

# ITEM

## 16-048

To hold a Public Hearing to consider and act on draft amendments to the Contract Zone Agreement with Cumberland Foreside Village, LLC to include the rezoning of Tax Map R01/Lot 12A and revisions regarding the development of multiplex dwellings on Tax Map R01/Lots 11, 11A, 11B and 12A, as recommended by the Planning Board

Notice of Decision

**Date:** March 30, 2016

**To:** William Shane, Town Manager  
Town of Cumberland  
290 Tuttle Rd.  
Cumberland, ME 04021

**RE:** *Public Hearing: Contract Zoning Agreement with Cumberland Foreside Village, LLC to include the rezoning of Tax Assessor Map R 01, Lot 12 A and revisions regarding the development of multiplex dwellings on Tax Assessor Map R 01, Lots 11, 11 A, 11 B, and 12 A.*

This is to advise you that on March 29, 2016, 2016 the Planning Board voted to recommend to the Town Council an amendment to the Contract Zoning Agreement with Cumberland Foreside Village, LLC to include the rezoning of Tax Assessor Map R01, Lot 12A and revisions regarding the development of multiplex dwellings on Tax Assessor Map R 01, Lots 11, 11 A, 11 B, and 12 A.

**Findings of Fact:** None

**Waivers granted:** None

**Waivers Denied:** None

**Standard Conditions of Approval**

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

Cumberland Planning Board

  
Stephen Moriarty, Board Chair

**AMENDED AND RESTATED CONTRACT ZONING AGREEMENT**  
**BY AND BETWEEN THE TOWN OF CUMBERLAND**

**AND**

**CUMBERLAND FORESIDE VILLAGE, LLC**

**RELATING TO THE CUMBERLAND FORESIDE VILLAGE (formerly**  
**“HERITAGE VILLAGE”) SUBDIVISION**  
**ROUTE 1, CUMBERLAND, MAINE**

This Amended and Restated Contract Zoning Agreement is entered into this \_\_\_\_ day of ~~February~~, ~~2015~~2016, by and between the Town of Cumberland, a municipal corporation (the “Town”), and Cumberland Foreside Village, LLC, a Maine limited liability company (the “Developer”), pursuant to the Conditional and Contract Rezoning Provisions set forth in 30-A M.R.S.A. Section 4352 (the “Act”) and Section 315-79 of the Cumberland Code, as may be amended from time to time.

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

WHEREAS, Kennedy conveyed his property which is subject to the Agreement to the Developer by Deed dated December 30, 2005 and recorded at the Cumberland County Registry of Deeds in Book 23549, Page 231; and

WHEREAS, Kennedy assigned his interest in the Original Agreement to the Developer by Assignment of Contract Zoning Agreement dated February 7, 2006 and recorded at the Cumberland County Registry of Deeds in Book 23652, Page 65; and

WHEREAS, the Town and the Developer amended and restated the Original Agreement in its entirety in the Amended and Restated Contract Zoning Agreement dated January 31, 2007, which is recorded at the Cumberland County Registry of Deeds in Book 18114, Page 330 (the “Amended and Restated Agreement”); and

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

WHEREAS, the Town and the Developer amended and restated the Original Agreement and the First Amendment in its entirety on February 27, 2015 by document titled Amended and Restated Contract Zoning Agreement (the “2015 Amended and Restated Agreement”); and

WHEREAS, the Town and the Developer desire to amend and restate the Original Agreement in its entirety in order to incorporate subsequent amendments, expand the

permitted ~~uses-residential development~~ and revise the lot lines of the parcels consistent with the development goals of the Original Agreement;

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

WHEREAS, the Property subject to this Amended and Restated Contract Zoning Agreement consists of the approximately 74.90 acre parcel of land (the "Project") located off U.S. Route One, depicted as Lots 1 – ~~8-9~~ on **Exhibit A** (the "Plan") and more particularly described in **Exhibit A-1** attached hereto; and

WHEREAS, the Developer intends to submit an application for subdivision approval to the Cumberland Planning Board, in accordance with the subdivision plan attached hereto as **Exhibit BA** (the "Subdivision Plan"); and

WHEREAS, the Developer's Estimated Schedule of Completion of the Project is attached hereto as **Exhibit BC**; and

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

WHEREAS, on ~~January 26, 2015~~ \_\_\_\_\_, the Cumberland Town Council approved the execution of this Amended and Restated Contract Zoning Agreement, subject to later compliance with Subdivision and Site Plan Standards as set forth in Chapter 229 and Chapter 250 the Cumberland Code, provided such Ordinance provisions are not in conflict with the Act.

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

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

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

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

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

The parties agree as follows:

I. Establishment of the Contract Zone:

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

II. Permitted Uses Within the Contract Zone:

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

A) All uses authorized as of the date of execution of this Amended and Restated Contract Zoning Agreement and as may be amended hereafter either as permitted uses or special exceptions in the Office Commercial District, including assisted living facilities.

B) Up to ~~134~~150 residential dwelling units, which may be either detached dwelling units (single family) or attached duplex or multiplex dwellings, on Lot 8 as shown on the Plan; said residential development to include buffering as set forth in Section III of this Agreement. Individual house lots shall contain not less than 5,000 square feet. Multiplex dwelling units shall be developed for rent or lease only and shall not be converted to condominiums for private sale without prior approval of the Town Council. At least one dwelling unit contained within each multiplex dwelling structure developed under this Paragraph must be occupied by a tenant that is 55 years of age or older and at least 20% (not less than nineteen) of the total dwelling units contained within all of the multiplex dwelling structures developed under this Paragraph must be occupied by a tenant that is 55 years of age or older. The Developer shall have the right to (i) vary the mix between detached dwelling units, duplex and multiplex dwellings, and (ii) convey or subcontract all or any portion of the Project to one or more third parties, subject to the provisions of this Agreement. The residential development permitted under this Paragraph shall ~~also~~ be subject to the net residential density requirements of Section 315-43(E); provided, however, that the requirements of Section 315-43(E) shall not apply to the development of multiplex dwellings under this Paragraph. The development of multiplex dwellings permitted under this Paragraph shall also be exempt from the regulations of Section 315-44 of the ~~Zoning Ordinance~~Cumberland Code related to multiplex dwellings.

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

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

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

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

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

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

deny a request for extension if the site preparation activities are not at least 35% completed within one year from the date of approval and if an application for site plan and/or subdivision including the area for which site preparation activity was permitted has not been approved.

III. Restrictions within the Contract Zone:

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

(1) setbacks for detached dwelling units:

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

(2) setbacks for commercial lots:

- Front yard setback not less than 25 feet.
- Side yard setback not less than 20 feet each side.
- Rear yard setback not less than 40 feet.
- Driveway setback not less than 10 feet.
- If a commercial lot is adjacent to a residential lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(3) setbacks for assisted living facilities and duplex and multiplex dwellings:

- Front yard setback not less than 50 feet.
- Side yard setback not less than 30 feet each side.
- Rear yard setback not less than 50 feet.
- Driveway setback not less than 5 feet.
- If an assisted living facility, duplex or multiplex dwelling is adjacent to a commercial lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.
- Any building that is constructed for the sole purpose of and used exclusively in connection with the development of multiplex dwellings and located on the same lot as the multiplex dwellings, such as a community center or rental office, shall be subject to the setback requirements of this section; provided, however, that the rear setback for such building shall be not less than 25 feet.

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

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



(5) A setback of not less than 100 feet shall be maintained along the entire length of the property boundary that borders the Interstate 295 highway. The setback shall be measured from the edge of the I-295 right of way and shall remain at all times undisturbed. The Town shall periodically survey this setback to ensure that it has been maintained. In the event that this area is disturbed for any reason, the Developer shall be required to prepare and submit a landscape plan to be approved by the Town Council and shall be required to complete plantings in accordance with the approved plan within a timeframe designated by the Town Council.

B) The minimum frontage on the street providing access to each residential lot shall be 50 feet and for each commercial lot shall be 150 feet.

C) The length of Skyview Drive, the dead-end road serving the ~~interior commercial~~ portion(s) of the Project, shall be not more than 3,000 feet, and the road right-of-way be established at 50 feet in width, with a paved width of at least 24 feet (base shall be 30 feet wide), a five foot paved sidewalk for ~~the main road~~ Skyview Drive, a four foot esplanade and an enclosed drainage system. All other roads within the project shall be constructed with a paved width of at least 24 feet, curbing and a five foot paved sidewalk.

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

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

F) This Agreement shall be subject to the Town's ~~Growth Control and~~ Impact Fee Ordinances to the extent applicable. Impact Fees shall be calculated based on the gross floor area of the total structure for each multiplex dwelling structure constructed under Section II(B) of this Agreement. The gross floor area of the multiplex dwelling structure shall be reduced by the gross floor area of any dwelling unit within that structure that is designated to be occupied by a tenant that is 55 years of age or older. ; provided, however, that the residential development permitted under Section II(B) of this Agreement shall be exempt from the requirements of the Town's Growth Management Ordinance pursuant to Section 118-6(D) of the Cumberland Code; Developer shall not be entitled to receive more than 50% of the growth permits available in any year. provided, however, that the Developer shall be responsible to pay a fee of \$100 per multiplex dwelling unit in lieu of a growth permit.

G) Any commercial development or multiplex dwelling development shall be subject to the "Design ~~Requirements for Commercial Properties~~ Guidelines" which are attached hereto as **Exhibit ~~CD~~**.

H) The Route 1 buffer shown on the Plan shall be 35 feet from the Route 1 right of way. 25 feet of the Route 1 buffer shall be undisturbed vegetation and the remaining

10 feet shall be used for a common walkway/path. The common walkway/path shall be completed prior to the occupancy of any residential dwellings constructed pursuant to Section II(B).

I) Anything in Section III(A) above to the contrary notwithstanding, the building setback from Route 1 shall be 65 feet from the Route 1 right of way.

J) The minimum lot size for commercial lots shall be 60,000 square feet.

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

L) The parking requirements of Section 315-57 of the Cumberland Code shall apply to development under this Agreement; provided, however, that the minimum number of parking spaces required for multiplex dwellings under Section II(B) shall be 1.5 spaces per dwelling unit. A landscaped berm shall be installed on the exterior perimeter of each parking area designated for the multiplex dwelling structures developed under Section II(B). Such berms shall be designed and constructed to provide screening from vehicle headlights within the parking area facing outward in both easterly and westerly directions.

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

#### IV. Miscellaneous Provisions:

A) Offsite Improvements: The Developer shall be responsible for the design, engineering and construction of all offsite improvements as may be required by the owners or operators of property within the Project or as may be required by rule, regulation, law or determination of a governmental agency or utility in conjunction with the development of any Lots within the Project, except that the Town shall be responsible for the widening, paving and striping of a designated portion of Route 1 pursuant to the plan titled "Route 1 Improvements" drafted by Gorrill-Palmer Consulting Engineers and dated July 2007, attached hereto as **Exhibit DE**, or as otherwise approved by the Town Council.

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

C) Arbitration Clause: In the event of any dispute between the parties hereto arising out of the Town's approval of (or failure to approve) eligible and qualified purchasers, such dispute shall be submitted to arbitration pursuant to the rules and regulations of the American Arbitration Association, or such other similar arbitration tribunal as the parties may select. The decision of such arbitration panel shall be final, binding and conclusive as to all issues arbitrated therein. Any and all other disputes,

claims, counterclaims, and other matters in question between the parties hereto arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction.

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

E) Maine Agreement: This contract is a Maine agreement, entered into in the State of Maine and shall be governed by and enforced in accordance with the laws of the State of Maine.

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

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

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed as of the day and year first above written.

WITNESS:

TOWN OF CUMBERLAND

\_\_\_\_\_  
Name:

By: \_\_\_\_\_  
William R. Shane  
Town Manager

CUMBERLAND FORESIDE VILLAGE, LLC

\_\_\_\_\_  
Name:

By: \_\_\_\_\_  
David Chase  
Sole Member and Manager

State of Maine  
County of Cumberland, ss.  
~~2015~~2016

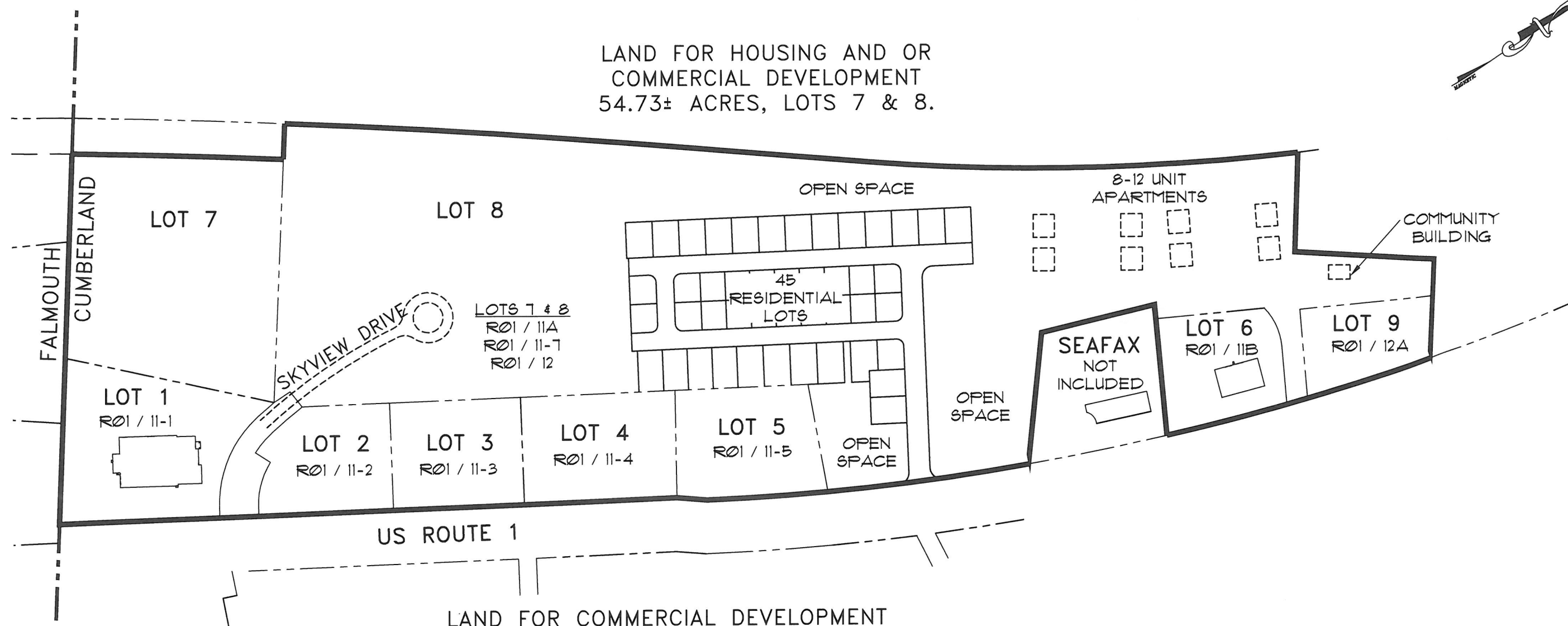
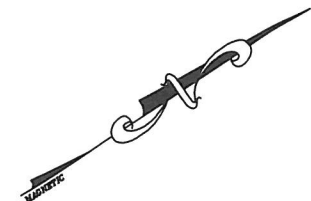
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Then personally appeared the above-named William R. Shane in his capacity as Town Manager of the Town of Cumberland and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Town of Cumberland.

Before me,

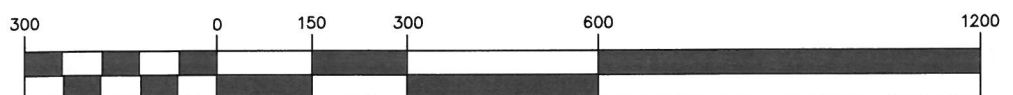
\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

LAND FOR HOUSING AND OR  
COMMERCIAL DEVELOPMENT  
54.73± ACRES, LOTS 7 & 8.



LAND FOR COMMERCIAL DEVELOPMENT  
20.14± ACRES (LOTS 1-6 & 9)

GRAPHIC SCALE



( IN FEET )  
1 inch = 300 ft.

ENTIRE CONTRACT ZONE INCLUDES LOTS 1-9: 74.87 ACRES.  
CONTRACT ZONE DOES NOT INCLUDE THE "SEAFAX" LOT:  
2.99 ACRES

4	2/19/16	REVISED LOT USES
3	1/28/16	ADDED TAX MAP & LOTS, CLARIFY ADDITIONAL AREA
2	1/25/16	DIVIDED LOT 9 FROM LOT 8
1	1/22/16	ADDED AREA TO CONTRACT ZONE

**EXHIBIT A – CONTRACT ZONE AMENDMENT**



CUMBERLAND FORESIDE VILLAGE, LLC  
CUMBERLAND HOUSING  
U.S. ROUTE ONE, CUMBERLAND

SCALE: AS SHOWN DATE: JAN. 22, 2015 CHK BY: TSG PROJECT: 14163

**Exhibit A-1**

Description  
of  
Amended Contract Zone

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

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

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

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

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

Thence, N-54°-46'-38"-E 100.00 feet;

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

Thence N-37°-43'-09"-E 661.39 feet;

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

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

Thence, N-36°-43'-05"- E along land of said Eleanor A. Randall 396.71 feet to other land of said Eleanor A. Randall;

Thence S-36°-22'36"-E along land of said Eleanor A. Randall 274.45 feet to Said U.S. Route One;

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

Thence N-62°-15'-59"-W along land now or formally of BBW Real Estate LLC 367.24 feet;

Thence S-19°-34'-32"-W along land of said BBW Real Estate LLC 327.21 feet to land of the Town of Cumberland;

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

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

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

Thence S-30°-44'-43"-W along said U.S. Route One 1737.05 feet to the point of beginning; all bearings are magnetic.

Exhibit B to be  
Approved by Planning Board  
in

March or April 2016



## EXHIBIT C

### Estimated Schedule of Completion

Cumberland Foreside Village

February 2016

- |   |                                |
|---|--------------------------------|
| A. Schedule of Regulatory Review                                  | 2016                           |
| - Complete project plans and supporting documents                 | 1-2 Months                     |
| - Planning Board Subdivision Review                               | 4-5 Months                     |
| - Planning Board Site Plan Review (concurrent with subdivision)   | 1-2 Months                     |
| - Planning Board anticipated approval within                      | 2-4 Months                     |
| - DEP SLODA review with approval                                  | 2-4 Months                     |
| <br>  |                                |
| B. Anticipated Construction Schedule                              |                                |
| - Start construction within 1 month of approval (Lot 8)           | 2016-2019                      |
| - Construction of subdivision road & infrastructure               | 12-24 Months                   |
| - Sitework – Lot 8  | Begin mid Feb 2016 – 24 Months |
| - Sitework complete on lots within 60 Months – total elapsed time |                                |
| o (maximum of 2 years on any one lot)                             |                                |
| - Subdivision infrastructure – roads substantially complete       | 24 Months                      |

## Cumberland Foreside Village Contract Zone

### Design Guidelines for Commercial Properties & Multiplex Dwellings

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

#### General Design Guidelines:

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

#### Specific Design Guidelines:

- Exterior siding materials are encouraged to be traditional building materials common to Northern New England. The use of split-face concrete block should be used in limited quantities. The use of asphalt shingles, metal siding T-111, or highly reflective siding materials is not permitted.
- The mass of larger structures needs to be broken down through the use of architectural detailing, changes in materials or other means so as to create visual interest. Main entrances to the buildings should be emphasized by architectural detailing, glazing, lighting, etc.
- Arbitrary or frequent changes in siding materials, applied embellishments, or the addition of architectural details that are not integrated into the building form or function should be avoided.
- All functional elements visible on the exterior of the structure (e.g., meters, service connection, downspouts, vents, etc.) shall be treated as integral parts of, and incorporated into, the building design.

- All buildings shall provide an appropriate proportion of windows, doors or other fenestration so as to break up the building façade. The building fenestration should provide sufficient transparency to provide views to the interior of the building as functionally appropriate. Careful attention must be paid to the relative size, detailing and positioning of all openings in the building elevations.
- On small buildings (e.g., those under 5,000 s.f.), flat roofs should be avoided on one-story structures. Pitched roofs with traditional slopes (e.g., higher than 8 in 12) are encouraged. Where the roof will be visible from adjoining public ways, the roofing materials should be selected so as to complement the building's façade. Preferred roofing materials shall include architectural grade asphalt shingles, standing-seam metal roofing, or natural materials.
- Color selected for the exterior of buildings should be earth-toned, or colors that are muted and not garish. The use of bright colors should be limited to areas where accents are desired (e.g., doors, window trim, entrances, etc.).
- Where roofs are flat, parapets or other architectural elements should be used to break up a large expanse (e.g., greater than 80 feet) of flat roof-line. Roof-top mounted mechanical or other equipment shall be screened.
- Long horizontal facades of buildings (those greater than 80 feet in length) should be made more interesting through either changes in the façade plane or selection of materials to provide interest through color, shadow, etc.
- Buildings with multiple entrances or uses shall be designed to be visually unified through complementary detailing and use of materials.
- Separate accessory structures on the same lot as a principal structure should have consistent architectural detail so as to provide unified project design.
- Underground utility connections are required.
- Sidewalks along buildings and a trail in the I-295 buffer are required.
- A 5' paved walkway, with 10' of cleared space, is required within the Route 1 buffer zone shown on the Plan.
- Signage shall consist of natural materials (wood, stone, etc.) and shall not be internally lit.

# Exhibit E

Not included are the plans for the widening of Rt One to 3 Lanes.

The Plan File was not included to reduce the size of this document

# **Cumberland Foreside Village Overview**

## **April 11, 2016**

In 2002, Peter Kennedy (Heritage Village Subdivision) entered into a Contact Zone Agreement with the Town in hopes of building a 55+ elderly housing project along the southern end of Route One.

### **The Original CZA allowed for:**

- 42 single family homes on 10,000 sf lots
- 38 multiplex units
- 10.2 acres of land was gifted to the Town for 40 rental units of senior housing and a community center
- A jointly developed (not certain of cost) community center be allowed
- A cell tower be built on 1.3 acres of the site

There were no affordability requirements, only age restriction. No one under 18 could live onsite as a resident.

After multiple attempts with Town staff to “get started” on this CZA with no success; and several disappointing concept models for a Town owned, Town financed senior housing facility the project laid dormant until 2005.

**In 2005, the project was sold to David Chase** and the CZA was transferred to Cumberland Foreside Village, LLC.

**In January 2007, the CZA** was amended and recorded after the Town Council and Planning Board reviews and approves in 2006.

The amended CZA included:

- 134 house lots on 7,500 sf lots
- Commercial development of 6 lots along Route One
- Indoor storage & warehouse 300 feet off of Route One
- Cell Tower
- Lot 1 would allow retail stores or shops
- Tradesmen offices would be allowed – no equipment visible from the road
- Site prep activities would be permitted to prepare lots for sale
- 50 foot height restriction for buildings
- 35 foot Route One buffer
- Minimum commercial lot would be 60,000 sf

**October 23, 2014 the CZA was amended** and updated (more of a paper exercise) to reorganize the subdivision lots due to downturn in economy. Lots were reconfigured to allow for future flexibility. All uses outlined in 2007 were left in place. The former Belucci lot was added to the CZA (rear of Seafax) and the Town lot was reconfigured to allow for a common buildable right-of-way once the “gifted” Town lot was found to be 2/3 wetland.

**The next amendment to the CZA was in February 2015.**

The amended CZA included:

- 5,000 sf lots for the 134 units
- Modified warehouse – 300 feet from Route One
- Restrictions for site prep activities with a pending application (2 years)
- 50% of growth permits in 1 year
- Concrete curbing allowed
- Town lot sold to CFV

In early 2015, the Town Council authorized the sale of the gifted Town lot for \$310,000. I structured the sale similar to previous transactions with Village Green on a down payment (\$50,000) and then on a lot release (\$13,000 each). David Chase paid \$50,000 at the transfer of property.

	<u>Payment</u>	<u>Balance</u>
February 2015		\$310,000
February 2015- Closing	\$ 50,000	\$260,000
August 2015	\$130,000	\$130,000
December 2015	\$ 13,000	\$117,000
December 2015	\$ 26,000	\$ 91,000
February 2016 - Interest	\$ (3,135)	\$ 94,135
February 2016	\$ 94,135	\$ 0

The lot sales allowed for working capital to be used on infrastructure improvements for the new homes off of Route One.

**Proposed April 2016 CZA:**

- Size Increased to include Route One Belucci lot – 134 to 150 dwelling units
- 20% to 55+ residents
- Setback for community center 25 feet rear
- 24 foot road and 5 foot sidewalk for apartments
- \$100 fee per building in lieu of growth permits
- Impact fees assessed per building
- Design Guidelines per Exhibit D to include multiplexes
- Parking requirement 1.5 spaces per unit

While the recent improvements in the housing market have increased the activity in Cumberland Foreside Village, the actual changes to the CZA have really occurred in the past 16 months.

- 2002 – 2005** Limited activity
- 2005** Property transferred to David Chase
- 2007** Amended CZA
- 2008 – 2014** Subdivision reconfigured to wait our recession
- 2015** Belucci property added, lot sizes decreased
- 2016** CZA proposed

Summit Natural Gas has begun plans to finally extend natural gas up the Route One Corridor. The 4,400 foot line extension and thousands of feet of 2 inch service line will allow residents on both sides of Route One access to natural gas.

The 48 homes and 96 apartment units will generate conservatively an additional 20 million dollars in property values. Absent these revenues, many Capital Projects around our community would not have ever been possible.





*2008 \$50M Shopping Mall Rendering*

I continue to receive calls for lots within Cumberland Foreside Village. The recent calls for lots along Route One are encouraging. The MDOT is partnering with us on the lane widening and we hope to advertise the project by November of this year.

The value of this corridor continues to grow and while the original \$50 million dollar shopping center proposed for this site in 2008 might have been a stretch, the current projects have been a good fit for the geologically challenging property.



2002	2005	2007	2014	Feb 2015	April 2016
67.24 acres	Sale to Chase	63.6 acres	72.1 acres	72.1 acres	74.9 acres
All uses in Office Commercial District including Assisted Living Facilities		No change	No change	All uses as of date of amendment or as may be added after to OC District	No change
42 Single Family Homes – Min. 10,000 SF Lots – 10.9 acres (55+)		134 Residential Dwelling Units (single family or multiplex) –Lots 7-10 Min. 7,500 SF Lots – Deleted age restriction	Added adjacent parcel behind Seafax and Town Lot (8.5 acres); Merged all backlots and named “Phase 2”	Residential on Lot 8 only (carved out of Phase 2); Min. 5,000 SF Lots; Subject to Net Residential Density	Added adjacent parcel (2.8 acres); Increased to 150 Units; 20% multiplex age restricted (55+); NRD does not apply to multiplexes
38 Multiplexes or single family homes – 12.3 acres (55+)		Deleted (merged above)			
Town Lot – 10.2 Acres – 40 Rental Units – rental elderly housing and community building		8.27 acre parcel sold to Town – deleted use requirements			
11 Commercial lots – 14.8 acres		6 Commercial Lots (includes indoor storage, warehouse, retail stores, tradesmen’s offices)	Designated commercial lots 1 – 6	Added wholesale distribution on Lot 7	
Cell Tower		No change			
40% preserved as open space and deeded to Town		Deleted			
Community Center		Deleted			
		Site Prep Activities		Added requirements for Site Prep Activities - 2 Year limit without a current project	
Definition of Elderly Person		Deleted			
Preservation of Elderly Housing		Deleted			

<b>2002</b>	<b>2005</b>	<b>2007</b>	<b>2014</b>	<b>Feb 2015</b>	<b>April 2016</b>
67.24 acres	Sale to Chase	63.6 acres	72.1 acres	72.1 acres	74.9 acres
		Side setback reduced to 10' -Rear yard for commercial setback reduced 65' to 40' Assisted living facilities 65 foot setbacks reduced to 50 front, 30S and 50R New storage and warehouse setbacks		Setbacks reduced for detached dwellings – front 15 feet, side 9 feet, rear 15 feet	Added 100 foot setback from I-295
		Min frontage for res. lots reduced from 75 to 50 feet			
		Length of Interior Road increased from 2,000 to 2,500 feet; right of way increased from 50 to 60 feet and paved width increased from 24' to 26'		Length of Road increased to 3,000 feet; Concrete curbing allowed	Side road standards added – 24 feet min paved width
		50' Max Building Heights		Max duplex dwelling height – 40'	
		25' min distance between foundations deleted			
		Route 1 buffer – 35 feet – 25 feet undisturbed and 10 feet walkway			
		65 foot building setback from Route 1 right of way			
		Min commercial lot size 60,000 sq. ft.			
		Growth Control & Impact Fees apply		No more than 50% growth permits in any year for this project	Impact fees calculated on gross floor area per multiplex dwelling; 55+ units exempt; \$100 growth permit per unit
					Design guidelines and parking requirements for multiplexes added