

**Planning Board Meeting Minutes
Tuesday November 17, 2009
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine
7:00 p.m.**

A. *Call to Order*

The meeting was called to order at 7:00 p.m.

B. *Roll Call*

Present: Bill Ward, Board Chair, Bill Richards, Vice-Chair, Bob Couillard, Chris Neagle, Pam Russell, Bob Vail

Absent: John Ferland

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

C. *Approval of Minutes of October 20, 2009*

Mr. Richards moved to approve the minutes of October 20, 2009.

Mr. Couillard seconded.

VOTE: 5 in favor (Richards,
Couillard, Ward, Neagle, Vail)
1 abstain (Russell)

D. *Consent Calendar / De minimus Change Approvals:*

There were no Consent Calendar items.

E. *Hearings and Presentations:*

1. *Public Hearing: Subdivision Amendment for Castle Rock Subdivision to grant a .51 acre easement to Portland Water District for a pumping station.* Tax Assessor Map R07C, Lot 1A, Lots 1-9.

Ms. Nixon presented background information as follows: This request is for a revision to the Castle Rock subdivision plan to include a .51 acre easement to the Portland Water District for the placement of a future water pumping station. This pump station is required to complete the loop of the new water line that will be installed in that area over the next few years.

The easement area is within a designated open space area. The Town Attorney, Natalie Burns has been consulted to ensure that this proposal is acceptable and she has assured that it is. A copy of the easement deed and a map indicating the proposed easement

location are included in your packets. While there are no elevation drawings of the structure at this time, Bill Shane has described it as being a 24' x 36' one-story building with a gable roof and clapboard siding designed to blend into the surrounding area.

Mr. Shane, Town Manager stated this pumping station will pump water back to the Fairgrounds and complete the loop from Route 100, Blanchard, and Range Roads. When the building is built the Portland Water District will come back to the Planning Board for site plan review. The building will look like a garage.

Mr. Couillard asked if this is going to replace the pumping station on Blanchard Road.

Mr. Shane stated yes, this will be a permanent structure.

Mr. Couillard stated a 24 x 36 building is a large building.

Mr. Shane stated it is, it will have a dual or tri-pump station with a generator, and will be roughly the same size as a garage.

Mr. Couillard stated on top of knoll it will be fully visible, and asked if there were any thoughts to moving the building to the left of the road up the hill where it could be hidden by trees.

Mr. Shane stated the location of the building can be tweaked at site plan review and there will be a landscape plan for buffering. This request is for the location of the easement. It will be approximately 3 - 5 years before the building is built.

Ms. Nixon asked for clarification was Mr. Couillard asking them to shift the entire easement to the left.

Mr. Shane stated the pump station needs to be close to the road; the trees on the site plan may be on private property.

Mr. Vail asked if there were any plans for a tower.

Mr. Shane stated he didn't think so; the District has no capital plans for the next five years.

Mr. Neagle clarified that the request is to approve a .51 acre easement to Portland Water District for a future pumping station. This request is to amend the subdivision plan and the building will return to the Board for site plan review.

Mr. Shane stated yes, this is a change to the open space parcel.

Ms. Nixon stated she consulted with Natalie Burns, Esq., town attorney and this would be an acceptable use of the open space.

The Board reviewed Section 406 of the Zoning Ordinance referencing open space for residential subdivisions.

Mr. Neagle stated he was comfortable that the easement wouldn't violate the Ordinance and that the Water District will come back for Site Plan Review.

Ms. Russell stated if 3-5 mature plantings were planted prior to site plan review they would have a chance to mature. The Route 100 guidelines require people to connect to public water, so this is a need.

The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.

Mr. Vail moved to approve the subdivision amendment to Castlerock Subdivision to grant a .51 acre easement to Portland Water District for a pumping station as shown on the projected plan Exhibit B drawn by Oak Engineers, dated November 6, 2009.

Mr. Richards seconded.

VOTE: Unanimous

2. Public Hearing: To recommend to the Town Council draft zoning amendments to Section 414.1 of the zoning ordinance: RE: Home Occupations to allow certain ones to be approved by the Code Enforcement Officer not the Board of Adjustment and Appeals and to require Notice of Decisions and appeals to abutters within 300'.

Ms. Nixon stated this request is from Bill Longley, Code Enforcement Officer and Bill Shane, Town Manager to allow home occupations with little or no impact to be approved by the Code Officer and not the Board of Adjustment and Appeals. There was also a concern that currently there is no way to track home occupations.

Mr. Shane, Town Manager stated that the previous ordinance change made the process too simple; if people met eight criteria there was no process to inform neighbors. This amendment will add public notice to the process. The applicant will meet with the Code Enforcement Officer who will issue a "change of use" permit if the criteria are met. At issuance of the permit the Code Officer will send out a notice to homeowners' within 300 feet of the property, three-hundred feet is consistent with our Ordinances. If an abutter had concerns they would be an opportunity to appeal the Code Officer's decision.

Mr. Vail stated there is an appeal process for abutters, is there an appeal process for an applicant who is denied the permit?

Mr. Shane stated if an applicant is denied it would be the same appeal process. If the applicant was denied at the administrative level he has the right to go to the Board of Appeals.

Mr. Neagle stated he thought this was a great idea.

The public portion of the meeting was opened.

Ms. Susan Bisbing of 2 Spruce Lane thanked Mr. Shane for his work on this; it will be helpful to neighborhoods. Ms. Bisbing asked on the notification to the abutters is there any indication that the town does not have jurisdiction or does not review homeowners' association or deed restrictions. As a homeowner when a home occupation entered their street they were notified as normal, but assumed the Town not only reviews Ordinances and State Statutes but also reviewed the deed for any restrictions. Now that I understand that isn't done, it would be helpful to residents to have that happen.

Mr. Neagle stated that is an excellent point, a person might meet the town ordinances but there may be a home owners' association document or deed which might restrict a business at that location. If the Town issues a permit where there is a deed restriction a homeowner could take someone to court which is expensive and cumbersome. He might suggest adding an additional standard that *the home occupation does not violate any private deed restrictions*. An applicant might not disclose this, and the town can't be expected to spend its resources doing title searches.

Mr. Shane stated this was an education for all of us. The town does not enforce deed covenants and we don't get into review of homeowners' covenants at the Code office level.

Mr. Richards asked what would be objectionable.

Ms. Bisbing stated there is a deed restriction on a particular property which states there will be no other use of the property other than residential. She stated if this type of review could be added she would be thrilled and if not at least abutters could be notified that this level of review has not happened.

Mr. Richards asked if the deed would supersede local ordinance.

Mr. Neagle stated it wouldn't supersede it, to do something you can't violate anyone's rights, whether it is the Town's rights to regulate your property or your neighbor's right to enforce a neighborhood restriction, or whether state or federal laws. When someone comes in for a project we require proof of right title and interest to the property. He would be in favor of the Town having a forum to discuss these issues.

Mr. Vail stated in his neighborhood there is a restriction that homes can be single-family only; a neighbor had an elderly father-in-law and went to the Board of Appeals and received approval for an accessory apartment. The neighbors were not concerned about the father-in-law but potential for future rental of the property. This is a good solution.

Mr. Couillard stated he would like the responsibility to verify there are no violations on the applicant and not the Town.

Mr. Neagle agreed this would be an item the applicant would need to provide. He is not suggesting that the Town do any legal work.

Mr. Shane stated he likes the proposed language it may get tweaked at the Council level to include language that the burden is on the homeowner; this will allow for a more fair option to abutters.

Ms. Russell asked why this will change notice from 1,000 feet to 300 feet notification.

Mr. Shane stated the 300 feet is consistent with the Ordinance.

Ms. Bisbing asked about the timing of the notification, and would prefer the abutters be notified prior to the decision being made.

The public portion of the meeting was closed.

Mr. Neagle moved to recommend to the Town Council the draft amendment to Section 414.1 with the addition of a new standard # 9 that says there is no violation of any private deed restrictions affecting the use of the lot.

Mr. Couillard seconded; and requested that the burden be on the applicant to prove there are no violations.

Mr. Neagle stated the burden is on the applicant to show compliance with all conditions.

Mr. Couillard voiced concern in the future of the burden on the Town to do the research.

Mr. Neagle stated the general law requires the applicant to provide compliance with the Ordinance.

Ms. Nixon stated she too thought the notice should be mailed out prior to the decision. She asked what the time limit for appealing the decision is...for example if an abutter is out of the country and doesn't get the notice until later on.

Mr. Neagle stated the appeal period is thirty days, if you are out of the country you will probably miss the time frame. He feels it would be a mistake to issue notice before the permit is issued it may result in a mini Board of Appeals procedure to the Code Office. To address the issue Mr. Neagle recommended to add language to Section 414.31 (Notice will be mailed to property owners within two business days of the permit being issued.) Mr. Neagle amended his motion to read: To recommend to the Town Council the draft amendments to Section 414.1 with the addition of a new standard # 9 that says *there be no violation of any private deed restrictions affecting the use of the lot.* And to add to Section 414.31: Applications for home occupations and home based occupations 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 feet from the

property boundary line. Notice will be mailed to property owners within two business days of the permit being issued.

Mr. Vail seconded the amended motion.

VOTE: Unanimous

Sec. 414 Home Occupations and Home-Based Occupations

414.1 Any home occupation or home based occupation may be approved as a ~~special exception by the Board of Adjustment and Appeals if:~~

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. Home occupations that cannot comply with the requirements listed below shall be required to apply to the Board of Adjustment and Appeals for a special exception.

The Code Enforcement Officer will issue a Change of Use Permit for Home Occupation and Home -Based Occupation applications that meet the criteria listed below.

- .1 The occupation is owned or operated by a member of the family residing within the dwelling unit, and;
- .2 In the case of a home occupation, no more than two employees who are not members of the family are employed in the occupation, and;
- .3 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, and;
- .4 Objectionable or unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond the property limits, and;
- .5 No traffic in substantially greater volumes than would be normally expected in the neighborhood will be generated, and;
- .6 Off-street parking spaces are provided in an amount to be determined by the ~~Board~~ Code Enforcement Officer to avoid street congestion, and;
- .7 Exterior displays, exterior storage of materials, and exterior indications of the home occupation or home-based occupation, including signs, are inconspicuous.
- .8 The existence of the home occupation or home-based occupation does not pose any potential threat to public health, safety, or welfare.
- .9 There be no violation of any private deed restrictions affecting the use of the lot.

~~A home occupation or home based occupation does not require approval as a special exception if the seven (7) conditions above are met and it does not result in any exterior indications (including, without limitation, any visual, sound, odor, or traffic indications outside of the dwelling or accessory structure) of the existence of the home occupation or home based occupation, and does not pose any potential threat to public health, safety, or welfare. [Amended 6/26/06, effective 6/26/06]~~

414.2 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.

414.31 Applications for home occupations and home-based occupations 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 feet from the property boundary line. Notice will be mailed to property owners within two business days of the permit being issued.

414.3.2 Any appeal of the Code Enforcement Officer's decision must comply with Sections 603.3 through 603.6 of the Zoning Ordinance. Notice of the hearing on the appeal shall be mailed to property owners within 300 feet from the property line.

3. Public Hearing: To recommend to the Town Council draft zoning amendments to Section 410.1 of the Zoning Ordinance - Extraction of Earth

Materials. After 5 consecutive annual permits have been issued with no complaints a 5-year permit may be applied for.

Ms. Nixon suggested the correction of the language to read "After the issuance of five (5) consecutive Annual Renewable Special Permits: the Applicant can apply for a 5-year permit as long as all standards are met; and there have been no complaints or verified violations. A verified complaint or violation of standards may require review or reconsideration. This provision shall apply retroactively from amended date [amended, effective].

Mr. Shane stated this process applies only to the town's gravel pit license. This is a rubber stamp process and the zoning board has asked to change the process. As long as the town is abiding by good management practices, we would come back every five years instead of every year.

Ms. Russell asked what would happen if a five year permit were issued and in two years there was an issue of complaint.

Mr. Shane stated it would go back to the Board of Appeals. The Town basically takes gravel out for town projects.

Mr. Richards asked why five years.

Mr. Shane stated the Board of Appeals picked a number.

The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.

Mr. Neagle moved to recommend to the Town Council draft amendments to Section 410.1 of the Zoning Ordinance with the change of the word and to with as suggested by the Town Planner.

Mr. “After the issuance of five (5) consecutive Annual Renewable Special Permits: the Applicant can apply for a 5-year permit as long as all standards are met; and there have been no complaints or verified violations. A verified complaint or violation of standards may require review or reconsideration. This provision shall apply retroactively from amended date [amended, effective].

Richards seconded.

VOTE: Unanimous

4. Public Hearing: To recommend to the Town Council draft zoning amendments to the Zoning Ordinance Section 402.3 (Animals).

The minimum lot size shall be two (2) acres ~~three acres~~ in all ~~MDR and LDR~~ districts.

Ms. Nixon stated the thought from Council was you should be able to have chickens on less than three acres.

Mr. Ward stated a piggery within 100’ of a property line caught his attention.

Mr. Richards stated he remembers the free range poultry debate; he too has an issue with two acres with llamas and piggeries. He remembers driving down Route 9 into Falmouth when there was a piggery on the right, and the new in thing is to have a llama of two, he will support this if there is a consensus.

Ms. Russell asked if this request was based on chickens.

Ms. Nixon stated this request initiated at the Council level, and Mr. Shane is present to answer questions.

Mr. Shane stated the town doesn’t have three acre zoning we have 4, 2 and 1 acre. The language read the minimum shall be 3 acres in the MDR and LDR district; what happens in the RR1 and RR2 districts. There are a lot of subdivisions in the RR1 and RR2 that don’t have 2-acres. This would exclude a large number of subdivision lots.

Ms. Russell stated in her neighborhood she has deed restrictions to prevent her from keeping large animals such as a horse. Do we want to add that?

Mr. Neagle stated the same rules apply, it is not appropriate here because someone is not applying for a permit. Mr. Neagle stated the Council has discussed this and they are the policy makers, he is all set.

The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.

Mr. Neagle moved to recommend to the Town Council the adoption of draft amendments to Section 402.3 of the Zoning Ordinance (The minimum lot size shall be two (2) acres ~~three acres~~ in all ~~MDR and LDR~~ districts.)

Mr. Vail seconded.

VOTE: 5 in favor (Neagle, Russell,
Ward, Vail, Couillard)
1 opposed (Richards)

5. Public Hearing: To recommend to the Town Council draft zoning amendments to repeal and replace Section 424 of the Zoning Ordinance re: signs.

Ms. Nixon presented background information as follows: This is a public hearing to consider repealing and replacing the entire sign ordinance section. The Board held a workshop on these proposed changes. Ms. Nixon highlighted the major changes as follows:

- Definitions have been added
- Sections have been moved to be consistent with content
- Temporary signs are allowed for 14 days or less (not 60 days)
- Internally illuminated signs shall not be allowed in any zones.

Ms. Nixon stated this is important because further in Section 424.3.1 it reads *all other illuminated signs may only be lighted during the daylight hours or those hours during which the premises may be opened to the public*. The next sentence says *there shall be no internally illuminated signs shall be permitted in any district*. The Board needs to have a discussion as to whether they want internally illuminated signs in the Town of Cumberland.

Mr. Vail stated the high school sign is illuminated.

Ms. Nixon stated there have been some complaints about the school sign.

Ms. Russell stated the school has been turning the sign off at night.

Mr. Neagle stated Ms. Nixon did a great job writing the changes discussed. He likes the idea of signs illuminated in the commercial and industrial districts. Mr. Neagle thanked Ms. Nixon for doing a good job. However, personally he has no problem with internally illuminated signs and prefers them to externally illuminated signs. There can be some really nice looking internally illuminated signs. He will support everything with the exception of no internally illuminated signs unless someone can convince him that they are a problem.

Mr. Ward stated he recalled Mr. Neagle's position in the workshop.

Mr. Richards asked if there had been a problem with internally illuminated signs; why is this an issue?

Mr. Shane, Town Manager stated hopefully the Town will be doing a lot of commercial business over the next few years, and it is in preparation for our staff to be in step with what the Planning Board would like to see. It is his understanding that the Planning

Board will now begin reviewing signs, it previously was a review of the Code Enforcement Officer, and there wasn't any discussion regarding type of signs.

Mr. Richards asked again why internally illuminated signs are an issue as opposed to externally illuminated signs.

Mr. Shane deferred to Ms. Nixon.

Ms. Nixon used the example of the high school sign on Main Street. The problem with internally illuminated signs is they glow. If you have a wooden sign with lighting it is not emitting a glow of light outside of the sign. The school sign was a nuisance for people who live across from the school. They asked the school to turn the sign off.

Mr. Neagle stated the Ordinance still states you can't have a sign emit light beyond the sign. He can imagine a sign with a big bulb shining on it that will project as much light as any internally illuminated sign.

Ms. Nixon agreed, in Yarmouth there is an Irving Gas Station that replaced their sign with three big white goose neck lights which are not attractive, and she agrees the right type of internally sign can be nice. She agrees the Planning Board will have a chance to review the proposed signs.

Mr. Neagle stated in the Commercial and Industrial districts he can't imagine internally illuminated signs being a problem.

Mr. Couillard stated we need to remember that commercial districts abut residential districts. He is a little concerned about internally illuminated signs. Another question he asked was the section referring to signs posted at the fairgrounds for seven days or less. Does that include the sign at the corner of Range Road and Route 100 which is posted a couple of months prior to the fair?

Ms. Nixon stated it would follow under the 14 days.

Mr. Neagle stated the Ordinance requires if someone wants to put up a sign more than seven days prior to the event they just need to get a permit. This wording is stating if you have a sign for an event for seven days you don't need a permit.

Mr. Couillard asked about 424.3.2 which limits the number of signs to a property to 4; what if you have five businesses. The Cumberland Business Park has nine lots and may want nine signs.

Mr. Vail stated you would have a sign board which would be one sign with five or more inserts.

Mr. Neagle asked if he would like language which says does not exceed four or no more than 1 per business.

Ms. Russell asked the difference between advertising or identification signs.

Ms. Nixon reviewed the definitions:

Advertising: a sign which directs attention to a business, profession, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the same premises.

Identification: A sign which display only the name, address, and/or crest, insignia, trademark, occupation, or profession of an occupant, or the name of any building on the premises.

Mr. Neagle suggested recommending this to the Council and if there is a problem it will be addressed for a change. This is a difficult subject to discuss in the abstract.

Mr. Ward stated in the workshop we did add Section 424.9 Waivers with the intent to deal with these types of issues.

Mr. Neagle moved to approve the changes with the exception that in Section 424.3 we strike the sentence that says no internally illuminated signs are permitted.

Mr. Richards seconded.

The public hearing was opened, there were no public comments. The public portion of the meeting was closed.

Ms. Nixon referenced three housekeeping items to address in the motion. On page 7, there are two 424.3, numbering issue; on page 8 Village Mixed Use Zone twice, the first one should be Mixed Use Zone MUZ; on page 12 the waiver provision states the Planning Department, she asked if we should be specific to the Planning Director and Code Enforcement Officer for approval.

Mr. Neagle agreed to the housekeeping issues. He doesn't think the Planning Director should grant waivers so in Section .2 it should be the Planning Board, and agreed with the change from Department to Director is Section .1 of Waivers.

Mr. Neagle amended his motion to include the housekeeping items discussed.

Motion re-stated: Mr. Neagle moved to recommend to the Town Council draft zoning amendments to repeal and replace Section 424 of the Ordinance with the exception that Section 424.3 strike the sentence that says no internally illuminated signs are permitted. And to include the housekeeping items discussed by Ms. Nixon.

Mr. Richards seconded.

VOTE: Unanimous

DEFINITIONS

Sign: The display of a word or words, lettering, parts of letter, figures, numeral, phrases, sentences, emblems, devices, pictures, trade names, trade marks by which anything is made known.

Sign, Abandoned: a sign which no longer identifies or advertises a bona fide business, owner, lessor, lessee, service, product, or activity, or for which no legal owner can be found, or if found, disclaims any interest in the sign.

Sign, Advertising: a sign which directs attention to a business, profession, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the same premises.

Sign, Awning: any sign placed on the face of an awning. An awning is a flexible, woven cloth fabric mounted above and/or projected above a window or door.

Sign, Business Directional: A Maine Department of Transportation sign that is located off the premises of a business that directs the public to the specific location of the business.

Sign, Campaign or Election: A sign that advertises a candidate or issue to be voted upon on a definite election day.

Sign, Canopy: a sign located on a rigid structure erected over gas pumps at gas filling stations or over other automobile services area.

Sign, Cluster: two or more signs integrated into one freestanding sign structure.

Sign, Construction: A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

Sign, Directional or Instructional: An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One-Way", or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

Sign, Directory: A sign which identifies multiple uses in a planned development on a single sign; may be used for shopping centers, shopping streets or arcades, office complexes, schools, religious institutions, institutional or business campuses, and similar large complexes which have a variety of tenants and/or uses. **Sign, Flashing:** A sign that uses an intermittent or flashing light source to attract attention.

Sign, Free Standing: A sign on the premises of the business that is not attached to any part of the main structure on the parcel.

Sign, Government: Any temporary or permanent sign erected and maintained for any governmental purposes.

Sign, Historical Designation: A sign that gives notice that a property is of an historic nature as determined by a state, federal, or local government agency.

Sign, Identification: A sign which displays only the name, address, and/or crest, insignia, trademark, occupation, or profession of an occupant, or the name of any building on the premises.

Sign, Non-conforming: Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this ordinance, and which fails to conform to all applicable standards and restrictions of this ordinance.

Sign, Portable: a freestanding sign not permanently affixed, anchored, or secured to the ground or structure on the lot it occupies.

Sign, Public Interest: A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

Sign, Real Estate: A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

Sign, Structure or Support: Any structure that supports or is capable of supporting a sign.

Sign, Temporary: any sign intended to be maintained for a continuous period not to exceed fourteen (14) days.

Sign, Temporary Planned Development A sign that pertains to the development of a new commercial, residential, or mixed use development while it is under construction.

Sign Vehicular: Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this ordinance, vehicular signs shall not include business logos, identification, or advertising on vehicles primarily used for other business purposes.

Sign, Window: signs painted or posted on an interior translucent surface including windows or doors. In the case of individually lettered signs, sign area shall be the smallest geometrical shape which contains the letters.

SECTION 424 SIGN ORDINANCE

[Amended, effective 5/20/91, Amended, effective 10/28/97 Amended, effective _____.]

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Purpose

It is the intent of these regulations to provide for attractive, coordinated, informative, and efficient signs with the express purpose of protecting property values, enhancing the physical appearance of the town, and providing for public safety.

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424.1 Application Process, Permits, and Fees:

- .1 A person who wishes to erect or have erected a sign within the Town shall make application on a prescribed application and submit same to the Town Office for each location where a sign is desired. A fee as established by order of the Town Council per sign shall be submitted with each application, except as indicated in Section 424.3.8 and Section 424.2.1. [Amended, effective 9/1/98; Amended, effective _____]
- .2 The Code Enforcement Officer and Planning Director shall approve the application within two weeks if it meets the requirements of this Ordinance, otherwise the application shall be denied with a statement of the reason given.
- .3 Any person aggrieved by the decision regarding an application may appeal to the Board of Adjustment and Appeals who shall consider said appeal within 30 days or at their next regularly scheduled meeting, whichever event occurs later, and the Board of Adjustment and Appeals decision shall be final.

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.1 No sign or outdoor display structure shall be erected, attached, suspended or altered, until a permit has been issued by the Code Enforcement Officer to the person or owner in control of the sign. This Ordinance does not apply to temporary or permanent State or municipal signs, historical designation signs, contractor's signs, signs related to activities at the Fairgrounds posted for 7 days or less, and temporary signs for the sale of a single-family residence nor to signs relating to or controlling the use of private property. Except as otherwise provided in this Ordinance, a "temporary" sign is one that is erected for six (6) months or less and a "historic designation" sign is a sign that gives notice that a property is of an historic nature as determined by a State, federal or local government agency.¶

424.2 General regulations:

.1 No sign or outdoor display structure shall be erected, attached, suspended or altered, until a permit has been issued by the Code Enforcement Officer to the person or owner in control of the sign.

This Ordinance does not apply to:

- Signs for the sale or lease of a single-family residence;
- Temporary or permanent state or municipal signs;
- Historical designation signs;
- Contractor's signs;
- Signs related to activities at the Fairgrounds posted for 7 days or less;

- Signs relating to or controlling the use of private property.
- Signs which are not visible from a public way.
- Signs associated with one day sales such as yard/garage/tag sales

Except as otherwise provided in this Ordinance, a "temporary" sign is one that is erected for ~~six (6) months~~ 14 days or less. ~~and a "historic designation" sign is a sign that gives notice that a property is of an historic nature as determined by a State, federal or local government agency.~~

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- .2 Signs advertising the sale of fresh fruit and vegetable crops are allowed as permitted by 23 M.R.S.A. § 1913-2-F as amended from time to time. (Amended, effective 10/28/97)
- .3 A non-conforming sign lawfully existing at the time of adoption of this subsection or subsequent amendment may continue.
- .4 A nonconforming sign damaged or destroyed by accident or Act of God may be replaced within a one (1) year period following the damage or destruction provided that a duly issued permit has been obtained. The replacement sign shall replicate or be less non-conforming than the original.
- .5 Nonconforming signs located within the public right of way shall not be permitted to be altered or relocated within the public right of way.
- .6 No sign, whether new or existing, shall be permitted that causes a sight, traffic, health or welfare hazard, or results in a nuisance due to illumination, placement, display, or manner of construction.
- .7 In any district, a home occupation sign not exceeding four (4) square feet in surface area is permitted which announces the name, address, profession or home occupation of the occupant of the premises on which said sign is located.
- .8 Signs may be installed on the fences of all athletic fields, subject to the following:
 - .1 Individual signs are to be no more than 4' x 8'.
 - .2 Text and graphics shall be on only one side of the sign, and the signs shall be installed so the text and graphics face in toward the field.
- .9 No sign shall be painted upon or otherwise directly affixed to any rock, ledge, or other natural feature except for signs reading "No

Trespassing", "No Hunting", or other signs of similar import relating to controlling the use of private property.

10 No sign shall be erected at any location where, by reasons of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic, or which may be confused with any other traffic signs, signal, or device.

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11 Permanent signs, other than municipal, state directional signs in accordance with Section 424.4, shall not be erected within the right-of-way of any street or approved sight easements, nor shall any sign, including temporary signs, be located so as to constitute a traffic hazard.

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12 All signs and their supporting structures shall be properly maintained to prevent rust, rot, peeling, or similar deterioration.

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13 Whenever a sign shall become structurally unsafe or endanger the safety of a building or the public, the Building Inspector shall order such sign to be made safe or removed. Such order shall be complied with within ten (10) days of the receipt thereof by the person owning or using the sign, or by the owners of the building or premises on which such sign is affixed or erected.

14 Any sign which advertises, identifies or pertains to an activity no longer in existence shall be removed by the owner of the sign or the property or person otherwise responsible within 30 days from the time the activity ceases existence. This provision does not apply to seasonal activities during the regular periods in which they are closed.

15 No sign shall have visible moving parts or have blinding, moving or glaring illumination or consist of banners, pennants, ribbons, streamers or similar devices.

16 No animated, flashing, apparently moving, or portable signs shall be permitted.

17 Signs attached to a principal structure shall not extend above the roof line or the parapet.

18 No sign, except business directional signs shall be closer than fifteen (15) feet to any lot line, or five (5) feet from the edge of any public way as may be determined by a lawful authority or otherwise encroach over in the airspace of any public right-of-way.

.19 No advertising or identification sign, whether permanent or temporary, shall be erected on any premises other than the premises where the activity to which the sign pertains is located, other than those permitted under Section [424.2.7](#), [424.3.2](#), or Section [424.2.22](#) (Amended, effective 10/28/97 _____)

.20 Freestanding signs shall be designed to complement the architecture of the associated building.

424.3 Lighting

.1 A sign may be illuminated provided it identifies the premises on which it is displayed. An illuminated sign may be displayed in [all commercial and industrial districts](#) provided it does not emit a glare beyond the premises upon which it is located. All other illuminated signs may only be lighted during the daylight hours or those hours during which the premises may be opened to the public

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.2 In all districts the source of light of an illuminated sign shall be shielded or concealed. [Lighting fixtures should be located, aimed, and shielded such that light is only directed onto the surface of the sign. Wherever possible, fixtures should be mounted above the sign and be aimed downward to prevent illumination of the sky.](#)

Deleted: . Internally illuminated signs will only be allowed in the Highway Commercial, and Industrial. [Amended, effective 10/22/07]
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Deleted: In all other districts the use of an illuminated sign with unshielded light shall be subject to a finding by the Board of Adjustment and Appeals that such a sign will not adversely affect adjacent properties.¶

424.4 Standards:

.1 The number of permanent or temporary identification signs which may be displayed on any lot in any zone must not exceed two (2).

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.2 The number of permanent or temporary advertising signs which may be displayed on any lot only in a commercial, business, or industrial zone must not exceed four (4). Advertising signs in all other zones are prohibited except for signs advertising the sale or lease of real estate and except as may be specifically provided for by the Board of Adjustment and Appeals in its granting of a use and of a corresponding temporary advertising sign by special exception. Such specific provisions shall not violate the intent and purpose of this Ordinance.

Deleted: .15 . Signs advertising the sale of fresh fruit and vegetable crops are allowed as permitted by 23 M.R.S.A. § 1913-2-F as amended from time to time. (Amended, effective 10/28/97)

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.3 No individual sign shall contain more than twenty-five (25) square feet, except in the Highway Commercial (HC), Village Center

Deleted: Signs associated with home occupations or one day sales such as yard/garage/tag sales are permitted in all zones.

Commercial (VCC), Mixed Use (MUZ), Office Commercial South (OC-S), Office Commercial North (OC-N), Village Office Commercial 1 (VOC 1), Village Office Commercial 2 (VOC 2), Village Mixed Use (V-MUZ), Industrial (I) and Rural Industrial (RI) districts where no individual sign shall exceed forty (40) square feet.

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- .4 No individual sign shall have a height greater than twenty-five (25) feet above the ground level of land upon which it is located and as may be measured from the highest point on the sign.
- .5 The top of free-standing signs shall not exceed the height limit of principal structures in the zone where located or twenty-five (25) feet, whichever is less.
- .6 The area surrounding free-standing signs shall be kept neat, clean, and landscaped.
- .7 A temporary sign used to provide directional instructions to a single-family residence that is for sale or lease shall not exceed four (4) square feet in size, shall be limited to three (3) in number at any one time relative to a single house, and shall be so located as not to interfere with traffic or otherwise cause a public nuisance.
- .8 Temporary signs for the sale of real estate other than a single-family residence shall not exceed twenty-five (25) square feet in area and a renewal permit shall be required after the expiration of the first six (6) months that such a sign is posted; such renewal permit shall be valid for up to six (6) months.

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.424.5 Temporary political campaign signs may be erected in any zone under the following terms and conditions: [Amended, effective 12/8/08]

.1 A resident of Cumberland may erect temporary political campaign signs within the right of way of a town or state public way directly abutting the resident's property without obtaining a permit from the Town. Temporary political campaign signs must not individually exceed sixteen (16) square feet in size.

No temporary political signs may be erected more than six weeks prior to the election for which signs pertain.

No temporary political campaign signs shall be closer than five (5) feet from the travel surface of the town or state public way and no such signs may encroach over in the air space of the paved surface of any town or state public way.

Temporary political campaign signs must be removed within seven (7) days following the election.

.2 A candidate for political office, a political campaign, a political party or organization, an advocacy organization, or a Cumberland resident may erect temporary political campaign signs within the right of way of a town or state public way in the Town of Cumberland but only after obtaining a permit for the display of such signs from the Code Enforcement Officer and payment of a refundable application fee as established by order of the Town Council.

Applications for such signs shall be made on forms provided by the Code Enforcement Officer. Temporary political campaign signs must not individually exceed sixteen (16) square feet in size.

No temporary political campaign signs may be erected more than six weeks prior to the election for which such signs pertain.

No temporary political campaign signs shall be closer than five (5) feet from the edge of the travel surface of a town or state public way and no such signs may encroach over in the air space of the paved surface of any town or state public way.

Temporary campaign signs must be removed within seven (7) days following the election, and upon such removal the Code Enforcement Officer shall refund the application fee. If such signs are not removed within seven (7) days following the election, the application fee shall be forfeited to the Town.

424.6 Business Directional Signs:

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424.4.1 Purpose:

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This section regulates and restricts business direction signs within the Town in order to promote safety and well being of the users of the public ways, reduce distractions, and preserve the natural beauty and other aesthetic features of the Town.

424.4.2 Scope:

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This section controls off-premises signs in the Town directing the public to the specific location of a business. The provisions of this Section shall take effect on April 27, 1986, and any sign covered hereunder not in compliance within 120 days of the effective date shall be subject to removal 30 days after written notice.

424. 4.3 Standards:

Directional signs erected or in place after the effective date of this section shall meet the following specifications:

- .1 Size: 48 inches long by 12 inches wide.
- .2 Lettering: 3 1/2 inches.
- .3 Signboard: 1/2 inch plywood overlay.
- .4 Post: 4 inch by 6 inch - green painted.
- .5 Color: Background color shall be blue (highway blue color tolerance charts Pr-Color #3). The background sign legend and border of all signs shall be reflectorized with reflective sheeting to show the same shape and color for both day and night. Edges and backs of signboards shall be sealed and painted. Reflectorized legend and border shall meet the requirements of Federal specifications LS-300R.
- .6 Style: All lettering used in the name of the business, including the directional legend and mileage, shall be helvetica-medium lower-case lettering with initial upper-case.
- .7 Legend: Directional legend shall be located on the left or right edge of the sign depending upon direction of turn required. The distance in miles from the intersection shall be shown below the directional arrow.
- .8 Signs shall meet all applicable DOT guidelines.

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6. Public Hearing: to recommend to the Town Council draft modifications to Section 204 - Industrial Zone of the Zoning Ordinance - to include additional uses, including retail and removing other uses.

Ms. Nixon stated the ad had an incorrect map so she proposed the item be tabled to the December 2009 meeting.

Mr. Shane stated it wouldn't do any harm to table the item until December.

Mr. Ward stated the overhead photo shows buildings in the Industrial Zone.

Ms. Nixon stated the area of the Industrial Zone includes all of those lots. The Pike Industries gravel pit was recently purchased by a developer and in reviewing the uses with the developer, staff decided to amend the list of uses to more appropriately reflect the uses typically allowed in an industrial zone.

Mr. Richards moved to table item # 6 until the December 2009 meeting.

Mr. Neagle seconded. VOTE: Unanimous

F. Administrative Matters

1. Sign Mylar for Autumn Ridge drainage change.

Ms. Nixon stated the Board has previously approved this and the plan has been amended and will be recorded in the Registry of Deeds showing the drainage easement. The Board also has the Mylar for the Castle Rock Subdivision which was approved this evening.

Mr. Ward thanked Ms. Bosarge for her support during the Comprehensive Plan Committee.

G. Adjournment:

Mr. Richards moved to adjourn.

Mr. Ward seconded. VOTE: Unanimous

The meeting was adjourned at 8:30 p.m.

A TRUE COPY ATTEST:

William P. Ward, Board Chair

Pam Bosarge, Board Clerk