>		Seller Certificate #: or Sales Tax #: <u>1091307</u>	
Email Address: Please Print <u>[Signature]</u>		Website: <u></u>	

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: N/A
- State amount of gross income from period of last license: ROOMS \$ N/A FOOD \$ 183,723 LIQUOR \$ 15,189
- Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
If Yes, please complete the Corporate Information required for Business Entities who are licensees.
- Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.
(Use an additional sheet(s) if necessary.)

License #	Name of Business	Physical Location	City / Town

5. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
6. If manager is to be employed, give name: N/A
7. Business records are located at: _____
8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐
9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
(1) VIOLETA DOBRA	[REDACTED]	ALBANIA
(2) ANDREW TUCCI	[REDACTED]	USA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
(1) [REDACTED] - WINDHAM, ME 04062		
(1) 4 SKAMPA DRIVE - WINDHAM, ME 04062		
(2) 6 Sequoia Way - Scarborough, ME 04074		

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒
- Name: _____ Date of Conviction: _____
- Offense: _____ Location: _____
- Disposition: _____ (use additional sheet(s) if necessary)
12. Will any law enforcement official benefit directly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____
13. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒
14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: CHRIS COPP
15. Describe in detail the premises to be licensed: (On Premise Diagram Required) BAR - SEE THE ATTACHED
16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☒ Applied for: _____
17. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1 MILE
- Which of the above is nearest? PARISH HOUSE
18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒
- If YES, give details: _____

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Date _____
Signature of Applicant or Corporate Officer(s) Andrea Tucci

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I	Spirituous, Vinous and Malt	\$ 900.00
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CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
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CLASS I-A: Hotels only that do not serve three meals a day.

Class II	Spirituos Only	\$ 550.00
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CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III	Vinous Only	\$ 220.00
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CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV	Malt Liquor Only	\$ 220.00
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CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
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CLASS V: Clubs without catering privileges.

Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
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CLASS X: Class A Lounge

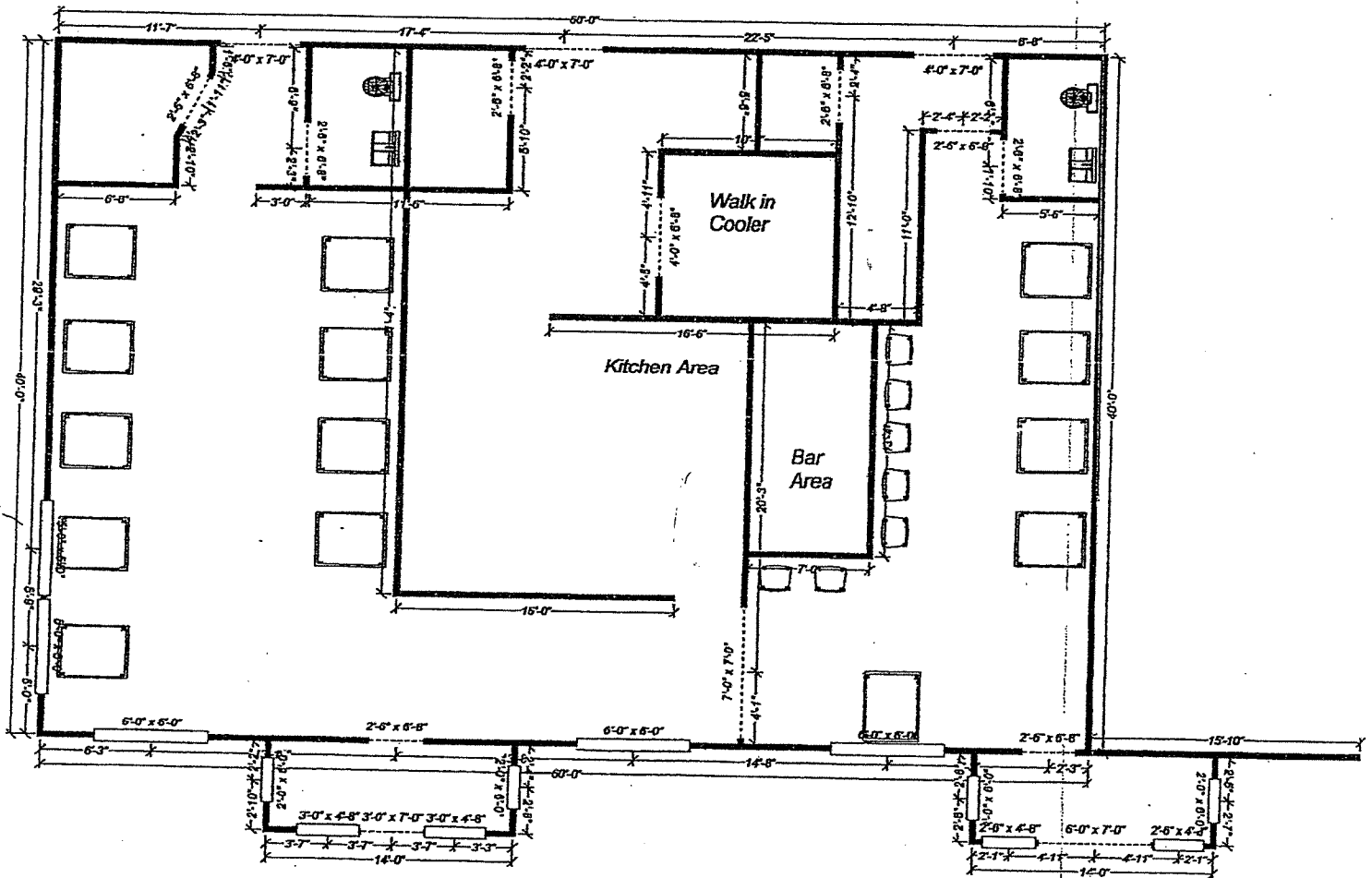
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
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CLASS XI: Restaurant/Lounge; and OTB.

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the **Treasurer, State of Maine.**



- No Charges to Exits or Bathrooms, which met ADA, Life Safety 101 when built.

This application must be completed and signed by the Town or City and mailed to:
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, ME 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

ITEM

20-117

To hold a Public Hearing to consider and act on a Liquor License renewal for Flannel Shirt Food Company, LLC d/b/a Cumberland Food Company



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes <input type="checkbox"/> No <input type="checkbox"/>	

**Section I: Licensee/Applicant(s) Information;
Type of License and Status**

Legal Business Entity Applicant Name (corporation, LLC): Flannel Shirt Food Company, LLC	Business Name (D/B/A): Cumberland Food Company
Individual or Sole Proprietor Applicant Name(s):	Physical Location: 371 Tuttle Rd #1 Cumberland ME 04021
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different:
Mailing address, if different from DBA address:	Email Address: Cumberlandfoodco@gmail.com
Telephone # Fax #: (207)322-9151	Business Telephone # Fax #: (207)829-4250
Federal Tax Identification Number: 81-449-0052	Maine Seller Certificate # or Sales Tax #: 1182428
Retail Beverage Alcohol Dealers Permit:	Website address: www.cumberlandfoodco@gmail.com

1. New license or renewal of existing license? ☐ New Expected Start date: _____

☒ Renewal Expiration Date: 12/31/2020

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: \$ 360,000.00 Beer, Wine or Spirits: \$ 6,400.00 Guest Rooms: _____

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☐ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Restaurant
(Class I, II, III, IV) | <input type="checkbox"/> Class A Restaurant/Lounge
(Class XI) | <input type="checkbox"/> Class A Lounge
(Class X) |
| <input type="checkbox"/> Hotel
(Class I, II, III, IV) | <input type="checkbox"/> Hotel – Food Optional
(Class I-A) | <input type="checkbox"/> Bed & Breakfast
(Class V) |
| <input type="checkbox"/> Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | <input type="checkbox"/> Auxiliary | <input type="checkbox"/> Mobile Cart |
| <input type="checkbox"/> Tavern
(Class IV) | <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Qualified Caterer | <input type="checkbox"/> Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

371 Tuttle Rd #1 Cumberland ME 04021

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Bryan Dame	██████████	Massachusetts
Kelsey Pettengill	██████████	New Hampshire

Residence address on all the above for previous 5 years

Name	Address:
Kelsey Pettengill & Bryan Dame	██████████ Saco
Name	Address:
	363 Tuttle Rd Cumberland Me
Name	Address:
	18 Peacock Hill Rd, New Gloucester
Name	Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

Tuttle Rd Associates, LLC 6 Hemlock Drive, Cumberland ME 04021

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Alcohol is Stored in the hallway between the front dining room and rear dining room,

Some Beers are kept cold in the cooler as well.

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Greely School System

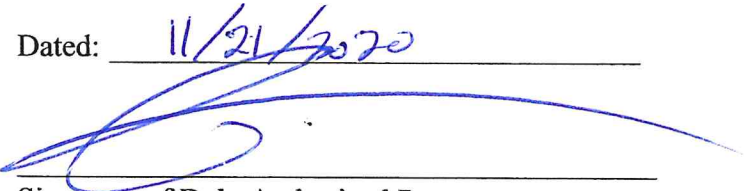
Distance: 0.50

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 11/21/2020



Signature of Duly Authorized Person

Signature of Duly Authorized Person

BRYAN DAME

Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
 - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its [Retail Beverage Alcohol Dealers](https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers) permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

Please note: For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

Class of License	Type of liquor/Establishments included	Fee
Class I	For the sale of liquor (malt liquor, wine and spirits) This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	\$ 900.00
Class I-A	For the sale of liquor (malt liquor, wine and spirits) This class includes only hotels that do not serve three meals a day.	\$1,100.00
Class II	For the Sale of Spirits Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
Class III	For the Sale of Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class IV	For the Sale of Malt Liquor Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class III and IV	For the Sale of Malt Liquor and Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
Class V	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Club without catering privileges.	\$ 495.00
Class X	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Class A Lounge	\$2,200.00
Class XI	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Restaurant Lounge	\$1,500.00

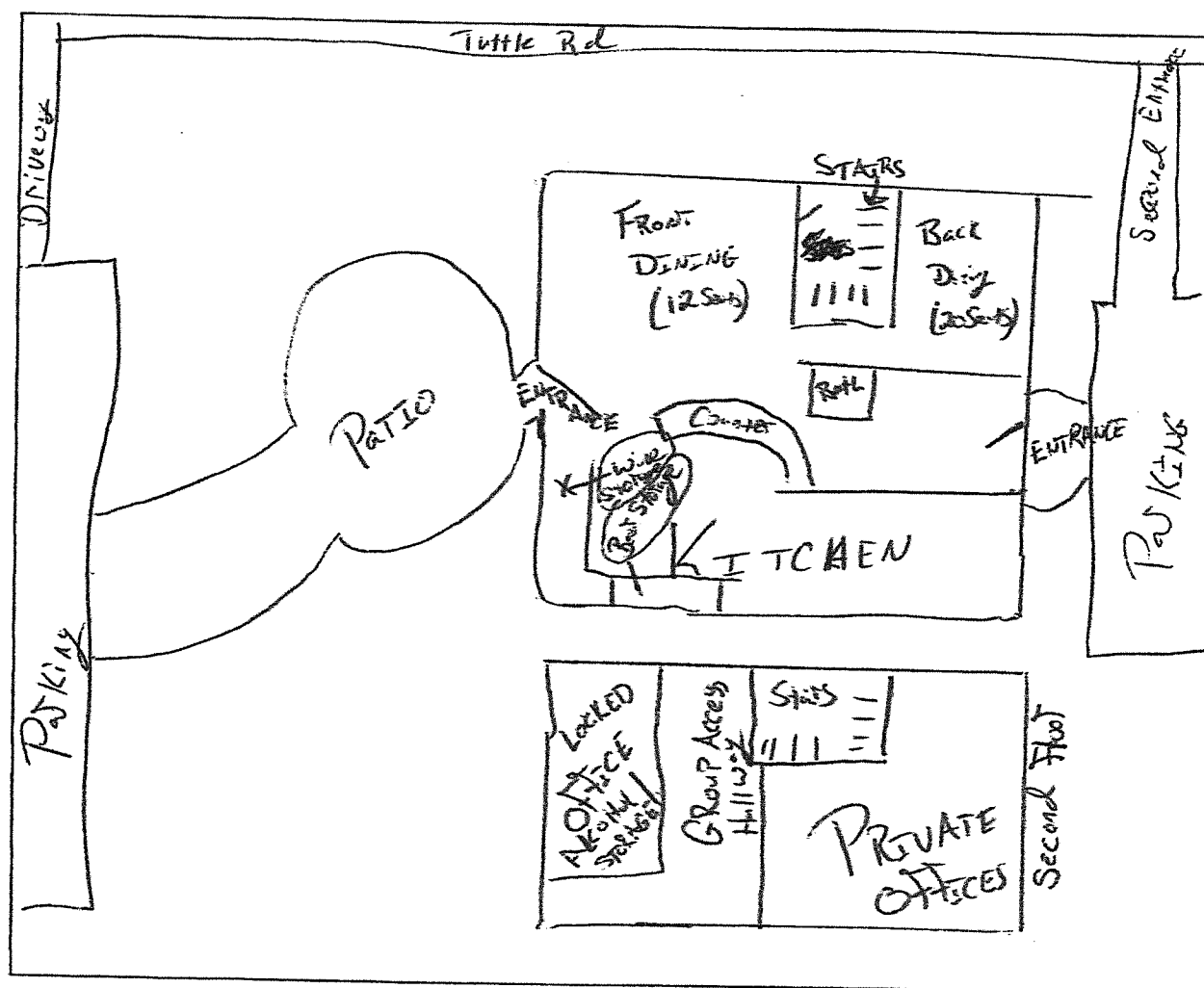
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
 8 State House Station, Augusta, ME 04333-0008
 10 Water Street, Hallowell, ME 04347
 Tel: (207) 624-7220 Fax: (207) 287-3434
 Email Inquiries: MaineLiquor@maine.gov

DIVISION USE ONLY	
<input type="checkbox"/>	Approved
<input type="checkbox"/>	Not Approved
BY: _____	

ON PREMISE DIAGRAM

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.



Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Flannel Shirt Food Company, LLC
2. Doing Business As, if any: Cumberland Food Company
3. Date of filing with Secretary of State: 11/23/2020 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Bryan Dame	Saco, Cumberland, New Gloucester	[REDACTED]	Owner	100.0000

(Ownership in non-publicly traded companies must add up to 100%.)

ITEM

20-118

To hold a Public Hearing to consider and act on Liquor License renewal
for Louie's Grille



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes <input type="checkbox"/> No <input type="checkbox"/>	

Section I: Licensee/Applicant(s) Information;
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): <u>LOUIE'S GRILLE LLC</u>	Business Name (D/B/A): <u>LOUIE'S GRILLE</u>
Individual or Sole Proprietor Applicant Name(s): <u>Jim Guina</u>	Physical Location: <u>315 Main St Cumberland ME 04021</u>
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: _____
Mailing address, if different from DBA address:	Email Address: <u>jguina@maine-rr.com</u>
Telephone # Fax #: <u>207-489-9087</u> <u>None</u>	Business Telephone # Fax #: <u>207-489-9087</u>
Federal Tax Identification Number: <u>46-2666810</u>	Maine Seller Certificate # or Sales Tax #: <u>1164980</u>
Retail Beverage Alcohol Dealers Permit: <u>PAR-2014-7757</u>	Website address: <u>louiesgrille.com</u>

1. New license or renewal of existing license? ☐ New Expected Start date: _____
☒ Renewal Expiration Date: _____
2. The dollar amount of gross income for the licensure period that will end on the expiration date above:
Food: 400,000 Beer, Wine or Spirits: 54,000 Guest Rooms: N/A
3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)
☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Restaurant
(Class I, II, III, IV) | <input type="checkbox"/> Class A Restaurant/Lounge
(Class XI) | <input type="checkbox"/> Class A Lounge
(Class X) |
| <input type="checkbox"/> Hotel
(Class I, II, III, IV) | <input type="checkbox"/> Hotel – Food Optional
(Class I-A) | <input type="checkbox"/> Bed & Breakfast
(Class V) |
| <input type="checkbox"/> Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | <input type="checkbox"/> Auxiliary | <input type="checkbox"/> Mobile Cart |
| <input type="checkbox"/> Tavern
(Class IV) | <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Qualified Caterer | <input type="checkbox"/> Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

319 Main - Cumberland Maine

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?
☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
James P. Gualti	[REDACTED]	Portland Me

Residence address on all the above for previous 5 years

Name James P. Gualti	Address: 7 Stoneport Ln. N. Yarmouth Me
Name	Address:
Name	Address:
Name	Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☐ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

Flagship Island Inn. 220 Maine Mall Rd
S. Portland 04106

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: NA

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

SAME as previous year

20. What is the distance from the premises to the **nearest** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Greely High School

Distance: 1000 + FT.

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 12/3/20

[Signature]
Signature of Duly Authorized Person

James P. Girdi
Printed Name Duly Authorized Person

Signature of Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

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- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
 - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

Section V: Fee Schedule

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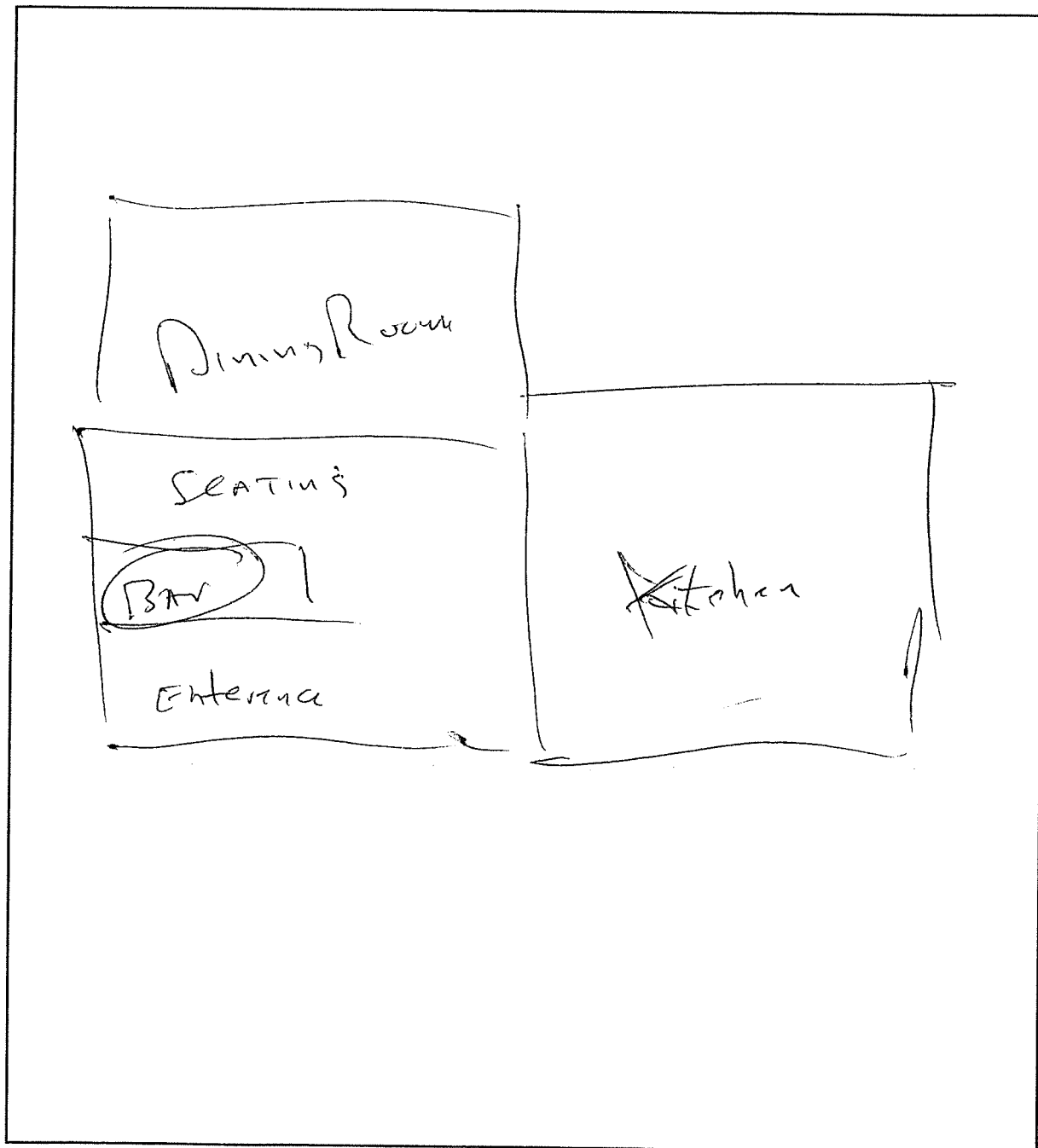
Please note: For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

Class of License	Type of liquor/Establishments included	Fee
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Class I-A	For the sale of liquor (malt liquor, wine and spirits) This class includes only hotels that do not serve three meals a day.	\$1,100.00
Class II	For the Sale of Spirits Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
Class III	For the Sale of Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class IV	For the Sale of Malt Liquor Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class III and IV	For the Sale of Malt Liquor and Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
Class V	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Club without catering privileges.	\$ 495.00
Class X	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Class A Lounge	\$2,200.00
Class XI	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Restaurant Lounge	\$1,500.00

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Louies Guille LLC
2. Doing Business As, if any: Louies Guille
3. Date of filing with Secretary of State: 2013 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

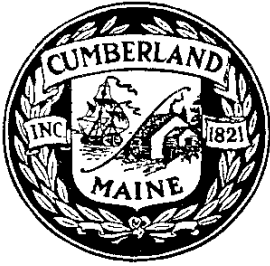
Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
James Gaidi	REDACTED No Yarmouth	REDACTED	Manager Owner	100%

(Ownership in non-publicly traded companies must add up to 100%.)

ITEM

20-119

To appoint John Brushwein as Tax Assessor for the period of January 1,
2021 through December 31, 2023



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-2205 • Fax (207) 829-2214

To: Town Council
From: William R. Shane, Town Manager
Date: December 22, 2020
Re: Item 20-119 Appointment of Tax Assessor

I am recommending the reappointment of John Brushwein as the Town's Tax Assessor effective January 1, 2021 through December 31, 2023. This position, per our Town Charter, reports directly to the Town Council, but his day-to-day operations are overseen by me.

By Town Charter, this position has to be reappointed every three years.

ITEM

20-121

To approve the increase of the number of Prince Memorial Library Board members from 8 to 11, as recommended by the Nominating Committee

Prince Memorial Library Advisory Board By-Laws

Article I. Membership/Appointment

The Prince Memorial Library Advisory Board shall consist of eleven voting members, eight of whom shall be residents of the Town of Cumberland appointed by the Cumberland Town Council, and three of whom shall be residents of North Yarmouth appointed by the North Yarmouth Board of Selectmen. The Cumberland Town Council shall appoint one of its members to serve as a non-voting member of the Board, and the Board of the Friends of Prince Memorial Library shall appoint one of its members to serve as a non-voting member.

Article II. Purpose

The Prince Memorial Library Advisory Board shall advise the Cumberland Town Manager and/or Town Council and the North Yarmouth Board of Selectmen on the management and operation of the Prince Memorial Library. The Library Advisory Board may participate or assist in fundraising and may act in other capacities to promote the benefit and welfare of Prince Memorial Library.

Article III. Terms

The term of office for the voting members of the Prince Memorial Library Advisory Board shall be three years.

The terms of office of the non-voting members shall be one year, without limit.

Article IV. Officers

From among its members, the Prince Memorial Library Advisory Board shall elect a Chair, Vice Chair, and Secretary. The officers shall be elected for terms of one year, and may be elected to additional terms. The Chair shall preside at all meetings of the Library Advisory Board and shall be entitled to vote on all matters. The Vice Chair shall preside at meetings in the absence of the Chair. The Secretary shall record the minutes of the meetings and handle all correspondence, and shall mail the minutes of the meetings to the voting and non-voting members and to the Library Director. Copies of the minutes shall be kept on file with the Library Director and at the Cumberland Town Office.

Article V. Meetings

Meetings of the Prince Memorial Library Advisory Board shall be held at least five times a year, at such times and places as the Library Advisory Board shall determine. A majority of the voting members of the Library Advisory Board shall constitute a quorum. Vote by proxy shall be allowed on a predetermined agenda item. All meetings shall be open to the public.

Article VI. Vacancy

The position of member of the Prince Memorial Library Advisory Board shall become vacant upon non-acceptance, resignation, lack of residency, death, inability to serve, or the failure to attend three consecutive meetings of the Board without legitimate excuse. The remaining members of the Library Advisory Board shall determine whether a position has become vacant, and shall so advise the Cumberland Town Council or North Yarmouth Board of Selectmen as appropriate. In the event of a vacancy, the Cumberland Town Council or North Yarmouth Board of Selectmen, as appropriate, shall appoint a new member to fill the unexpired term.

Article VII. Alteration of By-Laws

The members of the Prince Memorial Library Advisory Board may at any regular, or upon notice at any special meeting, amend these by-laws by a vote of the majority of the members present at the meeting.

ITEM

20-122

To set a Public Hearing date of December 28th to consider and act on amendments to Chapter 315 (Zoning), Section 2 (Purpose) and Section 4 (Word Usage and Definitions – Agriculture) of the Cumberland Code, as recommended by the Planning Board

TABLED

Agriculture

Proposed Amendments to Zoning Ordinance

Chapter 315 - 2 : Purpose

§ 315-2 Purpose.

[Amended 9-10-2012]

A.

The purpose of this chapter, made as part of a comprehensive plan for the development of the Town, is to promote public health, safety, and general welfare; to encourage the most appropriate use of land throughout the Town; to protect and preserve land most suitable for agricultural uses, to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to provide a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; and to provide an allotment of land area in new developments sufficient for all public services.

Chapter 315 – 4: Word Usage and definitions

AGRICULTURE

The use of a tract of land for commercial purposes for ~~the cultivation and the production of crops, truck gardening, nurseries or greenhouses, or any allied industry, but exclusive of animal husbandry and exclusive of private gardens less than 1/2 acre. This shall not include registered dispensaries of medical marijuana, retail marijuana establishments, retail marijuana social clubs, or any other addiction treatment facility as defined in this chapter and by applicable state statutes.~~

any of the following:

1. The cultivation of soil for production and harvesting of crops, including fruits, vegetables, sod, flowers, and ornamental plants;
2. The planting and production of timber;
3. Animal husbandry including dairying, breeding, raising, management, care, and training of livestock, including horses, llamas, goats, pigs, cattle, bees, poultry and other similar types of animals for individual and public use and consumption.
4. Aquaculture;
5. The operation, management, conservation, improvement and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation; and when performed on the farm, the marketing and selling of agricultural products; agri-tourism; the storage and use of materials for agricultural purposes; and packing,

treating, processing, sorting, storage and other activities performed to add value to crops, livestock, and agricultural items produced on the farm.

6. Farm-based Retail;
7. Farm-based Specialty Events;
8. Slaughterhouse;
9. Farm Worker Housing;
10. Bed and Breakfast uses, as defined.

AQUACULTURE

The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

SLAUTERING ESTABLISHMENT

~~A building or other place where animals or poultry, raised elsewhere, are killed or dressed for the market.~~

SLAUGHTERHOUSE

A facility for the slaughtering and processing of animals that are either raised or transported to the facility and the processing and storage of animal products and waste that results from a slaughtering process.

FARM WORKER HOUSING

Single, Duplex or Multiplex dwelling units located on the farm and occupied by employees of the farm owner.

FARM-BASED RETAIL

The selling of agricultural produce or products, the majority of which is grown or raised by the landowner ~~on property owned by the landowner within the Rural Residential 1 (RR1) and Rural Residential 2 (RR2) Districts.~~ This shall not include retail marijuana establishments.

[Amended 2-10-2014; 5-22-2017; ____]

ITEM

20-123

To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review) to add agriculture related language to the Cumberland Code, as recommended by the Planning Board

TABLED

Agriculture
Proposed Amendments to Site Plan Ordinance

§ 229-1 Title, purpose and authority.

A.

Title. This chapter shall be known and cited as the "Site Plan Ordinance of the Town of Cumberland, Maine."

B.

Purpose. The site plan review provisions are intended to protect public health and safety, promote the general welfare of the community, and conserve the environment by assuring that all development is designed and constructed in a manner which assures that adequate provisions are made for traffic, utilities, stormwater, erosion and sedimentation, wildlife habitat and fisheries, and historic and archaeological resources. Site plan review will also serve to minimize any adverse impacts on neighboring properties and to ensure that new developments will fit in harmoniously to the fabric of the community while honoring the historical roots of the Town's agriculture-based economy and providing for less costly and time-consuming review of agriculture-related businesses.

[Amended 5-14-2018; _____]

C.

Review and approval authority. The Town Planner is authorized to review and approve projects classified as "staff review." However, the Town Planner may refer a staff review project to the Planning Board when the nature of the application warrants a public hearing or poses the potential for significant impacts on municipal facilities or natural resources. ~~The Planning Board is authorized to review all other projects.~~



§ 229-2 Classification levels.

A.

There are ~~three~~ four classification levels of site plan review:

(1)

Minor staff review.

(2)

Agriculture- related staff review

(~~2~~3)

Major staff review.

(~~3~~4)

Planning Board site plan review.

B.

The Town Planner shall classify each project to determine the level of review required based on the applicability standards set forth in this section. Staff review is designed for the review of smaller projects, while larger projects will be reviewed by the Planning Board. When calculating square footage as referenced below, include the total area, in square feet, of all floors of the building as measured from the interior faces of the exterior walls, excluding unfinished attics and unfinished basements.

[Amended 11-26-2012; 5-14-2018; _____]



§ 229-11 Expiration of approval.

[Amended 2-25-2013; 6-17-2013; ____]

Construction of the improvements covered by any site plan approval must be substantially commenced within 12 months of the date upon which the approval was granted. If construction has not been substantially commenced within 12 months of the date upon which approval was granted, the approval shall be null and void. If construction has not been substantially completed within 24 months of the date upon which approval was granted or within a time period as specified by the Planning Board, the approval shall be null and void. The applicant may request an extension of the deadline to commence or complete construction prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two one-year extensions to the period if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

Construction of the improvements covered by any Agriculture-related staff review shall be five (5) years for commencement and 10 years for completion.

ITEM

20-124

To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review), Section 5 (Minor Staff Review Procedure), Section 6 (Major Staff Review Procedure), Section 7 (Planning Board Review Procedure), to change the abutter notice radius from 200 to 500 feet, and Chapter 315 (Zoning), Section 53 (Home Occupations and Home-Based Occupations) and Section 77-C (Board of Adjustments & Appeals - Hearings), of the Cumberland Code, to change the abutter notice radius from 300 to 500 feet, as recommended by the Planning Board

TABLED

§ 229-5 Minor staff review procedure.

- A. The applicant shall provide two copies of a complete application packet.
- B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing the process described below.
- C. Within 10 days of the receipt of a completed application, the Town Planner will approve or deny the application in accordance with the provisions of this chapter.
- D. The Planning Department will mail notices of the action taken to all abutters within 200 500 feet of the site within 10 days of the decision.
- E. Submission requirements are listed in Appendix A.^[1]

§ 229-6 Major staff review procedure.

- A. The applicant shall provide nine copies of a complete application packet.
- B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing the process as described below.
- C. A copy of the application shall be provided by the Planning Department to the following members of the Staff Review Committee: the Public Services Director, Police Chief, Fire/EMS Chief, Code Enforcement Officer, Economic Development Director, Town Manager, and Chair of the Planning Board. Comments shall be made on the application, in writing, to the Town Planner within seven days of the date of the application.
- D. The Town shall mail a notice, within three days of the application submission, to all property owners within ~~200~~ 500 feet of the site under review.
- E. Within 10 days following the submission of the completed application, the Town Planner shall review all submitted comments from the Staff Review Committee and residents and, in writing, approve, approve conditionally, or deny the application in accordance with the provisions of this chapter. The written decision of the Town Planner shall be mailed to the applicant and property owners within 200 feet of the site within 10 days of the decision. A copy of the decision shall also be provided to the Town Manager and other members of the Staff Review Committee. Notice of the staff approval will be given to the Planning Board at its next meeting.
- F. Submission requirements are listed in Appendix B.^[1]

§ 229-7 Planning Board review procedure.

The Planning Board shall use the following procedures in reviewing applications for site plan review:

- A. Preapplication.
 - (1) Prior to submitting a formal application, the applicant or his/her representative may request a preapplication conference with the Planning Board. The purpose of the preapplication conference is to:
 - (a) Allow the Board to understand the nature of the proposed use and the issues involved in the proposal;
 - (b) Allow the Board to understand the location, size, natural resources and general characteristics of the proposed site;
 - (c) Allow the applicant to understand the development review process and required submissions;
 - (d) Discuss the need for any waivers from the submission requirements;
 - (e) Identify issues that need to be addressed in future submissions; and
 - (f) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
 - (2) The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan or any related application to be a pending application or proceeding under 1 M.R.S.A. § 302. No decisions on the substance of the plan shall be made at the preapplication conference.
 - (3) Submission requirements are listed in Appendix C.^[1]
- B. Application procedure. All applications must be received by the Town Planner at least 21 days prior to the date of the next Planning Board meeting. The Town Planner will determine if the application is complete. If the application is not complete, the application will not be placed on the Planning Board agenda. For this reason, it is strongly encouraged that applicants meet with the Town Planner prior to the deadline date to review the application materials.
- C. Public notice procedure.
 - (1) The Town Planner shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be reviewed until the additional information is submitted. The applicant shall provide all information prior to the deadline date for a subsequent Planning Board meeting. Failure to submit the additional information within six months shall be deemed an abandonment of the application.
 - (2) Once the application is deemed complete, a notice of the hearing shall be published in a newspaper of general circulation in the community at least once; the date of publication shall be at least seven days

prior to the hearing.

- (3) The Town Planning Department shall mail a written notice of the date, time, and place of the public hearing at which the application will be considered to the applicant and to all property owners within ~~200~~ 500 feet of the parcel on which the proposed development is located.
 - (4) Failure of any property owner to receive notice under this section for any reason shall not necessitate a new hearing and shall not invalidate any action by the Planning Board.
- D. Site walk. The Board may schedule a site walk if deemed necessary. A written notice for such site inspection shall be published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven days prior to the site inspection. Notice shall also be sent by first-class mail to all property owners of record within 200 feet of the parcel on which the proposed development is located.
- E. Public hearing procedure.
- (1) The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this chapter or other municipal ordinances.
 - (2) The Chair shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Chair shall then allow the members of the Board to ask questions of the applicant and the applicant to answer those questions. Following Board questions, the Chair shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.
- F. Procedures for final action on an application.
- (1) At the meeting at which final action is requested by the applicant, the Planning Board shall approve, approve with conditions, deny, or table the application. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this chapter.
 - (2) In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the standards of approval, design standards, performance standards, and other requirements of this chapter.
 - (3) The Board shall notify the applicant of the action of the Board, including the findings of fact and any conditions of approval.

§ 315-53 Home occupations and home-based occupations.

- A. Home occupations and home-based occupations are permitted in any single- or two-family structure or any structure that is accessory to a single- or two-family structure.
- (1) Notwithstanding any provision of this chapter to the contrary, the Code Enforcement Officer will approve and issue a change of use permit for home occupation and home-based occupation applications that meet the criteria listed below:
- (a) The occupation is owned or operated by a member of the family residing within the dwelling unit;
 - (b) In the case of a home occupation, no more than two employees who are not members of the family are employed in the occupation;
 - (c) In the case of a home-based occupation, no more than two employees who are not members of the family are present at the dwelling at any one time;
 - (d) Objectionable or unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond the property limits;
 - (e) No traffic in substantially greater volumes than would be normally expected in the neighborhood will be generated;
 - (f) Off-street parking spaces are provided in an amount to be determined by the Code Enforcement Officer to avoid street congestion;
 - (g) Exterior displays, exterior storage of materials, and exterior indications of the home occupation or home-based occupation, including signs, are inconspicuous;
 - (h) The existence of the home occupation or home-based occupation does not pose any potential threat to public health, safety, or welfare; and
 - (i) There will be no violation of any private deed restrictions affecting the use of the lot.
- (2) A home occupation that does not meet all of the above-listed standards shall require special exception approval from the Board of Adjustment and Appeals.
- B. The granting of a special exception approval or change of use for a home occupation or home-based occupation shall apply to the applicant only while the applicant resides at the property.
- C. Applications for home occupations and home-based occupations under Subsection A shall be approved in writing by the Code Enforcement Officer. The decision of the Code Enforcement Officer shall be mailed to property owners within 300 500 feet from the property boundary line. Notice will be mailed to property owners within two business days of the permit being issued.
- D. Any appeal of the Code Enforcement Officer's decision as to whether a home occupation or home-based business meets the standards in Subsection A must comply with § 315-77C through F of this chapter. Notice of the hearing on the appeal shall be mailed to property owners within 300 feet from the property line.

Code Enforcement Officer may reasonably require for a clear understanding of the case.

- D. Excavation of land and removal of earth products. An application to the Board of Adjustment and Appeals for a permit to excavate land or remove earth products shall be accompanied by a fee as established by order of the Town Council. Outside consulting fees shall be charged in accordance with § 315-81. Upon annual renewal of the application for the excavation of land and the removal of earth products, such application shall be accompanied by an application fee as established by order of the Town Council.
- E. Belated permits. In addition to the cost of a permit, all belated permits will be subject to a fine as established by order of the Town Council.

Commented [1]: Editor's Note: Original Sec. 602.5, Shoreland zoning permits, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 226, Shoreland Zoning.

§ 315-77 Board of Adjustment and Appeals.

- A. There is hereby created a Board of Adjustment and Appeals to assist in the administration of this chapter. Such Board shall serve as a board of appeals pursuant to 30-A M.R.S.A. § 2691 and may perform such other functions as may be delegated to it by other ordinances.
 - (1) The Board shall consist of seven members and one alternate member appointed by the Town Council. They shall be residents of the Town and serve without compensation. Appointments to the Board shall be for terms of three years; provided, however, that initial appointments to the Board shall be as follows: two members shall be appointed for terms of three years each, two members for two-year terms and one member for a one-year term. The initial appointment of the sixth and seventh members of the Board shall be for two-year terms, so that their initial terms shall expire in the same year that the single appointment from the five-member Board would normally occur. The Board shall elect annually a Chairman and Clerk from its membership. The alternate member shall have full voting rights when any of the seven appointed members are absent or excused from any meeting. The alternate member shall not participate as a Board member in any meeting when the full Board is in attendance. When there is a vacancy on the Board, the Town Council shall appoint a person to serve for the balance of the unexpired term.
 - (2) Neither a Town Councilor, a member of the Planning Board, nor his or her spouse may be a member of the Board.
 - (3) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
 - (4) Vacancies may occur by reason of resignation, death, removal from the Town and, when certified to the Council by a majority of the members of the Board, by failure to attend at least 75% of the Board meetings, regular or special, during any twelve-month period. A member may also be removed for cause, after notice and hearing, by the Town Council. Vacancies shall be filled by the Council for the unexpired term.
 - (5) Four members of the Board shall constitute a quorum for the hearing of appeals. If less than a quorum is present, the hearing may be adjourned for a period not exceeding two weeks at any one time, and the Clerk to the Board shall in writing notify all members of the next date of the hearing to be rescheduled. Any hearing at which a quorum is present may also be adjourned in like manner by a majority of those

Commented [2]: Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

second at lot boundaries;

- (c) No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by regularly recurring natural causes or forces, and all materials which cause fumes or dust, constitute a fire hazard, or are edible or otherwise attractive to rodents or insects if stored out of doors shall be in closed containers;
- (d) The emission of noxious, odorous matter across lot boundaries in such quantities as to be offensive to persons of ordinary sensibilities is prohibited; and
- (e) No discharge into any private sewage disposal system or stream or into the ground of any materials in such nature or at such temperature as to contaminate any water supply or otherwise cause the emission of dangerous or unhealthful elements is permitted, and no accumulation of solid waste conducive to the breeding of rodents or insects shall be allowed.

C. Hearings.

- (1) For all appeals from decisions of the Code Enforcement Officer, and for the consideration of all applications for variances, special exceptions, or other permits requiring approval of the Board, the Board shall hold a public hearing as prescribed herein. At least seven days before the hearing, the Clerk of the Board of Adjustment and Appeals shall notify by mail the owners of properties located within ~~300~~ 500 feet of the lot line of the property for which the appeal or application shall be made. In addition to the notice by mail, the Clerk to the Board of Adjustment and Appeals shall also cause to be published, at least seven days before the hearing, in a newspaper of general circulation in the Town, a notice summarizing the nature of the appeal and the time and place of the hearing.
- (2) Failure of a property owner to receive notice by mail shall not invalidate actions taken by the Board. Property owners as listed on the Assessor's records shall be deemed to be the persons to whom such notice should be mailed.
- (3) The Code Enforcement Officer, unless prevented by illness or absence from the state, shall attend all hearings and shall present to the Board all plans, photographs, or other factual materials which are appropriate to an understanding of matters before the Board.
- (4) Written notice of the decision of the Board shall be sent to the appellant and to the Code Enforcement Officer within seven days of the date of the hearing in accordance with 30-A M.R.S.A. § 2691.

D. Appeal procedure.

- (1) Any person with standing or equity aggrieved by a decision of the Code Enforcement Officer may appeal such decision to the Board of Adjustment and Appeals within 30 days inclusive of the date of such decision.
- (2) Within 30 days of the date of the decision of the Code Enforcement Officer, the appeal shall be entered at the office of the Town Clerk upon forms to be approved by the Board of Adjustment and Appeals. The appellant shall set forth on said form the ground of his appeal and shall refer to the specific provisions of this chapter, the Maine Uniform Building and Energy Code, state regulation, private or

ITEM

20-125

To set a Public Hearing date of January 11th to consider and act on an amendment to the Credit Enhancement Agreement with Integrative Health Center of Maine to add 15 Sky View Holdings, LLC

AMENDMENT TO CREDIT ENHANCEMENT AGREEMENT

THIS AMENDMENT TO CREDIT ENHANCEMENT AGREEMENT dated as of _____, 202049, is by and between the Town of Cumberland, Maine (the "Town"), a municipal body corporate and politic and a political subdivision of the State of Maine, and Integrative Health Center of Maine, a Maine limited liability company, its successors and assigns to the extent permitted under Article VII hereof (the "Developer").

WITNESSETH THAT

WHEREAS, the Town designated TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Town Council held on July 23, 2007 (the "Orders") and pursuant to the same Orders adopted a development program and financial plan for the District, and the Town amended the District, development program and financial plan on January 23, 2012 by adopting the First Amendment to the Town of Cumberland TIF District #3 Municipal Development and Tax Increment Financing Development Program (the "First Amendment") (collectively the "Development Program"); and

WHEREAS, the Maine Department of Economic and Community Development ~~has~~ reviewed and accepted the District and the Development Program by letters dated March 26, 2008 and March 28, 2012; and

WHEREAS, the ~~Development Program contemplates the execution and delivery of a credit enhancement agreement between the Town and the Developer, and the~~ Town and the Developer ~~desire and intend that this executed a~~ Credit Enhancement Agreement ~~be and constitute a credit enhancement agreement~~ as contemplated by and described in the Development Program on August 12, 2019 pursuant to the approval of the Town Council by vote on February 25, 2019; and

WHEREAS, the ~~Developer now desires to assign a portion of its interest to the Company of the Developer's Property as defined in Article 1 herein and the~~ Town Council of the Town has approved the ~~execution amendment~~ of this Credit Enhancement Agreement by vote on February 25, 2019 ~~for such purpose, and the Project described herein.~~

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS; INTERPRETATIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Agreement" shall mean this Credit Enhancement Agreement between the Town and the Developer.

"Company" means 15 Sky View Holdings, LLC d/b/a McLeod Ascanio, CPA.

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"Current Assessed Value" shall mean the assessed value of the Developer's Property (Developer's Unit), as certified by the municipal assessor as of April 1st of each year of the term of this Agreement. For purposes of this Agreement, the Current Assessed Value shall specifically exclude the assessed value of any personal property now or hereafter located in the District.

"Developer" means Integrative Health Center of Maine, LLC, a Maine limited liability company, its successors and assigns.

"Developer's Project Cost Account" means the Developer's Project Cost Sub-Account established and maintained pursuant to Article II hereof and the Development Program that is applicable to the Developer's Property (Developer's Unit) and this Credit Enhancement Agreement.

"Developer's Property" means the real estate shown as "Commercial Lot 2" on the Fourth Amended Subdivision Plan of Cumberland Foreside Village, dated January 26, 2017 and recorded in the Cumberland County Registry of Deeds, Plan Book 217, Page 85, owned by Developer and described in the deed from Cumberland Foreside Village LLC recorded in the Cumberland County Registry of Deeds, Book 31931, Page 68, also shown as Lot 11-2 on the Town of Cumberland Tax Map R01, together with all buildings and improvements now or hereafter located thereon but excluding any personal property now or hereafter located thereon.

"Developer's Property (Developer's Unit)" means Unit #1 of the Developer's Property.

"Development Program" means the development program for the District as adopted by the Cumberland Town Council at meetings held on July 23, 2007 and January 23, 2012.

"Development Program Fund" means the development program fund described in the Financial Plan section of the Development Program.

"District" means TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District designated pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Town Council held on July 23, 2007 and January 23, 2012.

"Financial Plan" means the financial plan described in the "Financial Plan" Section of the Development Program.

"Fiscal Year" means July 1 to June 30 of each year or such other fiscal year as the Town may from time to time establish; for purposes of this Agreement, the first Fiscal Year or Fiscal Year 1 means the Fiscal Year commencing July 1, 2019 and ending June 30, 2020.

"Increased Assessed Value" means the valuation amount by which the Current Assessed Value of the Developer's Property (Developer's Unit) exceeds the Original Assessed Value (Developer's Share). For purposes of this Agreement, the Increased Assessed Value shall specifically exclude any tax increment on any property in the District other than Developer's Property (Developer's Unit), and shall also exclude any personal property now or hereafter located in the District. If the Current Assessed Value is equal to or less than the Original Assessed Value (Developer's Share) in any year, there is no Increased Assessed Value in that year.

"Original Assessed Value" means \$49,400, the assessed value of the Developer's Property as of March 31, 2007 (April 1, 2006), as set forth in the Development Program.

"Original Assessed Value (Developer's Share)" means initially \$24,700, an amount equal to half of the Original Assessed Value of the Developer's Properties determined as of March 31, 2007 (April 1, 2006).

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"Project" means the following improvements to be constructed on Developer's Property: a new medical office to house 12 – 14 independent medical practitioners and three to four staff members.

"Project Costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 of Title 30-A of the Maine Revised Statutes and included in the Project.

"Property Taxes" means any and all ad valorem real property taxes levied, charged or assessed against the Developer's Property (Developer's Unit) (but excluding personal property taxes) by the Town, or on its behalf.

"Qualified Investments" shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

"Tax Increment" means the Property Taxes assessed by the Town and paid by the Developer within the meaning of Section 3.1 of this Agreement, in excess of any state, county or special district tax, upon the Increased Assessed Value of the Developer's Property (Developer's Unit), but excluding all personal property taxes and excluding real property taxes on any other real property in the District.

"Tax Increment (Developer's Share)" means that portion of the Tax Increment, for each year during the term of this Agreement, solely with respect to Developer's Property (Developer's Unit) (specifically excluding any tax increment on any other real property now or hereafter located in the District and specifically excluding any Tax Increment on any personal property), which are to be deposited by the Town in the Developer's Project Cost Account, to the extent provided in Section 3.1(b) of this Agreement and paid to the Developer pursuant to this Agreement. The Tax Increment (Developer's Share) for each year of the term of this Agreement shall be calculated as follows with respect to Developer's Property (Developer's Unit): First, the amount of the Tax Increment shall be determined by subtracting the real Property Tax for such year on the Original Assessed Value (Developer's Share) from the total real Property Tax for such year on the Current Assessed Value for such year; Second, 0.50 shall be multiplied by the Tax Increment, and the product thereof shall constitute the Tax Increment (Developer's Share) for such year. Notwithstanding the foregoing, the total payments by the Town to the Developer– pursuant to this Agreement, combined with any payments made to the Company under the Credit Enhancement Agreement between the Town and 15 Sky View Holdings, LLC dated _____, determined on a cumulative basis, shall not exceed \$500,000, and thus as soon as the cumulative amounts of Tax Increment (Developer's Share) equal such \$500,000 amount, thereafter the Tax Increment (Developer's Share) shall equal zero (0).

"Tax Payment Date" means the date(s) on which Property Taxes levied by the Town are due and payable.

"Town" means the Town of Cumberland, Maine, a municipality duly organized and existing under the laws of the State of Maine.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

Section 1.3. Town Costs. The Developer shall pay or reimburse the Town for all reasonable out-of-pocket fees, expenses and other charges of the Town and its outside consultants, including the Town's attorneys and other consultants, in connection with the preparation, review, negotiation, approval, execution, administration, enforcement and carrying out of this Agreement. Notwithstanding any other provision of this Agreement, this section shall survive any termination of this Agreement.

ARTICLE II: DEVELOPER'S PROJECT COST ACCOUNT AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund. The Town hereby confirms the creation and establishment of a segregated fund in the name of the Town designated as "TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District Program Fund" (the "Development Program Fund") pursuant to, and in accordance with the terms and conditions of, the Development Program. The Development Program Fund shall consist, as described in the Development Program, of a Project Cost Account and a Sinking Fund. The Development Program Fund Project Cost Account shall consist of and be separated into separate sub-accounts or funds for each Credit Enhancement Agreement entered with respect to property in the District, and one of such sub-accounts shall be the Developer's Project Cost Account and a separate sub-account shall be established as the Town's Project Cost Account. The Sinking Fund, the Town's Project Cost Account and each sub-account for each Credit Enhancement Agreement entered with any person or entity other than Developer shall be the sole and exclusive property of the Town and shall not be subject in any way to the terms or provisions of this Agreement.

Section 2.2. Liens. The Town shall not create any liens, security interests or encumbrances of any nature whatsoever with respect to the Developer's Project Cost Account, other than the interest of the Developer granted under this Agreement in and to the amounts on deposit in the Developer's Project Cost Account, provided, however, nothing herein shall prohibit creation of real and personal property tax liens on the Developer's ~~Property~~ (Developer's Unit) in accordance with, and entitled to the priority provided under, Maine law and any trustee process, attachment and judgment liens and other liens obtained in accordance with applicable law.

Section 2.3. Deposits into Developer's Project Cost Account. The Town shall deposit into the Developer's Project Cost Account, within 15 days after each payment of Property Tax and other taxes described in Section 3.1 hereof during the term of this Agreement an amount equal to that portion thereof constituting the Tax Increment (Developer's Share) for the period or year to which the payment relates and shall allocate the amount so deposited to fund fully and pay the payments due to Developer under Article III of this Agreement. All interest and earnings on the Tax Increment (Developer's Share) prior to and after deposit thereof into the Developer's Project Cost Account shall be the sole property of the Town and shall be free and clear of any interest of the Developer under this Agreement.

Section 2.4. Monies Held in Trust. Subject to the terms of this Agreement, all monies required to be deposited into the Developer's Project Cost Account to fund payments to Developer under the provisions hereof and the provisions of the Development Program (excluding all interest and investment earnings thereon), shall be held by the Town, in trust, for the benefit of the Developer in accordance with the provisions of this Agreement.

Section 2.5. Investments. The monies in the Developer's Project Cost Account may be invested and reinvested in Qualified Investments as determined by the Town. The Town shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the Town shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The Town shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the Developer's Project Cost Account.

ARTICLE III: PAYMENT OBLIGATIONS

Section 3.1. Credit Enhancement Payments. (a) The term of this Agreement shall commence on the later of July 1, 2019, and shall end on the earlier of (i) March 25, 2038, or (ii) the date on which the total payments of Tax Increment (Developer's Share) by the Town to Developer, its successors or assigns, pursuant to this Agreement, combined with any payments made to the Company under the Credit Enhancement Agreement between the Town and 15 Sky View Holdings, LLC dated _____, determined on a cumulative basis, equal \$500,000, ~~determined on a cumulative basis~~. Commencing with the first Fiscal Year, the Town agrees to pay to the Developer within 30 days following each Tax Payment Date or the date payment of Property Tax is actually received by the Town with respect to Developer's Property (Developer's Unit), whichever is later, payments equal to the Tax Increment (Developer's Share) for each Fiscal Year of the Town during the term of this Agreement.

(b) Notwithstanding Section 3.1(a), the amounts payable thereunder shall be due and payable only if: (i) all real property taxes and assessments and all personal property taxes that are due and payable with respect to the Developer's Property (Developer's Unit) have been paid in full and (ii) all real property taxes and assessments and all personal property taxes that are due and payable with respect to any other real and personal property owned by the Developer, its successors and assigns, in the Town have been paid in full. If any of such property taxes are not paid when due, the property taxes actually paid by Developer, its successors and assigns shall, first, be applied to taxes due on account of Original Assessed Value (Developer's Share), second to any personal property taxes with respect to any personal property located on the Developer's Property (Developer's Unit), third, to any real property and personal property of Developer, its successors and assigns located outside of the District and, fourth, to make the deposits to the Developer's Project Cost Account. If such property taxes and assessments are not paid when due, the Town may withhold and suspend all payments under this Agreement until such property taxes and assessments and all interest thereon and other costs relating thereto are paid in full. In addition, if the Developer institutes any tax abatement proceeding with respect to any Property in the District, the Town may withhold and suspend all payments of the Tax Increment (Developer's Share) with respect to the amount of value of the items of Property subject to the abatement proceeding, and shall deposit the withheld amount into a separate interest bearing escrow account. Upon final action and completion of such abatement proceeding, the proper amount (based on the results of the abatement proceedings plus an allocable share of the interest accrued thereon) held in escrow account shall be paid to the Developer.

(c) The Developer agrees that all payments made by the Town to the Developer pursuant to this Agreement will be used and applied to either pay debt service on indebtedness incurred to finance "Project Costs" as that term is defined under Act and described in the Development Program or used to pay directly,

amortize or reimburse Developer for payment of, qualified Project Costs. The Town shall be required to make payments under this Agreement only upon receipt of satisfactory documentation that the amounts are being paid for Project Costs, which documentation shall be in the form of properly completed certificates, executed by the Developer in the form attached hereto as Schedule A.

(d) Developer covenants and agrees that in the event that title to Developer's Property (Developer's Unit) is hereafter transferred to any entity exempt from the payment of Property Taxes, including, without limitation, any charitable corporation or the State of Maine or any agency or authority thereof, then the owner of the Developer's Property (Developer's Unit), as a covenant running with the land, shall be obligated to pay to the Town each year during and after the expiration or termination of this Agreement, an amount equal to (a) 100% of the Property Taxes that would be assessed by the Town on the Developer's Property (Developer's Unit), as if and under the assumption that the Developer's Property (Developer's Unit) were fully taxable and owned in fee by Developer and not exempt from Property Taxes, less (b) solely during the term of this Agreement, the portion of the amounts described in the preceding clause (a) that would have been payable to the Developer, or its successors and assigns, under Section 3.1(a) if the Developer's Property (Developer's Unit) had remained taxable. The covenants in this paragraph shall survive expiration or termination of this Agreement.

Section 3.2. Failure to Make Payment. In the event the Town should fail to, or be unable to, make any of the payments required under the foregoing provisions of this Article III, the amount so unpaid shall continue as a limited obligation of the Town, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. Developer shall be entitled to initiate an action against the Town to specifically enforce its obligations hereunder, including without limitation the Town's obligation to establish and maintain the Developer's Project Cost Account and deposit the Tax Increment (Developer's Share) into the Developer's Project Cost Account established thereunder and make required payments to Developer.

Section 3.3. Manner of Payments. The payments provided for in this Article III shall be paid directly to the Developer in the manner provided hereinabove for the Developer's own use and benefit by check drawn on the Town.

Section 3.4. Obligations Unconditional. Except as otherwise provided in this Agreement or as required by applicable law, the obligations of the Town to make the payments described in this Agreement shall be absolute and unconditional, and the Town shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Developer, other than by reason of and to the extent provided in a final judgment by a court of competent jurisdiction or by reason of an order of Trustee Process or Attachment. The Town hereby acknowledges that the Developer has the right to enforce the contractual obligations of the Town under this Agreement and that the governmental immunity of the Town does not apply to actions to enforce its contractual obligations; provided however, that nothing herein shall constitute a waiver of the Town's tort immunity or any other governmental immunities.

Notwithstanding the foregoing, the Town reserves the right to terminate this Agreement upon receipt of a final judgment by a court of competent jurisdiction to the effect that this Agreement or the Development Program (or the designation of the District) adopted in connection herewith or any payment made thereunder or hereunder is or would be illegal or invalid or not properly authorized. In addition, the Town may setoff any amount found by the court of competent jurisdiction to be due to the Town from the Developer or from the owner of the Developer's Property (Developer's Unit). Except as provided in subsection 3.1(b) and subsection 2.3, the obligations of the Town to make payments hereunder shall be absolute and irrevocable, irrespective of any rights of set-off, recoupment or counterclaim.

The Developer agrees to defend, indemnify, pay, reimburse and hold the Town, its councilors, officers, agents and employees, harmless from any and all claims, suits, liabilities, actions, proceedings and expenses, including, without limitation, attorneys fees and expenses and accountant's fees and expenses, arising out of this Agreement, or any claim of illegality or invalidity of this Agreement or the Town's approval of this Agreement or out of the Town's preparation and participation in this Agreement except that such indemnity shall not apply to the extent any such claims or actions arise out of the Town's negligence or misconduct, or to the extent that the Town has breached any material obligations hereunder.

Section 3.5. Limited Obligation. The Town's obligations under this Agreement, including the Town's obligations of payment hereunder shall be limited obligations of the Town payable solely from the Tax Increment (Developer's Share) actually paid by the Developer with respect to Property owned by the Developer in the District and actually received by the Town and required to be deposited in the Developer's Project Cost Account in accordance with the terms of this Agreement and pledged therefor under this Agreement. The Town's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from such Tax Increment (Developer's Share) actually paid by the Developer with respect to Property in the District and actually received by the Town. This Agreement shall not directly or indirectly or contingently obligate the Town, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Developer's Project Cost Account established under this Agreement.

Section 3.6. Calculation of Retained Tax Increment. The Town and the Developer shall maintain records which are adequate to calculate the Tax Increment and the Tax Increment (Developer's Share), and shall cooperate with each other in making such calculations. Annually, within 30 days of the payment of Property Tax by Developer, the Town shall calculate the amount of Tax Increment and the Tax Increment (Developer's Share) for that year. If the Developer does not object to such calculations within 120 days of receipt thereof or of any payment of Tax Increment (Developer's Share) for such year, the calculations shall be final and binding on all parties.

Section 3.7. Revaluation. In the event there is a Town-wide revaluation of taxable property within the Town, the Original Assessed Value shall be increased in proportion to any Town-wide increase, in property values resulting from such revaluation.

Section 3.8. Payments to the Town. The Developer shall pay to the Town an annual administrative fee equal to 1/2% of the Tax Increment paid by the Town to the Developer pursuant to this Agreement in the year in question, which payment shall be made in equal installments each year in the form of a setoff on the same dates as the Tax Increment for that year is paid by the Town to the Developer.

ARTICLE IV: PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of Developer's Project Cost Account. In consideration of this Agreement and for the purpose of securing payment of the amounts provided for hereunder to the Developer by the Town, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the Town's covenants and agreements contained herein, the Town does hereby grant a security interest in and pledge to the Developer the Developer's Project Cost Account and all sums of money and other securities and investments therein. This pledge and the provisions of Section 2.4 hereof shall not apply to any interest and investment earnings on the Developer's Project Cost Account, all of which shall be the absolute property of the Town, free and clear of any interest of the Developer.

Section 4.2. Perfection of Interest. The Town shall cooperate with the Developer, if requested in writing by Developer, in causing appropriate financing statements and continuation statements naming the Developer or the holder of a first mortgage on Developer's Property (Developer's Unit) or other security interest in Developer's rights and interest hereunder, as pledgee of all such amounts from time to time on deposit in the Developer's Project Cost Account to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder. To the extent reasonably deemed necessary by the Developer, the Town will at such time and from time to time as requested by Developer establish the Developer's Project Cost Account Fund described in Section 2.3(b)(i) hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary so as to perfect Developer's interest therein on terms reasonably satisfactory to the Town.

Section 4.3. Further Instruments. The Town shall, upon the reasonable request of the Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the Town or require any payment or expense by the Town (unless paid by Developer) or discharge either party or change any provision of this Agreement.

Section 4.4. No Disposition of Developer's Project Cost Account. Except as permitted hereunder, the Town shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Developer's Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5. Access to Books and Records. All books, records and documents in the possession of the Town relating to the District, the Development Program, the Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund and the Developer's Project Cost Account shall at all reasonable times be open to inspection by the Developer and its agents. All books, records and documents of the Developer reasonably necessary to the verification of Project Costs shall at all reasonable times be open to inspection by the Town, and its agents, provided, however, that any information reasonably designated by Developer as proprietary shall be inspected, to the extent permitted by law, in a manner so as to preserve the confidential nature of such information.

ARTICLE V: DEFAULTS AND REMEDIES

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default": (a) any failure by the Town or the Developer to pay any amounts due hereunder when the same shall become due and payable except as provided in subsection (c) below; (b) any failure by the Town to make deposits into the Developer's Project Cost Account as and when due; or (c) any failure by the Town or the Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the Town or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; provided, however, that this subsection (c) shall not be construed to include Developer's failure to pay property taxes for any reason as an Event of Default hereunder.

Section 5.2. Remedies on Default. Whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party may take whatever action at law in at equity as may appear necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder or under applicable law. Developer also

has the right to exercise any rights or remedies available to a secured party under Maine law. Neither party has the right to terminate this Agreement based on an Event of Default.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Event of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Enforcement Rights. The Town and Developer agree that each party hereto shall have the right to initiate a legal proceeding to enforce the specific performance of this Agreement, it being understood and agreed that this Agreement is a material inducement to the Developer continuing its pursuit of the Project.

Section 5.5. Tax Laws. The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the Town, by entering into this Agreement, is not excusing any non-payment of taxes by Developer. Without limiting the foregoing, the Town and the Developer shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Developer's Pproperty (Developer's Unit).

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ARTICLE VI: TERM AND TERMINATION

Section 6.1. Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the performance of all obligations on the part of the Town and the Developer hereunder or upon any earlier termination as provided in this Agreement. The Town shall have the right to terminate this Agreement by written notice to the Developer in the event of any change in the use of the Developer's Property (Developer's Unit) without the prior written consent of the Town, which consent shall not be unreasonably withheld, delayed or conditioned.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the Town and the Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII: ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 7.1 Consent to Pledge and/or Assignment. The Town hereby acknowledges that it is the intent of the Developer to pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Developer to make such assignment or pledge. Recognizing this intention, the Town does hereby consent and agree to the pledge and assignment of all the Developer's right, title and interest in, to and under this Agreement (provided that such collateral assignment shall be effective only as long as the assignee holds a first mortgage on the Developer's Property (Developer's Unit)) and in, and to the payments to be made to

Developer hereunder, to a bank or other financial institution regularly engaged in making commercial loans as collateral or security for financing the Development Property, on one or more occasions during the term hereof. The Town agrees to execute and deliver any assignments, pledge assignments, consents or other confirmations on terms reasonably satisfactory to the Town (including that any pledge or secured party succeeding to Developer's rights hereunder assume in writing, in form satisfactory to the Town, the obligations of Developer under this Agreement) required by the prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledge or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.2. Other Assignments. The Developer shall also have the right and obligation to transfer and assign its rights under this Agreement to any person or entity that acquires title to the Developer's Property (Developer's Unit), provided, that (a) such owner assumes in writing, in form satisfactory to the Town, the obligations of Developer under this Agreement; and (b) prior to any such assignment, Developer shall obtain the written consent of the Town. In making any request for such written consent of the Town, the Developer shall submit such information as the Town may reasonably request relating to the identity of the proposed assignee and their plans regarding use of the Developer's Property (Developer's Unit). Such consent shall not be unreasonably withheld, delayed or conditioned. In the event that such written consent is not given, upon transfer of title to the Developer's Property (Developer's Unit), this Agreement and all rights of Developer, its successors and assigns under this Agreement shall terminate.

Section 7.3. Conditions. Notwithstanding Section 7.1 and Section 7.2, the Developer shall not have the right to transfer and assign all or any portion of its rights in, to and under this Agreement, except to the then owner of, or holder of a first mortgage on, the Developer's Property (Developer's Unit).

ARTICLE VIII: MISCELLANEOUS

Section 8.1. Successors. In the event of the dissolution of the Town or the Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Town and the Developer any right, remedy or claim under or by the reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the Town and the Developer.

Section 8.3. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal and invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability. (a) No covenant, stipulation, obligation or agreement of the Town contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the Town in his individual capacity and neither the members of the Town Council of the Town nor any official, officer, employee or agent of the

Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Developer contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future director, member, officer, agent, servant or employee of the Developer in his or her individual capacity and neither the members, directors, officers, agents, servants or employees of the Developer shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Notices. All notices, certificates, requests, requisitions or other communication by the Town or the Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the Town: Town Manager, Town of Cumberland
290 Tuttle Road
Cumberland Center, ME 04021-0128

If to the Developer: Integrative Health Center of Maine
Sean McCloy, MD
~~15~~ Skyview Drive, Unit 200
Cumberland Foreside, ME 04110

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Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8. Amendments. This Agreement may be amended only with the written consent of both of the parties hereto.

Section 8.9. Net Agreement. Subject only to the provisions of Article III and 5.2 hereof, this Agreement shall be deemed and construed to be a "net agreement," and the Town shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without abatement, deductions or setoffs.

Section 8.10. Benefit of Assignees or Pledges. The Town agrees that this Agreement is executed in part to assist the Developer in obtaining financing for the Project and accordingly all covenants and agreements on the part of the Town as to the amounts payable hereunder are hereby declared to be for the benefit of any such assignee or pledgee from time to time of the Developer's right, title and interest herein.

Section 8.11. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Town and the Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.12. Disputes. The Town and the Developer both covenant and agree that the assumptions, analyses and results set forth in this Agreement and in the Development Program shall in no way prejudice the rights of either party or be used, in any way, by either party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of property in the District.

Section 8.13. Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment, estimated amounts of the Tax Increment (Developer's Share), estimated development costs and other estimates. The Town and the Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way: (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to Developer's ~~P~~roperty (~~Developer's~~ Unit) for purposes of ad valorem property taxation or any tax abatement proceeding or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.14. Reports. The Developer agrees to file with the State of Maine Department of Economic and Community Development all annual written reports required under Maine law relating to the receipt of tax increment financing revenues, including, without limitation, those required under 5 MRSA section 13056-B. The Developer agrees to send a copy of each such report to the Town at the time of the filing thereof with DECD.

IN WITNESS WHEREOF, the Town and the Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

Town of Cumberland

By: _____
William R. Shane, P.E, Its Town Manager

Developer: Integrative Health Center of Maine, LLC

By: _____
Sean McCloy, MD, Its Medical Director

Schedule A
Request for Payment

The undersigned Integrative Health Center of Maine (the "Developer") does hereby request payment in the amount of \$_____ from the Town of Cumberland out of the Developer's Project Cost Account established under the Development Program of TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District and does hereby certify to the Town of Cumberland that the amount requested will be used to pay Project Costs as that term is defined in Chapter 206 of Title 30-A of the Maine Revised Statutes, as follows: [check applicable provisions]

☐

Direct payment of Project Costs in the amount of \$_____; and/or

☐

Reimbursement to the Developer for Project Costs previously incurred, in

the amount of \$_____

There are attached hereto invoices showing the incurring by the undersigned of Project Costs in the amount of \$_____. None of these invoices have been the subject of a previous request for payment from the Developer's Project Cost Account.

The Developer further certifies that all of such Project Costs constitute Project Costs as defined in the Credit Enhancement Agreement, dated _____, 2019 between the Town of Cumberland and the undersigned, and that the Developer has complied with all terms, conditions and covenants of such Agreement and that no default or event of default exists under said Agreement.

Developer: Integrative Health Center of Maine

By: _____
Sean McCloy, MD, Its Medical Director

Date: _____

CREDIT ENHANCEMENT AGREEMENT

THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2020, is by and between the Town of Cumberland, Maine (the "Town"), a municipal body corporate and politic and a political subdivision of the State of Maine, and 15 Sky View Holdings, LLC, a Maine limited liability company, its successors and assigns to the extent permitted under Article VII hereof (the "Company").

WITNESSETH THAT

WHEREAS, the Town designated TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Town Council held on July 23, 2007 (the "Orders") and pursuant to the same Orders adopted a development program and financial plan for the District, and the Town amended the District, development program and financial plan on January 23, 2012 by adopting the First Amendment to the Town of Cumberland TIF District #3 Municipal Development and Tax Increment Financing Development Program (the "First Amendment") (collectively the "Development Program"); and

WHEREAS, the Maine Department of Economic and Community Development reviewed and accepted the District and the Development Program by letters dated March 26, 2008 and March 28, 2012; and

WHEREAS, the Town executed a Credit Enhancement Agreement with Integrative Health Center of Maine (the "Developer") as contemplated by and described in the Development Program on August 12, 2019 pursuant to the approval of the Town Council by vote on February 25, 2019 (the "Original CEA"); and

WHEREAS, the Town executed a First Amendment to the Original CEA with the Developer on _____ pursuant to the approval of the Town Council by vote on _____, which First Amendment to the CEA and Town Council approval contemplated the assignment of a portion of the Developer's interest in the Original CEA with the Town to the Company; and

WHEREAS, the Town authorized the execution of a separate Credit Enhancement Agreement with the Company by vote of the Town Council on _____, for the purpose of assigning the portion of the Developer's interest in the Original CEA with the Town to the Company; and

WHEREAS, this Credit Enhancement Agreement sets for the terms and conditions by which the Company shall be entitled to the assignment of a portion of the Developer's interest in the Original CEA.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS; INTERPRETATIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Agreement" shall mean this Credit Enhancement Agreement between the Town and the Company.

"Company" means 15 Sky View Holdings, LLC ~~d/b/a McLeod Ascanio, CPA~~.

Commented [JA1]: McLeod Ascanio is not a dba of Sky View Holdings; it's simply a tenant.

"Company's Project Cost Account" means the Company's Project Cost Sub-Account established and maintained pursuant to Article II hereof and the Development Program that is applicable to the Developer's Property(Company's Unit) and this Credit Enhancement Agreement.

"Current Assessed Value" shall mean the assessed value of the Developer's Property (Company's Unit), as certified by the municipal assessor as of April 1st of each year of the term of this Agreement. For purposes of this Agreement, the Current Assessed Value shall specifically exclude the assessed value of any personal property now or hereafter located in the District.

"Developer" means Integrative Health Center of Maine, LLC, a Maine limited liability company, its successors and assigns.

"Developer's Property" means the real estate shown as "Commercial Lot 2" on the Fourth Amended Subdivision Plan of Cumberland Foreside Village, dated January 26, 2017 and recorded in the Cumberland County Registry of Deeds, Plan Book 217, Page 85, owned by Developer and described in the deed from Cumberland Foreside Village LLC recorded in the Cumberland County Registry of Deeds, Book 31931, Page 68, also shown as Lot 11-2 on the Town of Cumberland Tax Map R01, together with all buildings and improvements now or hereafter located thereon but excluding any personal property now or hereafter located thereon.

"Developer's Property (Company's Unit)" means Unit # 2 of the Developer's Property.

"Development Program" means the development program for the District as adopted by the Cumberland Town Council at meetings held on July 23, 2007 and January 23, 2012.

"Development Program Fund" means the development program fund described in the Financial Plan section of the Development Program.

"District" means TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District designated pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Town Council held on July 23, 2007 and January 23, 2012.

"Financial Plan" means the financial plan described in the "Financial Plan" Section of the Development Program.

"Fiscal Year" means July 1 to June 30 of each year or such other fiscal year as the Town may from time to time establish; for purposes of this Agreement, the first Fiscal Year or Fiscal Year 1 means the Fiscal Year commencing July 1, 2019 and ending June 30, 2020.

"Increased Assessed Value" means the valuation amount by which the Current Assessed Value of the Developer's Property (Company's Unit) exceeds the Original Assessed Value (Company's Share). For purposes of this Agreement, the Increased Assessed Value shall specifically exclude any tax increment on any property in the District other than Developer's Property (Company's Unit), and shall also exclude any personal property now or hereafter located in the District. If the Current Assessed Value is equal to or less than the Original Assessed Value (Company's Share) in any year, there is no Increased Assessed Value in that year.

"Original Assessed Value" means \$49,400, the assessed value of the Developer's Property as of March 31, 2007 (April 1, 2006), as set forth in the Development Program.

"Original Assessed Value (Company's Share)" means initially \$24,700, an amount equal to half of the Original Assessed Value.

"Project" means the following improvements to be constructed on Developer's Property: a new medical office to house 12 – 14 independent medical practitioners and three to four staff members.

"Project Costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 of Title 30-A of the Maine Revised Statutes and included in the Project.

"Property Taxes" means any and all ad valorem real property taxes levied, charged or assessed against the Developer's Property (Company's Unit) (but excluding personal property taxes) by the Town, or on its behalf.

"Qualified Investments" shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

"Tax Increment" means the Property Taxes assessed by the Town and paid by the Developer within the meaning of Section 3.1 of this Agreement, in excess of any state, county or special district tax, upon the Increased Assessed Value of the Developer's Property (Company's Unit), but excluding all personal property taxes and excluding real property taxes on any other real property in the District.

"Tax Increment (Company's Share)" means that portion of the Tax Increment, for each year during the term of this Agreement, solely with respect to Developer's Property (Company's Unit) (specifically excluding any tax increment on any other real property now or hereafter located in the District and specifically excluding any Tax Increment on any personal property), which are to be deposited by the Town in the Company's Project Cost Account, to the extent provided in Section 3.1(b) of this Agreement and paid to the Company pursuant to this Agreement. The Tax Increment (Company's Share) for each year of the term of this Agreement shall be calculated as follows with respect to Developer's Property (Company's Unit): First, the amount of the Tax Increment shall be determined by subtracting the real Property Tax for such year on the Original Assessed Value (Company's Share) from the total real Property Tax for such year on the Current Assessed Value for such year; Second, 0.50 shall be multiplied by the Tax Increment, and the product thereof shall constitute the Tax Increment (Company's Share) for such year. Notwithstanding the foregoing, the total payments by the Town to the Company pursuant to this Agreement, , combined with any payments made to the Developer under the Amendment to the Credit Enhancement Agreement between the Town and Integrative Health Center of Maine, LLC, dated _____, determined on a cumulative basis, shall not exceed \$500,000, and thus as soon as the cumulative amounts of Tax Increment (Company's Share) equal such \$500,000 amount, thereafter the Tax Increment (Company's Share) shall equal zero (0).

"Tax Payment Date" means the date(s) on which Property Taxes levied by the Town are due and payable.

"Town" means the Town of Cumberland, Maine, a municipality duly organized and existing under the laws of the State of Maine.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

Section 1.3. Town Costs. The Company shall pay or reimburse the Town for all reasonable out-of-pocket fees, expenses and other charges of the Town and its outside consultants, including the Town's attorneys and other consultants, in connection with the preparation, review, negotiation, approval, execution, administration, enforcement and carrying out of this Agreement. Notwithstanding any other provision of this Agreement, this section shall survive any termination of this Agreement.

ARTICLE II: COMPANY'S PROJECT COST ACCOUNT AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund. The Town hereby confirms the creation and establishment of a segregated fund in the name of the Town designated as "TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District Program Fund" (the "Development Program Fund") pursuant to, and in accordance with the terms and conditions of, the Development Program. The Development Program Fund shall consist, as described in the Development Program, of a Project Cost Account and a Sinking Fund. The Development Program Fund Project Cost Account shall consist of and be separated into separate sub-accounts or funds for each Credit Enhancement Agreement entered with respect to property in the District, and one of such sub-accounts shall be the Company's Project Cost Account and a separate sub-account shall be established as the Town's Project Cost Account. The Sinking Fund, the Town's Project Cost Account and each sub-account for each Credit Enhancement Agreement entered with any person or entity other than Company shall be the sole and exclusive property of the Town and shall not be subject in any way to the terms or provisions of this Agreement.

Section 2.2. Liens. The Town shall not create any liens, security interests or encumbrances of any nature whatsoever with respect to the Company's Project Cost Account, other than the interest of the Company granted under this Agreement in and to the amounts on deposit in the Company's Project Cost Account, provided, however, nothing herein shall prohibit creation of real and personal property tax liens on the Company's property in accordance with, and entitled to the priority provided under, Maine law and any trustee process, attachment and judgment liens and other liens obtained in accordance with applicable law.

Section 2.3. Deposits into Company's Project Cost Account. The Town shall deposit into the Company's Project Cost Account, within 15 days after each payment of Property Tax and other taxes described in Section 3.1 hereof during the term of this Agreement an amount equal to that portion thereof constituting the Tax Increment (Company's Share) for the period or year to which the payment relates and shall allocate the amount so deposited to fund fully and pay the payments due to Company under Article

III of this Agreement. All interest and earnings on the Tax Increment (Company's Share) prior to and after deposit thereof into the Company's Project Cost Account shall be the sole property of the Town and shall be free and clear of any interest of the Company under this Agreement.

Section 2.4. Monies Held in Trust. Subject to the terms of this Agreement, all monies required to be deposited into the Company's Project Cost Account to fund payments to Company under the provisions hereof and the provisions of the Development Program (excluding all interest and investment earnings thereon), shall be held by the Town, in trust, for the benefit of the Company in accordance with the provisions of this Agreement.

Section 2.5. Investments. The monies in the Company's Project Cost Account may be invested and reinvested in Qualified Investments as determined by the Town. The Town shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the Town shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The Town shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the Company's Project Cost Account.

ARTICLE III: PAYMENT OBLIGATIONS

Section 3.1. Credit Enhancement Payments. (a) The term of this Agreement shall commence on the later of _____, and shall end on the earlier of (i) March 25, 2038, or (ii) the date on which the total payments of Tax Increment (Company's Share) by the Town to Company, its successors or assigns, pursuant to this Agreement, combined with any payments made to the Developer under the Amendment to the Credit Enhancement Agreement between the Town and Integrative Health Center of Maine, LLC, dated _____, determined on a cumulative basis, equal \$500,000. Commencing with the first Fiscal Year, the Town agrees to pay to the Company within 30 days following each Tax Payment Date or the date payment of Property Tax is actually received by the Town with respect to Developer's Property (Company's Unit), whichever is later, payments equal to the Tax Increment (Company's Share) for each Fiscal Year of the Town during the term of this Agreement.

(b) Notwithstanding Section 3.1(a), the amounts payable thereunder shall be due and payable only if: (i) all real property taxes and assessments and all personal property taxes that are due and payable with respect to the Developer's Property (Company's Unit) have been paid in full and (ii) all real property taxes and assessments and all personal property taxes that are due and payable with respect to any other real and personal property owned by the Company, its successors and assigns, in the Town have been paid in full. If any of such property taxes are not paid when due, the property taxes actually paid by Company, its successors and assigns shall, first, be applied to taxes due on account of Original Assessed Value (Company's Share), second to any personal property taxes with respect to any personal property located on the Developer's Property (Company's Unit), third, to any real property and personal property of Company, its successors and assigns located outside of the District and, fourth, to make the deposits to the Company's Project Cost Account. If such property taxes and assessments are not paid when due, the Town may withhold and suspend all payments under this Agreement until such property taxes and assessments and all interest thereon and other costs relating thereto are paid in full. In addition, if the Company institutes any tax abatement proceeding with respect to any Property in the District, the Town may withhold and suspend all payments of the Tax Increment (Company's Share) with respect to the amount of value of the items of Property subject to the abatement proceeding, and shall deposit the withheld amount into a separate interest bearing escrow account. Upon final action and completion of such abatement proceeding, the proper amount (based on the results of the abatement proceedings plus an allocable share of the interest accrued thereon) held in escrow account shall be paid to the Company.

(c) The Company agrees that all payments made by the Town to the Company pursuant to this Agreement will be used and applied to either pay debt service on indebtedness incurred to finance "Project Costs" as that term is defined under Act and described in the Development Program or used to pay directly, amortize or reimburse Company for payment of, qualified Project Costs. The Town shall be required to make payments under this Agreement only upon receipt of satisfactory documentation that the amounts are being paid for Project Costs, which documentation shall be in the form of properly completed certificates, executed by the Company in the form attached hereto as Schedule A.

(d) Company covenants and agrees that in the event that title to Developer's Property (Company's Unit) is hereafter transferred to any entity exempt from the payment of Property Taxes, including, without limitation, any charitable corporation or the State of Maine or any agency or authority thereof, then the owner of the Developer's Property (Company's Unit), as a covenant running with the land, shall be obligated to pay to the Town each year during and after the expiration or termination of this Agreement, an amount equal to (a) 100% of the Property Taxes that would be assessed by the Town on the Developer's Property (Company's Unit), as if and under the assumption that the Developer's Property (Company's Unit) were fully taxable and owned in fee by Company and not exempt from Property Taxes, less (b) solely during the term of this Agreement, the portion of the amounts described in the preceding clause (a) that would have been payable to the Company, or its successors and assigns, under Section 3.1(a) if the Developer's Property (Company's Unit) had remained taxable. The covenants in this paragraph shall survive expiration or termination of this Agreement.

Section 3.2. Failure to Make Payment. In the event the Town should fail to, or be unable to, make any of the payments required under the foregoing provisions of this Article III, the amount so unpaid shall continue as a limited obligation of the Town, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. Company shall be entitled to initiate an action against the Town to specifically enforce its obligations hereunder, including without limitation the Town's obligation to establish and maintain the Company's Project Cost Account and deposit the Tax Increment (Company's Share) into the Company's Project Cost Account established thereunder and make required payments to Company.

Section 3.3. Manner of Payments. The payments provided for in this Article III shall be paid directly to the Company in the manner provided hereinabove for the Company's own use and benefit by check drawn on the Town.

Section 3.4. Obligations Unconditional. Except as otherwise provided in this Agreement or as required by applicable law, the obligations of the Town to make the payments described in this Agreement shall be absolute and unconditional, and the Town shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Company, other than by reason of and to the extent provided in a final judgment by a court of competent jurisdiction or by reason of an order of Trustee Process or Attachment. The Town hereby acknowledges that the Company has the right to enforce the contractual obligations of the Town under this Agreement and that the governmental immunity of the Town does not apply to actions to enforce its contractual obligations; provided however, that nothing herein shall constitute a waiver of the Town's tort immunity or any other governmental immunities.

Notwithstanding the foregoing, the Town reserves the right to terminate this Agreement upon receipt of a final judgment by a court of competent jurisdiction to the effect that this Agreement or the Development Program (or the designation of the District) adopted in connection herewith or any payment made thereunder or hereunder is or would be illegal or invalid or not properly authorized. In addition, the Town may setoff any amount found by the court of competent jurisdiction to be due to the Town from the Company or from the owner of the Developer's Property (Company's Unit). Except as provided in

subsection 3.1(b) and subsection 2.3, the obligations of the Town to make payments hereunder shall be absolute and irrevocable, irrespective of any rights of set-off, recoupment or counterclaim.

The Company agrees to defend, indemnify, pay, reimburse and hold the Town, its councilors, officers, agents and employees, harmless from any and all claims, suits, liabilities, actions, proceedings and expenses, including, without limitation, attorneys fees and expenses and accountant's fees and expenses, arising out of this Agreement, or any claim of illegality or invalidity of this Agreement or the Town's approval of this Agreement or out of the Town's preparation and participation in this Agreement except that such indemnity shall not apply to the extent any such claims or actions arise out of the Town's negligence or misconduct, or to the extent that the Town has breached any material obligations hereunder.

Section 3.5. Limited Obligation. The Town's obligations under this Agreement, including the Town's obligations of payment hereunder shall be limited obligations of the Town payable solely from the Tax Increment (Company's Share) actually paid by the Company with respect to Property owned by the Company in the District and actually received by the Town and required to be deposited in the Company's Project Cost Account in accordance with the terms of this Agreement and pledged therefor under this Agreement. The Town's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from such Tax Increment (Company's Share) actually paid by the Company with respect to Property in the District and actually received by the Town. This Agreement shall not directly or indirectly or contingently obligate the Town, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Company's Project Cost Account established under this Agreement.

Section 3.6. Calculation of Retained Tax Increment. The Town and the Company shall maintain records which are adequate to calculate the Tax Increment and the Tax Increment (Company's Share), and shall cooperate with each other in making such calculations. Annually, within 30 days of the payment of Property Tax by Company, the Town shall calculate the amount of Tax Increment and the Tax Increment (Company's Share) for that year. If the Company does not object to such calculations within 120 days of receipt thereof or of any payment of Tax Increment (Company's Share) for such year, the calculations shall be final and binding on all parties.

Section 3.7. Revaluation. In the event there is a Town-wide revaluation of taxable property within the Town, the Original Assessed Value shall be increased in proportion to any Town-wide increase, in property values resulting from such revaluation.

Section 3.8. Payments to the Town. The Company shall pay to the Town an annual administrative fee equal to 1/2% of the Tax Increment paid by the Town to the Company pursuant to this Agreement in the year in question, which payment shall be made in equal installments each year in the form of a setoff on the same dates as the Tax Increment for that year is paid by the Town to the Company.

ARTICLE IV: PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of Company's Project Cost Account. In consideration of this Agreement and for the purpose of securing payment of the amounts provided for hereunder to the Company by the Town, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the Town's covenants and agreements contained herein, the Town does hereby grant a security interest in and pledge to the Company the Company's Project Cost Account and all sums of money and other securities and investments therein. This pledge and the provisions of Section 2.4 hereof shall not

apply to any interest and investment earnings on the Company's Project Cost Account, all of which shall be the absolute property of the Town, free and clear of any interest of the Company.

Section 4.2. Perfection of Interest. The Town shall cooperate with the Company, if requested in writing by Company, in causing appropriate financing statements and continuation statements naming the Company or the holder of a first mortgage on Developer's Property (Company's Unit) or other security interest in Company's rights and interest hereunder, as pledgee of all such amounts from time to time on deposit in the Company's Project Cost Account to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder. To the extent reasonably deemed necessary by the Company, the Town will at such time and from time to time as requested by Company establish the Company's Project Cost Account Fund described in Section 2.3(b)(i) hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary so as to perfect Company's interest therein on terms reasonably satisfactory to the Town.

Section 4.3. Further Instruments. The Town shall, upon the reasonable request of the Company, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the Town or require any payment or expense by the Town (unless paid by Company) or discharge either party or change any provision of this Agreement.

Section 4.4. No Disposition of Company's Project Cost Account. Except as permitted hereunder, the Town shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Company's Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5. Access to Books and Records. All books, records and documents in the possession of the Town relating to the District, the Development Program, the Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund and the Company's Project Cost Account shall at all reasonable times be open to inspection by the Company and its agents. All books, records and documents of the Company reasonably necessary to the verification of Project Costs shall at all reasonable times be open to inspection by the Town, and its agents, provided, however, that any information reasonably designated by Company as proprietary shall be inspected, to the extent permitted by law, in a manner so as to preserve the confidential nature of such information.

ARTICLE V: DEFAULTS AND REMEDIES

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default": (a) any failure by the Town or the Company to pay any amounts due hereunder when the same shall become due and payable except as provided in subsection (c) below; (b) any failure by the Town to make deposits into the Company's Project Cost Account as and when due; or (c) any failure by the Town or the Company to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the Town or Company to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; provided, however, that this subsection (c) shall not be construed to include Company's failure to pay property taxes for any reason as an Event of Default hereunder.

Section 5.2. Remedies on Default. Whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party may take whatever action at law in at equity as may appear necessary or desirable to collect the amount then due and thereafter to become due,

to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder or under applicable law. Company also has the right to exercise any rights or remedies available to a secured party under Maine law. Neither party has the right to terminate this Agreement based on an Event of Default.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Event of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Enforcement Rights. The Town and Company agree that each party hereto shall have the right to initiate a legal proceeding to enforce the specific performance of this Agreement, it being understood and agreed that this Agreement is a material inducement to the Company continuing its pursuit of the Project.

Section 5.5. Tax Laws. The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the Town, by entering into this Agreement, is not excusing any non-payment of taxes by Company. Without limiting the foregoing, the Town and the Company shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Developer's Property (Company's Unit).

ARTICLE VI: TERM AND TERMINATION

Section 6.1. Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the performance of all obligations on the part of the Town and the Company hereunder or upon any earlier termination as provided in this Agreement. The Town shall have the right to terminate this Agreement by written notice to the Company in the event of any change in the use of the Developer's Property (Company's Unit) without the prior written consent of the Town, which consent shall not be unreasonably withheld, delayed or conditioned.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the Town and the Company shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII: ASSIGNMENT AND PLEDGE OF COMPANY'S INTEREST

Section 7.1 Consent to Pledge and/or Assignment. The Town hereby acknowledges that it is the intent of the Company to pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Company to make such assignment or pledge. Recognizing this intention, the Town does hereby consent and agree to the pledge and assignment of all the Company's right, title and interest in, to and under this Agreement

(provided that such collateral assignment shall be effective only as long as the assignee holds a first mortgage on the Developer's Property (Company's Unit)) and in, and to the payments to be made to Company hereunder, to a bank or other financial institution regularly engaged in making commercial loans as collateral or security for financing the Development Property, on one or more occasions during the term hereof. The Town agrees to execute and deliver any assignments, pledge assignments, consents or other confirmations on terms reasonably satisfactory to the Town (including that any pledge or secured party succeeding to Company's rights hereunder assume in writing, in form satisfactory to the Town, the obligations of Company under this Agreement) required by the prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledge or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.2. Other Assignments. The Company shall also have the right and obligation to transfer and assign its rights under this Agreement to any person or entity that acquires title to the Developer's Property (Company's Unit), provided, that (a) such owner assumes in writing, in form satisfactory to the Town, the obligations of Company under this Agreement; and (b) prior to any such assignment, Company shall obtain the written consent of the Town. In making any request for such written consent of the Town, the Company shall submit such information as the Town may reasonably request relating to the identity of the proposed assignee and their plans regarding use of the Developer's Property (Company's Unit). Such consent shall not be unreasonably withheld, delayed or conditioned. In the event that such written consent is not given, upon transfer of title to the Developer's Property (Company's Unit), this Agreement and all rights of Company, its successors and assigns under this Agreement shall terminate.

Section 7.3. Conditions. Notwithstanding Section 7.1 and Section 7.2, the Company shall not have the right to transfer and assign all or any portion of its rights in, to and under this Agreement, except to the then owner of, or holder of a first mortgage on, the Developer's Property (Company's Unit).

ARTICLE VIII: MISCELLANEOUS

Section 8.1. Successors. In the event of the dissolution of the Town or the Company, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Town and the Company any right, remedy or claim under or by the reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the Town and the Company.

Section 8.3. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal and invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability. (a) No covenant, stipulation, obligation or agreement of the Town contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the Town in his individual capacity and

neither the members of the Town Council of the Town nor any official, officer, employee or agent of the Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Company contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future director, member, officer, agent, servant or employee of the Company in his or her individual capacity and neither the members, directors, officers, agents, servants or employees of the Company shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Notices. All notices, certificates, requests, requisitions or other communication by the Town or the Company pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the Town: Town Manager, Town of Cumberland
290 Tuttle Road
Cumberland Center, ME 04021-0128

If to the Company: 15 Sky View Holdings, LLC
c/o James Ascanio
Managing Principal
15 Sky View Drive, Suite 101
Cumberland Foreside, ME 04110

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8. Amendments. This Agreement may be amended only with the written consent of both of the parties hereto.

Section 8.9. Net Agreement. Subject only to the provisions of Article III and 5.2 hereof, this Agreement shall be deemed and construed to be a "net agreement," and the Town shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without abatement, deductions or setoffs.

Section 8.10. Benefit of Assignees or Pledges. The Town agrees that this Agreement is executed in part to assist the Company in obtaining financing for the Project and accordingly all covenants and agreements on the part of the Town as to the amounts payable hereunder are hereby declared to be for the benefit of any such assignee or pledgee from time to time of the Company's right, title and interest herein.

Section 8.11. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Town and the Company relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.12. Disputes. The Town and the Company both covenant and agree that the assumptions, analyses and results set forth in this Agreement and in the Development Program shall in no way prejudice the rights of either party or be used, in any way, by either party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of property in the District.

Section 8.13. Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment, estimated amounts of the Tax Increment (Company's Share), estimated development costs and other estimates. The Town and the Company hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way: (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to Developer's Property (Company's Unit) for purposes of ad valorem property taxation or any tax abatement proceeding or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.14. Reports. The Company agrees to file with the State of Maine Department of Economic and Community Development all annual written reports required under Maine law relating to the receipt of tax increment financing revenues, including, without limitation, those required under 5 MRSA section 13056-B. The Company agrees to send a copy of each such report to the Town at the time of the filing thereof with DECD.

IN WITNESS WHEREOF, the Town and the Company have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

Town of Cumberland

By: _____
William R. Shane, P.E, Its Town Manager

LLC

Company: ~~844 Stevens Avenue~~ 15 Sky View Holdings,

By: _____
James Ascanio, Its Member

Schedule A
Request for Payment

The undersigned 844 Stevens Avenue, LLC (the "Company") does hereby request payment in the amount of \$_____ from the Town of Cumberland out of the Company's Project Cost Account established under the Development Program of TIF District #3, the Cumberland Foreside Village Municipal Development and Tax Increment Financing District and does hereby certify to the Town of Cumberland that the amount requested will be used to pay Project Costs as that term is defined in Chapter 206 of Title 30-A of the Maine Revised Statutes, as follows: [check applicable provisions]

☐

Direct payment of Project Costs in the amount of \$_____; and/or

☐

Reimbursement to the Company for Project Costs previously incurred, in

the amount of \$_____

There are attached hereto invoices showing the incurring by the undersigned of Project Costs in the amount of \$_____. None of these invoices have been the subject of a previous request for payment from the Company's Project Cost Account.

The Company further certifies that all of such Project Costs constitute Project Costs as defined in the Credit Enhancement Agreement, dated _____, 2020 between the Town of Cumberland and the undersigned, and that the Company has complied with all terms, conditions and covenants of such Agreement and that no default or event of default exists under said Agreement.

Company: 844 Stevens Avenue, LLC

By: _____
James Ascanio, Its _____

Date: _____