

BRUNSWICK TOWN COUNCIL
AGENDA
June 15, 2009
7:00 P.M.
Old Times Record Building
6 Industry Road

Pledge of Allegiance

Roll Call

Public Comment:

Correspondence:

Adjustments to the Agenda:

Manager's Report:

- (a) Financial Update
- (b) Council Committee Updates
- (c) Recognition of Sig Knudsen, retiring Executive Director of People Plus (Action Required)
- (d) Recognition of Pauline Brilliant, retiring Registrar of Voters
- (e) Acceptance of Byrne Grant for the Police Department (Action Required)
- (f) Confirmation of workshop with MRRA and RAB

PUBLIC HEARINGS:

95. The Town Council will hear public comments on Municipal Shoreland Zoning amendments so they are in agreement with revised Chapter 1000 of the "State of Maine Guidelines for Municipal Shoreland Zoning Ordinance," and will take any appropriate action. (Manager)

HEARING/ACTION

NEW BUSINESS ITEMS:

96. The Town Council will consider approving a lease agreement with JHR Development that would result in the Town being the Master Tenant of space in Building #3 at Maine Street Station, and will take any appropriate action. (Councilor Knight, Councilor Atwood and Councilor Tucker)

ACTION

97. The Town Council will consider accepting and expending funds from the Brunswick Development Corporation to be used to fund the lease at Maine Street Station, and will take any appropriate action. (Manager)
ACTION
98. The Town Council will consider setting a public hearing relative to adding Appendices III, IV, and V to the Town of Brunswick Zoning Ordinance, thereby adding 3 new zoning districts for the proposed reuse of BNAS, and will take any appropriate action. (Manager)
ACTION
99. The Town Council will formalize the relocation of People Plus to the Union Street School once the School Department has vacated this building, and will take any appropriate action. (Manager)
ACTION
100. The Town Council will consider the approval of non-union employees and Department Head salaries, and will take any appropriate action. (Manager)
ACTION
101. The Town Council will consider appointments to the Growstown School Committee, and will take any appropriate action. (Manager)
ACTION

CONSENT AGENDA:

- (a) Approve Minutes of June 1, 2009
- (b) Utility permit for Maine Natural Gas for Garrison Street and Hambleton Avenue

**INDIVIDUALS NEEDING AUXILIARY AIDS FOR EFFECTIVE COMMUNICATION
SHOULD CONTACT THE TOWN MANAGER'S OFFICE AT 725-6659
(TDD 725-5521)**

Brunswick Town Council
Agenda
June 15, 2009
Council Notes and Suggested Motions

Manager's Report:

- (a) Financial Update: The Town Manager will provide a financial update for the Town. Copies of the financial summary reports are included in your packet.

Suggested Motion: No Motion Required.

- (b) Council Committee Updates: Councilors with information on the Committees they are involved with will share information with the Council and public.

Suggested Motion: No Motion Required.

- (c) Recognition of Sig Knudsen, retiring Executive Director of People Plus (Action Required): This item is to recognize the many years of service that Mr. Knudsen has given to People Plus as their Executive Director. A copy of the Resolution is included in your packet.

Suggested Motion:

Motion to adopt the Resolution of Recognition for Sig Knudsen for his service to People Plus.

- (d) Recognition of Pauline Brilliant, retiring Registrar of Voters: This item is to recognize the 25 years Pauline Brilliant has been involved with voter registration. First as the Chairman of the Voter Registration Board, starting in July 1984, and then as the Registrar of Voters beginning in September 1995. A copy of a Certificate of Appreciation is included in your packet.

Suggested Motion: No Motion Required.

- (e) Acceptance of Byrne Grant for the Police Department (Action Required): The Police Department has received the Byrne Grant in the amount of \$10,203. This is in addition to the \$42,000 already given under this federal grant, which was received in April. No Town match is required.

Suggested Motion:

Motion to accept and expend a grant as part of the Federal Stimulus Recovery Act via the Edward Byrne Memorial Justice Assistance Grant, in the amount of \$10,203.00.

- (f) Confirmation of workshop with MRRA and RAB: This item is to confirm a Council workshop with MRRA and RAB on Monday, June 22, 2009, at 7:00 p.m. as discussed at your last meeting. This date has been confirmed with RAB and MRRA.

Suggested Motion: No Motion Required.

PUBLIC HEARING:

95. This item is to hold the required public hearing on the Municipal Shoreland Zoning amendments to be in agreement with revised Chapter 1000 of the “State of Maine Guidelines for Municipal Shoreland Zoning Ordinance.” Minor revisions were made to the draft you received at the May 18 meeting to reflect the recommendations by the Department of Environmental Protection. Copies of the public hearing notice, a memo from the Natural Resources Planner summarizing the newest changes, and the revised amendments are included in your packet.

Suggested Motion:

Motion to adopt the Municipal Shoreland Zoning amendments to be in agreement with revised Chapter 1000 of the “State of Maine Guidelines for Municipal Shoreland Zoning Ordinance.”

NEW BUSINESS ITEMS:

96. This item comes back to the Council from the last meeting, to give the public the opportunity to review the materials, and to allow staff time to answer Council and citizen questions on this item. The Town Attorney and JHR’s Attorney have reviewed the lease and both sides are happy with the agreement. The Town Attorney has provided a letter stating it is legal for the Town to lease property. The Manager has provided information on comparable lease rates. Copies of the revised Lease agreement and a memo from the Manager are included in your packet.

Suggested Motion:

Motion to approve the concept of the lease as follows:

- The term shall be for five years, with an option by the Town to renew for an additional term to be negotiated, if so desired
- The cost shall be a lump sum of \$220,000, inclusive of lease and CAM (common area of maintenance) fees
- Occupancy will be no sooner than October 1, 2009
- JHR will be responsible for the fit-out costs of the public restrooms, ceiling and floor finishes

97. If the Council approves the lease agreement in the previous item, they will also need to vote to accept and expend funds from the Brunswick Development Corporation (BDC) to be used to fund the lease at Maine Street Station. The amount to be used out of the BDC funds is \$220,000 (balance of funds left in the BDC account will be approximately \$3 million).

Suggested Motion:

Motion to accept and expend funds from the Brunswick Development Corporation in the amount of \$220,000 to be used to fund the lease at Maine Street Station.

98. This item is to set a public hearing on Zoning amendments to add Appendices III, IV, and V, adding 3 new zoning districts for the proposed reuse of BNAS. The Planning Board reviewed these amendments on March 24, 2009, and now they come to the Council. To allow maximum time for citizens to review these amendments, the Council may wish to set the public hearing for July 20th. Copies of a memo from the Planning Department, a memo from MRRA, and draft ordinance amendments, with maps, are included in your packet.

Suggested Motion:

Motion to set a public hearing for July 20, 2009, on Zoning amendments to add Appendices III, IV, and V, adding 3 new zoning districts for the proposed reuse of BNAS.

99. This item will formalize the move of People Plus to the Union Street School once the School Department has left this location. The expected move will take place at the end of September.

Suggested Motion:

Motion to formalize the relocation of People Plus and the Brunswick Teen Center to the Union Street School once the School Department has vacated the building.

100. This item is to approve a 2% COLA for non-union employees and Department Head salaries. In the new adopted budget step increases were frozen for this group, and the COLA is in line with amounts approved by the Council in Union Contracts. The cost of this will not exceed \$45,000 and was included in the approved budget. A copy of memo from the Manager explaining this further is included in your packet.

Suggested Motion:

Motion to approve a 2% COLA for Fiscal Year 2009-2010 for non-union employees and Department Heads.

101. This item is to reappoint Joan Hoppe to the Growstown School Committee. Councilor Knight interviewed her and will be making this nomination. Ms. Hoppe has served on this board since it began. A copy of her application is included in your packet.

Suggested Motion:

There will be a nomination made, no second is required.

CONSENT AGENDA:

- (a) Approve Minutes of June 1, 2009: This item is to approve these minutes that are included in your packet.
- (b) Utility permit for Maine Natural Gas for Garrison Street and Hambleton Avenue: This item is to approve a utility permit for Maine Natural Gas. A copy of supporting material is included in your packet.

Suggested Motion:
Motion to approve the Consent Agenda.

Suggested Motion:
Motion to adjourn the meeting.

MANAGER'S REPORT A

BACK UP MATERIALS

FOR 2009 11

	ORIGINAL APPROP	REVISED BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
<hr/> 10 General Government <hr/>							
11000 Administration	469,569	494,569.00	416,269.01	30,019.45	7,919.00	70,380.99	85.8%
11050 Personnel Department	51,627	51,627.00	42,123.79	3,219.19	.00	9,503.21	81.6%
11100 Finance Department	648,654	667,251.00	534,331.29	49,895.62	910.45	132,009.26	80.2%
11150 Technology Services Dept	213,500	213,500.00	165,412.58	9,698.51	4,953.13	43,134.29	79.8%
11200 Municipal Officers	90,865	90,865.00	77,196.07	2,498.11	3,456.00	10,212.93	88.8%
11220 Municipal Building	174,633	182,163.00	165,711.80	14,482.83	8,240.00	8,211.20	95.5%
11230 Risk Management	513,500	513,500.00	432,991.99	4,934.94	.00	80,508.01	84.3%
11240 Employee benefits	0	.00	.00	.00	.00	.00	.0%
11250 Cable TV	119,271	119,271.00	83,665.60	10,140.13	1,438.35	34,167.05	71.4%
11300 Assessing	293,917	293,917.00	244,637.02	23,450.21	1,524.54	47,755.44	83.8%
11400 Codes Enforcement	203,310	203,310.00	194,601.04	19,763.53	304.00	8,404.96	95.9%
11600 Town Clerk & Elections	342,599	342,599.00	273,293.40	23,772.50	2,368.94	66,936.66	80.5%
11900 Planning Department	241,652	242,347.00	183,599.78	12,885.26	.00	58,747.22	75.8%
11940 Natural Resources Departme	86,615	86,615.00	67,800.94	7,665.72	.00	18,814.06	78.3%
11950 Economic Development Dept	264,550	264,550.00	175,731.49	13,398.86	.00	88,818.51	66.4%
TOTAL General Government	3,714,262	3,766,084.00	3,057,365.80	225,824.86	31,114.41	677,603.79	82.0%
<hr/> 20 Public Safety <hr/>							
12100 Fire Department	2,627,885	2,627,885.00	2,297,106.41	233,336.67	15,570.15	315,208.44	88.0%
12200 Police Department	3,969,302	3,969,302.00	3,488,684.23	311,499.73	590.18	480,027.59	87.9%
12210 Police Special Detail	0	.00	14,638.78	4,996.74	.00	-14,638.78	100.0%
12310 Streetlights	185,000	185,000.00	145,541.28	13,177.07	.00	39,458.72	78.7%
12320 Traffic Signals	13,100	13,100.00	16,659.01	1,264.91	.00	-3,559.01	127.2%
12330 Hydrants	312,000	312,000.00	237,675.00	.00	.00	74,325.00	76.2%
12340 Civil Emergency Preparedne	4,000	4,000.00	3,165.96	-989.00	.00	834.04	79.1%
TOTAL Public Safety	7,111,287	7,111,287.00	6,203,470.67	563,286.12	16,160.33	891,656.00	87.5%
<hr/> 30 Public Works <hr/>							
13100 Public Works Administratio	442,945	442,945.00	399,647.58	43,028.00	825.00	42,472.42	90.4%
13110 PW General Maintenance	691,021	691,021.00	538,721.25	120,672.28	43,926.80	108,372.95	84.3%
13120 PW Winter Maintenance	810,602	810,602.00	822,763.51	2,022.28	.00	-12,161.51	101.5%
13130 Refuse Collection	566,878	566,878.00	454,689.10	51,890.23	.00	112,188.90	80.2%

FOR 2009 11

	ORIGINAL APPROP	REVISED BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
13140 Recycling	225,071	225,071.00	193,604.99	21,561.26	.00	31,466.01	86.0%
13150 PW Central Garage	581,235	581,235.00	595,663.78	44,985.85	1,840.00	-16,268.78	102.8%
TOTAL Public Works	3,317,752	3,317,752.00	3,005,090.21	284,159.90	46,591.80	266,069.99	92.0%
<hr/> 40 Human Services							
14100 General Assistance	147,828	147,828.00	131,287.82	11,538.61	1,387.79	15,152.39	89.7%
14120 Health & Social Services	2,600	2,600.00	1,948.14	.00	.00	651.86	74.9%
TOTAL Human Services	150,428	150,428.00	133,235.96	11,538.61	1,387.79	15,804.25	89.5%
<hr/> 45 Education							
14500 School Department	33,620,870	33,620,870.00	27,004,717.77	3,151,661.40	.00	6,616,152.23	80.3%
TOTAL Education	33,620,870	33,620,870.00	27,004,717.77	3,151,661.40	.00	6,616,152.23	80.3%
<hr/> 50 Recreation and Culture							
15000 Recreation Administration	423,452	424,231.86	377,206.14	37,810.63	.00	47,025.72	88.9%
15050 Rec Buildings and Grounds	695,196	695,196.00	548,832.03	55,412.12	12,022.24	134,341.73	80.7%
15100 Coffin Pond	63,138	63,138.00	38,108.42	161.33	.00	25,029.58	60.4%
15300 Teen Center	5,000	5,000.00	5,000.00	.00	.00	.00	100.0%
15310 People Plus	70,000	70,000.00	70,205.50	.00	.00	-205.50	100.3%
15400 Curtis Memorial Library	1,075,269	1,075,269.00	985,663.25	89,605.75	.00	89,605.75	91.7%
TOTAL Recreation and Culture	2,332,055	2,332,834.86	2,025,015.34	182,989.83	12,022.24	295,797.28	87.3%
<hr/> 60 Intergovernmental							
16000 County tax	1,088,467	1,088,467.00	1,088,467.00	.00	.00	.00	100.0%
TOTAL Intergovernmental	1,088,467	1,088,467.00	1,088,467.00	.00	.00	.00	100.0%
<hr/> 70 Unclassified							

FOR 2009 11

70	Unclassified	ORIGINAL APPROP	REVISED BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
17000	Promotion and Development	58,661	52,661.00	44,881.62	78.42	1,759.00	6,020.38	88.6%
17010	Assistance to St. Johns	16,000	16,000.00	.00	.00	.00	16,000.00	.0%
17020	Cemetery Care	2,500	2,500.00	2,750.00	.00	.00	-250.00	110.0%
17030	Wage Adjustment Account	95,000	95,000.00	35,926.94	1,620.89	.00	59,073.06	37.8%
17050	High School Spring Street	229,479	229,479.00	199,216.88	6,375.72	2,290.00	27,972.12	87.8%
17060	Industry Road Building	0	.00	.00	-1,909.49	.00	.00	.0%
	TOTAL Unclassified	401,640	395,640.00	282,775.44	6,165.54	4,049.00	108,815.56	72.5%
80 Debt Service								
18000	2000 CIP G/O Bonds	352,000	352,000.00	352,000.00	336,000.00	.00	.00	100.0%
18010	2003 High School Refunding	0	.00	.00	.00	.00	.00	.0%
18020	2006 CIP G/O Bonds	300,000	300,000.00	300,000.00	.00	.00	.00	100.0%
	TOTAL Debt Service	652,000	652,000.00	652,000.00	336,000.00	.00	.00	100.0%
	GRAND TOTAL	52,388,761	52,435,362.86	43,452,138.19	4,761,626.26	111,325.57	8,871,899.10	83.1%

** END OF REPORT - Generated by Julie Henze **

REPORT OPTIONS

Sequence	Field #	Total	Page Break	Year/Period: 2009/11
Sequence 1	2	Y	N	Print revenue as credit: Y
Sequence 2	9	Y	N	Print totals only: Y
Sequence 3	0	N	N	Suppress zero bal accts: Y
Sequence 4	0	N	N	Print full GL account: N

Report title:
MAY 2009 EXPENDITURE REPORT

Print Full or Short description: F
Print MTD Version: Y
Print Revenues-Version headings: N
Format type: 2
Print revenue budgets as zero: N
Include Fund Balance: N
Include requisition amount: N

Double space: N
Roll projects to object: N
Incl inception to soy: N
Carry forward code: 1
Print journal detail: N
From Yr/Per: 2007/ 1
To Yr/Per: 2009/12
Include budget entries: N
Incl encumb/liq entries: N
Sort by JE # or PO #: J
Detail format option: 1

FOR 2009 11

	ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
<u>10 Taxes</u>						
111190 41101 Property Taxes	28,137,454	28,137,454.00	28,261,734.19	.00	-124,280.19	100.4%*
111190 41103 Deferred Property Tax	-200,000	-200,000.00	.00	.00	-200,000.00	.0%
111190 41104 Tax Abatements	-75,000	-75,000.00	-20,987.87	-3,106.57	-54,012.13	28.0%
111190 41105 Interest on Taxes	50,000	50,000.00	77,159.08	5,386.31	-27,159.08	154.3%*
111190 41106 Tax Lien Costs Revenue	9,000	9,000.00	16,120.78	.00	-7,120.78	179.1%*
111190 41107 Tax Lien Interest Reve	0	.00	23,658.97	.00	-23,658.97	100.0%*
111190 41109 Payment in Lieu of Tax	180,000	180,000.00	109,924.94	500.00	70,075.06	61.1%*
111190 41197 BETE reimbursement	0	.00	47,239.00	.00	-47,239.00	100.0%*
111190 41198 Homestead exemption re	385,235	385,235.00	382,290.00	.00	2,945.00	99.2%*
111191 41110 Excise Tax - Auto	2,500,000	2,500,000.00	2,206,407.29	213,309.25	293,592.71	88.3%*
111191 41111 Excise Tax Boat/ATV/Sn	23,000	23,000.00	25,433.20	12,101.60	-2,433.20	110.6%*
TOTAL Taxes	31,009,689	31,009,689.00	31,128,979.58	228,190.59	-119,290.58	100.4%
TOTAL REVENUES	31,009,689	31,009,689.00	31,128,979.58	228,190.59	-119,290.58	
<u>20 Licenses & Fees</u>						
121411 42100 Building Permits	25,000	25,000.00	25,070.70	5,046.20	-70.70	100.3%*
121411 42101 Electrical Permits	19,000	19,000.00	11,565.12	532.50	7,434.88	60.9%*
121411 42102 Plumbing Permits	16,000	16,000.00	8,687.25	1,293.75	7,312.75	54.3%*
121411 42103 Zoning Board Fees	375	375.00	225.00	.00	150.00	60.0%*
121411 42105 Mobile Home Permits	750	750.00	185.00	.00	565.00	24.7%*
121411 42106 Institutional Permits	20,000	20,000.00	10,905.00	.00	9,095.00	54.5%*
121411 42107 Alts/Addns Permits	13,000	13,000.00	7,164.60	.00	5,835.40	55.1%*
121411 42108 Comm/Indus Permits	24,000	24,000.00	7,184.00	.00	16,816.00	29.9%*
121411 42109 Multiple Dwellings	10,000	10,000.00	.00	.00	10,000.00	.0%*
121411 42110 Accessory Structures	5,000	5,000.00	3,373.00	.00	1,627.00	67.5%*
121611 42200 Hunting & Fishing Lice	2,020	2,020.00	1,425.50	202.25	594.50	70.6%*
121611 42201 Dog License Fee	2,212	2,212.00	2,492.00	29.00	-280.00	112.7%*
121611 42202 Vital Statistics	38,000	38,000.00	46,892.00	4,535.00	-8,892.00	123.4%*
121611 42203 General Licenses	22,725	22,725.00	22,760.50	2,685.00	-35.50	100.2%*
121611 42204 Victulars Licenses	19,950	19,950.00	18,230.00	9,775.00	1,720.00	91.4%*
121611 42205 Shellfish Licenses	21,740	21,740.00	19,750.00	775.00	1,990.00	90.8%*
121611 42206 Neutered/Spayed Dog Li	3,910	3,910.00	4,344.00	42.00	-434.00	111.1%*
121611 42207 Passport Fees	11,125	11,125.00	8,825.00	1,425.00	2,300.00	79.3%*
121611 42208 Postage Fees	0	.00	-6.45	-20.34	6.45	100.0%
121611 42209 Passport Picture Reven	1,440	1,440.00	1,968.00	432.00	-528.00	136.7%*
121911 42300 Planning Board Appl Fe	10,000	10,000.00	14,737.65	7,225.00	-4,737.65	147.4%*

FOR 2009 11

	ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
122121 42400 Fire Permits	1,500	1,500.00	1,100.00	140.00	400.00	73.3%*
122221 42500 Conc Weapons Permits R	400	400.00	490.00	95.00	-90.00	122.5%*
123131 42600 Public Works Opening F	500	500.00	1,016.00	32.00	-516.00	203.2%*
TOTAL Licenses & Fees	268,647	268,647.00	218,383.87	34,244.36	50,263.13	81.3%
TOTAL REVENUES	268,647	268,647.00	218,383.87	34,244.36	50,263.13	
30 Intergovernmental						
131132 43103 Highway Grant Fund	230,000	230,000.00	173,997.00	.00	56,003.00	75.7%*
131142 43104 State General Assistan	24,000	24,000.00	24,478.66	-1,773.00	-478.66	102.0%*
131190 43102 State Tax Exemption Re	15,000	15,000.00	.00	.00	15,000.00	.0%*
131192 43101 State Revenue Sharing	2,000,000	2,000,000.00	1,882,573.21	257,264.11	117,426.79	94.1%*
131192 43105 Emergency Management	0	.00	292,090.68	7,882.55	-292,090.68	100.0%*
131192 43106 Snowmobile Receipts	1,500	1,500.00	1,966.14	.00	-466.14	131.1%*
134546 43120 State Education Subsid	14,558,692	14,558,692.00	13,071,239.49	1,047,118.20	1,487,452.51	89.8%*
134546 43121 State Adult Educ. Subs	30,000	30,000.00	32,552.73	.00	-2,552.73	108.5%*
134546 43150 Federal Education Subs	800,000	800,000.00	1,372,405.33	.00	-572,405.33	171.6%*
TOTAL Intergovernmental	17,659,192	17,659,192.00	16,851,303.24	1,310,491.86	807,888.76	95.4%
TOTAL REVENUES	17,659,192	17,659,192.00	16,851,303.24	1,310,491.86	807,888.76	
40 Charges for services						
141111 44110 Agent Fee Auto Reg	36,000	36,000.00	34,347.18	3,834.00	1,652.82	95.4%*
141111 44111 Agent Fee Boat/ATV/Sno	2,500	2,500.00	1,453.00	357.00	1,047.00	58.1%*
141111 44140 Housing Services Fees	590,000	590,000.00	552,334.20	50,951.22	37,665.80	93.6%*
141611 44131 Advertising Fees	0	.00	1,630.03	249.75	-1,630.03	100.0%*
142121 44155 Ambulance Service Fees	630,000	630,000.00	642,432.30	-28,682.70	-12,432.30	102.0%*
142121 44166 Special Detail - Fire	1,000	1,000.00	1,244.10	.00	-244.10	124.4%*
142221 44161 Witness Fees	8,600	8,600.00	4,863.04	350.00	3,736.96	56.5%*
142221 44162 Police Reports	4,100	4,100.00	3,324.00	310.00	776.00	81.1%*
142221 44163 School Resource Office	68,600	68,600.00	68,542.20	.00	57.80	99.9%*
142221 44165 Special Detail - Polic	6,000	6,000.00	16,971.56	5,785.50	-10,971.56	282.9%*
143131 44174 PW Labor & Materials	1,000	1,000.00	300.00	.00	700.00	30.0%*
143431 44175 Recycling Revenue	20,000	20,000.00	19,514.62	1,388.20	485.38	97.6%*
144545 44100 School Tuition, etc	1,057,000	1,057,000.00	680,346.64	4,575.56	376,653.36	64.4%*
145051 44187 Coffin Pond	25,000	25,000.00	11,465.80	.00	13,534.20	45.9%*
TOTAL Charges for services	2,449,800	2,449,800.00	2,038,768.67	39,118.53	411,031.33	83.2%
TOTAL REVENUES	2,449,800	2,449,800.00	2,038,768.67	39,118.53	411,031.33	

FOR 2009 11

	ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
<u>50 Fines & Penalties</u>						
151621 45103 Unlicensed Dog Fines	6,700	6,700.00	11,060.00	145.00	-4,360.00	165.1%*
152121 45104 False Alarm Fire	3,400	3,400.00	1,815.00	.00	1,585.00	53.4%*
152221 45100 Ordinance Fines	1,400	1,400.00	700.00	.00	700.00	50.0%*
152221 45101 Parking Tickets	7,000	7,000.00	13,355.00	690.00	-6,355.00	190.8%*
152221 45102 Leash Law Fines	500	500.00	800.00	.00	-300.00	160.0%*
152221 45105 False Alarm Police	2,700	2,700.00	975.00	.00	1,725.00	36.1%*
152221 45106 Restitution	0	.00	1,130.00	.00	-1,130.00	100.0%*
TOTAL Fines & Penalties	21,700	21,700.00	29,835.00	835.00	-8,135.00	137.5%
TOTAL REVENUES	21,700	21,700.00	29,835.00	835.00	-8,135.00	
<u>60 Interest earned</u>						
161193 46100 Interest Earned	275,000	275,000.00	109,568.58	1,569.07	165,431.42	39.8%*
TOTAL Interest earned	275,000	275,000.00	109,568.58	1,569.07	165,431.42	39.8%
TOTAL REVENUES	275,000	275,000.00	109,568.58	1,569.07	165,431.42	
<u>70 Donations</u>						
171952 47000 BDC Contrib to Econ De	73,335	73,335.00	73,335.00	73,335.00	.00	100.0%*
TOTAL Donations	73,335	73,335.00	73,335.00	73,335.00	.00	100.0%
TOTAL REVENUES	73,335	73,335.00	73,335.00	73,335.00	.00	
<u>90 Other</u>						
191011 49000 Administration Miscell	2,000	2,000.00	70.00	50.00	1,930.00	3.5%*
191111 49000 Finance Miscellaneous	2,500	2,500.00	3,659.54	173.40	-1,159.54	146.4%*
191111 49101 Workers Comp Reimb	2,000	2,000.00	15,282.00	.00	-13,282.00	764.1%*
191111 49105 Postage & Handling	3,000	3,000.00	2,770.00	312.00	230.00	92.3%*
191111 49106 W/C Proceeds	0	.00	3,546.93	3,090.66	-3,546.93	100.0%*
191111 49210 Insurance Proceeds	0	.00	7,232.16	-10,266.72	-7,232.16	100.0%*
191192 49100 Cable Television	195,000	195,000.00	169,863.62	56,827.38	25,136.38	87.1%*

FOR 2009 11

	ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
191194 49150 Gen Govt Asset Sales	0	.00	2,668.83	.00	-2,668.83	100.0%*
191311 49000 Assessing Miscellaneous	0	.00	5.00	.00	-5.00	100.0%*
191411 49000 Codes Miscellaneous	500	500.00	941.25	278.00	-441.25	188.3%*
191611 49000 Town Clerk Miscellaneous	1,800	1,800.00	1,744.75	196.25	55.25	96.9%*
191911 49000 Planning Miscellaneous	0	.00	10,260.90	2,045.54	-10,260.90	100.0%*
191941 49000 Natural Resources Misc	0	.00	1,350.00	.00	-1,350.00	100.0%*
192121 49000 Fire Miscellaneous	1,000	1,000.00	899.89	800.00	100.11	90.0%*
192194 49151 Fire Vehicle Sales	0	.00	500.00	.00	-500.00	100.0%*
192221 49000 Police Miscellaneous	0	.00	25,811.58	37.10	-25,811.58	100.0%*
192294 49153 Police Vehicle Sales	29,000	29,000.00	22,035.00	9,435.00	6,965.00	76.0%*
193131 49000 Public Works Miscellan	3,500	3,500.00	87.54	.00	3,412.46	2.5%*
194141 49000 Human Services Misc	0	.00	1.50	1.50	-1.50	100.0%*
194141 49103 General Assistance Rec	1,000	1,000.00	8,214.51	.00	-7,214.51	821.5%*
194545 49000 School Miscellaneous R	85,000	85,000.00	391,254.37	37,131.29	-306,254.37	460.3%*
195051 49000 Recreation Miscellaneous	0	.00	2.18	.00	-2.18	100.0%*
199994 48100 General Fund Transfer	0	59,923.56	97,232.02	37,308.46	-37,308.46	162.3%*
TOTAL Other	326,300	386,223.56	765,433.57	137,419.86	-379,210.01	198.2%
TOTAL REVENUES	326,300	386,223.56	765,433.57	137,419.86	-379,210.01	
GRAND TOTAL	52,083,663	52,143,586.56	51,215,607.51	1,825,204.27	927,979.05	98.2%

** END OF REPORT - Generated by Julie Henze **

REPORT OPTIONS

Sequence	Field #	Total	Page Break	Year/Period: 2009/11
Sequence 1	5	Y	N	Print revenue as credit: N
Sequence 2	0	N	N	Print totals only: N
Sequence 3	0	N	N	Suppress zero bal accts: Y
Sequence 4	0	N	N	Print full GL account: N

Double space: N
Roll projects to object: N
Incl inception to soy: N
Carry forward code: 1
Print journal detail: N
From Yr/Per: 2007/ 1
To Yr/Per: 2009/12
Include budget entries: N
Incl encumb/liq entries: N
Sort by JE # or PO #: J
Detail format option: 1

Report title:
MAY 2009 REVENUE REPORT

Print Full or Short description: F
Print MTD Version: Y
Print Revenues-Version headings: Y
Format type: 2
Print revenue budgets as zero: N
Include Fund Balance: N
Include requisition amount: N

MANAGER'S REPORT B

NO BACK UP MATERIALS

MANAGER'S REPORT -C
BACK UP MATERIALS



**TOWN OF BRUNSWICK
TOWN COUNCIL
RESOLUTION TO RECOGNIZE SIGURD KNUDSEN
FOR HIS SERVICE TO PEOPLE PLUS**

Whereas, Sigurd Knudsen has served at the Executive Director of People Plus since June 19, 1997 and,

Whereas, Mr. Knudsen has announced his retirement from this position effective June 19, 2009 and,

Whereas, Mr. Knudsen has served People Plus and the Town of Brunswick with honor and dedication for twelve years and,

Whereas, People Plus is recognized by the Town as a premier vehicle for the delivery of services to older adults in the area, and,

Whereas, People Plus now incorporates the Brunswick Teen Center, and

Whereas, The Town Council wishes to thank Mr. Knudsen for his service,

NOW THEREFORE, the Brunswick Town Council adopts this resolution to recognize the great work Mr. Knudsen has provided to People Plus to bring this organization to its current level of service to those residents of Brunswick and beyond.

Given under our hands this 15th day of June, 2009.

**Hallie Daughtry
Chair, Brunswick Town Council**

Attest: _____
Town Clerk

MANAGER'S REPORT D

BACK UP MATERIALS



**Town of Brunswick
Maine**

**Know All Persons By These Presents:
that in Recognition and Appreciation
of the Outstanding Contributions
of**

Pauline Brilliant
Registrar of Voters

while serving the people of Brunswick for 25 years

**The Town of Brunswick, Maine does hereby
commend this said person for exceptional
dedication and maintenance of
high standards of excellence**

**Presented by the Council Council
this 15th day of June, 2009**

Attest:

Council Chair

Town Clerk

MANAGER'S REPORT

E and F

NO BACK UP MATERIALS

ITEM 95

BACK UP MATERIALS



**TOWN OF BRUNSWICK
PUBLIC HEARING**

THE BRUNSWICK TOWN COUNCIL will hold a public hearing at their regular meeting on Monday, June 15, 2009, 7:00 p.m. at the Old Times Record Building, 6 Industry Road, Brunswick to receive public comments regarding ordinance amendments to the Brunswick Zoning Ordinance with regards to State mandated Shoreland Zoning Changes.

For more information contact the Planning Office at 725-6660 and go to <http://www.brunswickme.org/planning/index.htm>

INDIVIDUALS NEEDING AUXILIARY AIDS FOR EFFECTIVE COMMUNICATION PLEASE CONTACT THE TOWN MANAGER'S OFFICE AT 725-6653 (TDD 725-5521)

Fran Smith, Town Clerk
Brunswick, Maine

Times Record: May 8, 2009



Town of Brunswick, Maine

INCORPORATED 1739

DEPARTMENT OF PLANNING AND DEVELOPMENT

28 FEDERAL STREET

BRUNSWICK, MAINE 04011-1583

TELEPHONE 207-725-6660

FAX 207-725-6663

MEMO

To: Gary Brown, Acting Town Manager

Cc: Anna Breinich, Director of Planning and Development; Jeff Hutchinson, Codes Enforcement Officer

From: Vanessa Levesque, Natural Resources Planner

Date: June 5, 2009

Re: Final Natural Resource Protection Zone amendments for Public Hearing

The Town Council, at their May 18th meeting, set a public hearing for June 15, 2009 to review the proposed amendments to the Natural Resource Protection Zone (NRPZ). At that meeting, the Council was advised that the Maine Department of Environmental Protection (DEP) had reviewed the amendments and would be providing comments on our draft. I spoke with Mike Morse at DEP regarding their suggestions to ensure that the Town ordinance met State requirements. The agreed upon DEP changes have been incorporated into the final proposed amendments (shown in blue). These changes include:

- A few non-substantial wording changes;
- A minimum size for campgrounds in the NRPZ;
- Guidelines for existing non-conforming lots within the NRPZ; and
- Clarification of the definitions of Dwelling Unit and Height of Structure within the NRPZ

It has also been brought to my attention that there is some debate regarding whether or not these changes are required. I would like to provide a little more background information about the State Shoreland Zoning requirements. According to the DEP Chapter 1000 Guidelines for Municipal Shoreland Zoning Ordinances, "The Mandatory Shoreland Zoning Act (38 M.R.S.A. sections 435-449) requires all municipalities to adopt, administer, and enforce ordinances which regulate land use activities within 250 feet of great ponds, rivers, freshwater and coastal wetlands, including all tidal waters; and within 75 feet of streams as defined...The Act also requires the Board of Environmental Protection to establish minimum guidelines for such ordinances...The Act requires that municipalities adopt shoreland zoning ordinances consistent with, or not less stringent than, those minimum guidelines." Towns are encouraged to modify the guidelines to meet the needs of their own communities, providing that the guidelines are no less stringent. If a town does not adopt some version of shoreland zoning, the State will impose the standard language on that Town.

It has also been suggested that the amendments that I've provided are expanding the Town ordinance beyond those mandated by the State. I would like to assure you that this is not the case. All the changes made are substantively similar to the DEP Guidelines, which are available online for review. In fact, we have received permission from the DEP not to include tributary streams in our regulations, which may have put some stream segments under the jurisdiction of the NRPZ which are currently unregulated.

Lastly, I would like to reassure the Council that the proposed amendments will not add to the financial burden of landowners or to the Town. In fact, many of the changes clarify the existing regulations to make them easier to interpret, and close loopholes that created difficulties. The Final Draft presented for public hearing has gone through multiple revisions and review, and is of the quality that is expected for the Town of Brunswick.

I would be happy to answer any specific questions about the above topics or about the content of the amendments proposed. Thank you very much.

211 NATURAL RESOURCE PROTECTION ZONE (NRPZ)

211.1 DEFINITION OF ZONE

The Natural Resource Protection Zone consists of the following areas:

- A. **Shoreland Area:** ~~The land area located within two hundred and fifty (250) feet of the normal high water line of any river or saltwater body; within two hundred and fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within seventy five (75) feet of the normal high water line of a stream. (Amended 11/18/02 R)~~
All land areas within 250 feet, horizontal distance, of the:
- normal high-water line of any river,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland,
- and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.
- This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.
- B. **Special Flood Hazard Area:** Any land in the floodplain lying within the 100-year flood boundary as delineated on the Flood Insurance Rate Map of the Town as part of the National Flood Insurance Program.

211.2 ADDITIONAL REQUIREMENTS FOR THE SHORELAND AREA

211.2.A PRINCIPAL AND ACCESSORY STRUCTURES

211.2.A.1

No new principal or accessory structures, except structures which require direct access to the water as an operational necessity (including but not limited to piers, docks, retaining walls and public waterfront trails, but excluding recreational boat storage buildings) shall be located within any of the following areas:

- a. Areas within one hundred twenty-five (125) feet, horizontal distance, of the normal high water line of a river ~~or tidal area~~; or within one hundred twenty-five (125) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. (Amended 11/18/02 R)
- b. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated as "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) ~~as of December 31, 2008 as of January 1, 1973~~ as depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W or MDEP, and as shown on the Brunswick Official Zoning Map, ~~with exception of those areas which are currently developed.~~ These areas are defined as "Resource Protection Areas" and include areas which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values (see also section 211.2.A.3). (Amended 5/17/99 E/R)
- c. Water and wetland setback measurements shall be taken from the top of a coastal bluff such as those that have been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map, and as depicted on the Brunswick GIS. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, or a Maine State Geologist to make a determination.

ed. Flood plains adjacent to tidal ~~areas~~waters, rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps Flood Boundary and Floodway Maps or the flood of record.

de. Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

ef. Areas of two (2) or more contiguous acres of wetlands which are not part of a freshwater or coastal wetland and which are not surficially connected to a river, tidal ~~area~~-waters or stream during the period of normal ~~spring~~-high water. (Amended 11/18/02 R)

fg. Land along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

211.2.A.2

Proposals for new Principal and Accessory structures requiring direct access to the water as an operational necessity are subject to the provisions of section 306.7.

211.2.A.3

Special Resource Protection Permit

Properties that were created prior to June 6, 1994 and that are located in a Resource Protection Area as defined under 211.2.A.1(b); and those properties created prior to November 18, 2002 that lie within the Natural Resource Protection Zone of a stream created after November 18, 2002 may be developed with single family residential structures by a Special Resource Protection Permit if the Staff Review Committee makes a positive finding that the applicant has demonstrated that all of the following conditions are met: (Amended 9/4/01 R, 11/18/02 R)

1. There is no location on the property, other than a location within the Resource Protection Area, where the structure can be built.
2. The lot was established and recorded in the Cumberland County Registry of Deeds prior to June 6, 1994 if applying for a Special Resource Protection Permit in the Resource Protection Area, or November 18, 2002 if applying for a Special Resource Protection Permit in a stream NRPZ created after November 18, 2002.
3. ~~The All~~ proposed ~~location of all~~ buildings, sewage disposal systems and other improvements are:
 - a. Located on natural ground slopes of less than 20%; and
 - b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.
If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.
4. The total ground floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a waterbody or upland edge of a coastal or freshwater wetland to the greatest practical extent, but not less than 125 feet, horizontal distance; or not less than ~~25-75~~ feet, horizontal distance from a stream. In determining the greatest practical extent, the Staff Review Committee shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands. (Amended 9/4/01 R, 11/18/02 R) (Amended 5/17/99 E/R)

211.2.B AGRICULTURE

211.2.B.1

All spreading ~~or disposal~~ of manure shall be accomplished in conformance with the ~~Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the University of Maine Soil and Water Conservation Commission in July 1972, or the latest revision thereof.~~ Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

211.2.B.2

Manure shall not be stored or stockpiled within one hundred twenty-five (125) feet, horizontal distance, of the normal high water line of a river, or tidal ~~area~~ waters; or within one hundred twenty-five (125) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. ~~Within five (5) years of the effective date of this ordinance~~ aAll manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. ~~Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.~~

211.2.B.3

Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, ~~or the spreading, disposal or storage of manure~~ within the Shoreland Area shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this ordinance. Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District Office.

211.2.B.4

~~After the effective date of this ordinance, n~~Newly established fields which require tilling of soil shall not be permitted within seventy-five (75) feet, horizontal distance, of the normal high water line of any river, tidal area-waters or stream; nor of the upland edge of a coastal or freshwater wetland.

The tilling of fields associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such tilling is conducted in accordance with a Soil and Water Conservation Plan.

211.2.B.5

~~After the effective date of this ordinance, n~~Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of normal high water line of a river, tidal area coastal or freshwater wetland or stream; ~~nor within twenty five (25) feet, horizontal distance of the upland edge of a coastal or freshwater wetlands.~~

Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

211.2.C BEACH CONSTRUCTION

Before beach construction is commenced, an applicant must obtain a permit from the Department of Environmental Protection and site plan approval by the Planning Board.

211.2.D CLEARING OR REMOVAL OF VEGETATION FOR DEVELOPMENT ACTIVITIES OTHER THAN TIMBER HARVESTING

211.2.D.1

Except to allow for development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high water line of a river, tidal ~~area-waters~~ or stream; seventy-five (75) feet, horizontal distance, from the upland edge of a coastal or freshwater wetland; a buffer strip of vegetation shall be preserved as follows: (Amended 11/18/02 R)

- a. There shall be no cleared opening greater than 250 s.f. in the forest canopy (~~or other existing woody vegetation if a forested canopy is not present~~) as measured from the outer limits of the tree ~~or shrub~~ crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks ~~and/or shrub stems~~ is ~~permitted-allowed~~ provided that a cleared line of sight to the water through the buffer strip is not created.
- b. Selective cutting of trees within the buffer strip is ~~permitted-allowed~~ provided that a well distributed stand of trees and other ~~natural~~ vegetation is maintained. For the purposes of ~~this s~~Section ~~211.2.D.1~~ a "well-distributed stand of trees ~~and other vegetation~~" shall be defined as maintaining a rating score of ~~12-24~~ or more in any 25 foot by ~~25-50~~ foot ~~square-rectangle~~ (~~625-1250~~ s.f.) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet above ground level (inches)	Points
2- <4 in.	1
>4-12 <8 in.	2
>8 <12 in.	4
<u>12 in or greater</u>	<u>8</u>

Note: As an example, if a 25-foot x ~~25-50~~ foot plot contains ~~three (3)~~four (4) trees between 2 and 4 inches in diameter, ~~two trees between 4 and 8 inches in diameter~~, three trees between ~~4-8~~ and 12 inches in diameter, and ~~three-two~~ trees over 12 inches in diameter, the rating score is: ~~(3x14x1) + (2x2) + (3x23x4) + (3x42x8) = 21-36~~ points Thus, the 25 foot by ~~25-50~~ foot plot contains trees with ~~21-36~~ points. Trees ~~totalling~~totaling 9-12 points (~~21-36-12-24 = 9-12~~) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- i. The 25 foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but not overlap a previous plot;
- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 211.2.D.1 "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by ~~50-foot~~foot rectangular areas. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a foot path or other permitted uses as described in Section 211.2.D.1 paragraph 1a-paragraphs 1(a)

and (b) above.

- d. Pruning of tree branches, on the bottom 1/3 of the tree is ~~permitted~~allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

~~The provisions contained in s~~Section 211.2.D.1 ~~shall does~~ not apply to those portions of public recreational facilities adjacent to public swimming areas. ~~C as long as~~ cleared areas, ~~however, shall beare~~ limited to the minimum area necessary.

211.2.D.2

~~At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, stream, or the upland edge of a wetland. In those areas not within the strip of land described in paragraph D.1. above, except to allow for the development of permitted uses,~~ there shall be ~~permitted-allowed~~ on any lot, in any ten (10) year period, selective cutting of not more than forty (40%) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40%) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for ~~development~~any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland area or ten thousand (10,000) square feet, whichever is greater, including land previously ~~developed~~cleared.

211.2.D.3

~~Cleared-Legally existing cleared~~ openings ~~legally in existence on the effective date of this ordinance~~ may be maintained, but shall not be enlarged, except as ~~permitted-allowed~~ by this ~~e~~Ordinance. This rule applies specifically to continued maintenance, but not enlargement of lawns, gardens, and agricultural fields and pastures in existence at the effective date of this amendment. (11/18/02 R)

211.2.D.4

Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of ~~this s~~Section 211.2.D.

211.2.D.5

The clearing of vegetation shall be limited to that which is necessary for permitted uses in the following areas:

- a. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated as "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W or MDEP, and as shown on the Brunswick Official Zoning Map by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973, as amended.
- b. Flood plains adjacent to tidal ~~areas~~waters, rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Boundary and Floodway Maps or the flood of record.
- c. Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.
- d. Areas of two (2) or more contiguous acres of wetlands which are not part of a freshwater or coastal wetland and which are not surficially connected to a river, tidal ~~area~~waters or stream during the period of normal spring-high water. (11/18/02 R)

- e. Land along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs. Land along the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map.

211.2.D.6

The vegetation clearing standards of this ordinance can be exceeded on a temporary basis with prior written approval of the Codes Enforcement Officer under the following conditions:

- a. The work shall be completed by a qualified professional under the supervision of a public natural resource agency or municipal department exclusively for the purpose of controlling the spread of invasive species and restoring natural areas.
- b. Woody species removed that exceed the required stand scoring limits are non-native invasive species including: Norway Maple (*Acer platanoides*), Japanese barberry (*Berberis thunbergii*), Asiatic bittersweet (*Celastrus orbiculata*), glossy buckthorn (*Frangula alnus*), Morrow’s honeysuckle (*Lonicera morrowii*), Japanese honeysuckle (*Lonicera japonica*), Tartarian honeysuckle (*Lonicera tatarica*), multiflora rose (*Rosa multiflora*), or other species identified as woody invasive plants by the Maine Natural Areas Program (MNAP).

If removal of these species exceeds the required stand scoring limits, native species will be planted to return the area to compliance with the “well distributed stand” definition as specified in 211.2.D.1.b prior to the start of the next growing season.

- c. Non-native invasive woody species under three (3) feet in height and herbaceous invasive species including Japanese knotweed (*Fallopia japonica*), purple loosestrife (*Lythrum salicaria*), and other species identified as invasive plants by the Maine Natural Areas Program (MNAP) can be removed if the area is replanted and monitored for the successful establishment of native species at an equal or greater density than the species removed.
- d. Temporary erosion control measures shall be installed prior to the start of the activity if the invasive species removal effort has the potential to result in erosion of soil into the resource.
- e. All disturbed areas shall be permanently stabilized.

(Amended 11/18/02 R)

211.2.E EROSION AND SEDIMENTATION CONTROL

211.2.E.1

Activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Planning Board or Codes Officer in accordance with this ordinance for approval and shall include, where applicable, provisions for:

- a. Mulching and revegetation of disturbed soil.
- b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- c. Permanent stabilization such as retaining walls or rip-rap.

211.2.E.2

In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

211.2.E.3

Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

211.2.E.4

Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

211.2.E.5

Natural and artificial drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

211.2.F MINERAL EXPLORATION AND EXTRACTION

All mineral exploration and extraction must conform to requirements of Section 306.6 of this ordinance. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A special exception from the Zoning Board of Appeals shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, ~~so as~~ to restore disturbed areas and to protect the public health and safety. Mineral extraction may be permitted under the following conditions:

211.2.F.1.

A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe, in detail, procedures to be undertaken to fulfill the requirements of ~~paragraph 4~~Section 211.2.F.3 below.

211.2.F.2.

No new gravel pits may be developed within the Shoreland Area unless it can be demonstrated that no reasonable alternative exists outside the zone. When gravel pits must be located within the zone, they shall be set back as far as practicable, and, at a minimum, in conformance with the setback standards below.

No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred twenty five (125) feet, horizontal distance, of the normal high water line of a river or tidal ~~area~~waters; or one hundred twenty-five (125) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; or seventy-five (75) feet, horizontal distance, of a stream. Gravel pits shall be screened from ~~a the river resource(s)~~ by ~~existing~~ vegetation. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

~~3. Unless authorized pursuant to the Natural Resource Protection Act, Title 28, M.R.S.A. Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within seventy five (75) feet, horizontal distance, of the normal high water line of a stream. Extraction operations shall not be permitted within seventy five (75) feet of any property line, without written permission of the owner of such adjacent property.~~

211.2.F.3.

Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

- a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on site. Only materials generated on-site may be buried or covered on-site.
- b. The final graded slope shall be two and one half to one (2 1/2:1) or flatter.
- c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional top soil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

211.2.F.4.

The Planning Board may impose such other considerations as necessary to minimize adverse impacts associated with mineral extraction operations on surrounding uses and resources.

211.2.G

COMMERCIAL MARINE ACTIVITIES – PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND

- a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- b. The location shall not interfere with existing developed or natural beach areas.
- c. The facility shall be located so as to minimize adverse effects on fisheries.
- d. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- e. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- f. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Codes Enforcement Officer that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- ~~a.g.~~ No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of waterbody or within a wetland shall be converted to residential dwelling units.
- h. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- i. Commercial marine activities and piers, docks, wharves, breakwaters, causeways, marinas, bridges and other structures projecting into water bodies must conform to the provisions outlined in Section 306.7.

Note: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C. Permits may also be required from the Army Corps of Engineers if

located in navigable waters.

~~Piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 feet long and other structures projecting into water bodies are marine activities. In addition to federal or state permits which may be required for such structures, they must conform to the provisions outlined in Section 306.7.~~

~~No new structures built on, over or adjacent to a marine activity shall exceed a height of twenty feet (20') measured vertically from the existing grade elevation or the normal high water level over which such new structure is built. No existing structures built on, over or adjacent to a marine activity shall be converted to a residential dwelling.~~

211.2.H ROADS AND DRIVEWAYS

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

211.2.H.1

Unless no reasonable alternative exists as determined by the Planning Board, roads and driveways shall be set back at least one hundred twenty-five (125) feet, horizontal distance, from the normal high-water line of a river or tidal area waters; one hundred twenty-five (125) feet, horizontal distance, from the upland edge of any coastal or freshwater wetland; seventy-five (75) feet from the normal high water line of a stream. If no reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the protected resource(s). Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the protected resource(s).

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

~~This paragraph shall neither~~ Section 211.2.H.1 does not apply to approaches to water crossings ~~nor~~ to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 211.2.H.1 except for that portion of the road or driveway necessary for direct access to the structure.

211.2.H.2

New roads and driveways are prohibited in the areas described in section 211.2.A.1. except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the those areas, ~~or as approved by the Planning Board~~ upon a finding that no reasonable alternative route or location is available outside of those areas, in which case the road and/or driveway shall be set back as far as practicable from the protected resource.

211.2.H.3

Existing public roads may be expanded within the legal road right-of-way regardless of ~~its~~ their setback from a water body, stream or wetland.

211.2.H.4

Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in section 211.2.E.

211.2.H.5

Road and driveway grades shall be no greater than ten (10) percent except for ~~short~~ segments of less than two hundred (200) feet.

211.2.H.6

In order to prevent road ~~and driveway~~ surface drainage from directly entering a protected resource, roads ~~and driveways~~ shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope in horizontal width between the outflow point of the ditch or culvert and the normal high water line of a river, tidal ~~area waters, of a~~ stream, or upland edge of a coastal or freshwater wetland. The unscarified buffer strip along a stream shall be twenty-five (25) feet in horizontal width. ~~Road-s~~Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

211.2.H.7

Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified bufferstrips before the flow ~~in the road or ditches~~ gains sufficient volume or head to erode the road, ~~driveway~~ or ditch.

To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced ~~along the~~ along the road, or driveway at intervals no greater than indicated in the following table:

Road Grade (in percent)	Spacing (in feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the ~~road~~ grade is ten (10) percent or less.
- c. On ~~road~~ sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed ~~across the road~~ at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- d. Ditch relief shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

211.2.H.8

Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

211.2.I TIMBER HARVESTING

Section 211.2.I in its entirety is to be repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the Bureau of Forestry will administer and enforce the statewide standards for timber harvesting in shoreland areas.

211.2.I.1 Timber Harvesting shall conform with the following provisions:

- a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 ~~1/2~~ feet above ground level on any lot in any ten (10) year period is permitted. In addition:
- i. Within seventy-five (75) feet, horizontal distance, of the normal high-water line of a river, tidal ~~area waters~~

or stream; or within seventy-five (75) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

- ii. In areas outside of those described in paragraph i. above, harvesting operations shall not create single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
- b. Timber harvesting operations exceeding the 40% limitation in paragraph a. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.
- c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a river, tidal ~~area~~ waters or stream. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground. Any debris that falls below the normal high- water line of a water body shall be removed.
- d. Timber harvesting equipment shall not use stream channels as travel routes.
- e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soils and the normal high water line of a river, tidal ~~area~~ waters, or stream; or upland edge of a coastal or freshwater wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the river, tidal ~~area~~ waters, stream, coastal wetland or freshwater wetland, provided however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the protected resource.

In addition, an unscarified strip of vegetation of at least seventy-five (75) feet in width shall be retained between the exposed mineral soils and the normal high-water line of a stream.

211.2.J CAMPGROUNDS

Campgrounds shall conform to the minimum requirements imposed under State licensing and permitting procedures and the following:

211.2.J.1.

The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings, shall be set back a minimum horizontal distance of one hundred twenty-five (125) feet, horizontal distance, from the normal high-water mark line of a river or tidal ~~area~~ waters, or the upland edge of a coastal or freshwater wetland; seventy-five (75) feet, horizontal distance from the normal high water line of a stream .

211.2.J.2.

Campgrounds shall contain a minimum of 5000 sq feet of land, no including roads and driveways, for each site.

Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

211.2.J.32.

All campgrounds are subject to approval of the Planning Board through site plan review and the Department of Human Services.

211.2.K SANITARY STANDARDS

As well as meeting all requirements of the State of Maine Subsurface Wastewater Disposal Rules, all on-site septic systems located within the Shoreland Area shall meet the following additional standards:

211.2.K.1

All parts of all types of subsurface wastewater disposal systems shall be setback a minimum horizontal distance of one hundred twenty-five (125) feet from the normal high water line of a river or tidal ~~area~~waters; one hundred twenty-five feet from the upland edge of a coastal or freshwater wetland; seventy-five (75) feet from the normal high water line of a stream (Amended 5/21/01).

The clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than one hundred twenty-five (125) feet, horizontal distance from the normal high water line of a river, tidal ~~area~~waters, or coastal or freshwater wetland; or within seventy-five (75) feet, horizontal distance, from the normal high water line of a stream. A holding tank is not allowed for a first-time residential use in the shoreland zone.

211.2.K.2

The Local Plumbing Inspector may approve a request concerning the setback of a replacement subsurface wastewater disposal system, if a report, prepared by a soils scientist or site evaluator registered in the State of Maine, is submitted and accepted stating that

- a. the existing system is failing
- b. no suitable location exists outside the setbacks and
- c. the proposed location meets the required setbacks to the great extent.

(Amended 5/21/01)

211.2.K.3

Setbacks for new subsurface wastewater disposal facilities in the Shoreland Zone cannot be reduced by variances.

211.2.L OVERBOARD DISCHARGE SYSTEMS

Overboard discharge from a sewage disposal system, in which sewage, chlorinated or otherwise, flows into a protected resource is prohibited. Systems licensed prior to the passage of this amendment may continue as long as they are in compliance with all appropriate state law and do not involve expansion of the existing system.

211.2.M WATER QUALITY

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body .stream or wetland.

211.2. N SIGNS

~~Identification signs cannot be more than 10 square feet and rental signs can not be more than 3 square feet. All other signs shall not exceed 6 square feet in size. The use of signs in the NRPZ must adhere to Sections 601~~

through 604.

211.2.O INDIVIDUAL PRIVATE CAMPSITES

Individual, private campsites not associated with campgrounds are ~~permitted~~-allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this ordinance, or thirty thousand (30,000) s.f. of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be setback one hundred twenty five (125) feet, horizontal distance, from the normal high water line of a river or tidal ~~area~~waters, or from the upland edge of a coastal or freshwater wetland; seventy-five (75) feet, horizontal distance from the normal high water line of a stream.
3. ~~Only one recreational vehicle shall be allowed on a campsite. The r~~ecreational vehicles shall not be located on any type of permanent foundation and no structure(s) except canopies shall be attached to the recreation vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter shall be limited to one thousand (1,000) s.f.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off site, written authorization from the receiving facility or land owner is required.
6. No recreational vehicles, tent or similar shelter shall be placed on-site for more than one hundred and twenty (120) days per year.

211.2.P SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction.

Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and prepared by a state certified professional. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevations, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

211.2.Q ARCHAEOLOGICAL SITES

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Maine Historic Preservation Commission, shall be submitted to that Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the commission prior to rendering a decision on the application. A list of Historic Places, compiled by the Maine Historic Preservation Commission, will be kept on file in the ~~planning~~ Planning and Codes Enforcement Offices.

A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

211.2.R PARKING AREAS

211.2.R.1

Parking areas shall meet the shoreline setback requirements for structures. If the Planning Board finds that no reasonable alternative exists, the setback requirement for parking areas serving public or private boat launching facility may be reduced to no less than fifty (50) feet from the normal high water line of a river, tidal ~~area~~waters, stream; or no less than fifty (50) feet from the upland edge of a coastal or freshwater wetland.

211.2.R.2

Parking areas shall be designed to prevent stormwater runoff from flowing directly into a protected resource, and where feasible, to retain all runoff on site.

211.2.R.3

Parking areas shall conform with the design and performance standards of Section 512. In addition parking spaces for vehicles with boat trailers shall be 40' in length.

211.2.S STORM WATER RUNOFF

211.2.S.1

All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

211.2.S.2

Direct discharge of stormwater into any water body shall be avoided.

211.2.S.3

Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

211.2.T ESSENTIAL SERVICES

211.2.T.1

Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

211.2.T.2

The installation of essential services, other than road-side distribution lines, is not ~~permitted~~allowed in the Shoreland Area except to provide services to a permitted use within the district, or except where the applicant demonstrates that no reasonable alternative exists. Where ~~permitted~~allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

211.2.T.3

Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

CHAPTER THREE: SPECIFIC DIMENSIONAL AND USE PROVISIONS

The purpose of this Chapter is to set forth more specific requirements than those found in Chapter 2. These requirements pertain to circumstances found throughout the Town in all zones. The standards set forth in this Chapter shall prevail over the requirements of any other chapter, with the exception that any conflicting standards found in an Overlay Zone shall prevail.

~~[Sections omitted for ease of editing and review]~~

304 NON-CONFORMITY

304.1 CONTINUANCE

The non-conforming use of land, building or structure existing on the effective date of this Ordinance may be continued, even though such use does not conform to this Ordinance. (Amended 1/19/99 R)

304.2 DISCONTINUANCE

If the nonconforming use of land, building or structure is discontinued for thirty-six (36) consecutive months, as determined by the Codes Enforcement Officer, it may thereafter be developed only as a permitted use or Special Permit in accordance with Section 701 except as modified in section 304.2.A. (Amended 1/19/99 R)

304.2.A Discontinuance in the APZ ~~and NRPZ~~

If the nonconforming use of land, building or structure in the APZ ~~or NRPZ~~ is discontinued for twelve (12) consecutive months, as determined by the Codes Enforcement Officer, it may thereafter be developed only as a permitted use, or Special Permit in accordance with Section 701. (Amended 1/19/99 R)

304.3 CHANGE OF USE

A non-conforming use may be changed to a permitted use in the zoning district in which it is located; for Non-Classified or Omitted Uses, a Special Permit must be obtained from the Planning Board pursuant to Section 701.

304.4 STRUCTURES DAMAGED OR DESTROYED BY FIRE OR OTHER DISASTER

304.4.A Where a structure which houses a non-conforming use, or a structure which does not comply with current zoning provisions is destroyed by fire or other disaster, the owner of the structure has two years during which to obtain a building permit to restore it to its original condition or lose any vested rights. (Amended 1/20/04 R)

~~304.4.B Reconstruction and Replacement in NRPZ~~

~~Reconstruction or replacement of non-conforming structures that have been damaged or destroyed by more than 50% of their market value is allowed under the following conditions:~~

- ~~1. A building permit is obtained for reconstruction or replacement within one year and; (Amended 1/20/04 R)~~
- ~~2. to the greatest extent practical, the structure meets setback requirements.~~
- ~~3. In no case shall a structure be reconstructed or replaced in a manner that increases its non-conformity.~~

~~The Staff Review Committee shall review all reconstruction or replacement of structures damaged by over 50% using the standards listed in this section and section 211.3.E. For structures with 50% or less damage, the Codes Enforcement Officer may issue a building permit provided the structure is reconstructed in place and meets the standards listed in this section. (Amended 1/19/99 R, 10/15/01 R)~~

304.5 EXPANSION OF A NON-CONFORMING USE

304.5.A As Of Right

Any non-conforming use may be expanded by not more than 1,000 square feet over a 5-year period as a matter of right, provided that no new non-conformity is created.

304.5.B By Special Exception

A non-conforming use may be expanded by Special Exception by the Zoning Board of Appeals, in accordance with Section 703.3 of this Ordinance, provided that no new non-conformity is created.

304.6 EXPANSION OF NON-CONFORMING BUILDING OR STRUCTURE WITHOUT VARIANCE

A building or structure that is non-conforming with regard to dimensional requirements may be expanded, altered and/or replaced subject to the following. (Amended 6/19/00 R)

304.6.A The expansion alteration and/or replacement shall not cause a new non-conformity. (Amended 6/19/00 R)

304.6.B The construction of an additional story or upper floor space over an existing first floor space, where the first floor is located within a required setback is allowed and is not considered to increase the non-conformity or create a new non-conformity.

304.6.C The expansion may occur within a required setback if an existing non-conforming setback exists, and the expansion does not extend beyond the non-conforming setback line established by the building or structure which is being expanded.

~~304.6.D **Expansions in NRPZ.** A non-conforming structure may be added to or expanded after obtaining a permit from the Codes Enforcement Officer if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (1) and (2) below. (Amended 10/15/01 R)~~

~~304.6.D.1 If any portion of a structure is less than the required setback from the normal high water line of a water body or upland edge of a wetland, that portion of the structure existing as of January 1, 1989 shall not be expanded, as measured in floor area or volume, by 30% or more during the lifetime of the structure. (Amended 10/15/01 R)~~

~~304.6.D.2 Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:~~

~~a. The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Codes Enforcement Officer, basing its decision on the criteria specified in Section 304.7, below:~~

~~b. The completed foundation does not extend beyond the exterior dimensions of the structure; and~~

~~c. The foundation does not cause the structure to be elevated by more than three (3) feet.~~

(Amended 10/15/01 R)

~~304.7 RELOCATION~~

~~A non-conforming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by Staff Review Committee and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and Rules. In no case shall a structure be relocated so that it is more non-conforming. (Amended 1/19/99 R, Amended 10/15/01 R)~~

~~In determining whether the building relocation meets the setback to the greatest practical extent, the Staff Review Committee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. It is the responsibility of the applicant to provide this information to the Board. (Amended 1/19/99 R)~~

304.87 NON-CONFORMING LOTS

304.87-A Where a non-conforming lot of record was part of a subdivision approved in conformance with Town and State subdivision regulations and statutes, said lot may be constructed upon in accordance with the zoning requirements in effect at the time the lot was lawfully established, provided the proposed use is a permitted one. However, such zoning requirements shall apply only to new construction upon a vacant lot. (Amended 1/19/99 R) [This provision does not apply to such lots located within the NRPZ zoned as Resource Protection Areas.](#)

304.87-B For any non-conforming lot of record lawfully established prior to the existence of subdivision review or where a subdivision review was not required in accordance with appropriate laws, and where the lot area or frontage, or both, is less than the minimum standard of this ordinance, said lot may be used as permitted in the zoning district in which it is located, provided the minimum yard setback requirements are complied with. (Amended 1/19/99 R)

304.87.C Where a non-conforming lot cannot meet the yard setback requirements of this ordinance, the Zoning Board of Appeals may grant a variance in accordance with Section 703.2. No variance shall be granted if the lot is in common ownership with an adjacent lot, and the combined lot satisfies ordinance requirements. (Amended 1/19/99 R)

304.8 NON-CONFORMITY IN THE NATURAL RESOURCE PROTECTION ZONE (NRPZ)

~~Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more con-forming.~~

304.8.A Discontinuance in the NRPZ

If the nonconforming use of land, building or structure in the NRPZ is discontinued for twelve (12) consecutive months, as determined by the Codes Enforcement Officer, it may thereafter be developed only as a permitted use, or Special Permit in accordance with Section 701.

304.8.A.1 **Change of Use in the NRPZ**

The use of a non-conforming structure may be changed to another use in accordance with Section 702. A written application must be submitted to the Planning and Development Department demonstrating that the new use will have no greater adverse impact on the water body, stream, or wetland, or on the adjacent properties and resources than the existing use.

To determine that no greater adverse impact will occur, the written documentation from the applicant must assess the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

304.8.B **Reconstruction and Replacement in NRPZ**

Reconstruction or replacement of non-conforming structures that have been damaged or destroyed, regardless of the cause, by more than 50% of their market value is allowed under the following conditions:

1. A building permit is obtained for reconstruction or replacement within one year and; (Amended 1/20/04 R)
 - a. To the greatest extent practical, the structure meets water body, stream or wetland setback requirements.
 - b. In no case shall a structure be reconstructed or replaced in a manner that increases its non-conformity.

2. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 304.9.C below, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 304.9.D below.

The Staff Review Committee shall review all reconstruction or replacement of structures damaged by over 50% using the standards listed in this section and section 211.3.E.

For non-conforming structures with 50% or less damage, the Codes Enforcement Officer may issue a building permit provided the structure is reconstructed in place and meets the standards listed in this section. (Amended 1/19/99 R, 10/15/01 R)

304.8.C **Expansions in NRPZ.**

A non-conforming structure may be added to or expanded after obtaining a permit from the Codes Enforcement Officer if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (1) and (2) below. (Amended 10/15/01 R)

- 304.8.C.1 If any portion of a structure is less than the required setback from the normal high-water line of a water body, stream or upland edge of a wetland, that portion of the structure existing as of January 1, 1989 shall not be expanded, as measured in floor area or volume, by 30% or more during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 304.9.B, and is less than the required setback from a water body, stream or wetland, the

replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date. (Amended 10/15/01 R)

304.8.C.2

~~Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided: Whenever a new, enlarged, or replacement foundation is constructed under a non-confirming structure, the~~

~~a. The structure and new foundation are must be~~ placed such that the setback requirement is met to the greatest practical extent as determined by the Codes Enforcement Officer, basing its decision on the criteria specified in Section ~~304.7, below 304.9.D; below. If:~~

~~b. The completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 304.9.C.1 above;~~ and

~~e. The foundation does not cause the structure to be elevated by more than three (3) feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.~~

(Amended 10/15/01 R)

304.8.D

RELOCATION IN THE NRPZ

A non-confirming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by Staff Review Committee and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and Rules. In no case shall a structure be relocated so that it is more non-confirming. (Amended 1/19/99 R, Amended 10/15/01 R)

In determining whether the building relocation meets the setback to the greatest practical extent, the Staff Review Committee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. It is the responsibility of the applicant to provide this information to the Board. (Amended 1/19/99 R)

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Staff Review Committee shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- i. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native ~~bv~~vegetation and/or ground cover that was disturbed, destroyed or removed.

- ii. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination

thereof.
304.8.E NON-CONFORMING LOTS IN THE NRPZ

304.8.E.1. Non-conforming Lots in the NRPZ: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area and lot width can be met. Variances relating to setback or other requirements not involving lot area or lot width shall be obtained by action of the Zoning Board of Appeals.

304.8.E.2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that minimum lot size of the underlying zoning district and the State of Maine Subsurface Wastewater Disposal Rules (in those areas not served by public water) are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

304.8.E.3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

(a) Each lot contains at least 20,000 square feet of lot area; or

(b) Any lots that do not meet the lot width and lot size requirements of the underlying zoning district are reconfigured or combined so that each new lot contains at least 20,000 square feet of lot area.

CHAPTER SEVEN: ADMINISTRATION AND ENFORCEMENT

701 Special Permits for Unclassified and Omitted Uses

Unclassified and Omitted Uses (See Chapter Two, Part One, Section 2) may be allowed upon the issuance of a Special Permit by the Planning Board and upon ratification by the Town Council as described in Section 701.1.

[Sections omitted for editing and review ease]

703.4 Appeals to the Zoning Board of Appeals

A. Making An Appeal.

1. Administrative review appeals from decisions of the Codes Enforcement Officer, Planning Board or Village Review Board shall be taken no later than 30 days after the decision is rendered. Variance appeals and special exception appeals do not require a prior decision of the Codes Enforcement Officer or a board and are not subject to this time limit.
2. Such appeal shall be made by filing in the Office of the Codes Enforcement Officer a written notice of appeal specifying the grounds for such appeal. For an appeal seeking a variance or special exception, the applicant shall submit:
 - a. A sketch drawn to scale or photograph showing lot lines, location of existing buildings and other physical features pertinent to the variance request.
 - b. A concise written statement stating what variance or special exceptions is requested.
3. Upon being notified of an appeal, the Codes Enforcement Officer, the Planning Board or Village Review Board, as the case may be, shall transmit to the Zoning Board all of the papers specifying the record of the decision appealed from. Each appeal shall be accompanied with the fee designated by the Town Council. The Zoning Board of Appeals shall hold a public hearing on the appeal within forty-five (45) days after the filing of the appeal.
4. A copy of each variance request located in the NRPZ, including the application and all supporting information supplied by the applicant, shall be forwarded by the Codes Enforcement Officer to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Zoning Board of Appeals. Any comments received from the Commissioner prior to the action by the Zoning Board of Appeals shall be made part of the record and shall be taken into consideration by the Zoning Board of Appeals.

B. Procedure on Appeal

1. At least seven (7) days prior to the date of the hearing on such appeal, the Zoning Board shall cause to be published in one issue in a newspaper of general circulation in Brunswick a notice which includes:
 - a. The name of the person appealing.
 - b. A brief description of the property involved, including the street address.
 - c. A brief description of the decision appealed from, or the nature of a variance or special exception.
 - d. The time and place of the Zoning Board's hearing.

2. At least ten (10) days prior to the date set for hearing, the Board shall give similar written notice to:
 - a. All property owners of record whose properties lie within 200 feet (200') of the perimeter of the affected property,
 - b. The person making the appeal, and
 - c. The Codes Enforcement Officer, Planning Board or Village Review Board, as the case may be, and any other person requesting notice.
3. The notice will be sent via U.S. Mail, postage prepaid to those persons as listed on the town's tax records.

C. Hearings

1. In hearing an administrative review appeal from a decision of the Codes Enforcement Officer, Planning Board or Village Review Board, the Zoning Board of Appeals shall
 - a. Examine all application documents, Ordinance requirements and Finding of Fact and Conclusions prepared by the Codes Enforcement Officer or Board whose decision is being appealed.
 - b. Determine on the basis of the entire record presented to the Codes Enforcement Officer or the Board whose decision is appealed from whether the Codes Enforcement Officer or such Board could reasonably have found the facts and reached the conclusions upon which the decision under appeal was based.
 - c. Determine whether the prior Board's decision was based on substantial evidence.
 - d. Not substitute the judgement of the Zoning Board of Appeals for the judgement of the Codes Enforcement Officer or the Board whose decision is under appeal.
 - e. If the Zoning Board finds that the Codes Enforcement Officer or the Board was not erroneous in its review of the application, the original determination shall be upheld.
2. The Zoning Board may find that all or portions of the decision were faulty, in which case the Board may remand that portion of the application to the Codes Enforcement Officer, Planning Board or Village Review Board for reconsideration, with recommendations that the prior Board make additional findings of fact and conclusions to enable the Zoning Board of Appeals to complete its evaluation of the appeal. In the case of such a remand, the appeal before the Board of Appeals shall remain pending until the Codes Enforcement Officer or Board whose decision is on appeal acts on the remand and reports its action to the Board of Appeals, which shall then make a final decision on the appeal. The decision of the Board of Appeals to remand is not final action by the Board of Appeals and is not appealable to Superior Court.
3. At a hearing on any appeal, the appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the chair.
4. At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause.
5. If a party does not attend a hearing and is not otherwise represented, its case will be deemed to have been withdrawn without prejudice to refile the appeal. The filing fee will not be refunded to any applicant.

whose appeal is withdrawn in this manner.

6. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.

703.5 Decisions of the Zoning Board of Appeals

- A. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to:
1. reverse any order, requirement, decision or determination of the Codes Enforcement Officer, Planning Board or Village Review Board;
 2. to grant a variance;
 3. to grant a special exception; or
 4. to decide in favor of the applicant on any matter which the Board is required to decide under this Ordinance.
- B. The Zoning Board shall decide all appeals within at least thirty (30) days after hearing, unless the Board and the applicant agree to a longer time, and shall issue a written decision on all Appeals.
- C. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion is presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Codes Enforcement Officer, Planning Board or Village Review Board, as the case may be, and the Municipal Officers within seven (7) days of the decision date.
- D. A special exception or variance granted under the provisions of this Ordinance by the Zoning Board of Appeals shall expire if the work or change involved is not completed within two (2) years of the date on which the special exception or variance is granted.
- E. All variances granted by the Zoning Board of Appeals shall be recorded in the Cumberland County Registry of Deeds in accordance with 30-A M.R.S.A. Section 4353(5).
- F. Once an appeal has been denied, a second appeal of a similar nature with regard to the same building or property may not be brought to the Board within six months. (Amended 6/19/00 R)
- G. Appeals may be taken as permitted by law from any decision of the Zoning Board of Appeals to Superior Court.
- H. For appeal decision located in the NRPZ, the Zoning Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Zoning Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

CHAPTER ONE: GENERAL PROVISIONS

[Sections omitted for ease of editing and review]

111 Definitions

Accessory Structure. A structure subordinate to a principal building on the same lot and used for purposes customarily incidental to those of the principal building or use.

Accessory Use. A use customarily incidental and subordinate to the principal use or building, and that occupies no more than 40% of the floor area of all structures on a lot.

ADJACENT GRADE: The natural elevation of the ground surface prior to construction next to the proposed walls of a structure. (Amended 1/19/99 R)

AGRICULTURAL CLEARING: A clearing created to support the production of traditional agricultural crops including grazing areas for livestock, fields used for the production of hay, straw, and other fruit, grain, and vegetable crops, Christmas tree farms, and orchards, etc. This definition does not include mineral extraction. (Amended 3/6/06 R)

AGRICULTURE: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruit and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities. (Amended 1/19/99 R)

Alteration. The addition, demolition or construction of any building on a pre-existing site, including the removal or addition of facade materials, the addition of floor area to a site, the erection of fences or the addition of signage, and the creation of new impervious surfaces.

Architectural or Archaeological Significance. A site, structure, object or artifact that is listed, or is eligible to be listed on the National or Maine Register of Historic Places, or that contributes archaeologically, culturally or architecturally to the history of the Town of Brunswick.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in section 211.3 of this ordinance. (Amended 1/19/99 R)

Assisted Living: A residence for people with disabilities that prevent them from living on their own. The residence provides private rooms or apartments with common areas for dining, socializing and programs along with daily meals, personal services, limited nursing and 24 hour care. (Amended 9/4/01)

Auto Graveyard. A yard, field, or other area used to store three or more unserviceable, discarded, worn-out, or junked motor vehicles.

BASAL AREA: The area of cross-section of a tree stem, including bark, at 4 1/2 feet above ground level.

BASAL AREA, RESIDUAL: The sum of the basal area of trees remaining on a harvested site.

BASE FLOOD: A flood having a one percent chance of being equaled or exceeded in any given year commonly called the 100-year flood. (Amended 1/19/99 R)

BASEMENT: Any area of building having its floor sub grade (below ground level) on all sides. For shoreland zoning purposes, basement means any portion of a structure with a floor-to-ceiling height of 6 feet or more and having

more than 50% of its volume below the existing ground level.(Amended 1/19/99 R)

Bed and Breakfast. A dwelling occupied by the owner as a principal place of residence with not more than 10 rooms which are rented on a per diem basis, where meals may be provided to those who rent rooms.

Boarding House. A building other than a hotel containing a shared kitchen and/or dining room, with sleeping rooms accommodating no more than two persons per room (excepting minor children) which are offered for rent, with or without meals. Includes a college fraternity or sorority.

BREAKAWAY WALL: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. (Amended 1/19/99 R)

Business Office. A space used to conduct the administrative affairs of an organization, including the offices for academic or administrative staff of a post secondary school.

CAMPGROUND: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters. (Amended 1/19/99 R)

Canopy: the more or less continuous cover formed by tree crowns in a wooded area.

Club/Lodge. An association of persons for social or recreational purposes which may include the promotion of some common objective.

College Office. A space used to conduct the administrative affairs of a post secondary institution, including offices for academic and administrative staff.

Color Rendering Index (CRI). A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100. (Amended 5/20/02 R)

Common Development Plan . A proposed development approved by the Planning Board in accordance with Section 413. A common development plan may involve multiple new buildings or structures on a single lot, multiple new buildings or structures on multiple lots, or a single new building or a redevelopment building on an individual lot or multiple lots. (Amended 5/20/02 R)

Communication Tower. A structure used for transmitting or receiving radio, microwave, or similar electromagnetic signals, not including antennae and satellite dishes designed for ordinary home or farm use.

Community Center. A building which provides a meeting place for a local, non-profit community organization on a regular basis.

Congregate Living. A residence that provides private rooms or apartments with common areas for dining, socializing and programs. Housekeeping services are provided, but residents are relatively self-sufficient. (Amended 9/4/01 R)

Contractor's Space. A facility that contractors utilize for the storage, inventory and prefabrication of materials associated with construction.

Contributing Structure. A structure which contributes to the historic or traditional architectural character of the Village Review Zone.

Conformity/Conforming. Complying with use, density, dimension, and other standards of this ordinance.

Conservation Easement. A perpetual restriction on the use of land, created in accordance with the provisions of 33 M.R.S.A. Section 476 through 479(B), for the purposes of conserving open space, agricultural land, or natural, cultural, historic and scenic resources.

Convenience Store. A store of not more than 2,000 square feet that primarily sells grocery items, that may sell take out food items, and that incorporates, or is accessory to, a gasoline service station. (Amended 7/5/05 R)

Cook's Corner Master Plan. The Cook's Corner Master Plan dated June 1998 for the development of the Cook's Corner area prepared by the Cook's Corner Master Plan Committee as approved and amended by the Town Council. (Amended 5/20/02 R)

Curb Cut. An entry into a road or right-of-way for vehicular traffic.

Day Care Center. A Day Care Facility for Children, as defined in Title 22 M.R.S.A. Chapter 1673, Section 8301; Home Babysitting Services, as defined in Title 22 M.R.S.A. Chapter 1673, Section 8305; and Adult Day Care Programs, as defined in Title 22 M.R.S.A. Chapter 1679, Section 8601.

Demolition. The removal of part or the whole of a structure.

DEVELOPMENT: Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction or additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities. (Amended 1/19/99 R, 6/19/00 R)

Dimensional Requirement. Any requirement of this ordinance which regulates spatial aspects of land, structures and uses, including, not limited to, lot width, lot area, setbacks, height, impervious surface coverage and maximum building footprint and excluding density.

DISTURBANCE: For the purposes of the Rural Brunswick Smart Growth Overlay Districts, "disturbance" shall be defined as the area to be graded and/or permanently cleared of naturally occurring stands dominated by woody vegetation for activities included in 217.3.A. (Amended 3/6/06 R)

Drive-Through. Any structure through which a product or service is provided directly to a customer seated in an automobile including, but not limited to, take-out windows, banking terminals, automatic teller machines, pay telephones and other facilities commonly referred to as drive-up, drive-through or take-out. This definition excludes gasoline service stations, car washes, drive-in theatres and drive-in restaurants where orders are taken and food delivered to an automobile that remains in a parking space. (Amended 5/20/02 R)

Driveway. That portion of a lot set aside for vehicular access between the public or private road and the portions of the lot used for buildings, structures, parking or the other uses to which the lot is devoted.

Dwelling Unit. A group of rooms providing living quarters containing independent cooking, sleeping, and bathroom facilities for one household. The term shall include mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not dwelling units.

Educational Facility. Any building consisting primarily of classroom space which is used for offering courses, lectures, training seminars or other similar use, including, but not limited to, private nursery, kindergarten, elementary, middle, secondary and post-secondary schools.

ELEVATED BUILDING: For floodplain management purposes, an elevated building is a non-basement building

- a. built, in the case of a building in Zones A1-30 or A to have the top of the elevated floor, or in the case of a building Zones V1-30, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post piers, or "stilts;" and

- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
(Amended 1/19/99 R)

Essential Services. Utilities such as natural gas, electricity, telecommunications, water and sewer services, including the lines, poles and pipes necessary to deliver the service but excluding communication towers and business and management offices of utilities.

EXPANSION OF A STRUCTURE: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

FIRST FLUSH: First flush is the volume generated by the first 1.25 inches of stormwater runoff. The first inch of runoff carries the majority of accumulated pollutants from impervious surfaces. (Amended 5/21/01)

EXPANSION OF USE: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. (Amended 1/19/99 R)

FLOODPROOFING: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents. (Amended 1/19/99 R)

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the surface elevation by more than one foot in height. When not designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain. (Amended 1/19/99 R)

Floor Area. The total area, in square feet, of all floors of a building measured within the exterior walls, excluding unfinished attics and unfinished cellars. In the case of a use which occupies a portion of a building, the floor area shall be measured from the interior of the walls which defines the space.

Footprint. Area of the ground covered by a structure, including the foundation and all areas enclosed by exterior walls and footings.

Foundation, for Shoreland Area zoning purposes: the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

FREEBOARD: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions. (Amended 1/19/99 R)

Front Lot Line. That line which separates the lot from a public or private right-of-way. On corner lots, the front lot line shall be the line opposite the front of the principal building.

FUNCTIONALLY DEPENDENT USE: For floodplain management purposes, a functionally dependent use is a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or

passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. (AMENDED 1/19/99 R)

Golf Course. An outdoor area laid out for the purpose of playing the game of golf, excluding miniature golf and golf driving ranges.

Grading. Excavation, alteration of land contours, grubbing, filling or stockpiling of earth materials.

Ground cover: small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Height of Structure. The vertical distance measured from the average ground elevation to the highest point on such structure. On a gabled roof height is measured from the midpoint between the eave and peak of the roof. Within the Shoreland Area, Height of Structure shall be the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

HISTORIC STRUCTURE: For floodplain management purposes, a historic structure is any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements of individual listing on the National Register;
 - b. Certified or preliminary determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.
- (AMENDED 1/19/99 R)

Hotel or Motel. Establishment excluding "bed and breakfast" which provides sleeping accommodations for transient guests, with or without a dining room or restaurant.

Hazardous Matter. Substances identified by the Board of Environmental Protection under 38 M.R.S.A. Section 1319, as amended.

Household. One person, or a group of two or more persons living together in the same dwelling unit as a single housekeeping entity.

Impervious Surface. Any material covering the ground through which water does not readily penetrate, including but not limited to roofed structures, decks, concrete, stone, tar, asphalt, pavement, gravel, crushed stone and shale. (Amended 12/4/06 R)

Impervious Surface Coverage. The ratio between impervious surface and total land area of a lot expressed as a percentage.

INDIVIDUAL PRIVATE CAMPSITE: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pads, parking areas, fire places, or tent platforms.

Industry, Class I. Production, manufacturing, assembly, fabrication, processing, treatment, compounding, preparation, cleaning, servicing, testing or repair of materials, goods or products in a space not to exceed 20,000

square feet and where no more than 25 employees typically occupy the space at any given time.

Industry, Class II. Production, manufacturing, assembly, fabrication, processing, treatment, compounding, preparation, cleaning, servicing, testing or repair of materials, goods or products in a space exceeding 20,000 square feet or where more than 25 employees typically occupy the space at any given time.

Junkyard/Dumps. A yard, field, or other area used to store or dispose of old, discarded, worn-out, scrapped, or junked materials such as, but not limited to, plumbing, heating supplies, household appliances, furniture, lumber, rope, rags, batteries, paper trash, rubber debris, waste, and all scrap iron, steel, copper, brass, and other scrap ferrous or nonferrous material; includes garbage dumps, waste dumps, and sanitary landfills.

Kennel. Any establishment including cages, dog runs, and/or structures where more than three dogs more than six months old are kept for sale, boarding, or breeding.

Landmark Registry. A listing of historic sites, buildings and districts in the Town of Brunswick nominated by the Village Review Board and approved by ordinance of the Town Council.

Lane. A secondary access road located behind a house within a subdivision.

Leachable Materials. Liquid or solid materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants into the ground.

Level of Service. A technical measure which assesses the traffic impact associated with new or expanded uses, as defined by the American Institute of Traffic Engineers.

Lot/Parcel. An area of land with ascertainable boundaries, all parts of which are owned by the same person(s) or entities. A lot/parcel shall include both sides of a public or private way if under the same ownership.

Lot of Record. A parcel of land described in a recorded deed or shown on an approved and recorded Subdivision Plan and meeting zoning requirements at the time it was created.

Lot, Rear. A lot which is located to the rear of another lot which lacks the minimum road frontage required in the land use district, and access to which is either by a strip of land which is part of that lot or a deeded right of way over one or more of the front lots.

Lot Width. The width of a lot measured along the front line between the points of intersection of the side lot lines with the front lot line on a public or private right-of-way.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in section 211.3.E of this ordinance. (Amended 1/19/99 R)

MANUFACTURED OR MOBILE HOME PARK OR SUBDIVISION: For floodplain management purposes, a manufactured or mobile home park or subdivision is a parcel (or contiguous parcels) of land divided into two or more manufactured or mobile home lots for rent or sale. (Amended 1/19/99 R)

Marina. A business establishment having frontage on navigable water which, as its principal use, provides for hire moorings, slips, and/or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, setting of moorings, boat and tackle shops, and marine fuel service facilities.

Marine Activity. Construction including but not limited to piers, docks, wharves, breakwaters, causeways, marinas

and bridges over 20 feet in length. Excluded are non-commercial structures which are: 1) accessory to a single or two-family dwelling and, 2) of a scale, design, location and function deemed not to warrant Special Exceptionor Development Review in the judgement of the Director of Planning and Development.(Amended 12/1/97 R, 6/19/00 R)

Media Studio. A studio used for the purpose of radio, television or cable broadcasting, or the recording of sound or production of films or video material.

Medical Office. A type of "Professional Office" being the office of a member of a recognized medical profession maintained for the conduct of that profession. (Amended 6/19/00 R)

Mineral Extraction. Any operation which removes within any 12 month period more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat or similar mineral from its natural location for sale or use off-site.

MINOR DEVELOPMENT: See Section 402 For floodplain management purposes, a minor development is all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in section 211.3.E.5, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers. (Amended 1/19/99R)

Mixed Use. Any combination of residential and non-residential uses on the same lot or in the same building or building complex.

MOBILE HOME. A structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning or electrical systems contained therein. For floodplain management purposes, the term mobile home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (Amended 1/19/99 R)

Modular Housing. A structure which is a type of manufactured housing, transportable in one or more sections, which is not constructed on a permanent chassis and is designed to be used as a dwelling on a foundation when connected to required utilities and includes the plumbing, heating, air-conditioning or electrical systems contained therein.

Motor Vehicle Service/Repair. An establishment where automobiles or other motorized vehicles and equipment are repaired or serviced. Includes small engine repair.

Municipal Facility. Any Town owned or leased facility which is provided to meet a municipal need, including, but not limited to, public elementary, middle and secondary schools. Facilities of the Brunswick-Topsham Water District and the Brunswick Sewer District are considered to be municipal facilities.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - For floodplain management purposes, the NGVD is the national vertical datum, whose standards was established in 1929, which is used by the National Flood Insurance Program (NFIP). The NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)". (Amended 1/19/99 R)

NATURALLY OCCURRING STANDS DOMINATED BY WOODY VEGETATION: an area of forest, shrub land, heath barren, or regenerating timber harvest. This definition does not include artificially planted Christmas tree farms or pine plantations. (Amended 3/6/06 R)

NEIGHBORHOOD STORE. A store of not more than 2,000 square feet, located on a collector street, that primarily

sells grocery items, that may sell take out food items and that does not incorporate, and is not accessory to, a gasoline service station. (Amended 7/5/05 R)

NEW FLOODPLAIN CONSTRUCTION: Structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures. (Amended 1/19/99 R)

Nonconforming Structure. A structure which does not meet one or more of the dimensional requirements of this ordinance but which was lawfully constructed before the adoption of the ordinance provisions which cause it to be non-complying.

Nonconforming Use. A lawful use of land, building or structure existing on the effective date of this ordinance which does not conform to the requirements of this ordinance.

Normal High-Water Line (non-tidal waters): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. ~~In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland, and not the edge of the open water~~ Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or stream during the period of normal high-water are considered part of the river or stream. (Amended 1/19/99 R)

Nursing Home: A residence for people who need 24-hour skilled nursing care and can no longer live independently. (Amended 9/4/01 R)

Outdoor Sales. An outdoor vendor operating from a portable facility located on a given site, involved with the dispensing of information or selling products including, but not limited to, prepared or unprepared food but not including flea markets, yard sales, garage sales, church events or other similar activities.

Outdoor Storage. The regular or extended storage of materials not inside a fully enclosed building. Recreational vehicles, boats and trucks shall be considered outdoor storage if placed within a required front, side or rear setback for a period longer than 60 days.

Parking Facility. A parking lot or garage which is used for the parking of vehicles of occupants, customers, patrons, employees or visitors of a building, structure or use located on a different parcel.

Passive Recreation. Includes walking, hiking and biking, and other similar activities. Passive Recreation specifically excludes motorized vehicles and equipment.

PERMANENT CLEARING: For the purposes of the Rural Brunswick Smart Growth Overlay Districts, "permanent clearing" shall be defined as the removal of 40% or more of the volume of trees, or the creation of a cleared opening in the forest canopy that is greater than 250 square feet as measured from the outer limits of the tree crown, neither of which is allowed to naturally regenerate. (Amended 3/6/06 R)

PESTICIDE: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. (Amended 1/20/04 R)

Primary Road. Within the Town of Brunswick, Bath Road, Bunganuc Road from Casco Road to Freeport Line, Church Road, Durham Road, Maine Street, Mill Street, Old Bath Road, Pleasant Hill Road, Pleasant Street, River Road, Route 1, Route 24, and Route 123.

Principal Structure. A structure which houses the principal use of the lot.

Principal Use. The primary purpose for which land is used.

Private Road. An easement containing a road or driveway that serves as the principal access for more than one property.

Professional Office. The office of a member of a recognized profession maintained for the conduct of that profession.

Recreation Facility. A place designed and equipped for the conduct of sports and/or leisure time activities excluding campgrounds, regulation size miniature golf courses, water slides, outdoor amusement centers, spectator sports facilities, race tracks or other similar facilities.

RECREATIONAL VEHICLE - For floodplain management purposes, a recreational vehicle is a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(Amended 1/19/99 R)

Religious Institution. A building or site used for religious worship, religious retreat, or religious education.

Residence Hall. A facility owned by a post-secondary school to house its students.

Retail, Class I. A business whose principal use is the retail sale of consumer goods, having less than 5,000 square feet of gross floor area.

Retail, Class II. A business whose principal use is the retail sale of consumer goods, having 5,000 square feet or more of gross floor area.

Right of Way. The easement encompassing an existing or future public or private road.

RIVER: A free-flowing body of water including its associated flood plain and wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth. (Amended 1/19/99 R)

SALT MARSH: Areas ~~along of~~ coastal ~~waters-wetlands which-that~~ support salt-tolerant species, and where at average high tide during the growing season, the soil is ~~irregularly~~ inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

SALT MEADOW: Areas ~~which of a coastal wetland that~~ support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common three square occurs in fresher areas.

Scale. Factors which determine the intensity of a use, including but not limited to the size of buildings, the number of employees, residents, or customers, and the size and number of vehicles servicing the use.

Screening. The use of landscaping, fencing or site design techniques to minimize the view of a structure or use from a public road, public place or adjacent property.

Secondary Road. Any road not listed as a primary road in the definition of this Ordinance.

Service Business, Class 1. A business under 2,000 square feet in floor area where the principal use is the

providing of personal services, including but not limited to: barber shops, beauty salons, shoe repair shops, tailors, laundries.

Service Business, Class 2. A business 2,000 square feet in floor area or greater where the principal use is the provision of personal services, including but not limited to: barber shops, beauty salons, shoe repair shots, tailors, laundries.

Service Drop. Any utility line extension which does not cross or run beneath any portion of a water body.

Setback. The horizontal distance from a property line to a structure on a lot.

Shoreland Area: the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline: the normal high-water line, or upland edge of a freshwater or coastal wetland.

Sign. An object, device or structure, or part thereof, situated outdoors or displayed in a window, free-standing or attached, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, by means of words, letters, figures, design, symbol, advertising flags, fixtures, colors, illuminations or projected images.

Sign Face. The portion of a sign that includes words, letters, figures, designs and background.

Solid Waste. Unwanted or discarded material with insufficient liquid content to be free-flowing including, but not limited to, rubbish, garbage, scrap, junk, refuse, inert fill, and landscape refuse, excluding septic tank sludge and agricultural waste.

START OF CONSTRUCTION: a) For floodplain management purposes only, the date the flood hazard permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Amended 1/19/99 R)

b) For purposes other than floodplain management, start of construction shall include demolition, excavation, filling, grading, clearing of vegetation and construction of buildings or structures. Activities noted in section 404.3 are exempt from this definition. (Amended 6/19/00 R)

STREAM: A channel between defined banks created by the action of surface water and has two (2) or more of the following characteristics.

- A. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year under normal seasonal rainfall conditions.
- B. The channel bed is primarily composed of mineral material such as sand, scoured silt, gravel, clay, or other parent material that has been deposited or scoured by water.
- C. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water

is present, within the stream bed.

D. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

This definition is based on physical characteristics that in case of development need to be field verified. The Town has attempted to map streams throughout the community to serve as an initial guide for land owners and developers.

This information is available in the Town Planning and Codes Enforcement Offices, but should not be considered a substitute for field verification.

Bordering freshwater wetlands that are not separated from the stream channel by a distinct change in elevation (such as hillside groundwater seeps) or barrier, and wetlands that are subject to periodic flooding or soil saturation as a result of high stream flows are considered part of the stream. Where these wetlands are present, the normal high water line of the stream is measured from the upland / wetland transition of bordering wetlands subject to periodic stream water flooding or saturation, or where changes in wetland vegetation, soil characteristics, or topography clearly demonstrate wetland hydrology not associated with associated with periodic flood flows.

Natural and artificial impoundments at the source and along the course of the stream are considered to be part of the stream.

Stream does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale. (Amended 11/18/02 R)

STRUCTURE. An object built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with any other object constructed or erected with a fixed location on or in the ground. For floodplain management purposes, a structure also means a walled and roofed building or a gas or liquid storage tank that is principally above ground. This definition does not apply to customary lawn accessories such as fences, mailboxes, benches, and other such items as determined by the Codes Enforcement Officer. (Amended 1/19/99 R, 6/19/00 R)

Subdivision. The division of a tract or parcel of land as defined in Title 30-A M.R.S.A. Section 4401(4), as amended.

Standard Lot of Record. A standard lot of record is a lot of record that was lawfully established prior to the effective date of this ordinance (or any preceding ordinance) which does not conform to one or more of the minimum lot size or dimensional requirements.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. (Amended 1/19/99 R)

Subsurface Wastewater Disposal System, For shoreland Area zoning purposes: any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping or any other fixture, mechanism, or apparatus used for those purposes. It does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

TIDAL AREA: An area subject to tidal action. Tidal Waters: all waters affected by tidal action during the maximum spring tide.

Timber Harvesting: The cutting and removal of wood products from their growing site and the attendant

operation of cutting and skidding machinery, but not for the construction or creation of roads or the clearing of land approved for construction.(Amended 1/19/99 R)

Transportation Facility. A structure or land used primarily as an arrival or departure point or as a storage or repair facility for busses, airplanes, limousines, taxis, trucks, and other modes of passenger or freight transportation other than private automobiles.

Units. The number of dwelling units, non-residential floor area converted to dwelling units or combination thereof.

Upland Edge of a Wetland: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Utility Facility. An installation used by a public utility to supply electric, gas, water, cable television, telephone, or other utility service. Included are such facilities as electric unit substations, power and communication transmission lines, pump stations, water towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not utility facilities. Excluded are communication towers.

VEGETATION: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level. (Amended 1/19/99 R)

Veterinary Office. A professional office for the practice of veterinary medicine and at which related services such as pet boarding and grooming may be offered.

Volume of a Structure. The cubic foot volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Warehousing and Storage. A use in which materials, goods, or equipment are stored for compensation or in connection with a business operation.

Water body – any great pond, river or stream

~~WATERCOURSE: Any stream, pond, lake, drainage channel other area of land that normally or seasonally channels the flow of water.~~

Water crossing – any project extending from one bank to the opposite bank of a river, stream or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables, as well as maintenance on these crossings.

Wetlands. Those areas of any size that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetland boundaries shall be delineated using the methods described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, an inter-agency cooperative publication of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and the U.S.D.A. Soil Conservation Service, January, 1989.

WETLANDS, COASTAL: All tidal and subtidal lands; ~~all lands below any identifiable debris line left by tidal action;~~ all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land ~~which that~~ is subject to tidal action during the ~~maximum spring~~highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

WETLANDS, FLOODPLAIN The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

WETLANDS, FORESTED: A freshwater wetlands dominated by woody vegetation that is 6 meters tall (approximated twenty (20) feet) or taller.

WETLANDS, FRESHWATER: Fresh water swamps, marshes, bogs and similar areas other than forested wetlands which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river or stream, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Woody vegetation: live trees or woody, non-herbaceous shrubs.

Yard. The area between a lot line and the principal structure.

Yard, Front. A yard extending the width of a lot from sideline to sideline, between the front lot line and the nearest part of the principal structure on the lot.

Yard, Rear. The portion of a yard that is located behind the principal structure. A corner lot has no rear yard.

Yard, Side. A yard extending along a sideline of a lot from the front yard to the rear yard between the sideline and the nearest part of a principal structure on the lot.

ITEM 96

BACK UP MATERIALS

TOWN OF BRUNSWICK
TOWN MANAGERS OFFICE
MEMORANDUM

TO: Brunswick Town Council

FROM: Gary Brown, Acting Town Manager

DATE: June 10, 2009

RE: Maine Street Station Lease questions

At the June 1 Council meeting there were some questions raised in regards to the proposal to have the Town enter into a lease agreement with JHR Development. The questions concerned the legal authority of the Council to enter into such an arrangement, the potential cost to insure the space and comparable lease costs for surrounding similar properties.

I have asked Attorney Pat Scully to address the question of the legal authority of the Council to enter into such an agreement. A letter from him is (or will be) included with your agenda packet. (Pat has indicated that he will have the letter today, but it may be after we get the agenda prepared.)

The cost to include this space for general liability insurance is not significant. Our general liability insurance is based on our operating budget and this does not increase our budget.

In regards to comparable lease rates, there are limited similar properties to compare. (New construction, similar amenities) The closest one would likely be the Red Mill building in Topsham. The information that I have on that property is that the lease cost is \$17.50 per square foot with an additional \$4.00 in CAM (common area maintenance) fees for a total of \$21.50. The net cost that has been negotiated for the MSS lease is \$20.71 per square foot. ($\$220,000$ over 5 years = $\$44,000$ annually, divided by 2,125 square feet = $\$20.71$) There certainly is space available for rent in Brunswick at a much lower rate (Fort Andros and other locations) but I am uncertain how well they compare given the age, location and other factors.

BERNSTEIN SHUR

COUNSELORS AT LAW

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

Memorandum

To: Gary Brown, Acting Town Manager
From: Pat Scully
Date: June 11, 2009
Re: Proposed Lease – Maine Street Station Building 3

You have asked whether the Council has the authority to enter into the proposed lease (the “Lease”) between the Town and JHR Development for space in Building 3 of the Maine Street Station development. I have reviewed the current draft of the Lease. It is my opinion that the Council has clear authority to enter into the Lease on behalf of the Town.

Under Maine law, the Town is a municipal corporation with all the powers of a municipal corporation, subject to the terms of the Town’s Charter. Article VIII, Part Second of the Maine Constitution provides as follows: “The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character.” This broad grant of home rule authority permits the Town, through its Charter, to exercise broad local authority subject only to specific constitutional or statutory prohibitions. Under Maine’s home rule provisions, a municipal corporation may exercise, not only the powers granted by its charter, or by the general laws, either expressly or by implication, but also such powers as are incidental to the powers expressly granted and essential to the purpose of the corporation. Maine law holds that a municipal corporation is authorized to hold land and interests in land, since absent a particular statute prohibiting such authority, it is an authority inherent in the fact of the Town’s existence as a municipal corporation. *State v. Rand*, 366 A.2d 183, 189 (Me. 1976). 30-A M.R.S.A. § 5721 also provide municipalities with broad powers to raise or appropriate money for any public purpose.

Under Section 102 of the Charter, “the town shall have, exercise and enjoy all the rights, immunities, powers and privileges of municipal corporations incorporated under the laws of the State of Maine.” Section 103 of the Charter further provides that the powers of the Town under the Charter “shall be construed liberally in favor of the town; these powers shall include all those that are necessary and convenient to conduct its municipal

affairs....” Under the Charter, the Council is the Town’s legislative body. Section 203 of the Charter vests broad authority in the Council. It states: “All the powers of the Town shall be vested in the Council, except as otherwise provided by law or this Charter.”

According, subject only to specific restrictions or limitations in the Constitution, Maine statutes or the Charter, the Council has full authority to exercise the broad municipal powers of the Town. This includes the authority to acquire interests in land, including leasehold interests, for public purposes, and to expend public funds for such acquisitions. I conclude, therefore, that the Council, as the legislative body of the Town of Brunswick, has full authority to enter into the Lease.

**MAINE STREET STATION
BRUNSWICK, MAINE**

STANDARD LEASE

Between

JHR DEVELOPMENT OF MAINE PHASE I, LLC
as Landlord

and

TOWN OF BRUNSWICK
as Tenant

JHR DEVELOPMENT OF MAINE PHASE I, LLC

Lease to
TOWN OF BRUNSWICK

Maine Street Station
Brunswick, Maine

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- Exhibit “A” - Plan
- Exhibit “B” - Description of Tenant’s Work
- Exhibit “C” – Description of Landlord’s Work

INDENTURE OF LEASE

THIS INDENTURE OF LEASE MADE as of the ____ day of _____ 2009, by and between JHR Development of Maine Phase I, LLC, a Delaware limited liability company, having a mailing address of 40 South Street, Suite 305, Marblehead, Massachusetts 01945 (hereinafter referred to as "Landlord"), and -Town of Brunswick, -a Maine municipal corporation having a mailing address of 28 Federal Street, Brunswick, Maine 04011 (hereinafter referred to as "Tenant").

WITNESSETH:

Article I Premises

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms and provisions of this lease, the portions of the building (which portions are sometimes hereinafter collectively referred to as the "**Premises**") shown as Unit 301(B) on **Exhibit "A"** hereto annexed and made a part hereof containing approximately (i) 2,125 square feet of floor area on the ground level all as shown on Exhibit "A" annexed hereto, in the building identified as Building 3, Station Avenue, Brunswick, Maine (the "Building"). The Building is located on a tract of land in Brunswick, Cumberland County, Maine now known and numbered as Building Three. Tenant acknowledges that the Building is part of a larger project which, when completed, will include additional buildings, together with common areas and facilities, and parking areas located as shown on the Site Plan recorded in the Cumberland County Registry of Deeds at Plan Book 209, Page 123, which common areas will be open to Tenants, invitees and customers (collectively, such project, "**Maine Street Station**"). Tenant and its subtenants, assigns and invitees shall additionally have the right to use, in common with other tenants of Maine Street Station, the other parking and loading areas, bicycle racks, driveways, sidewalks and easements of Maine Street Station as they are completed and exist from time to time. The foregoing rights shall be in addition to and not in lieu of the rights, easements and privileges of the Tenant and its invitees and the public pursuant to certain easement agreement(s) granted by or to be granted by Landlord to the Town of Brunswick respecting the Maine Street Station property for train platform access and other rights in the Maine Street Station.

Excepting and reserving to Landlord the exterior walls of the Building of which the Premises are a part; and further reserving to Landlord the right to place in the Premises (in such manner as to reduce to a minimum the interference with Tenant's use of the Premises) utility lines, pipes, and the like, to serve premises other than the Premises, and to replace, maintain, and repair such utility lines, pipes and the like, in, over and upon the Premises as may have been previously installed in the Building.

Article II Term of Lease

Section 1. TO HAVE AND TO HOLD the Premises unto Tenant for the term of Sixty (60) calendar months (plus the partial month, if any) immediately following the commencement of the term hereof (the "Original Term").

Section 2. A. The term hereof shall commence on the later of (i) **October 1, 2009** or (ii) the date the Certificate of Occupancy is issued for the space and all of Landlord's Work (as that term is defined below) is complete (other than minor punch list items that do not interfere with Tenant's occupancy or work) and all appurtenant parking areas and necessary accesses and access ways for Building Three have been completed and are useable by Tenant and its invitees and the Current SNDA (as that term is defined in section 15 of Article XVII) is fully executed and delivered (the "**Commencement Date**"); and the term hereof shall end on the last day of the Sixtieth (60th) calendar month (exclusive of such partial month, if any) after such Commencement Date. The parties hereto agree, upon demand of the other, to execute a written declaration expressing the commencement and termination dates of the term hereof when the commencement date has been determined. Provided, that in the event that the Commencement Date does not occur on or before **December 31, 2009** for any reason, Tenant may at any time thereafter elect to terminate this Lease by sixty (60) days written notice to Landlord. This lease shall terminate upon such 60th day after the termination notice and all amounts paid by Tenant hereunder shall be immediately

refunded to Tenant unless Landlord cures and the Commencement Date occurs prior to that date, in which case this termination right shall cease and this lease shall continue in full force and effect.

Section 3. Tenant, prior to the commencement of the term hereof, shall be permitted to install fixtures and other equipment, and do other work, provided, however, that such activities of Tenant shall not interfere with other activities of Landlord in the Premises and in the Building. All such work shall be done in a good and workmanlike manner and in compliance with all applicable laws and codes and in full compliance with plans and specifications therefore which shall have been first approved by Landlord (such approval not to be unreasonably withheld), and otherwise in compliance with this lease, including without limitation, the provisions of Exhibit "B" hereto. All contractors performing such work shall first have been approved by Landlord, such approval not to be unreasonably withheld.

Article II-A

Option to Extend

Section 1. Provided that (i) Tenant has not assigned the Lease, then Tenant has the right to extend the Term of the Lease for THREE (3) five (5) year periods (each an "Extension Period") at a Fixed Annual Rent equal to the Market Rent, as hereafter defined; otherwise on the same terms and conditions as this Lease, except that there shall be no further rights to extend the Term. Tenant shall exercise the option for each Extension Period by written notice to Landlord not less than nine (9) months before the then expiration of the Term, subject to the further provisions of this Section. At Landlord's option, Tenant's exercise of the option shall be effective only if, at the time of the notice and upon the effective date of the Extension Period, there is no Event of Default.

"Market Rent" shall be determined as of the commencement of any Extension Period at the then current rentals being charged to new or renewal tenants for comparable space in comparable buildings located in the Brunswick area, taking into account and giving effect to, in determining comparability, without limitation, such considerations as age, size, location, lease term and amenities of the Building and Maine Street Station. No provision of the Lease other than (i) the Fixed Rent shall be modified and (ii) Tenant shall be responsible during the Extension Period(s) for its prorata share of operating expenses and real estate taxes on the same basis as other Tenants in the Maine Street Station facility (and the parties agree upon exercise of an Extension Period upon the request of the other to amend the lease to add provisions to account for the addition of operating expense and taxes obligations as aforesaid)..

Tenant shall have twenty (20) days after receipt of Landlord's notice of Market Rent (which as to any extension period, shall be given on or about twelve (12) months prior to the expiration of the then current Term) to notify Landlord that Tenant is contesting same. Tenant's failure to so notify Landlord within such twenty (20) day period shall be deemed an acceptance of the Market Rent set forth in Landlord's notice and a waiver of Tenant's right to contest Landlord's determination of Market Rent. If Tenant timely contests Landlord's determination of Market Rent, then the parties shall have thirty (30) days after Landlord receives Tenant's notice of contest in accordance herewith in which to agree on the Market Rent for the Extension Period.

Section 2. If the parties are unable to agree on the Market Rent within the thirty (30) day period, then, within ten (10) days after the expiration of that period, each party, at its cost and by giving written notice to the other party, shall appoint a qualified M.A.I. (or successor professional organization) real estate appraiser with at least 5 years' full-time commercial appraisal experience in the Brunswick area to appraise and set the Market Rent for the Premises in accordance with the foregoing criteria. If a party does not appoint such an appraiser within ten (10) days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall be the sole appraiser and shall set the Market Rent for the Premises. The two appraisers appointed by the parties as stated in this paragraph shall meet promptly and attempt to establish the Market Rent for the Premises. If they are unable to agree within thirty (30) days after the second appraiser has been appointed, they shall attempt to elect a third appraiser meeting the qualifications stated in this paragraph within ten (10) days after the last day the two appraisers are given to set the Market Rent. If they are unable to agree on the third appraiser, either of the parties to this Lease, by giving ten (10) days' notice to the other party, can appeal to the Appraisal Institute (or successor professional organization) for the selection of a third appraiser who meets the qualifications stated in this paragraph.

Each of the parties shall bear one-half (1/2) of the cost of appointing and paying the fee of the third appraiser. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for either party.

Within thirty (30) days after the selection of the third appraiser, a majority of the appraisers shall set the Market Rent for the Premises. If a majority of the appraisers are unable to set the Market Rent within the stipulated period of time, the three appraisals shall be added together and their total divided by three; the resulting quotient shall be the Market Rent for the Premises.

If, however, the low appraisal and/or the high appraisal are more than ten (10%) percent lower and/or higher than the middle appraisal, the low appraisal and/or the high appraisal shall be disregarded. If only one appraisal is disregarded, the remaining two appraisals shall be added together and their total divided by two; the resulting quotient shall be the Market Rent for the Premises. If both the low appraisal and the high appraisal are disregarded as stated in this paragraph, the middle appraisal shall be the Market Rent of the Premises.

Section 3. Upon the determination of Market Rent, then, upon request of either party, Landlord and Tenant shall execute an amendment to this Lease reflecting the revised Fixed Rent and Tenant's share of operating expenses and taxes, provided, however, this Lease shall automatically be deemed amended upon the determination of Market Rent, irrespective of the execution of such a Lease Amendment. In no event shall the Market Rent be less than the Fixed Rent in effect for the last lease year prior to the then applicable Extension Period.

Section 4. In order to prevent the inadvertent failure of Tenant to exercise any of the aforesaid options of extension within the time specified above, it is agreed that Tenant's option to extend in each instance shall continue for a period of twenty (20) days after receipt of written notice from Landlord pointing out to Tenant that the election to extend, or to further extend, as the case may be, has not been exercised; but if Tenant does not send written notice of such election to Landlord within said twenty (20) day period, Tenant's option of extension shall cease and terminate. If Landlord fails to give Tenant such written notice prior to the expiration of the original term hereof, or of any extension ~~or renewal~~ period, as the case may be, Tenant shall be entitled to remain in possession of the Premises in accordance with the then-applicable extension terms and conditions of this Lease. If Landlord then gives Tenant such written notice, and Tenant elects to extend, the effective date of such extension shall be retroactive to the expiration of the Original Term hereof or to the relevant Extension Period, whichever is appropriate. The "Market Rent" as determined above, shall, similarly, be payable retroactively from the beginning of the relevant Extension Period.

Article III Rent

Section 1. Rent.

As payment in full of Fixed Rent and Additional Rent for the Original Term, as the terms are used throughout this Lease, Tenant shall pay one lump sum of Two Hundred Twenty Thousand Dollars (\$220,000.00) ("**Rent Prepayment**"). ~~Such Rent Prepayment amount shall be delivered on or prior to *June 30, 2009* to Monument Title Company, 100 Middle Street (an affiliate of Tenant's lawyers, Bernstein, Shur) to be held in escrow in an interest-bearing account (interest to accrue to the ultimate recipient of the funds) pending the determination of the Commencement Date or termination of this lease. Upon the determination of the Commencement Date, the Escrow Agent shall release the Rent Prepayment to Landlord at its mailing address. If this lease is terminated for any reason prior to the Commencement Date and after opportunity to cure, the Rent Prepayment shall be returned to Tenant. The parties agree to enter into a customary escrow agreement upon the request of Escrow Agent and Escrow Agent's obligations are subject to and conditioned upon such escrow agreement being executed and delivered by Landlord and Tenant. The Tenant shall not be responsible for and shall not during the Original Term be responsible to pay any Fixed Rent, Additional Rent, Operating Expenses, pro-rata share of taxes or any other operating costs paid by other tenants because of its one time, lump sum payment of the Rent Prepayment in advance.~~

- Section 2. Additional Rent. N/A.
- Section 3. Operating Expenses Defined. (Omitted.)
- Section 4. Late Payment of Rent. (Omitted.)

Article IV
Relationship Between Landlord and Tenant

Section 1. It is understood and agreed that Landlord shall in no event be construed or held to be a partner or associate of Tenant in the conduct of Tenant's business, nor shall Landlord be liable for any debts incurred by Tenant in the conduct of Tenant's business; but it is understood and agreed that the relationship is and at all times shall remain that of landlord and tenant.

Article V
Taxes

Section 1. Landlord shall pay, or cause to be paid, before the same become delinquent, all general and special taxes, including assessments for local improvements and other governmental charges which may be lawfully charged, assessed, or imposed upon the Building of which the Premises are a part and all of the land area under and surrounding the Building owned by Landlord or its affiliates constituting a part of Maine Street Station, provided, however, that if authorities having jurisdiction assess real estate taxes, assessments or other charges on the same which Landlord deems excessive, Landlord may defer compliance therewith to the extent permitted by the laws of the State of Maine so long as the validity or amount thereof is contested by Landlord in good faith and so long as Tenant's occupancy of the Premises is not disturbed or threatened.

Section 2. Tenant shall pay all such taxes which may be lawfully charged, assessed, or imposed upon all fixtures and equipment of every type and also upon all personal property in said Premises, and Tenant shall pay all license fees which may lawfully be imposed upon the business of Tenant conducted upon the Premises.

Article VI
Utilities

Section 1. Tenant shall pay for all of its requirements for electricity, gas, steam, water, sewer charges, to the extent separately metered for Tenant's use. All other utilities shall be included in Operating Expenses and shall be considered satisfied pursuant to ARTICLE III hereof.

Article VII
Construction

Section 1. Landlord's Work.

Landlord shall construct and deliver the Premises in 'vanilla shell' condition in accordance with Landlord's building standard specifications, pursuant to **Exhibit C**, attached [as the same may be updated by mutual agreement of the parties](#) (the "**Specifications**"), such work to be performed at Landlord's sole cost and expense. All such work shall be performed in a good and workmanlike manner, using new materials, in accordance with the Specifications, and shall otherwise obtain all required and necessary permits, approvals and comply with all requirements, laws, ordinances and regulations applicable thereto necessary or desirable to complete construction and installation of the improvements, installations, finishes and the like described on said Exhibit C (the "**Landlord's Work**"). Landlord shall use its best efforts to complete the Landlord's Work within 120 days after the date of full execution of this lease. —Tenant covenants to reasonably cooperate with Landlord to promote the efficient and expeditious completion of Landlord's work. The design and construction of Landlord's Work shall conform to the requirements of applicable building, plumbing, electrical and fire codes and applicable laws, orders and regulations of any

governmental authority having jurisdiction over same. Landlord agrees after completion of Landlord's Work to promptly correct any "punch list" items reasonably identified by Tenant and to otherwise correct any defects in workmanship, labor or materials that are reasonably identified by Tenant. In no event shall Tenant be liable to perform any work or make any improvements that are part of Landlord's Work or are part of Landlord's punch list obligations or maintenance obligations under the Lease, including without limit any repairs or maintenance to structural portions of the Premises or Building.

Section 2. Tenant's Work.

After delivery of the Premises to Tenant, Tenant shall be responsible to equip the Premises with trade fixtures and all personal property necessary or proper for the operation of Tenant's business, and shall perform such work in accordance with the provisions of **Exhibit B** hereto. Tenant and its contractors shall comply fully with all construction rules and regulations which Landlord may establish from time to time by written notice to Tenant and, without limitation to Landlord's other rights and remedies provided under this lease, in the event of any failure by Tenant or its contractors to so comply fully, Landlord may charge Tenant an amount (currently established at \$200.00 per occurrence) for the purpose of defraying Landlord's administrative expenses relative to any such failure.

Article VIII

Use of Premises; Operational Covenants

Section 1. It is understood, and Tenant so agrees, that, during the term of this lease, the Premises shall be used and occupied by Tenant as a train and multi-modal transportation station, as well as a visitors center, and uses related or ancillary thereto (such as transportation vehicle rental operations and tourist promotion) and all related office and support operations, and in the event that the foregoing uses are not feasible or sufficient in the reasonable opinion of Tenant to fully occupy the Premises on a full-time basis, the Premises (or a portion thereof) may be used and occupied by Tenant to for general office and/or retail use. The foregoing are the only permitted uses, and the Premises shall be used for any and for no other purpose or purposes without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

Section 2. Tenant further agrees to conform to the following provisions during the entire term of this lease:

- (a) Tenant shall always conduct its operations in the Premises for the stated purposes unless Landlord shall otherwise consent in writing, which consent shall not be unreasonably withheld;
- (b) Tenant shall not use the pathways or sidewalks adjacent to the Premises or the Building or the recessed vestibules, if any, of the Premises for business purposes without the previous written consent of Landlord;
- (c) Tenant shall keep the display windows and/or storefront, if any, of the Premises clean and shall keep the same electrically lighted from dusk until at least 10:00 PM, and for this purpose shall install and maintain an electronic time-clock. If Landlord gives notice to Tenant of any objection which Landlord may have to Tenant's displays in the windows and/or storefront, if any, of the Premises, then Tenant shall promptly alter such displays to comply with Landlord's objections;
- (d) Tenant shall receive and deliver goods and merchandise only in the manner, at such times, and in such areas, as may be designated by Landlord; and all trash, refuse, and the like, shall be kept in covered bins, which cans shall be kept within the Premises at all times, and in no event stored outside of the same, except that Tenant shall have the right to use the dumpster in a location designated from time to time by Landlord;
- (e) Tenant shall not place on the exterior of the Premises and Building (including, but without limitation, windows, doors, storefront and entrance lobbies) any signs other than those in

conformity with Landlord's sign criteria, and which shall first have been approved by Landlord, including replacements thereof. The signs desired by Tenant shall be indicated in Tenant's plans and specifications to be submitted to Landlord for approval, which approval shall not be unreasonably withheld, conditioned or delayed, provided such consent may be withheld in Landlord's reasonable discretion, if the requested signs deviate from Landlord's and the Town's standards. Tenant agrees that, within thirty (30) days after Landlord shall have approved signage, and at all times thereafter during the term of this lease, Tenant shall install and maintain such signs as Landlord shall have so approved, which signs shall identify Tenant's operation in the Premises and shall be installed in such locations as shall have been designated by Landlord. Landlord acknowledges that given the nature of the Tenant's use of the Premises, there is need for prominent and visible signage identifying the operations at the Premises. Landlord and Tenant agree to work cooperatively on the design and location of such signage, including directional signs located elsewhere in the Maine Street Station property;

- (f) Tenant shall not perform any act or carry on any practice which may injure the Premises or any other part of the Building, or cause any offensive odors or loud noise, or constitute a nuisance or menace to any other occupant or other persons in the Building, and in no event shall any noises or odors be emitted from the Premises, except those announcements customary for a train station;
- (g) Tenant shall not use any portion of the Premises for storage or other services, except for its operations in the Premises;
- (h) Tenant agrees that it and its employees and others connected with Tenant's operations at the Premises will abide by all reasonable rules and regulations from time to time established by Landlord by written notice to Tenant with respect to the Building and Maine Street Station, including but not limited to reasonable rules and regulations relating to employee parking;
- (i) Tenant shall, in performing its obligations under this lease, comply with all applicable laws, rules, ordinances and regulations, including, without limitation, obtaining any and all permits necessary and proper in order to permit Tenant to use the Premises for the purposes set forth in this Article VIII, Section 1 hereinabove. Without limiting the generality of the foregoing, Tenant agrees that, as to Tenant's Work, Tenant shall be responsible for compliance with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) and the regulations and Accessibility Guidelines for Buildings issued pursuant thereto; provided Landlord shall be responsible for the same as to Landlord's Work and the exterior of the Building and the Maine Street Station.
- (j) The Tenant shall not use, handle or store or dispose of any oil, hazardous or toxic materials or hazardous or toxic wastes (collectively, "hazardous materials") in or about the Building and appurtenant land except as is reasonably necessary (e.g., cleaning supplies and supplies related to copiers, etc.) in its operations and in all cases, in compliance with all applicable laws, regulations and rules. If the transportation, storage, use or disposal of any hazardous materials anywhere on the Building and appurtenant land in connection with the Tenant's use of the Premises results in (1) contamination of the soil or surface or ground water or (2) loss or damage to person(s) or property, then Tenant agrees to respond in accordance with the following paragraph:

Tenant agrees (i) to notify Landlord immediately of any contamination, claim of contamination, loss or damage, (ii) after consultation and approval by Landlord, to clean up the contamination in full compliance with all applicable statutes, regulations and standards, and (iii) to indemnify, defend and hold Landlord harmless from and against any claims, suits, causes of action, costs and fees, including attorneys' fees, arising from or connected with any such contamination, claim of contamination, loss or damage. This provision shall survive the termination of this lease. No consent or approval of Landlord shall in any way be construed as imposing upon Landlord any liability for the means, methods, or manner of removal, containment or other compliance with applicable law for and with respect to the foregoing.

Tenant shall immediately notify Landlord upon Tenant's receipt of any inquiry, notice, or threat to give notice by any governmental authority or any other third party with respect to any hazardous materials.

Section 3. Landlord shall provide:

- (a) Access to the Building (6:00 a.m. to 11:00 p.m. each day) and at all other times Landlord and Tenant agree to provide limited access to the Building through mechanical systems so that Tenant can operate the space for the purposes stated;
- (b) Cleaning of the Premises. Landlord shall not be responsible for the removal of, and Tenant shall, at its own expense, remove Tenant's trash from the Premises to a common dumpster supplied by Landlord. Tenant shall be responsible for keeping the Premises in a neat and clean condition;
- (c) Hot and cold running water for washrooms and lavatories;
- (d) Electricity for normal lighting of the main lobby, elevators, stairs, washrooms, paths, walkways and parking areas, but not for the Premises;
- (e) Shoveling of snow and sanding of ice at the entry and sidewalks to the Building and paths and walkways in Maine Street Station and the parking areas and maintenance of landscaping and exterior areas of the Main Street Station in good, clean condition; and,
- (f) Display of Tenant's name or "Train Station" on the lobby directory as per the Building standard.

Article IX
Assignment and Subletting

Section 1. Notwithstanding any other provisions of this lease, the Tenant covenants and agrees that it will not assign this lease or sublet (which term, without limitation, shall include the granting of concessions, licenses, and the like) the whole or any part of the Premises without in each instance having first received the express written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned or delayed; provided that there shall be no need for Landlord's consent for subleases to Brunswick Downtown Association (or to any governmental or quasi-governmental entity with authority to operate the Premises for the purposes contemplated hereby) and/or any end operators of any intermodal transportation-related operations (e.g., vehicle rental operations). Tenant shall provide Landlord with copies of any such subleases promptly once executed. Any sublease shall contain a provision confirming that the sublease is subject to and subordinate to this lease. Tenant acknowledges, and that Landlord will look to Tenant for any recourse hereunder, notwithstanding a sub-lease.

Section 2. In the event the Tenant seeks the Landlord's consent pursuant to this ARTICLE IX Section 2, the Tenant shall furnish the Landlord with such information regarding the prospective assignee or sublessee as the Landlord may require, including without limitation information regarding financial ability and business experience relating to the uses permitted hereunder. In any case as to any permitted sublease and where the Landlord shall consent to such assignment or subletting, the Tenant named herein shall remain fully liable for the obligations of the Tenant hereunder, including, without limitation, the obligation to pay the rent and other amounts provided under this lease. The provisions of this ARTICLE IX, Section 2 shall not, however, be applicable to an assignment of this lease by the Tenant to its wholly owned subsidiary or immediate controlling corporation (for such period of time as such corporation remains such a subsidiary or such a controlling corporation, respectively, it being agreed that the subsequent sale or transfer of stock resulting in a change in voting control, or any other transaction(s) having the overall effect that such corporation ceases to be such a subsidiary or such a controlling corporation, respectively, of the Tenant, shall be treated as if such sale or transfer or transaction(s) were, for all purposes, an assignment of this lease governed by the provisions of this ARTICLE IX, Section 2), provided (and it shall be a condition of the validity of any such assignment) that such wholly owned subsidiary or such immediate controlling corporation first agree directly with the Landlord to be bound by all of the obligations of the Tenant hereunder, including, without limitation, the obligation to pay the rent and other amounts provided for under this lease, the covenant to use the Premises only for the purposes specifically permitted under this lease and the covenant against

further assignment, but such assignment shall not relieve the Tenant herein named (or any of its successors or assigns permitted hereunder) of any of its obligations hereunder, and the Tenant shall remain fully liable therefore.

Article X Maintenance of Building, Etc.

Section 1. Other than as provided below in this Section, Landlord agrees to keep in good order, condition and repair, the roof, foundations and structural portions of the Premises (except glass and glass windows, irrespective of which party installed the same), except for any damage thereto caused by any act or negligence of Tenant, its employees, agents, licensees, or contractors. Landlord shall not be responsible to make any other improvements or repairs of any kind upon the Premises, but this paragraph is not intended to refer to damage by fire or other insured risk to the Premises, provision for which is hereafter made.

Section 2. Except as specifically herein otherwise provided, Tenant agrees that from and after the date that possession of the Premises is delivered to Tenant, and until the end of the term hereof, it will keep neat and clean and maintain in good order, condition and repair, the Premises and every part thereof, including, without limitation, the storefront and the exterior and interior portions of all doors, windows, plate glass and showcases surrounding the Premises, all plumbing and sewage facilities within the Premises, fixtures and interior walls, floors, ceilings, signs (including exterior signs where permitted), and all wiring, electrical systems and interior appliances serving the Premises. Tenant shall, at Tenant's expense, repaint, refurbish and remodel the Premises and any part and portion thereof from time to time to assure that the same are kept in a first-class, tenantable and attractive condition throughout the term of this lease. There is excepted from this paragraph, however, damage to such portions of the Premises originally constructed by Landlord as is caused by those hazards which are covered by the policies of fire insurance with extended coverage endorsements carried by Landlord and described in Article XIII hereof. Tenant further agrees that the Premises shall be kept in a clean, sanitary and safe condition in accordance with the laws of the state of Maine and ordinances of the Town of Brunswick, and in accordance with all directions, rules and regulations of the Health Officer, Fire Marshal, Building Inspector and other proper officers of the governmental agencies having jurisdiction thereover. Tenant shall not permit or commit any waste.

Section 3. Tenant shall not make any alterations, improvements and/or additions to the Premises (except as initially required by the terms of Article VII of this lease) without first obtaining, in each instance, the written consent of Landlord, which consent Landlord agrees will not be unreasonably withheld, upon condition that such alterations shall be made in accordance with all applicable laws and in a good and first-class, workmanlike manner. Any and all alterations, additions, improvements and fixtures which may be made or installed by either Landlord or Tenant upon the Premises and which in any manner are attached to the floors, walls or ceilings (including, without limitation, any linoleum or other floor covering of similar character which may be cemented or otherwise adhesively affixed to the floor) shall remain upon the Premises, and at the termination of this lease shall be surrendered with the premises as a part thereof without disturbance, molestation or injury. However, the usual trade fixtures and furniture which may be installed in the Premises prior to or during the term hereof at the cost of Tenant may be removed by Tenant from the Premises upon the termination of this lease if, but only if, Tenant is not then in default hereunder. Further, Tenant covenants and agrees, at its own cost and expense, to repair any and all damage to the Premises resulting from or caused by such removal. In no event shall Tenant be entitled to remove any heating, ventilating, or air-conditioning equipment.

Article XI Landlord's Access to Premises

Section 1. Landlord and his designees shall have the right to enter upon the Premises at all reasonable hours for the purpose of inspecting or making repairs to the same. Except in case of emergency, Landlord shall enter the Premises only during business hours and after prior notice which is reasonable under the circumstances, 24-hour notice being considered reasonable; provided, however, Landlord agrees to use commercially reasonable efforts to minimize disruption and disturbance of Tenant's operations at the Premises in any entry into the Premises. If repairs are required to be made by Tenant pursuant to the terms hereof, Landlord may demand that Tenant make the same forthwith, and if Tenant refuses or neglects to commence such repairs and complete the same with reasonable

dispatch, after such demand, Landlord may (but shall not be required so to do) make or cause such repairs to be made and shall not be responsible to Tenant for any loss or damage that may accrue to its stock or business by reason thereof. If Landlord makes or causes such repairs to be made, Tenant agrees that it will forthwith, on demand, pay to Landlord the cost thereof, and if it shall default in such payment, Landlord shall have the remedies provided in Article XVII hereof.

Section 2. For a period commencing nine (9) months prior to the termination of this lease, Landlord may have reasonable access to the premises herein demised for the purpose of exhibiting the same to prospective tenants.

Article XII Tenant's Insurance

Section 1. Tenant shall have no obligation to maintain liability insurance, provided that Tenant may elect to maintain such insurance from time to time during the term hereof. [OPEN]

Section 2. Tenant also agrees that it shall keep its fixtures, merchandise and equipment insured against loss or damage by fire with the usual extended coverage endorsements. It is understood and agreed that Tenant assumes all risk of damage to its own property arising from any cause whatsoever, including, without limitation, loss by theft or otherwise.

Section 3. Tenant agrees to indemnify and hold harmless Landlord from and against all claims of whatever nature arising from any act, omission or negligence of Tenant, or Tenant's contractors, licensees, agents, servants or employees, or arising from any accident, injury or damage whatsoever caused to any person, or to the property of any person occurring during the term hereof in or about Tenant's Premises, or arising from any accident, injury or damage occurring outside of the Premises but within the building, where such accident, damage or injury results or is claimed to have resulted from an act or omission on the part of Tenant or Tenant's agents or employees. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

Section 4. Tenant agrees to use and occupy the Premises and to use such other portions of the building as it is herein given the right to use at its own risk; and that Landlord shall have no responsibility or liability for any loss of or damage to fixtures or other personal property of Tenant. The provisions of this Section shall apply during the whole of the term hereof, and in view of the permission given to Tenant to install fixtures prior to the commencement of the term hereof, shall also apply at all times prior to the commencement of the term hereof.

Section 5. Tenant agrees that Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to or connecting with the premises demised hereunder or any of the building, or otherwise, or for any loss or damage resulting to Tenant or those claiming by, through or under Tenant, or its or their property, from the bursting, stopping or leaking of water, gas, sewer or steam pipes.

~~To be determined.~~

Section 6. The indemnification and hold harmless provisions of Tenant contained in this lease and any other provision hereof, notwithstanding anything to the contrary herein, shall not be considered to, and shall not, expand or create liability on the part of Tenant to any person (including the persons so indemnified) for claims from which Tenant is released, exempted and/or protected by Maine law, including without limit, the Maine Tort Claims Act, as it is currently in effect or is in the future from time to time modified or amended. Any and all obligations and/or exposure of the Tenant under any indemnification obligations contained herein, and any damages related thereto, are subject to the foregoing limitations, and are further subject to, limited by, and shall not exceed the greater of (i) the legal limits of Tenant's liability and (ii) applicable insurance policy coverage limits under any insurance policy the Tenant is maintaining at the time of such claim.

Section 7.

Article XIII
Landlord's Insurance

Section 1. Landlord shall keep the Premises insured against loss or damage by fire, with the usual extended coverage endorsements and such other insurance as the then holder of the first mortgage which includes the Premises shall require.

Section 2. Insofar as and to the extent that the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in the State of Maine (even though extra premium may result therefrom), Landlord and Tenant mutually agree that with respect to any loss which is covered by insurance then being carried by them, respectively, the one carrying such insurance and suffering said loss releases the other of and from any and all claims with respect to such loss; and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof.

Section 3. Tenant covenants and agrees that it will not do or permit anything to be done in or upon the Premises or bring in anything or keep anything therein, which shall increase the rate of insurance on the Premises or on the building above the standard rate on said premises and building with a use of the type described in Section 1 of Article VIII located in the Premises; and Tenant further agrees that in the event it shall do any of the foregoing, it will promptly pay to Landlord on demand any such increase resulting therefrom, which shall be due and payable as additional rent hereunder.

Article XIV
Damage Clause

Section 1. In case during the term hereof the Premises shall be partially damaged (as distinguished from "substantially damaged", as that term is hereinafter defined) by fire or other casualty, the risk and cost of which is covered by Landlord's insurance, Landlord shall forthwith proceed to repair such damage and restore the Premises, or so much thereof as was originally constructed by Landlord, to substantially their condition at the time of such damage, but Landlord shall not be responsible for any delay which may result from any cause beyond Landlord's reasonable control.

Section 2. In case during the term hereof the Premises shall be substantially damaged or destroyed by fire or other casualty, the risk of which is covered by Landlord's insurance, this lease shall, except as hereinafter provided, remain in full force and effect, and Landlord shall promptly after such damage and the determination of the net amount of insurance proceeds available to Landlord, expend so much as may be necessary of such net amount to restore, to the extent originally constructed by Landlord (consistent, however, with zoning laws and building codes then in existence), so much of the Premises as was originally constructed by Landlord to substantially the condition in which such portion of the Premises was in at the time of such damage, except as hereinafter provided, but Landlord shall not be responsible for delay which may result from any cause beyond the reasonable control of Landlord. Should the net amount of insurance proceeds available to Landlord be insufficient to cover the cost of restoring the Premises, in the reasonable estimate of Landlord, Landlord may supply the amount of such insufficiency and restore the Premises with all reasonable diligence or Landlord may terminate this Lease by giving notice to Tenant not later than a reasonable time after Landlord has determined the estimated net amount of insurance proceeds available to Landlord and the estimated cost of such restoration and shall refund to Tenant the amount of rent Tenant has prepaid but will not be used on a pro-rata basis. In case of substantial damage or destruction, as a result of a risk which is not covered by Landlord's insurance, Landlord may, but shall have no obligation to, restore the Premises with all reasonable diligence, or Landlord may terminate this lease by giving notice to Tenant not later than a reasonable time after Landlord has the estimated cost of such restoration.

Section 3. If the Premises shall be substantially damaged or destroyed by fire, windstorm or otherwise within the last year of the term of this lease, either party shall have the right to terminate this lease, provided that notice thereof is given to the other party not later than sixty (60) days after such damage or destruction. If said right of termination is exercised, this lease and the term hereof shall cease and come to an end as of the date of said damage or destruction.

Section 4. If the Building (of which the Premises are a part) shall be substantially damaged or destroyed by fire or casualty, Landlord shall promptly restore, to the extent originally constructed by Landlord (consistent, however, with zoning laws and building codes then in existence), so much of such Building as was originally constructed by Landlord to substantially the condition thereof at the time of such damage. In all cases of damage, casualty or other loss of use by Tenant the term of this Lease shall be automatically extended for the number of days the Tenant was deprived of the use of the Premises by reason of such ~~substantial damage~~, casualty or loss.

Section 5. The terms “substantially damaged” and “substantial damage”, as used in this Article, shall have reference to damage of such a character as cannot reasonably be expected to be repaired or the premises restored within one hundred eighty (180) days from the time that such repair or restoration work would be commenced.

Article XV Eminent Domain

Section 1. If the Premises, or such portion thereof as to render the balance (when reconstructed) unsuitable for the purposes of Tenant, shall be taken by condemnation or right of eminent domain, either party, upon written notice to the other, shall be entitled to terminate this lease, provided that such notice is given not later than thirty (30) days after Tenant has been deprived of possession. Should any part of the Premises be so taken or condemned, and should this lease be not terminated in accordance with the foregoing provision, Landlord covenants and agrees promptly after such taking or condemnation, and the determination of Landlord’s award therein, to expend so much as may be necessary of the net amount which may be awarded to Landlord in such condemnation proceedings in restoring the Premises to an architectural unit as nearly like their condition prior to such taking as shall be practicable. Should the net amount so awarded to Landlord be insufficient to cover the cost of restoring the Premises, as estimated by Landlord’s architect, Landlord may, but shall not be obligated to, supply the amount of such insufficiency and restore said premises as above provided, with all reasonable diligence, or may terminate this lease. Where Tenant has not already exercised any right of termination accorded to it under the foregoing portion of this paragraph, Landlord shall notify Tenant of Landlord’s election not later than ninety (90) days after the final determination of the amount of the award. Further, if so much of the Building shall be so taken that continued operation of the Building would be uneconomic, Landlord shall have the right to terminate this Lease by giving notice to Tenant of Landlord’s desire so to do not later than thirty (30) days after the effective date of such taking. And, in any case where Tenant has been deprived of use of the Premises by reason of such condemnation or right of eminent domain, and the term of this Lease shall be extended for the number of days the Tenant was deprived of the use of the Premises by reason of such condemnation or eminent domain taking.

Section 2. Out of any award for any taking of the Premises, in condemnation proceedings or by right of eminent domain, Landlord shall be entitled to receive and retain the amounts awarded for such Premises and for Landlord’s business loss. Tenant shall be entitled to receive and retain any amounts which may be specifically awarded to it in any such condemnation proceedings, because of the taking of its trade fixtures or furniture and its leasehold improvements to the extent Tenant was not reimbursed for the same by Landlord.

Section 3. In the event of any such taking of the Premises, the Fixed Rent, and the Pro Rata Percentage specified in Section 2 of Article III of this lease, or a fair and just proportion thereof, according to the nature and extent of the damage sustained, shall be suspended or abated.

Article XVI Omitted

Article XVII Landlord's Remedies

Section 1. It is covenanted and agreed that if Tenant shall neglect or fail to perform or observe any of the covenants, terms, provisions or conditions contained in these presents and on its part to be performed or observed within thirty (30) days after notice of default, or such additional time as is reasonably required to correct any such default (except for payment of Fixed Rent, Additional Rent or other charges, in which case said period of notice shall be ten (10) days), or if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of the Bankruptcy Act now or hereafter enacted, and such proceeding is not dismissed within sixty (60) days after it is begun, or if Tenant shall file a petition for such reorganization, or for arrangements under any provisions of the Bankruptcy Act now or hereafter enacted, and providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts – then, and in any of said cases (notwithstanding any license of any former breach of covenant or waiver of the benefit hereof or consent in a former instance), Landlord lawfully may, in addition to any remedies otherwise available to Landlord, immediately or at any time thereafter, and without demand or notice, enter into and upon the said premises or any part thereof in the name of the whole and repossess the same as of his former estate, and expel Tenant and those claiming through or under it and remove its or their effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant and/or Landlord may send written notice to Tenant terminating the term of this lease; and upon the first to occur of (i) entry as aforesaid, or (ii) the fifth (5th) day following mailing of such notice of termination, the term of this lease shall terminate.

Tenant covenants and agrees, notwithstanding any termination of this lease as aforesaid or any entry or re-entry by Landlord, whether by summary proceedings, termination or otherwise, to pay and be liable for on the days originally fixed herein for the payment thereof, amounts equal to the several installments of rent and other charges reserved as they would, under the terms of this lease, become due if this lease had not been terminated or if Landlord had not entered or re-entered, as aforesaid, and whether the Premises be relet or remain vacant, in whole or in part, or for a period less than the remainder of the term, and for the whole thereof; but in the event the Premises be relet by Landlord, Tenant shall be entitled to a credit in the net amount of rent received by Landlord in reletting, after deduction of all expenses incurred in reletting the Premises (including, without limitation, remodeling costs, brokerage fees, and the like), and in collecting the rent in connection therewith. As an alternative, at the election of Landlord, Tenant will upon such termination pay to Landlord, as damages, such a sum as at the time of such termination represents the amount of the excess, if any, of the then value of the total rent and other benefits which would have accrued to Landlord under this lease for the remainder of the lease term if the lease terms had been fully complied with by Tenant over and above the then cash rental value (in advance) of the premises for the balance of the term. In all cases, Landlord shall use reasonable efforts to mitigate Landlord's damages after an event of default and termination of this Lease or retaking of possession of the Premises by Landlord.

If this lease shall be guaranteed on behalf of Tenant, all of the foregoing provisions with respect to bankruptcy of Tenant, etc., shall be deemed to read "Tenant or the guarantor hereof".

Section 2. Landlord shall in no event be in default in the performance of any of his obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days or such additional time as is reasonably required to correct any such default after notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation.

It is the intention of the parties hereto that the obligations of Tenant hereunder shall be separate and independent covenants and agreements, that the Fixed Rent, the Additional Rent and all other sums payable by Tenant to Landlord shall continue to be payable in all events and that the obligations of Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease. Further, Tenant shall not assert any right to deduct the cost of repairs or any monetary claim against Landlord from rent thereafter due and payable, but shall look solely to Landlord for satisfaction of such claim.

Article XVIII
Miscellaneous Provisions

Section 1. Waiver.

Failure on the part of Landlord to complain of any action or non-action on the part of Tenant, no matter how long the same may continue, shall never be deemed to be a waiver by Landlord of any of his rights hereunder. Further, it is covenanted and agreed that no waiver at any time of any of the provisions hereof by Landlord shall be construed as a waiver of any of the other provisions hereof, and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of Landlord to or of any action by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant.

No payment by Tenant, or acceptance by Landlord, of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

Section 2. Covenant of Quiet Enjoyment.

Tenant, subject to the terms and provisions of this lease, on payment of the rent and on observing, keeping and performing all of the terms and provisions of this lease on its part to be observed, kept and performed, shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Premises during the term hereof without hindrance or ejection by any persons lawfully claiming under Landlord; but it is understood and agreed that this covenant and any and all other covenants of Landlord contained in this lease shall be binding upon Landlord and Landlord's successors only with respect to breaches occurring during Landlord's and Landlord's successors' respective ownership of Landlord's interest hereunder. In addition, Tenant specifically agrees to look solely to Landlord's interest in the Building for recovery of any judgment from Landlord; it being specifically agreed that neither Landlord nor anyone claiming under the Landlord shall ever be personally liable for any such judgment. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or Landlord's successors in interest, or any other action not involving the personal liability of Landlord or anyone claiming under Landlord, to respond in monetary damages from their assets other than their interest in this building.

It is further understood and agreed that with respect to any services to be furnished by Landlord to Tenant, Landlord shall in no event be liable for failure to furnish the same when prevented from so doing by strike, lockout, breakdown, accident, order or regulation of or by any governmental authority, or failure of supply, or inability by the exercise of reasonable diligence to obtain supplies, parts, or employees necessary to furnish such services, or because of war or other emergency, or for any cause beyond Landlord's reasonable control, or for any cause due to any act or neglect of Tenant; or its servants, agents, employees, licensees or any person claiming by, through or under Tenant, or any termination for any reason of Landlord's occupancy of the premises from which the service is being supplied by Landlord.

In no event shall Tenant have the right to terminate or cancel this lease as a result of any default by Landlord or breach by Landlord of its covenants or any warranties or promises hereunder, it being the intention of the parties that all covenants hereunder shall be independent. Further, in no event shall Landlord ever be liable to Tenant for any indirect or consequential damages or loss of profits or the like.

Section 3. Status Report.

Recognizing that both parties may find it necessary to establish to third parties, such as accountants, banks, mortgagees, or the like, the then current status of performance hereunder, either party, on the written request of the other made from time to time, will promptly furnish a written statement of the status of any matter pertaining to this lease. Without limiting the generality of the foregoing, Tenant specifically agrees, promptly upon the commencement of the term hereof, to notify Landlord in writing of the date of commencement of the term, and acknowledge satisfaction of the requirements with respect to construction and other matters by Landlord, save and except for such matters as Tenant may wish to set forth specifically in said statement.

Section 4. Notice to Mortgagee.

After receiving written notice from any person, firm or other entity, that it holds a mortgage (which term shall include a deed of trust) which includes as part of the mortgaged premises the Premises, Tenant shall, so long as such mortgage is outstanding, be required to give such holder the same notice as is required to be given to Landlord under the terms of this lease, but such notice may be given by Tenant to Landlord and such holder concurrently. It is further agreed that such holder shall have the same opportunity to cure any default, and the same time within which to effect such cure, as is available to Landlord; and if necessary to cure such a default, such holder shall have access to the Premises.

Section 5. Assignment of Rents.

With reference to any assignment by Landlord of Landlord's interest in this lease, or the rents payable hereunder, conditional in nature or otherwise, which assignment is made to the holder of the first mortgage or deed of trust on the Premises, Tenant agrees:

- (a) that the execution thereof by Landlord, and the acceptance thereof by such holder, shall never be deemed an assumption by such holder of any of the obligations of Landlord hereunder, unless such holder shall, by written notice sent to Tenant, specifically otherwise elect; and
- (b) that, except as aforesaid, such holder shall be treated as having assumed Landlord's obligations hereunder only upon foreclosure of such holder's mortgage or deed of trust and the taking of possession of the Premises by such holder.

Section 6. Mechanic's Liens.

Tenant agrees immediately to discharge (either by payment or by filing of the necessary bond, or otherwise) any mechanic's, materialmen's, or other lien against the Premises and/or Landlord's interest therein, which liens may arise out of any payment due for, or purported to be due for, any labor, services, materials, supplies or equipment alleged to have been furnished to or for Tenant in, upon or about the Premises.

The parties hereby acknowledge that, in performing any alterations, additions, or other work, whether as set forth in Exhibit B hereunder or otherwise (collectively "Tenant Work"), Tenant is acting for its own benefit and account, and the parties expressly agree that Tenant will not be acting as Landlord's agent in performing any Tenant Work. The fact that Tenant is required to obtain Landlord's consent prior to commencing any Tenant Work is solely for the benefit of Landlord in determining whether such Tenant Work will adversely affect the Building in which the Premises is located and the granting of Landlord's consent to any Tenant Work shall not be construed to give rights to any other parties. Tenant shall require any contractor who performs Tenant Work to expressly acknowledge and agree to the provisions of this paragraph.

Section 7. No Brokerage.

Tenant warrants and represents that it has dealt with no broker in connection with the consummation of this lease. Any brokerage fees shall be paid by Landlord pursuant to a separate agreement, and in the event of any other brokerage claims against Landlord predicated upon prior dealings with the Tenant named herein, Tenant agrees to defend the same and indemnify Landlord against any such claim.

Section 8. Invalidity of Particular Provisions.

If any term or provision of this lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this lease shall be valid and be enforced to the fullest extent permitted by law.

Section 9. Provisions Binding, Etc.

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant. Each term and each provision of this lease to be performed by Tenant shall be construed to be both a covenant and a condition. The reference contained to successors and assigns of Tenant is not intended to constitute a consent to assignment by Tenant, but has

reference only to those instances in which Landlord may later give written consent to a particular assignment as required by the provisions of Article IX hereof.

Section 10. Governing Law.

This lease shall be governed exclusively by the provisions hereof and by the laws of the State of Maine, as the same may from time to time exist.

Section 11. Recording.

Tenant agrees not to record the within lease, but each party hereto agrees, on request of the other, to execute a Notice of Lease in recordable form and complying with applicable laws of the State of Maine, and reasonably satisfactory to Landlord's attorneys. In no event shall such document set forth the rental or other charges payable by Tenant under this lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this lease, and is not intended to vary the terms and conditions of this lease.]

Section 12. Notices.

Whenever by the terms of this lease notice, demand or other communication shall or may be given either to Landlord or to Tenant, the same shall be in writing and shall be sent by certified mail, postage prepaid, return receipt requested:

If intended for Landlord, addressed to it at the address set forth on the first page of this lease, and copies to John Moncure, Esq., Moncure & Barnicle, 9 Bowdoin Mill Station, Topsham, ME 04086, and Rich May, a Professional Corporation, 176 Federal Street, Boston, MA 02110, Attn: Howard L. Levin, Esq./Maine Street Station (or to such other address or addresses as may from time to time hereafter be designated by Landlord by like notice);

If intended for Tenant, addressed to it at the address set forth on the first page of this lease (or to such other address or addresses as may from time to time hereafter be designated by Tenant by like notice), and a copy to Peter Van Hemel, Esq., Bernstein Shur, 100 Middle Street, P.O. Box 9729, Portland, ME 04104-5029.

Section 13. When Lease Becomes Binding.

Employees or agents of Landlord have no authority to make or agree to make a lease or any other agreement or undertaking in connection herewith. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the premises, and this document shall become effective and binding only upon the execution and delivery hereof by both Landlord and Tenant. All negotiations, considerations, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord and Tenant, and no act or omission of any employee or agent of Landlord shall alter, change or modify any of the provisions hereof.

Section 14. Paragraph Headings.

The paragraph headings throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this lease.

Section 15. Lease Superior or Subordinate to Mortgage.

It is agreed that the rights and interest of Tenant under this lease shall be subject and subordinate to any mortgages or deeds of trust that may hereafter be placed upon the Building, and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacements and extensions thereof, provided that the mortgagee or trustee named in said mortgages or deeds of trust shall elect by written notice delivered to Tenant to subject and subordinate the rights and interest of the Tenant under this lease to the lien of its mortgage or deed of trust and shall agree to recognize this lease of Tenant in the event of foreclosure if Tenant is not in default. Any mortgagee or trustee may elect to give the rights and interest of Tenant under this lease priority over the lien of its mortgage or deed of trust. In the event of either such election, and upon notification by such mortgagee or trustee to Tenant to that effect, the rights and interest of Tenant under this lease shall be deemed to be subordinate to, or to have priority over, as the case may be, the lien of said mortgage or deed of trust, whether this lease is dated prior to or subsequent to the date of said mortgage or deed of trust. Tenant shall execute and deliver a subordination, nondisturbance and attornment agreement in form reasonably satisfactory to Tenant upon request of

Landlord, and in the event Tenant fails so to do within ten (10) days after demand in writing, Tenant may be considered in default hereof.

Landlord agrees to obtain *within 45 days of execution of this lease* from its current lender(s) a non-disturbance agreement containing the agreement of such lender that Tenant's rights (including specifically the benefit of the Rent Prepayment) under this lease shall not be disturbed by such lender(s) in the event of foreclosure or in the event such lender comes into possession or ownership of Landlord's interest in the Building and/or premises, unless Tenant is in terminable default ([the "Current SNDA"](#)).

Section 16. Definition of Additional Rent.

Without limiting the generality of anything contained herein, all real estate tax payments, common area charges, utilities and the costs of recording this lease or a memorandum or short form hereof, which Tenant is required to pay hereunder, together with all interest and penalties that may accrue thereon, shall be deemed to be Additional (but not Fixed) Rent, and in the event of non-payment thereof by Tenant, Landlord shall have all of the rights and remedies with respect thereto as would accrue to Landlord for non-payment of Fixed Rent.

Section 17. Security Deposit. Waived.

Section 18. Attorneys Fees.

Should either party be required to retain counsel to enforce its rights under this Lease, the defaulting party shall be responsible for all the costs thereof including reasonable attorneys fees.

Section 19. Holding Over.

Any holding over by Tenant after the expiration of the term of this lease shall be treated as a tenancy at sufferance at one and one-half (1.5) times the rents and other charges herein (prorated on a daily basis) and shall otherwise be on the terms and conditions set forth in this lease, as far as applicable and shall be responsible for all damages, foreseen and unforeseen, direct and indirect and consequential which Landlord may suffer or incur as a result of such hold-over.

WITNESS the execution hereof under seal in any number of counterpart copies, each of which shall be deemed an original for all purposes as of the day and year first above written.

LANDLORD:
JHR DEVELOPMENT OF MAINE PHASE I, LLC
By: JHR Development of Maine, LLC,
Its Manager

By: J. Hilary Rockett, Jr., its Manager

Attest: TENANT:
TOWN OF BRUNSWICK

By: _____
Its:
Hereunto duly authorized

EXHIBIT "A"

PLAN

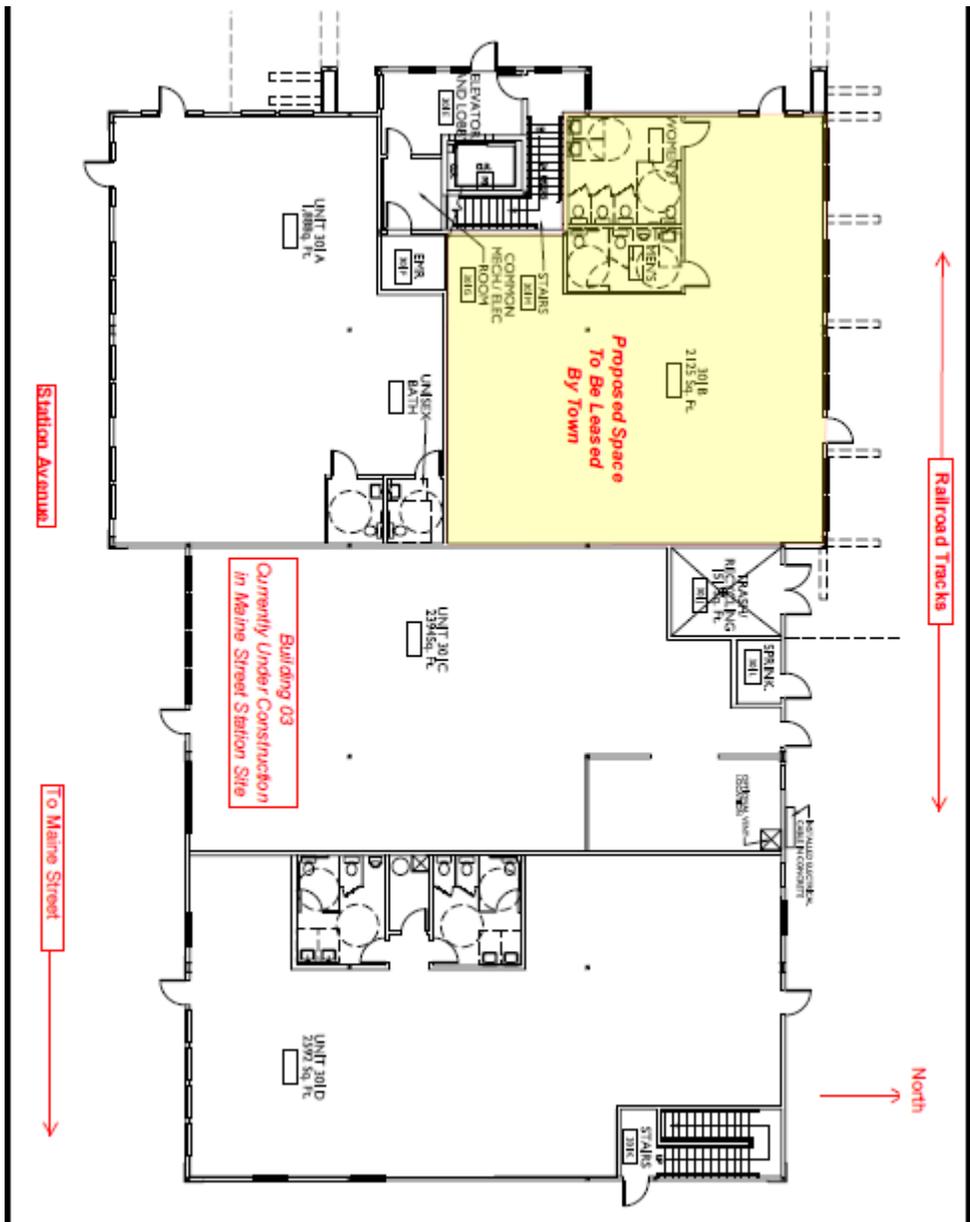


EXHIBIT "B"
DESCRIPTION OF TENANT'S WORK

A. DESCRIPTION OF TENANT'S WORK

The Tenant agrees to perform, at the Tenant's sole cost and expense, all of the work (the "Tenant's Work") described in any plans and specifications (the "Plans and Specifications") that is not part of Landlord's Work and that is necessary for Tenant's operations in the Premises, which Plans and Specifications shall be (i) prepared by the Tenant, at its sole cost and expense, and (ii) subject to the Landlord's prior written approval. There is currently (as of the date of this lease) no Tenant Work contemplated.

All of the Tenant's Work shall be performed in accordance with the Plans and Specifications as approved by the Landlord and in accordance with the General Conditions set forth in Section B below.

B. GENERAL CONDITIONS

All work done by the Tenant in, on or about the Premises shall be governed in all respects by, and be subject to, the following:

1. The Tenant's Work shall be performed in a first-class workmanlike manner and shall be in good and usable condition at the date of completion thereof.
2. Compliance with Laws: All the Tenant's Work shall be performed in full compliance with and shall conform to all applicable federal, state and local laws, codes, regulations and ordinances, including, without limitation, all applicable building and zoning codes and laws relating to the use, storage, removal, transportation or disposal of hazardous or toxic materials or oil, and all directions, rules and regulations of the Health Officer, Fire Marshal, Building Inspector and other proper officers of the governmental agencies having jurisdiction thereover, and all requirements of the Landlord's underwriters. The Landlord's approval of plans and specifications shall not constitute an acknowledgment that work done in conformity therewith will so comply and conform, it being expressly understood and agreed that the Tenant shall be solely responsible for ensuring such compliance and conformity and for any modifications to or corrections in the Tenant's Work required by any governmental agency or insurance underwriters. The Tenant shall obtain and furnish to the Landlord approvals from all agencies with jurisdiction over matters relative to the performance of Tenant's Work, including, without limitation, electrical, gas, water, heating and cooling, and telephone work, and shall secure its own building and occupancy permits. The Landlord reserves the right to require changes in the Tenant's Work when necessary by reason of code requirements or directives of governmental authorities having jurisdiction over the Premises or the building.
3. Insurance: Prior to commencement of the Tenant's Work and until completion thereof, the Tenant shall maintain, or cause to be maintained, casualty insurance in builder's risk form, covering the Landlord, the Landlord's agents and beneficiaries, the Tenant and the Tenant's contractor as their interests may appear, against loss or damage by fire, vandalism and malicious mischief, and such other risks as are customarily covered by the so-called "extended coverage endorsement" upon all the Tenant's Work in place, and all materials stored at the site of the Tenant's Work and all materials, equipment, supplies and temporary structures of all kinds incident to The Tenant's Work and builder's machinery, tools and equipment, all while forming a part of, or contained in, such improvements or temporary structures while on the Premises or when adjacent thereto while on sidewalks, streets or alleys, or in other portions of the building, all in the full insurable value thereof at all times. In addition, the Tenant agrees to require all contractors and subcontractors engaged in the performance of the Tenant's Work to effect and maintain and deliver to the Tenant and the Landlord certificates evidencing the existence of, prior to the commencement of the Tenant's Work and until completion thereof, the following insurance coverages:

- a. Workmen's Compensation Insurance - In accordance with the laws of the Commonwealth of Massachusetts, including Employer's Liability Insurance, to the limit of \$1,000,000.00 each accident.
- b. Comprehensive General Liability Insurance against bodily injury, including death resulting therefrom, to the limit of \$5,000,000 combined liability and property damage on an occurrence form; or in such greater reasonable amounts as the Landlord may hereafter from time to time advise the Tenant in writing.

Prior to the commencement of the Tenant's Work, the Tenant shall deliver to the Landlord certificates of all required insurance, and evidence of the payment of premiums thereon (and certificates of renewal, and evidence of premium payments with reference thereto, where appropriate). All such insurance shall provide, and certificates thereof shall state, that the same is non-cancelable and non-amendable without ten (10) days' prior written notice to the Landlord.

4. In any contract or undertaking which the Tenant may make with a contractor for work in the Premises, provision shall be made for the dismissal from the job of workmen whose work is, in the Landlord's reasonable judgment, unskilled or otherwise objectionable, and any such workmen shall be discharged, and the Tenant shall exonerate, indemnify and hold harmless the Landlord from any loss, cost, damage or liability incurred by reason of compliance with any such demand.
5. Tenant and its contractors shall comply fully with all construction rules and regulations which Landlord may establish from time to time by written notice to Tenant and, without limitation to Landlord's other rights and remedies provided under this lease, in the event of any failure by Tenant or its contractors to so comply fully, Landlord may charge Tenant an amount (currently established at \$200.00 per occurrence) for the purpose of defraying Landlord's administrative expenses relative to any such failure.

**EXHIBIT C
SPECIFICATIONS
LANDLORD'S WORK**

Landlord's Work shall include the following (where not specified, such installations and work shall at a minimum meet state building code and all legal requirements relating to accessibility (including the Americans With Disabilities Act and the Maine Human Rights Act and related regulations):

A. BUILDING SHELL

The Building Shell shall include secondary access/exit door(s) with frame and all necessary hardware.

B. UTILITIES

All utilities shall be provided to the Leased Premises and located in accordance with Exhibit A (plan).

1. Water Service: In accordance with local code requirements.

2. Sewer Service: In accordance with local code requirements.

3. Natural Gas Service: Where available, 1 ½" gas line suitable to supply the required BTU/Hr.

C. BATHROOM

Provide men's and women's bathroom per plan.

D. FLOOR SLAB

Provide existing floor condition ready for Tenant-specified floor coverings described below.

E. DEMISING WALLS AND INTERIOR PARTITIONS

Demising/perimeter walls shall be metal or wood studs covered with drywall to have minimum one (1) hour fire rating or more, as required per applicable governing codes and shall be located pursuant to the Plan. Interior partitions shall be 3 5/8" metal studs covered with drywall and finished smooth (no architectural, orange peel or rough surface) to meet local fire code ratings. All walls shall be taped, sanded and primed. All door and window trim and floor kickplates and other millwork and/or building-standard finishes necessary to provide a finished space (but not including tenant's trade fixtures and furniture, all of which is Tenant's responsibility)

F. ELECTRICAL

1. Provide one (1) separate electrical service and meter for Leased Premises.

2. For general lighting, provide 2' x 4', 4-lamp fluorescent recessed troffers.

3. Provide ceiling-mounted exit lights, emergency lights and night lights as per local code and Tenant's specifications.

4. Install electrical outlets and data terminals/plugs and outlets per code.

G. CEILING

Ceiling shall be a suspended Armstrong #770 with 15/16 grid or equivalent.

H. FLOORING

By Landlord and upon reasonable approval by tenant as to covering material and grade (not greater than landlord's building standard as used in other spaces in the Maine Street Station).

I. AIR CONDITIONING & HEATING

The Heating and Air Conditioning system for the Leased Premises shall be fully functional and capable of maintaining 72 degrees Fahrenheit in cooling mode (summer) and 72 degrees Fahrenheit in heating mode (winter).

J. STOREFRONT

The existing storefront and door system shall meet all applicable building code and accessibility requirements.

K. FIRE SPRINKLER SYSTEM AND CENTRAL STATION REPORTING SYSTEMS

The existing fire sprinkler system shall meet all applicable building code requirements. Landlord shall make any modifications as required by Landlord's Work.

ITEM 97

NO BACK UP MATERIALS

ITEM 98

BACK UP MATERIALS



TOWN OF BRUNSWICK, MAINE

INCORPORATED 1739

DEPARTMENT OF PLANNING AND DEVELOPMENT
28 FEDERAL STREET
BRUNSWICK, ME 04011

ANNA M. BREINICH, AICP
DIRECTOR OF PLANNING & DEVELOPMENT

PHONE: 207-725-6660
FAX: 207-725-6663

June 10, 2009

Memo to: Brunswick Town Council
Gary Brown, Acting Town Manager
From: Anna Breinich, AICP
Subject: Proposed BNAS Rezoning Amendment, Final Draft

Please find attached a copy of the final draft of the proposed BNAS Rezoning Amendment as recommended by the Brunswick Planning Board at their meeting on March 24, 2009, and the following related materials:

- 1) BNAS Zoning Districts Map Amendment
- 2) BNAS Zoning Land Use Districts Map (for Reuse District)
- 3) Memo by Steve Levesque providing an overview of the MRRA draft amendment (previously provided for the Planning Board Public Hearing)

It is requested that the Town Council move to set a public hearing for the final adoption of the zoning amendment and accompanying zoning map change.

The amendment overview provided by Mr. Levesque gives a detailed description of both process and content in the development of the BNAS Reuse District and BNAS Conservation District. Minimal revisions were made by Town Staff and Planning Board to the proposal described.

The proposed BNAS districts, Reuse District, Conservation District and College Use/Town Conservation District, will replace the current zoning district I-5 and is consistent with the BNAS Reuse Plan, as approved by the U.S. Department of Housing and Development. As recommended by the Planning Board, the Reuse Zoning District is proposed with the use of conceptual land use districts as outlined in the BNAS Reuse Master Plan. This approach should allow for greater flexibility in base reuse if there is a need to adjust land use district boundaries and not necessitate a Town Zoning Ordinance revision. The land use district provisions further provide for use and dimensional standards and can be likened to a major mixed use development plan (e.g. Maine Street Station). This approach has been utilized successfully in other base reuse communities.

The College Use/Town Conservation District was developed with input from Town, Bowdoin and MRRA staff with regard to use and dimensional standards. Other language was developed by Bowdoin and Town Staff to provide for conservation uses for lands to be conveyed to the Town of Brunswick, also located with the proposed district.

In terms of ordinance structure, the amendments are proposed for insertion as Appendices as an interim measure. As mentioned previously, it is our intent to move forward with a complete rewrite of the Zoning

Ordinance consistent with the 2008 Comprehensive Plan. At that time, the Appendices can then be incorporated more fully into the actual ordinance standards.

Thank you for consideration of this request. I will be available at the Town Council to answer any questions you may have.

cc: Steve Levesque
Catherine Longley
Catherine Ferdinand
Del Wilson
Vicky Boundy



Memo

To: Brunswick Planning Board
From: Steve Levesque
CC: Gary Brown, Acting Town Manager
Anna Breinich, Director of Planning & Development
Date: March 10, 2009
Re: BNAS Zoning Amendments – Overview

Attached are the proposed amendments to the Brunswick Zoning Ordinance related to the Base properties. MRRA staff and consultants have been working with Town staff for one and a half years and have had several workshops with this board. The MRRA Board endorsed this draft proposal in concept at our February 2009 Board meeting. We submit this proposal in hopes that your board will adopt it and recommend it to the Town Council.

Objectives

A primary objective in planning for the redevelopment of the base is to allow for the re-occupancy of existing buildings on the base in a timely, expeditious fashion. The development review requirements included in the zoning amendments provide for an expedited process for the re-occupancy of existing buildings consistent with this objective and for the review of other reuse and redevelopment proposals.

A second objective in base zoning is to ensure that the process of development review is predictable. The proposed amendments integrate the zoning and development review for the reuse of BNAS into the Town's existing zoning ordinance. In many base closure situations, the land use regulations and development review process are contained in an entirely separate ordinance. We believe our integrated approach will better serve the interests of the Town of Brunswick and MRRA, as well as prospective developers. Since the amendments will be integrated into the Town's existing zoning ordinance, most of the provisions that apply throughout the Town will apply to the reuse of the base. The amendments follow the same format as the provisions of the current ordinance, use the same categories of uses, and essentially piggy-back on the current requirements except where zone specific standards are required for the new zoning districts.

Third, the zoning amendment language and related maps reflect the intent and recommendations of the Reuse Master Plan including planned land use characteristics and smart growth development features.

Basic Structure of the Proposed Zoning for the Base

The proposed BNAS zoning amendments are designed to implement the land use proposals of the Reuse Master Plan for the Brunswick Naval Air Station, which establishes the overall framework for the future reuse and redevelopment of the base. The Reuse Master Plan has been adopted by the Midcoast Regional Redevelopment Authority (MRRRA) and has been approved by the appropriate federal agencies. The Town is in the process of adopting the Reuse Master Plan as part of the Town's Comprehensive Plan. Federal law requires that any zoning approved must be consistent with the Reuse Master Plan. Maine state law requires that the Town's zoning ordinance be consistent with the adopted comprehensive plan. The proposed amendments to the Zoning Ordinance are intended to meet both of these requirements.

Since the amendments will be integrated into the Town's existing Zoning Ordinance, most of the provisions that apply throughout the Town will apply to the reuse of the base. The amendments follow the same format as the provisions of the current ordinance, use the same categories of uses, and essentially piggy-back on the current requirements except where zone specific standards are required for the new zoning districts.

The zoning amendments propose to create three new zones for the entire base property:

1. **BNAS Reuse District:** The developed areas of the base including the cantonment area and the runways, together with most of the areas proposed for reuse and redevelopment in the Reuse Master Plan, are included in this zone.
2. **College Use/Conservation District:** The portion of the base on the western edge that will be conveyed to Bowdoin College is included in this zone.
3. **BNAS Conservation District:** The parts of the base that are designated as "Natural Areas" on the Reuse Master Plan and that will be conveyed to the Town or Brunswick Topsham Water District are included in this zone.

The BNAS Reuse District

The BNAS Reuse District includes all of the areas of the base that are proposed for reuse and redevelopment except for the land to be conveyed to Bowdoin College. The requirements and standards that apply to the new Reuse District are contained in Appendix III. By having all of the provisions in one place, our hope is that this will make application of the new requirements to the base easier and more understandable.

The Reuse District is divided into six sub-districts reflecting the land use designations in the Reuse Master Plan. The six subdistricts are:

- **BNAS Community Mixed Use Subdistrict:** This subdistrict includes the areas designated as Community Mixed Use on the Reuse Master Plan and the portion of the area designated as Education that will be conveyed to Southern Maine Community College. This subdistrict covers much of the developed portion of the base including the cantonment area.
- **BNAS Professional Office Subdistrict:** This subdistrict includes the areas designated as Professional Office on the Reuse Master Plan. This covers the area adjacent to the Bath Road east of the runway much of which is currently undeveloped or will be available for redevelopment.

- **BNAS Aviation Related Subdistrict:** This subdistrict combines the areas designated as Airport Operations and Aviation-Related Business. This covers the area including the runways, towers, support facilities, and hangars.
- **BNAS Business and Technology Industries Subdistrict:** This subdistrict includes the areas designated as Business and Technology Industries.
- **BNAS Residential Subdistrict:** This subdistrict includes the areas designated as Residential and covers the existing residential neighborhoods on the base.
- **BNAS Recreation and Open Space Subdistrict:** This subdistrict includes the areas designated Recreation and Open Space on the Reuse Master Plan, including the current golf course and areas appropriate for recreational use.

Appendix III includes a Use Table that sets out the uses permitted in each of the six subdistricts. There are no uses that are allowed by Special Permit. All uses are permitted or prohibited. The uses in the table are based on the uses allowed in other zones in Brunswick except for the aviation-related uses which have been added and defined. Appendix III also includes a Dimensional and Density Table that establishes standards for each of the subdistricts. This table is similar to the tables for the other zones. The dimensional standards for the Community Mixed Use and Professional Office Subdistricts include additional dimensional requirements not found in other zones to ensure that redevelopment and new development in these areas is of a village/urban character based upon Smart Growth principles.

Appendix III also clarifies how the other provisions of the Zoning Ordinance apply to the Reuse District and establishes standards for zone-specific requirements such as noise and signs. There are provisions for how the nonconformance requirements will apply to existing developed areas when it is necessary to create individual lots for sale or lease. The appendix also includes modified standards for public streets within the Reuse District that are appropriate for the village-style development envisioned for much of the base.

College Use/Conservation (CU/C) District

This new district, which is being drafted by the Town with Bowdoin College, is proposed to be added to Section 204 of the Zoning Ordinance that establishes the standards for the other six existing college use zones. The requirements of the new district will be customized to reflect Bowdoin's anticipated use of this land. Development within the CU7 District will be subject to all of the other requirements of the zoning ordinance.

BNAS Conservation District

The BNAS Conservation District includes the areas that are designated as Natural Areas on the Reuse Master Plan and that will be conveyed to the Town or Water District as conservation areas. The requirements for the new zone are included in Appendix IV. The requirements limit uses to natural resource activities and conservation uses. Development of buildings is strictly limited. The provisions of the new zone apply most of the performance standards of the RPZ to activities in the district.

Development Review

The proposed amendments provide for the review of development proposals in the BNAS Reuse District as part of the Town's existing development review provisions. The thresholds for what size project is classified as a minor or major development are somewhat larger than in other zones if the project is not located near the perimeter of the BNAS Reuse District and

does not generate a high volume of traffic. This will allow for more projects within the interior of the base where the external impacts are likely to be less to be reviewed by the Staff Review Committee. The amendments also allow for the initial re-occupancy of an existing building for a use that is similar to the previous military use without development review as long as the floor area is not significantly increased.

Proposed Amendments to the Brunswick Zoning Ordinance To Implement the BNAS Reuse Master Plan, as recommended by the Brunswick Planning Board, March 24, 2009
Proposed ordinance amendments are underlined.

- 1 Amend the Brunswick Zoning Map as shown on the attached fragmentary map to rezone the Brunswick Naval Air Station property into the BNAS Reuse District, BNAS Conservation District, and College Use/Town Conservation District.
- 2 Adopt the attached BNAS Reuse District Sub-District Map as an addendum to the Brunswick Zoning Map.
- 3 Amend the Table of Contents by adding Appendix III. BNAS Reuse District, Appendix IV. BNAS Conservation District and Appendix V. College Use/Town Conservation District to read as follows and adding the appropriate page numbers:

APPENDIX III: BNAS REUSE DISTRICT

A-III.1 PURPOSE OF THE BNAS REUSE DISTRICT..... xxx

A-III.2 PLANNING AREA..... xxx

A-III.3 APPLICABILITY OF THE BNAS REUSE DISTRICT PROVISIONS..... xxx

A-III.4 APPLICABILITY OF CHAPTER THREE: SPECIFIC DIMENSIONAL STANDARDS AND USE TO THE BNAS REUSE DISTRICT..... xxx

A-III.5 SUB-DISTRICTS..... xxx

A-III.6 USE TABLE FOR THE SUB-DISTRICTS..... xxx

A-III.7 DIMENSIONAL AND DENSITY TABLE FOR THE SUBDISTRICTS..... xxx

A-III.8 ADDITIONAL STANDARDS THAT APPLY TO THE BNAS REUSE DISTRICT..... xxx

A-III.9 NOISE REQUIREMENTS..... xxx

A-III.10 SIGNS..... xxx

A-III.11 STREET STANDARDS..... xxx

APPENDIX IV: BNAS CONSERVATION DISTRICT

A-IV.1 PURPOSE OF THE BNAS CONSERVATION DISTRICT..... xxx

A-IV.2 PLANNING AREA..... XXX

A-IV.3 APPLICABILITY OF THE BNAS CONSERVATION DISTRICT
PROVISIONS..... XXX

A-IV.4 APPLICABILITY OF CHAPTER THREE: SPECIFIC DIMENSIONAL
STANDARDS AND USE TO THE BNAS CONSERVATION
DISTRICT..... XXX

A-IV.5 PERMITTED USES IN THE BNAS CONSERVATION DISTRICT ...xxx

A-IV.6 DEVELOPMENT STANDARDS IN THE BNAS CONSERVATION DISTRICT
.....xxx

APPENDIX V: COLLEGE USE/TOWN CONSERVATION DISTRICT

A-V.1 PURPOSE OF THE COLLEGE USE/TOWN CONSERVATION
DISTRICT.....xxx

A-V.2 PLANNING AREA..... XXX

A-V.3 APPLICABILITY OF THE COLLEGE USE/TOWN CONSERVATION
DISTRICT PROVISIONS..... XXX

A-V.4 PERMITTED USES IN THE COLLEGE USE/TOWN CONSERVATION
DISTRICT XXX

A-V.5 DEVELOPMENT STANDARDS IN THE COLLEGE USE/TOWN
CONSERVATION DISTRICT.....xxx

4. Amend 105 Planning Areas to read:

105 Planning Areas

The Town is divided into Planning Areas as set forth in Appendix I:

Growth Areas

Maine Street Central
Maine Street Neighborhood
Extended Neighborhood
Cooks Corner
Large Scale Business/Institutional
Highway Commercial

Rural Areas

Rural Residential
Rural Farm and Forest
Rural Coastal Protection

In addition, the Planning Areas for the BNAS Districts are set forth in Appendices III and IV.

The Planning Area for the College Use/Town Conservation District is set forth in Appendix V.

5. Amend 106 Zoning Districts and Zoning Map by adding a new subsection 106.4 and 106.5 to read:

106 Zoning Districts and Zoning Map

The Town is divided into zoning districts and overlay zones. All zoning districts and overlay zones are shown on the Brunswick Zoning Map adopted herewith, which map is made a part of this Ordinance, and is on file in the Department of Planning and Development.

- 106.1 Growth Districts --See Chapter TWO, Sections 201 -207 (Amended 12/1/97 R)
- 106.2 Rural Districts --See Chapter TWO, Section 208
- 106.3 Overlay Zones --See Chapter TWO, Sections 209 - 216
- 106.4 BNAS Districts – See Appendices III and IV
- 106.5 College Use/Town Conservation District – see Appendix V

6. Amend 111 Definitions by adding definitions of aviation operations and aviation related businesses in proper alphabetical order to read:

Aviation Operations. Runways, taxiways, navigational devices, communication facilities, control towers, and similar facilities directly related to the operation and maintenance of an airfield including administrative offices and facilities for fueling aircraft.

Aviation Related Businesses. Facilities and businesses that rely on or directly benefit from proximity to airport facilities including, but not limited to, general and corporate aviation facilities, charter air service, aircraft maintenance/repair/overhaul, aviation related manufacturing, sales, service, or education, government and aerospace research and development, and similar aviation-related activities including ancillary facilities that service aviation uses.

7. Amend the introduction to Chapter Two to read:

CHAPTER TWO: ZONING DISTRICTS AND OVERLAY ZONES

All zoning districts and overlay zones described in this Chapter are hereby created. Such districts and zones refer to geographic areas identified on the Zoning Map of the Town of Brunswick. In addition to the zoning districts and overlay zones created in this Chapter, two additional BNAS Districts are created, the BNAS Reuse District and the BNAS Conservation District. A third district comprised of lands on the west side of the former BNAS transferred to Bowdoin College and to the Town of Brunswick by Public Benefit Conveyance in accordance with the recommendations of the adopted Reuse Master Plan is also created, the

College Use/Town Conservation District. The requirements for these BNAS Districts are in Appendix III: BNAS Reuse District and Appendix IV: BNAS Conservation District. The requirements for the College Use/Town Conservation District are in Appendix V: College Use/Town Conservation District.

**8. Amend Sections 401, 402, and 403 in Chapter Four:
DEVELOPMENT REVIEW to read:**

401 Applicability

401.1 The following outlines the applicability for Development Review:

A. Development review does not apply to:

- 1) A single or two family dwelling.
- 2) Uses or structures that are accessory to a single or two family dwelling.
- 3) Agricultural land management practices, including farm and woods roads developed in accordance with “Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices”, as amended. (Amended 9/3/02 R)
- 4) Unpaved trails and paths developed in accordance with Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, as amended. (Groups or individuals planning such trails and paths are encourage to consult with the Planning Department prior to construction. (Amended 9/3/02 R)

5) The *initial* non-military re-occupancy of a building in the BNAS Reuse District existing as of the date of adoption of this provision provided all of the following are met:

a) The new use is a permitted use in the Reuse Land Use District in which it is located, per the BNAS Reuse Master Plan, approved December 2007.

b) The re-occupancy maintains the pre-existing pattern of use of the site including the general location of the building and parking and services areas.

c) The usable floor area of the building is not increased by more than two thousand (2,000) square feet.

d) The amount of impervious surface on the site is not increased by more than two thousand (2,000) square feet.

e) There is adequate parking available for the new use in accordance with Section 512.

f) The re-occupancy of the building will not change the primary use of the building from residential to non-residential or from non-residential to residential.

g) The *initial* non-military re-occupancy of a building shall not be considered a change of use even if it does not meet the vacancy time limits of Section 702.1. All subsequent re-occupancy of buildings in the BNAS Reuse District shall be subject to the change of use review requirements of Sections 402 and 702 of this ordinance as applicable.

6) The change of use of a building in the BNAS Reuse District with less than 10,000 square feet of floor area following its initial non-military occupancy provided that the new use does not significantly intensify the use of the property compared to its previous use. A new use that increases the required off-street parking in accordance with 512.1 or 512.2 by more than twenty percent (20%) or that increases the number of peak hour vehicle trips based upon the ITE Trip Generation Manual by more than twenty percent (20%) or that meets any of the review thresholds of 702.3 shall be considered to significantly intensify the use. If the Code Enforcement Officer determines that there will be a significant intensification of the use, the activity shall be deemed to be a minor development subject to development review in accordance with Section 402.1.

- B. Activities not subject to development review still require appropriate permits issued by the Codes Enforcement Officer and/or the Village Review Board if the property is in the Village Review Zone.
- C. All activities listed in Section 402 shall be subject to Development Review.
- D. Projects subject to development review shall be divided into two classes, Major and Minor. Minor projects shall be reviewed by the Staff Review Committee. Major projects shall be reviewed by the Planning Board.
- E. Thresholds for development review apply only to new, or "add-on" construction, except as indicated in Section 402. Floor area and impervious surface area are calculated on a net basis. The floor area and the impervious surface area (roof) of a building each contribute separately to the cumulative total of the two. (Amended 6/19/00 R)

- F. If development is proposed on two or more lots and the Director of Planning and Development finds that the development functions as a single project, thresholds for development review shall be applied to the project as though the lots on which it is located were single lots. Amended 9/4/01 R)

402 Development Review Classification and Thresholds

402.1 Activities Subject to Minor Review

The following activities shall be subject to Minor Development Review by the Staff Review Committee:

- A. Any development activity or combination of activities that, within any five year period results in the construction of the following:
1. In all zoning districts except for those indicated in 402.1 A2 and 402.1 A.3:
 - a. Between 1,000 and 4,999 square feet of new floor area; (Amended 6/19/00 R)
 - b. Between 1,000 and 4,999 square feet of new impervious surface, or c. A cumulative total of between 1,500 and 7,499 square feet of floor area and impervious surface. (Amended 6/19/00 R)
 2. In the MU4 (Fox Run), CC (Cook's Corner Center), I2 (Church Road Industrial Park), I3 (Bath Road Industrial), I4 (Exit 22), HC2 (Inner Bath Road):
 - a. Between 2,000 and 9,999 square feet of new floor area; (Amended 6/19/00 R)
 - b. Between 2,000 and 9,999 square feet or more of new impervious surface; or
 - c. A cumulative total of between 3,000 and 14,999 square feet or more of floor area and impervious surface. (Amended 6/19/00 R)
 3. In the BNAS Reuse District:
 - a. Between 2,000 and 9,999 square feet of new floor area;
 - b. Between 2,000 and 9,999 square feet of new impervious surface; or
 - c. A cumulative total of between 3,000 and 19,999 square feet of floor area and impervious surface.
- B. Any use that involves the construction of one drive-up window.
- C. Marine Activities that involve the creation of less than 5,000 square feet of new impervious surface.
- D. Construction of a multi-family dwelling unit in all zoning districts except the BNAS Reuse District, containing between 3 and 5 units that does not create a subdivision. In the BNAS Reuse District, activities involving the construction of multi-family dwellings with up to ten

(10) units that do not create a subdivision are classified as Minor Projects.

- E. Development subject to Special Permit (Section 701) that results in the creation of less than 5,000 square feet of new impervious surface.
- F. Construction within the Natural Resources Protection Zone subject to the provisions of section 211.2.A.3, 304.6.D.4., 304.4.B or 304.7 (Amended 9/4/01 R, 0/15/01 R)
- G. Establishment or expansion of a Neighborhood Store. (Amended 7/5/05 R)
- H. Change of use of a building within the BNAS Reuse District that affects 10,000 to 19,999 square feet of floor area, pursuant to Section 702.

402.2 Activities Subject to Major Review

The following activities shall be subject to Major Development Review by the Planning Board:

- A. The creation of a Subdivision as defined by 30-A M.R.S.A. Section 4401, as amended.
- B. Any development activity, or combination of activities that, within any five year period results in the construction of the following:
 - 1. In all zoning districts except for those indicated in 402.2 B2 and 402.2 B.3:
 - a. 5,000 square feet or more of new floor area; (Amended 6/19/00 R)
 - b. 5,000 square feet or more of new impervious surface, or
 - c. A cumulative total of 7,500 square feet or more of floor area and impervious surface. (Amended 6/19/00 R)
 - 2. In the MU4 (Fox Run), CC (Cook's Corner Center), I2 (Church Road Industrial Park), I3 (Bath Road Industrial), I4 (Exit 22), HC2 (Inner Bath Road):
 - a. 10,000 square feet or more of new floor area;(Amended 6/19/00 R)
 - b. 10,000 square feet or more of new impervious surface; or
 - c. A cumulative total of 15,000 square feet or more of floor area and impervious surface. (Amended 6/19/00 R)
 - 3. In the BNAS Reuse Zoning District:
 - a. 10,000 square feet or more of new floor area;
 - b. 10,000 square feet or more of new impervious surface;
or
 - c. A cumulative total of 20,000 square feet or more of floor area and impervious surface.
- C. Any use that involves the construction of 2 or more drive-up windows.

- D. Changes of Use that affect 10,000 square feet or more of floor area, pursuant to Section 702 (Amended 6/19/00 R), or 20,000 square feet or more of floor area in the BNAS Reuse District.
- E. Changes of use involving conversion of a single or two-family home to any other use in Town Residential and Residential Districts.
- F. The development or expansion of a Mobile Home Park, pursuant to Section 212.
- G. Development subject to Special Permit (Section 701) that involves creation of 5,000 square feet or more of new impervious surface.
- H. Mineral Extraction, pursuant to Section 306.6.
- I. The addition or expansion of a canopy for a gasoline sales station, pursuant to Section 306.14.
- J. Any activity in the BNAS Reuse District that is located within two hundred (200) feet of the district boundary that would otherwise be classified as a minor project.
- K. Any activity in the BNAS Reuse District that generates more than one hundred (100) peak hour vehicle trips unless the activity is part of an approved subdivision or common development plan in which traffic was addressed as part of the approved plan.

402.3 Amendments and Cumulative Development

- A. Development Review Thresholds shall be based upon cumulative development totals over a five year period. If any threshold is exceeded during any five year period, all development within that time period shall be subject to review.
- B. Amendments to projects shall be subject to the level of review that is commensurate with the scope of the amendment proposed.

403 Delegation of Planning Board Review Authority

The authority of the Planning Board to review certain minor development projects is hereby delegated to the Staff Review Committee in accordance with the provisions of this Section. Whenever such delegation occurs, the term "Planning Board" shall also refer to the Staff Review Committee.

403.1 Planning Board Responsibilities

The Planning Board is responsible for the review of all major projects and of any minor project for which Planning Board review is requested by the applicant. The Planning Board may conduct Minor Project review if recommended by either the Director of Planning and Development or the Staff Review Committee.

403.2 Staff Review Committee Responsibilities

- A. The Staff Review Committee shall consist of the Director of Planning and Development, the Town Engineer/Public Works Director, Codes

Enforcement Officer, Recreation Director, Fire Chief, Police Chief, Assessor, Natural Resources Planner, Superintendent of the Brunswick-Topsham Water District, and the Superintendent of the Brunswick Sewer District, or their official designees. For the review of projects in the BNAS Reuse District, the Staff Review Committee shall be expanded to include one non-voting staff representative from the Midcoast Regional Redevelopment Authority (MRRA). The MRRA representative shall be designated in writing by the Executive Director of MRRA.

- B. The Staff Review Committee, in its development review capacity, shall exercise all of the powers exercised by the Planning Board including the power to grant waivers, and the power to approve, approve with conditions, or deny applications for Site Plan approval. Applications for minor development review may be referred to the Planning Board for approval at the discretion of the Staff Review Committee or the Director of Planning and Development.
- C. Actions by the Staff Review Committee to approve an application, with or without conditions, shall require the approval of a majority of those members present and voting. A quorum shall consist of three members.
- D. The Staff Review Committee may waive provisions of this Chapter and of Chapter 5, in accordance with Section 410.
- E. The Staff Review Committee shall set forth the reason for its decisions and make Findings of Fact, in writing, within 7 days of the meeting. Such findings of fact shall be sufficient to apprise the applicant and any interested member of the public of the basis for the decision.
- F. All appeals to any Staff Review Committee decision shall be heard by the Planning Board.
- G. The Staff Review Committee shall provide recommendations to the Planning Board for any project undergoing major development review. Individual members of the Committee may in addition submit letters of recommendations to the Planning Board.

403.3 Director of Planning & Development and Codes Enforcement Officer

- A. **Minor Change of Use.** For changes of use that do not exceed the thresholds required for site plan review as indicated in Sections 401.1, 402.1, and 402.2, and that do not constitute a Departmental Review pursuant to Section 702.4, the permit may be issued by the Codes Enforcement Officer, provided that the application is in compliance with all relevant provisions of this ordinance.

- B. Minor Modifications.** The Planning Board's review and approval is based upon the application plans and materials submitted by the applicant. The Director of Planning and Development may find proposed changes to an approved site plan, subdivision or Special Permit or related materials to be minor modification in which case approval by the Planning Board or the Staff Review Committee shall not be necessary. (Amended 9/4/01 R)

9. Amend Section 411 in Chapter Four: DEVELOPMENT REVIEW to add a new subsection 411.23 to read:

411.23 Additional Design Review Guidelines in the BNAS Reuse and Conservation Districts

In addition to the development review requirements of this Chapter, activities in the BNAS Reuse District and BNAS Conservation District are subject to separate design guidelines established and administered by the Midcoast Regional Redevelopment Authority (MRRRA). Conformance with the MRRRA design guidelines is not subject to consideration as part of the development review process but all applications for development review must demonstrate that they have completed the MRRRA design review process.

10. Amend the introduction to Appendix 1: Planning Areas to read:

APPENDIX 1: Planning Areas

The Town of Brunswick is divided into the following Planning Areas, as indicated in the Planning Area Map, and as described in the following section. In addition to these areas, the Planning Areas for the former Brunswick Naval Area Station are set out in Appendices III, IV and V.

11. Amend the introduction to Appendix II: Street Standards to read:

APPENDIX II: Street Standards

This Appendix outlines street standards necessary for dedication to the Town, and also provides guidelines for the development of private roads. The provisions of this appendix are modified in accordance with the street standards of Appendix III: BNAS Reuse District for streets that are located within the BNAS Reuse District.

12. Amend the ordinance by adding a new Appendix III: BNAS REUSE DISTRICT to read:

APPENDIX III: BNAS REUSE DISTRICT

A-III.1 Purpose of the BNAS Reuse District

The purpose of the BNAS Reuse District is to provide for the reuse, redevelopment, and development of the portion of the former Brunswick Naval Area Station (BNAS) that is designated for development and active use in the adopted BNAS Reuse Master Plan in accordance with the land use district designations set forth in the Reuse Master Plan. The Reuse District includes provisions for the expedited review of development proposals to encourage the timely reuse of this facility.

A-III.2 Planning Area

The BNAS Reuse District is designated as the BNAS Reuse Planning Area in accordance with Sections 105 and 106. The BNAS Reuse Planning Area is designated as a Growth Area.

- A. The BNAS Reuse Planning Area includes the portion of the Brunswick Naval Air Station that is designated for development and active use in the adopted Reuse Master Plan.
- B. The BNAS Reuse Planning Area includes much of the land area of the base including the areas that have been developed and/or actively used for base operations including the airstrip and related facilities, the cantonment area, the residential areas, and the golf course.
- C. The adopted Reuse Master Plan for the base identifies various land use district designations indicating the desired future use and development pattern for different areas of the base. The intention of the BNAS Reuse Planning Area is to facilitate the reuse, redevelopment, and development of the base in accordance with those land use designations.
- D. The BNAS Reuse Planning Area includes the BNAS Reuse District/Reuse Master Plan land use districts as set forth in A-III.5.

A-III.3 Applicability of the BNAS Reuse District Provisions

The provisions of Appendix III apply to and govern the use of land, the reuse of existing buildings and facilities, and the development or redevelopment of buildings or facilities within the BNAS Reuse District. Unless otherwise specifically provided for in Appendix III, all of the other requirements of the Town of Brunswick Zoning Ordinance apply to activities within the BNAS Reuse District. If there is conflict between the provisions of Appendix III and the other provisions of the Zoning Ordinance, the provisions of Appendix III shall govern.

In addition to the Town standards, activity within the BNAS Reuse District is subject to the MRRA Design Guidelines. These guidelines identify additional advisory design features for activity within the Reuse District. The MRRA Design Guidelines are administered by the Midcoast Regional Redevelopment Authority (MRRA) and are not part of the Town's development review process.

A-III.4 Applicability of Chapter Three: Specific Dimensional Standards and Use to the BNAS Reuse District

The use of land, the reuse of existing buildings and facilities, and the development or redevelopment of buildings or facilities within the BNAS Reuse District must conform to the requirements of Chapter Three: Specific Dimensional and Use Provisions except as specifically provided by this section.

A-III.4.1 Non-Conformity (Section 304)

The creation of lots to contain buildings or structures in existence as of the date of adoption of this appendix shall be done in a manner that conforms to the dimensional standards of the BNAS Reuse District for the land use district in which it is located to the extent practical. However, these provisions recognize that this may not be possible in some situations:

- A. Notwithstanding the other provisions of the Zoning Ordinance and the dimensional requirements of A-III.7, a lot may be created that contains one or more buildings or structures in existence as of the date of adoption of this Appendix even if the building(s) or structure(s) is located on the lot in such a manner that:
 - 1. It does not comply to the minimum front, side, and/or rear yard requirements of the BNAS Reuse District for the land use district in which it is located. Such a building or structure shall not be considered to be non-conforming.
 - 2. It does not conform to the minimum building frontage, maximum building frontage, and/or maximum front yard requirements of the BNAS Reuse District for the land use district in which it is located. Such a building or structure shall not be considered to be non-conforming.
- B. Any building or structure in existence as of the date of adoption of this Appendix that does not conform to the minimum building height, maximum building height, or maximum building footprint per structure requirements of the BNAS Reuse District for the land use district in which it is located shall not be considered to be non-conforming.

A-III.4.2 Neighborhood Stores (Section 306.16)

Notwithstanding the provisions of 306.16, neighborhood stores are permitted only in the R-CMU Land Use District of the BNAS Reuse District.

A-III.4.3 Outdoor Sales (Section 306.18)

Outdoor sales are permitted only in the R-CMU, R-AR, and R-B&TI Land Use Districts of the BNAS Reuse District.

A-III.4.4 Day Care Centers for Children or Adults (Section 306.19)

Day Care Facilities for Children or Adults that care at any one time for no more than six (6) children or adults that are unrelated to the owner of the facility are permitted in all Subdistricts of the BNAS Reuse District. All other Day Care Facilities for Children or Adults as defined by 306.19 are permitted only in the R-CMU, R-PO, RAR, R-B&TI, and R-R&OS Land Use Districts.

A-III.4.5 Open Space Developments (Section 308)

Open Space Developments in accordance with Section 308 are permitted in any land use district that allows residential development. The lot requirements for Open Space Developments in existing Residential Zoning Districts in Growth Areas (Table 308.4A) shall apply to the R-R Land Use District. The lot requirements for existing Highway Commercial and Cooks Corner Zoning Districts shown in Table 308.4A shall apply to Open Space Developments in all other land use districts.

A-III.5 Land Use District Designations as per the Adopted BNAS Reuse Master Plan

The BNAS Reuse District is divided into six land use districts as contained in the adopted BNAS Reuse Master Plan. The allowed uses and the dimensional and density requirements are set forth in Sections A-III.6 and A-III.7. Additional performance standards are contained in Section A-III.8 and are applicable to the entire BNAS Reuse District.

The six land use districts are:

Land Use Districts General Description of the Subdistrict Based on the Reuse Master Plan

<u>R-CMU</u>	<u>BNAS Community Mixed Use Subdistrict (includes the Community Mixed Use Land Use Designation plus the portion of the Education Land Use Designation included in the Southern Maine Community College Public Benefit Conveyance)</u>
<u>R-PO</u>	<u>BNAS Professional Office Subdistrict (includes the Professional Office Land Use Designation)</u>
<u>R-AR</u>	<u>BNAS Aviation Related Subdistrict (includes the Airport Operations and Aviation Related Business Land Use Designations)</u>
<u>R-B&TI</u>	<u>BNAS Business and Technology Industries Subdistrict (includes the Business and Technology Industries Land Use Designation)</u>
<u>R-R</u>	<u>BNAS Residential Subdistrict (includes the Residential Land Use Designation)</u>
<u>R-R&OS</u>	<u>BNAS Recreation and Open Space Subdistrict (includes the</u>

Recreation and Open Space Land Use Designation)

The boundaries of the six land use districts are shown on the BNAS Reuse District Land Use District Map, a conceptual part of the adopted BNAS Reuse Master Plan which may be amended from time to time, and is attached for illustrative purposes to the Town’s Official Zoning Map. Further, the boundaries may be refined upon completion and approval of the BNAS Environmental Impact Statement.

A-III.6 Use Table for the Land Use Districts

<u>Use/Subdistrict</u>	<u>R-CMU</u>	<u>R-PO</u>	<u>R-AR</u>	<u>R-B&TI</u>	<u>R-R</u>	<u>R-R&OS</u>
<u>Aviation Operations</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Aviation Related Business</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Bank</u>	<u>P</u>	<u>P</u>	<u>P³</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Bed and Breakfast</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Boarding House</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Business Office</u>	<u>P</u>	<u>P</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Campground</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>
<u>Car Wash</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Club or Lodge</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>College Dining Facility</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>College Office</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Community Center</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P²</u>	<u>X</u>
<u>Congregate-Assisted Living</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>
<u>Contractor’s Space</u>	<u>X</u>	<u>X</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Convenience Store</u>	<u>P</u>	<u>P¹</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Drive-Through</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Dwelling, Single and Two Family</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>
<u>Dwelling, 3 or More Units</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>
<u>Dwelling as Part of a Mixed Use Building</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

<u>Use/Subdistrict</u>	<u>R-CMU</u>	<u>R-PO</u>	<u>R-AR</u>	<u>R-B&TI</u>	<u>R-R</u>	<u>R-R&OS</u>
<u>Educational Facility</u>	<u>P</u>	<u>P¹</u>	<u>P</u>	<u>P¹</u>	<u>X</u>	<u>P</u>
<u>Equestrian Facility/Stable</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>
<u>Farm/Gardens</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>
<u>Gasoline/Fuel Sales</u>	<u>X</u>	<u>X</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Gasoline/Fuel Service Station</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Golf Course</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>
<u>Greenhouse</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>P</u>
<u>Hotel</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Industry Class I</u>	<u>X</u>	<u>X</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Industry Class II</u>	<u>X</u>	<u>X</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Junkyards</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Kennel</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Library or Museum</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marina</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Marine Activities</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Media Studio</u>	<u>P</u>	<u>P¹</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Mineral Extraction</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Motor Vehicle Sales</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Motor Vehicle Service/Repair</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Parking Facility</u>	<u>P</u>	<u>P²</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Photographers – Artists Studio</u>	<u>P</u>	<u>P¹</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Professional Office</u>	<u>P</u>	<u>P</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Recreation Facility</u>	<u>P</u>	<u>P¹</u>	<u>X</u>	<u>X</u>	<u>P²</u>	<u>P</u>
<u>Religious Institution</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Residence Hall</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Restaurant</u>	<u>P</u>	<u>P¹</u>	<u>P³</u>	<u>X</u>	<u>X</u>	<u>P²</u>
<u>Retail Class I</u>	<u>P</u>	<u>P¹</u>	<u>P³</u>	<u>P²</u>	<u>X</u>	<u>P²</u>

<u>Use/Subdistrict</u>	<u>R-CMU</u>	<u>R-PO</u>	<u>R-AR</u>	<u>R-B&TI</u>	<u>R-R</u>	<u>R-R&OS</u>
<u>Retail Class II</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Service Business Class I</u>	<u>P</u>	<u>P¹</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Service Business Class II</u>	<u>P</u>	<u>P¹</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Theater</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Veterinary Office</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P²</u>
<u>Warehousing and Storage</u>	<u>X</u>	<u>X</u>	<u>P³</u>	<u>P</u>	<u>X</u>	<u>X</u>
<u>Any Use or Activity Approved as Part of a Common Development Plan</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Key: P="permitted use"; X="prohibited use"; "--" = Special Permit required, see Section 701</u>						
<u>Notes: ¹ Allowed only as part of a mixed-use building</u>						
<u>² Allowed only as an accessory use to another allowed use</u>						
<u>³ Allowed only in conjunction with aviation related activities or uses</u>						

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A-III.7 Dimensional and Density Table for the Land Use Districts

<u>Standard/Subdistrict</u>	<u>R-CMU</u>	<u>R-PO</u>	<u>R-AR</u>	<u>R-B&TI</u>	<u>R-R</u>
<u>Minimum Lot Area¹</u>	<u>None</u>	<u>10,000 sf</u>	<u>None</u>	<u>10,000 sf</u>	<u>4,000 s</u>
<u>Maximum Residential Density</u>	<u>24 units per acre</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>8 units p acre</u>
<u>Minimum Lot Width¹</u>	<u>None</u>	<u>50 ft</u>	<u>50 ft</u>	<u>50 ft</u>	<u>40 ft</u>
<u>Minimum Building Frontage (as a % of lot width)¹</u>	<u>80%</u>	<u>60%</u>	<u>None</u>	<u>None</u>	<u>50%</u>
<u>Maximum Building Frontage (as a % of lot width)¹</u>	<u>100%</u>	<u>80%²</u>	<u>None</u>	<u>None</u>	<u>80%</u>
<u>Minimum Front Yard¹</u>	<u>0 ft</u>	<u>15³ ft</u>	<u>0 ft</u>	<u>10 ft</u>	<u>10 ft</u>
<u>Maximum Front Yard¹</u>	<u>5 ft</u>	<u>25⁵ ft</u>	<u>None</u>	<u>None</u>	<u>20 ft</u>
<u>Minimum Rear Yard¹</u>	<u>0 ft</u>	<u>10 ft</u>	<u>20 ft</u>	<u>20 ft</u>	<u>15 ft</u>
<u>Minimum Side Yard¹</u>	<u>0 ft</u>	<u>10⁴ ft</u>	<u>15 ft</u>	<u>15 ft</u>	<u>10 ft</u>
<u>Maximum Impervious Surface Coverage¹</u>	<u>100%</u>	<u>80%</u>	<u>80%</u>	<u>80%</u>	<u>50%</u>
<u>Minimum Building Height¹</u>	<u>2 stories or 24 ft whichever is less</u>	<u>2 stories or 24 ft whichever is less</u>	<u>n/a</u>	<u>n/a</u>	<u>2 stories o ft whichev less</u>
<u>Maximum Building Height⁶</u>	<u>4 stories or 50 feet whichever is greater</u>	<u>5 stories or 60 feet whichever is greater</u>	<u>100 ft</u>	<u>60 feet</u>	<u>3 stories o feet whic is great</u>
<u>Maximum Building Footprint per Structure¹</u>	<u>20,000 sf</u>	<u>50,000 sf</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>

Notes: ¹ Buildings or structures that are part of Common Development Plan approved by the Planning Board in accordance that are in conformance with the approved plan are not subject to this limitation

² May be increased to up to 100% for buildings that will be located within 5 feet of the front property line that will c

wall in conjunction with adjacent buildings

3May be reduced to as little as 0 feet for buildings that will be located within 5 feet of the front property line that will create a continuous street wall in conjunction with adjacent buildings

4May be reduced to as little as 0 feet for buildings that will be located within 5 feet of the front property line that will create a continuous street wall in conjunction with adjacent buildings

5May be increased to up to 40 feet if at least 50% of the area between the building and the front property line will be used as improved pedestrian space such as plazas, terraces, sitting areas and similar amenities including areas for outside food and/or beverage service.

6Unless restricted to a lower height by airport operational limits.

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A-III.8 Additional Standards That Apply to the BNAS Reuse District

The following additional requirements apply to developments in the BNAS Reuse District that are subject to Development Review in accordance with Chapter Four of this Zoning Ordinance. In approving projects in accordance with Section 413 Common Development Plan provisions, the Planning Board may modify these requirements provided that criteria of Section 413.1 are satisfied.

A-III.8.1. Common Development Plan Required for Significant Projects

Any project that meets one or more of the following criteria must have a common development plan approved by the Planning Board in accordance with Section 413 prior to submitting an application for development review: 1. The construction of two or more principal buildings, structures, or facilities on a lot, 2. The construction of two or more principal buildings, structures, or facilities on more than one lot where the project is being developed as a single project and/or will be owned and/or managed as a single entity, 3. The reuse or redevelopment of a lot or lots containing two or more principal buildings, structures, or facilities that will be owned and/or managed as a single entity, or . The reuse or redevelopment of an existing building that will be reconfigured to create the potential for multiple uses of the building.

If the parcel upon which development is proposed is larger than twenty (20) acres in area, the common development plan may be approved in phases provided that each phase includes at least ten (10) acres and the individual phases create an overall plan for the parcel that conforms to the criteria of 413.1.

If a phased common development plan is proposed, a conceptual land use plan for the entire parcel must be submitted with the common development plan for the first phase of development. This conceptual plan must demonstrate how the individual phases will be combined to produce a coordinated development scheme for the entire parcel. This conceptual plan must address the following:

1. The general overall pattern of land use indicating the portions of the parcel that will be developed and the planned use (in general terms) of the various portions of the parcel.
2. The general layout of the primary road network that will serve the entire parcel including the points of connection to the public street system if there will be internal roads or streets to serve the parcel.
3. The general layout of the primary utility networks that will serve the entire parcel.

In addition to the projects listed above, the owner/developer of any other project in the BNAS Reuse District that is subject to development review may elect to seek approval of a common development plan including utilization of the provisions for the flexible application of the dimensional requirements of A-III.7 prior to submitting an application for development review.

A-III.9 Noise Requirements

Activities in the BNAS Reuse District shall conform to the noise standards of Section 109.4 of the Zoning Ordinance and the equivalent sound levels set out for the six land use districts in the following table. Routine aircraft operations including take-offs, landings, and taxiing, are exempt from the requirements of this section and Section 109.4.

<u>Subdistrict</u>	<u>Maximum Equivalent Sound Level Measured in dBA (day-night)</u>
<u>R-CMU</u>	<u>60-50</u>
<u>R-PO</u>	<u>65-55</u>
<u>R-AR</u>	<u>75-65(1)</u>
<u>R-B&TI</u>	<u>70-60(1)</u>
<u>R-R</u>	<u>55-45</u>
<u>R-R&OS</u>	<u>55-45</u>
<u>Note 1. The maximum equivalent sound level at the boundary of these land use districts with a land use district having a lower noise level measurement shall not exceed 65 dBA during daytime hours and 55 dBA during nighttime hours.</u>	

A-III.10 Signs

Signs in the BNAS Reuse District shall conform to the sign regulations of Chapter Six of the Zoning Ordinance except as specifically provided for in this section. Where the provisions of this section establish different standards than Chapter Six, the provisions of this section shall apply. In addition to the requirements of Chapter Six, signs in the BNAS Reuse District are subject to review by the Midcoast Regional Redevelopment Authority (MRRA) in accordance with the MRRA Design Guidelines.

A-III.10.1 Monument Signs (Section 603.2)

Monument Signs in the R-CMU Land Use District are limited to a maximum of eight (8) feet in height. A monument sign is not permitted for a building in the R-CMU Land use District if the front wall of the building is less than ten (10) feet from the front property line.

A-III.10.2 Pole Signs (Section 603.3)

Pole signs are not allowed in the R-CMU, R-PO, R-R and R-R&OS Land Use

Districts. Pole signs in the R-AR and R-B&TI Land use Districts may not exceed fifteen (15) feet in height nor may the size of any pole sign exceed twenty-five (25) square feet.

A-III.10.3 Projecting Signs (Section 603.5)

A projecting sign in the R-CMU Land use District may not exceed ten (10) square feet in area and may not project more than five (5) feet from the wall to which it is attached. In all other land use districts, a projecting sign may not exceed twenty-five (25) square feet.

A-III.10.4 Wall Signs (Section 603.6)

Each non-residential establishment in the R-CMU, R-R, and R-R&OS Land Use Districts shall be allowed wall signage not to exceed a total of sixteen (16) square feet, except that establishments that occupy a portion of the principal façade shall be allowed wall signage not to exceed sixteen (16) square feet or ten percent (10%) of the area of the that portion of the principal façade occupied by that establishment, whichever is greater.

Each non-residential establishment in the all other land use districts in the BNAS Reuse District shall be allowed wall signage not to exceed a total of twenty-five (25) square feet, except that establishments that occupy a portion of the principal façade shall be allowed wall signage not to exceed twenty-five (25) square feet or ten percent (10%) of the area of the that portion of the principal façade occupied by that establishment, whichever is greater.

A-III.10.5 Religious Institution Signs (Section 603.7)

A religious institution monument sign in the BNAS Reuse District may be a wall or monument sign.

A-III.10.6 Changeable Copy Signs (Section 603.9)

Changeable copy signs are prohibited in the R-CMU and R-PO Land Use Districts except for “time and temperature” and similar public information displays that contain no advertising.

A-III.10.7 Directory Signs (Section 603.10)

In the R-CMU Land Use District, a directory sign that does not exceed five (5) square feet may be attached to the building adjacent to an entrance serving multiple occupants. If the building is setback more than ten (10) feet from the front property line or if the directory sign will serve a group of buildings or uses which share a common point of access from the adjacent street, a freestanding directory sign that does not exceed twenty-four (24) square feet may be used.

In all other land use districts in the BNAS Reuse District, directory signs may be freestanding or attached to the building. A freestanding directory sign may not exceed thirty-two (32) square feet or be more than ten (10) feet high.

A-III.10.8 Illumination of Signs (Section 607)

Internally illuminated signs are permitted in the R-PO, R-AR, and R-B&TI Land Use Districts. In all other land use districts in the BNAS Reuse District, internally illuminated signs are prohibited.

A-III.11 Street Standards

Public and private streets in the BNAS Reuse District shall conform to the provisions of the Brunswick Zoning Ordinance, Section 511 Development of New Streets and APPENDIX II: Street Standards except as provided for in this section. Where the provisions of this section differ from the provisions of Section 511 and APPENDIX II, the standards of this section shall apply.

A-III.11.1 Existing Streets

The Planning Board may approve a subdivision or development proposal that includes a street that existed as of the date of adoption of this section even if the existing street does not conform to the requirements of Section 511, Appendix II, and this section, including but not limited to, the standards for minimum right-of-way width, minimum pavement width, and minimum distance between intersections, if the Planning Board finds that the layout and design of the street conforms to the standards to the maximum extent practical and will provide for safe traffic movement and emergency access given the anticipated use of the street.

A-III.11.2 On-Street Parking

The design of public and private streets in the R-CMU and R-PO Land Use Districts must provide for on-street parking where such parking is practical and consistent with the overall street network. In other subdistricts, the provision of on-street parking is encouraged where appropriate.

A-III.11.3 Standards for Public Streets

In the BNAS Reuse District, certain standards for streets for public dedication are as follows. The provisions of the Brunswick Zoning Ordinance Table A-II.1A, Road Standards for Public Dedication shall apply to all standards not addressed in the following table:

	Collector or Commercial Street	Local Street	Minor Street
Minimum Right of Way Width, Curbed			
-no on-street parking	50 feet	50 feet	50 feet
-on-street parking on one side of the street	58 feet	54 feet	52 feet
-on-street parking on both sides of the street	66 feet	60 feet	58 feet
Minimum Right of Way Width, Uncurbed			
-no on-street parking	60 feet	54 feet	50 feet
-on-street parking on one side of the street	66 feet	60 feet	56 feet
-on-street parking on both sides of the street	74 feet	66 feet	62 feet
Minimum Pavement Width, Curbed			
-no on-street parking	26 feet	24 feet	22 feet
-on-street parking on one side of the street	32 feet	30 feet	28 feet
-on-street parking on both sides of the street	40 feet	36 feet	34 feet
Minimum Pavement Width, Uncurbed			
-no on-street parking	26 feet	22 feet	20 feet
-on-street parking on one side of the street	32 feet	28 feet	24 feet
-on-street parking on both sides of the street	40 feet	34 feet	30 feet
Minimum Centerline Radius (see Note 1)	200 feet	140 feet	100 feet
Minimum Shoulder Width (Uncurbed)	2 feet	2 foot	2 foot
Minimum Curb Radius	15 feet - 30 feet	15 feet – 30 feet	10 feet – 25 feet
<u>Note 1: The Planning Board may approve the layout of streets with L-Turns or right angle turns that do not meet these requirements provided that the design of the turn conforms to the requirements for an intersection and the turn is part of a street network.</u>			

A-III.11.4 Standards for Private Streets

The standards for private streets as set forth in Table A-II.1B Private Street Standards shall guide the design and layout of private local streets, minor streets, and lanes in the BNAS Reuse District. Notwithstanding the provisions of A-II.2 Private Street Standards, the Planning Board may

approve private commercial or collector streets in the BNAS Reuse District. The design and layout of private commercial or collector streets shall be guided by the appropriate standards for the same type of public street.

13. Amend the ordinance by adding a new APPENDIX IV: BNAS CONSERVATION DISTRICT to read:

APPENDIX IV: BNAS CONSERVATION DISTRICT

A-IV.1 Purpose of the BNAS Conservation District

The purpose of the BNAS Conservation District is to preserve, maintain and enhance existing natural areas that are designated as Natural Areas on the Reuse Master Plan for Brunswick Naval Area Station (BNAS) to provide for the long-term benefit of the natural environment, including S1-ranked natural communities, and area residents. As such, only those uses that would not significantly alter the environment and/or would provide opportunities to experience the environment are allowed, including uses such as pedestrian trails, nature and interpretive centers, and other non-intrusive passive outdoor recreation and educational uses.

A-IV.2 Planning Area

The BNAS Conservation District is designated as the BNAS Conservation Planning Area in accordance with Sections 105 and 106 herein. The BNAS Conservation Planning Area is designated as a Rural Area.

- A. The BNAS Conservation Area includes most of the portion of the Brunswick Naval Air Station that is designated as Natural Areas in the adopted Reuse Master Plan.
- B. The BNAS Conservation Planning Area includes the large, undeveloped area at the southern end of the base, areas to the west of the runways that have natural resource value or are unsuitable for development, and a parcel on the northerly side of the Bath Road.
- C. The adopted Reuse Master Plan for the base identifies various land use designations indicating the desired future use and development pattern for different areas of the base. The intention of the BNAS Conservation Planning Area is to assure that these areas remain in a substantially undeveloped, natural state.
- D. The BNAS Conservation Planning Area includes the BNAS Conservation District.

A-IV.3 Applicability of the BNAS Conservation District Provisions

The provisions of Appendix IV apply to and govern the use of land, the reuse of existing

facilities, and the development of buildings or facilities within the BNAS Conservation District as well as lands conveyed to the Town of Brunswick and located within the CU/TC District. Unless otherwise specifically provided for in Appendix IV, all other requirements of the Town of Brunswick Zoning Ordinance apply to activities within the BNAS Conservation District. If there is conflict between the provisions of Appendix IV and the other provisions of the Zoning Ordinance, the provisions of Appendix IV shall govern.

A-IV.4 Applicability of Chapter Three: Specific Dimensional Standards and Use to the BNAS Conservation District

The use of land, the reuse of existing buildings and facilities, and the development or redevelopment of buildings or facilities within the BNAS Conservation District must conform to the requirements of Chapter Three: Specific Dimensional and Use Provisions.

A-IV.5 Permitted Uses in the BNAS Conservation District

The use of land within the BNAS Conservation District and lands conveyed to the Town of Brunswick within the CU/TC District shall be limited to uses that are consistent with the Public Benefit Conveyance of these parcels to the Town of Brunswick and with the adopted BNAS Reuse Master Plan. The following types of uses are considered appropriate:

- 1 Non-intensive recreational uses not requiring structures such as hunting, fishing, bird watching, walking, and hiking;
- 2 Hiking trails, bridle paths, pedestrian trails, and walkways;
- 3 Forest management activities in accordance with an approved management plan;
- 4 Fire prevention activities in accordance with an approved management plan;
- 5 Wildlife management activities;
- 6 Soil and water conservation activities;
- 7 Surveying and resource analysis;
- 8 Emergency operations;
- 9 The harvesting of wild crops;
- 10 Non-residential facilities for educational, scientific or nature interpretation purposes;
- 11 Buildings accessory to permitted uses;
- 12 Temporary and permanent piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a water body or wetland;
- 13 Parking facilities to serve a permitted use;
- 14 Public utility facilities and structures;
- 15 Wetland mitigation activities;
- 16 Nonstructural stormwater management facilities;
- 17 Signs related to a permitted use or to provide public information; and
- 18 Other uses that are similar to the listed permitted uses and that are consistent with the Public Benefit Conveyance and the adopted BNAS Reuse Master Plan.

A-IV.6 Development Standards in the BNAS Conservation District

Buildings and structures in the BNAS Conservation District must conform to the

following standards:

- A. The area of disturbance must be less than two thousand five hundred (2,500) square feet
- B. All buildings, structures, and improvements must be located and designed to minimize their impact on the natural environment and the amount of impervious surface created by the facility.
- C. All buildings and structures, except functionally water-dependent uses, shall comply with Section 211 of the Zoning Ordinance, as applicable, set back from the normal high water line of a water body or the upland edge of a wetland to the greatest extent practical.
- D. All activities must conform to the applicable requirements of Section 211 of the Zoning Ordinance.

14. Amend the ordinance by adding a new APPENDIX V: COLLEGE USE/TOWN CONSERVATION DISTRICT to read:

APPENDIX V: COLLEGE USE/TOWN CONSERVATION DISTRICT

A-V.1 Purpose of the College Use/Town Conservation District

The purpose of the College Use/Town Conservation District is to:

- 1) Provide for the reuse, redevelopment, and development of the west side of the former Brunswick Naval Area Station (BNAS) transferred to Bowdoin College and the Town of Brunswick by Public Benefit Conveyances in accordance with the recommendations of the adopted BNAS Reuse Master Plan, and
- 2) Preserve, maintain and enhance the existing natural areas within this district, transferred to the Town of Brunswick by Public Benefit Conveyance for conservation purposes.

A-V.2 Planning Area

The College Use/Town Conservation District is designated as the College Use/Town Conservation Planning Area in accordance with Sections 105 and 106. The College Use/Town Conservation Area is designated as a Growth Area.

- A. The College Use/Town Conservation Planning Area includes the west side of the Brunswick Naval Air Station that has been transferred to Bowdoin College by Public Benefit Conveyance in accordance with the recommendations of the adopted Reuse Master Plan and is designated for reuse, redevelopment, and development.
- B. The College Use/Town Conservation Planning Area includes the west side of the Brunswick Naval Air Station that has been transferred to the Town of Brunswick by

Public Benefit Conveyance in accordance with the recommendations of the adopted Reuse Master Plan and is designated for conservation.

A-V.3 Applicability of the College Use/Town Conservation District Provisions

The provisions of Appendix V apply to and govern the use of land, the reuse of existing facilities, and the development of building or facilities within the College Use/Town Conservation District as conveyed to Bowdoin College. Those portions of land conveyed to the Town of Brunswick within the College Use/Town Conservation District shall be governed by Appendix IV. Unless otherwise specifically provided for in Appendices IV or V, all other requirements of the Town of Brunswick Zoning Ordinance apply to activities within the College Use/Town Conservation District. If there is a conflict between the provisions of Appendices IV or V and the other provisions of the Zoning Ordinance, the provisions of Appendices IV or V shall govern.

A-V.4: Permitted Uses in the College Use/Town Conservation District

The use of land within the College Use/Town Conservation District shall be limited to uses that are consistent with the Public Benefit Conveyances of these parcels and with the adopted BNAS Reuse Master Plan. Uses on the land conveyed to the Town of Brunswick for conservation purposes are governed by Section A-IV.5. The following uses, for cultural, educational, recreational purposes and uses ancillary thereto, are allowed on the land conveyed to Bowdoin College:

1. Bed and Breakfast;
2. College Dining Facility;
3. College Office;
4. Community Center;
5. Day Care Facilities for Children or Adults;
6. Dwelling, Single and Two Family;
7. Dwelling, 3 or More Units;
8. Dwelling as Part of Mixed Use Building;
9. Greenhouse or Florist;
10. Educational Facility;
11. Equestrian Facility/Stable;
12. Farm/Gardens;
13. Hiking trails, bridle paths, pedestrian trails, and walkways;
14. Library or Museum;
15. Media Studio;
16. Motor Vehicle Service/Repair;
17. Outdoor Sales;
18. Parking Facility;
19. Photographers/Artists Studio;
20. Recreational Facility;
21. Religious Institution;
22. Residence Hall;
23. Restaurant;
24. Retail Class I;
25. Service Business Class I;

- 26. Warehousing and Storage; and
- 27. Theater.

A-V.5: Development Standards in the College Use/Town Conservation District

Buildings and structures in the College Use/Town Conservation District on lands conveyed to the Town of Brunswick must conform to the standards in A-IV.6.

Notwithstanding Chapter Three: Specific Dimensional Standards and Use, the use of land, the reuse of existing buildings and facilities, and the development or redevelopment of buildings or facilities within the College Use/Town Conservation District as conveyed to Bowdoin College shall be governed by Appendix V. Density is calculated on a net basis whereby the number of units is established by dividing the net site area as defined in Section 501.2 by the maximum density of the zoning district in which the proposed development is located. Density requirements apply only to developments or parts of developments involving dwelling units, as defined.

Buildings and structures in the BNAS College Use/Town Conservation District on property conveyed to Bowdoin College must conform to the standards in the Dimensional and Density Table below:

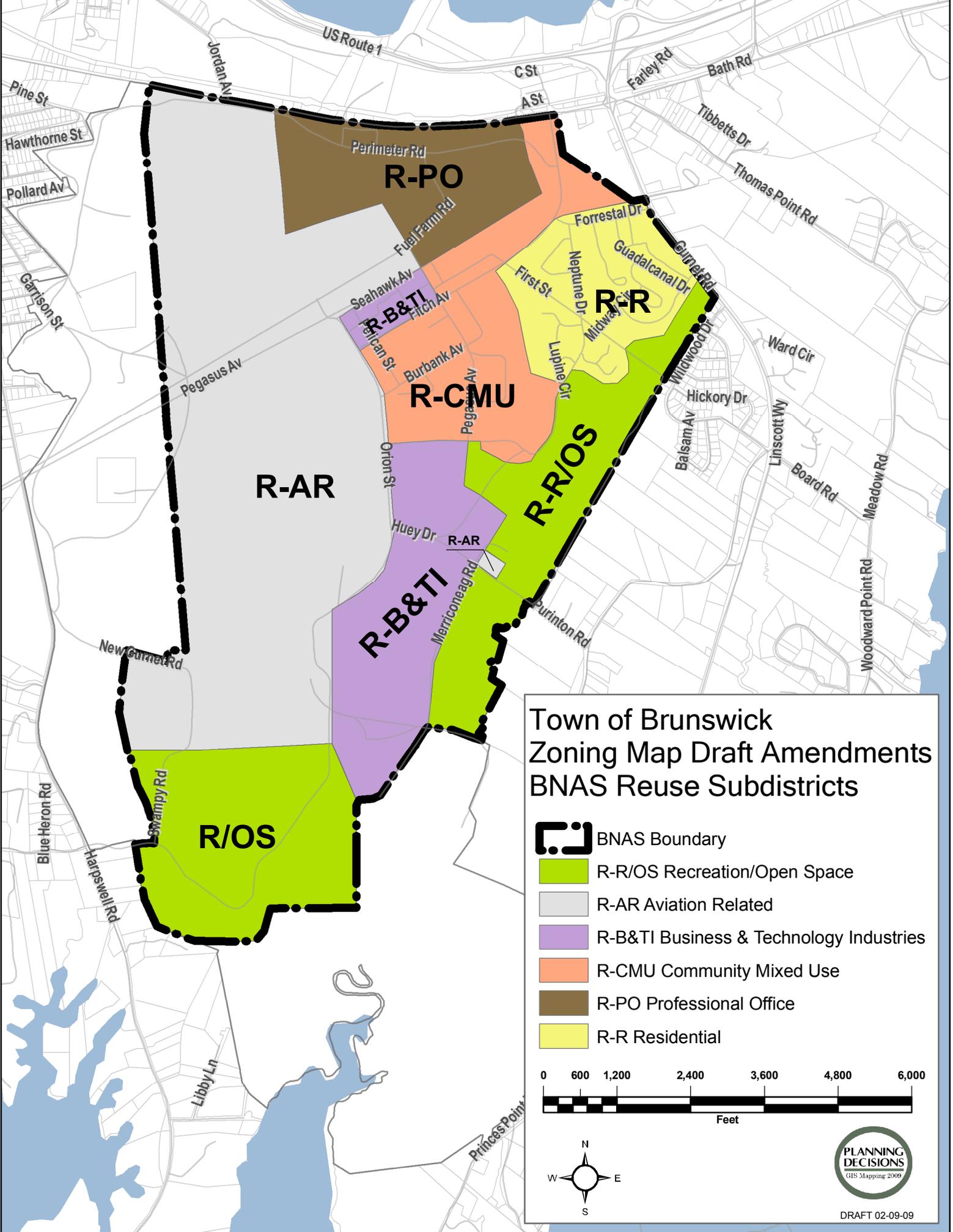
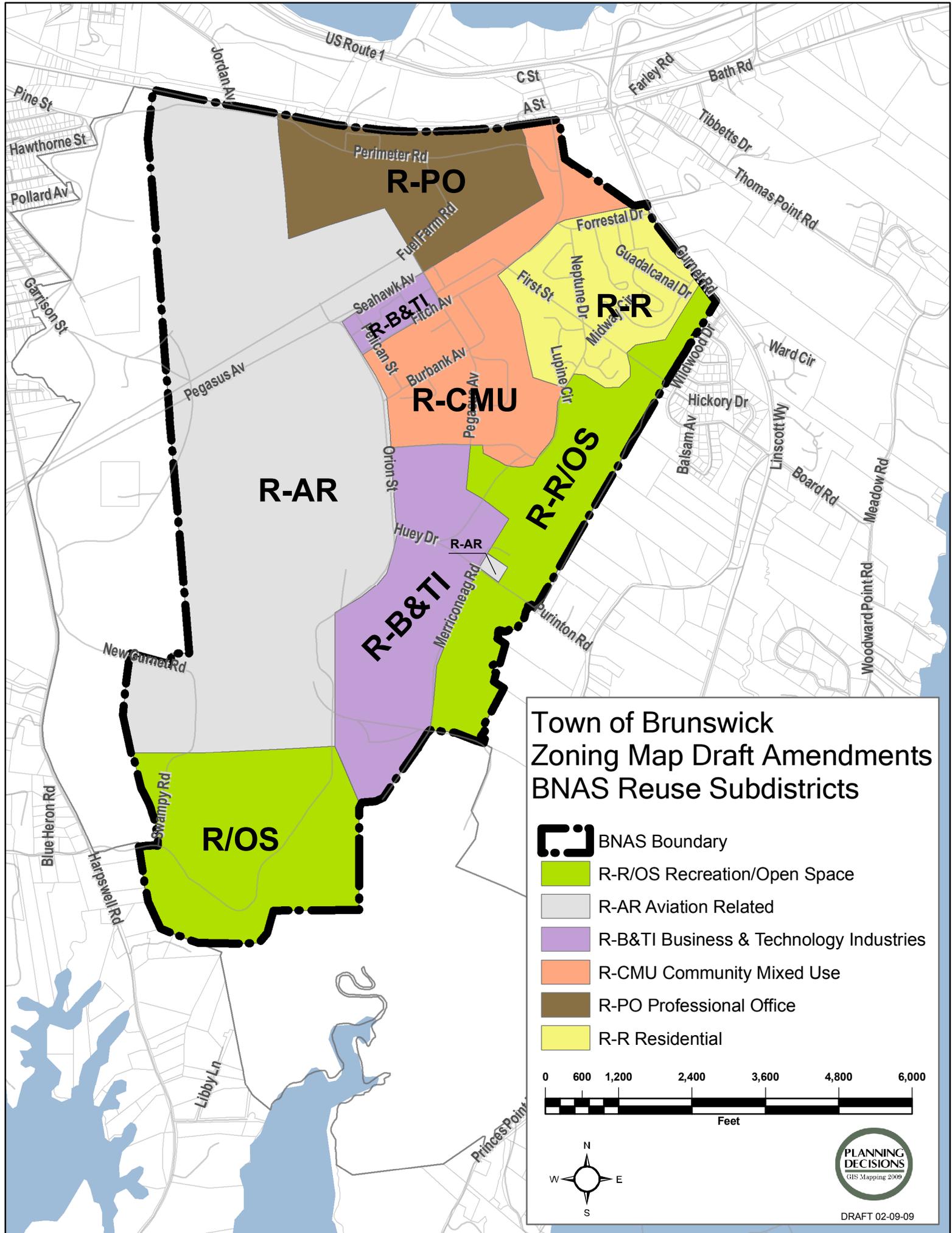
DIMENSIONAL AND DENSITY TABLE FOR THE COLLEGE USE/TOWN CONSERVATION DISTRICT

<u>Standard/District</u>	<u>CU/TC</u>
<u>Minimum Lot Area</u>	<u>4,000 sf</u>
<u>Maximum Density</u>	<u>24 units per acre</u>
<u>Minimum Lot Width</u>	<u>40 ft</u>
<u>Minimum Building Frontage(as % of lot width)</u>	<u>None</u>
<u>Maximum Building Frontage (as % of lot width)</u>	<u>None</u>
<u>Minimum Front Yard</u>	<u>10 ft</u>
<u>Maximum Front Yard</u>	<u>None</u>
<u>Minimum Rear Yard</u>	<u>10 ft (1)</u>
<u>Minimum Side Yard</u>	<u>10 ft (1)</u>
<u>Maximum Impervious Surface Coverage</u>	<u>50%</u>

<u>Minimum building height</u>	<u>None</u>
<u>Maximum Building Height within 200 feet of District Boundary, as permitted in Section 204.3</u>	<u>70 ft</u>
<u>Maximum Building Height 200 feet from District Boundary</u>	<u>70 ft</u>
<u>Maximum Building Footprint Per Structure</u>	<u>None</u>

- (1) Where a CU/TC zoning district boundary abuts a residential zoning district, the minimum rear or side yard for the abutting property line shall be no less than that required by the abutting residential zoning district standards.

DRAFT



R-PO

R-R

R-CMU

R-R/OS

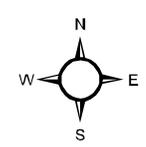
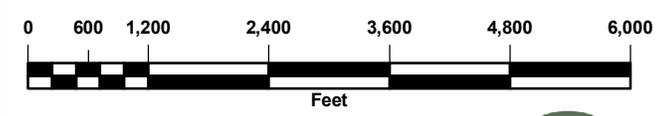
R-AR

R-B&TI

R/OS

**Town of Brunswick
Zoning Map Draft Amendments
BNAS Reuse Subdistricts**

- BNAS Boundary
- R-R/OS Recreation/Open Space
- R-AR Aviation Related
- R-B&TI Business & Technology Industries
- R-CMU Community Mixed Use
- R-PO Professional Office
- R-R Residential



DRAFT 02-09-09

Town of Brunswick Zoning Map Draft Amendments - BNAS Reuse

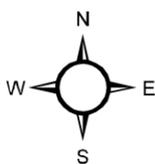
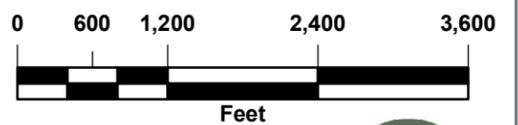
**BNAS
Conservation
District**

**BNAS
Reuse
District**

**College Use
Conservation
District**

**BNAS
Conservation
District**

-  BNAS Reuse District
-  BNAS Conservation District
-  College Use-Conservation District



DRAFT 2-5-09

ITEM 99

NO BACK UP MATERIALS

ITEM 100

BACK UP MATERIALS

TOWN OF BRUNSWICK
TOWN MANAGERS OFFICE
MEMORANDUM

TO: Brunswick Council

FROM: Gary Brown, Acting Town Manager

DATE: June 10, 2009

RE: 2% Cost of Living Adjustment (COLA)

The recently adopted budget includes a 2% COLA for the non-union staff employed by the Town of Brunswick. In order for this adjustment to take effect with the beginning of the fiscal year, this item should be approved at your June 15th meeting. The fiscal impact of this is less than \$45,000. (I have excluded a COLA for the Manager's position as well as positions that will be vacant for the fiscal year).

I have previously provided information to the Council on this matter prior to the budget being adopted. The amount approved in the budget is consistent with amounts that the Council has approved for collective bargaining agreements for the FY'11 fiscal year. This also is the first COLA for the non-union employees since July 2007. These employees also have had step increases frozen for the next fiscal year in the budget as part of the effort to reduce costs. The employees affected by the COLA include Department Head positions, non-clerical employees in Parks and Recreation and certain professional employees. The total count of employees not in a Union is 37.

I will be happy to answer any questions that you may have.

ITEM 101

BACK UP MATERIALS

phone 6:45 pm

Town of Brunswick
Application for
Appointment to Board/ Committee/ Commission

For Office Use Only	
OCT 15 2008	Date App. Received
_____	Date App. Entered
_____	Appointed

Full Name: Joan E Happe Date 10-14-08

Street Address: 48 A Pejepscot Terrace

Home Telephone #: 729-3480 E-mail Address: jeh_bunganuc I live in Council District #: 5

I wish to be considered for appointment to the:

Growstown School Trustees
(NAME OF BOARD/COMMITTEE/COMMISSION)

Check one or both:

FULL MEMBERSHIP STATUS:

TERM BEGINS: _____

and/or
ASSOCIATE MEMBERSHIP STATUS:

TERM EXPIRES: 1-18-09

Do you currently serve on any Town Board/Committee/Commission? _____ If so, please state name of Board/Committee/Commission and the number of years of service:

Town Commons Planning Number of Years 20 Date term expires 1-18-09

Occupation: retired RN

Employer: _____ Work Telephone #: _____

List any civic organizations to which you belong:

attended Bunganuc rural school as did my father - grand father - great grand parents grand mother and her father went to Growstown - my mother taught at both Growstown and Bunganuc
Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

Have you previously served on a Town board/committee/commission? yes If so, please list the board/committee/commission and years of service:

Conservation Commission - Rights of way to water - Redistrict
CAC

SIGNATURE

PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION

Applicants may submit a cover letter and resume with the application form. Applications should be returned to the TOWN CLERK'S OFFICE, 28 Federal Street, Brunswick, Me 04011 - BY 4:30 P.M. on the date specified by the public notice.

You will be contacted to set up an interview with the Appointment's Committee.
It is the intent of the Town to televise proceedings of Boards/Committees/Commissions

APPLICANT - PLEASE COMPLETE THE QUESTIONS BELOW

Board/Committee/Commission Applying For: Growthtown School Trustees

Term Length: 3 yr

1. Do you have any questions about what the Board/Committee/Commission does or on its charge?

2. Do you have any practical experience or formal education that would be relevant to the Board/Committee/Commission?

Family connections to rural schools

3. Why would you like to be on the Board/Committee/Commission?

to preserve authenticity

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No

6. Do you have anything you would like to add?

CONSENT AGENDA A BACK UP MATERIALS

-- DRAFT --
BRUNSWICK TOWN COUNCIL
MINUTES
June 1, 2009
7:00 P.M
Old Times Record Building
6 Industry Road

Councilors Present: Chair M. Hallie Daughtry, W. David Watson, Benjamin J. Tucker, Karen J. Klatt, Gerald E. Favreau, Margo H. Knight, E. Benet Pols, Deborah R. Atwood, and Joanne T. King.

Councilors Absent: None.

Town Staff Present: Gary Brown, Acting Town Manager; Fran Smith, Town Clerk; John Eldridge, Finance Director; Paul Perzanoski, School Superintendent; Anna Breinich, Director of Planning and Development; David Markovchick, Director of Economic Development; Cathy Donovan, Assessor; Jim Oikle, Business Manager, School Department; Clark Labbe, Fire Chief; Tom Farrell, Parks and Recreation Director; Kris Hultgren, Town Planner; Brian Dancause, Economic Development Specialist; Craig Worth, Deputy Public Works Director; Mark Waltz, Police Lieutenant; and TV video crew.

Chair Daughtry called the meeting to order, asked for the Pledge of Allegiance, and for roll call.

Public Comment

Senator Stan Gerzofsky, spoke about a federal grant application where the Town could get funds to renovate the Central Fire Station.

Correspondence:

Officer Terry Goan received the Vocational Region 10 Citizen of the Year award.

There will be a collection of unwanted medications on June 12 at the MidCoast Senior Health Center.

A letter from Tom Fusco will be added to the permanent record.

(A copy of Mr. Fusco's letter will be attached to the official minutes.)

Adjustments to the Agenda: None

Manager's Report:

(a) Council Committee Updates

Town Council Minutes

June 1, 2009

Page 2

Reports were given on the Maine Street Station Oversight Committee and the Downtown Master Plan Committee.

(b) Introduction of new Town Planner

Kris Hultgren was introduced as the new Town Planner.

(c) Update on Mere Point Boat Launch

Manager Brown gave this update.

(d) Discussion of summer meeting schedule

There was a discussion on the summer meeting schedule.

(e) Workshop with MRRA and RAB on NASB

Manager Brown spoke on this item.

Councilor King and Councilor Pols spoke on this item.

(f) Update on Council Chambers at Maine Street Station

Manager Brown gave this update.

(g) Letter of support for a Commissary and PX at NASB after the base closes. (Action Required)

Manager Brown spoke on this item.

Councilor King moved, Councilor Favreau seconded, to authorize the Town Manager to submit a letter of support from the Town of Brunswick for a Commissary and a PX to be located on NASB property after the base closes. The motion carried with nine (9) yeas.

PUBLIC HEARINGS:

- 84. The Town Council will consider approval of the following Alcoholic Beverage License, and will take any appropriate action.**

Full-Time Spirituous, Vinous & Malt

Hornor Holdings, LLC

D/B/A: Brunswick Inn (NEW)

165 Park Row

Eileen Hornor

Chair Daughtry opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Tucker moved, Councilor Knight seconded, to approve an alcoholic beverage application from Hornor Holdings, LLC D/B/A: Brunswick Inn at 165 Park Row. The motion carried with nine (9) yeas.

85. The Town Council will hear public comments on a Community Development Block Grant on behalf of Maine Tool and Machine LLC to fund three phase power, and will take any appropriate action.

Manager Brown spoke on this item.

Chair Daughtry opened the public hearing.

(A copy of a letter from the Chamber of Commerce will be attached to the official minutes.)

The following people made comments on this item:

Genie Wheelwright, Durham Road

David Frans, Durham Road

John Gerard, 7 Jordan Avenue

Melissa Frans, Durham Road

Chair Daughtry closed the public hearing.

Councilor King, Councilor Pols, Chair Daughtry, Councilor Atwood, Councilor Knight, and Councilor Klatt spoke on this item.

Manager Brown answered additional questions.

Mr. Wilson, President of Maine Tool and Machine LLC, spoke on this item.

Councilor King moved the question.

Councilor King moved, Councilor Watson seconded, to allow the Town to apply for a Community Development Block Grant on behalf of Maine Tool and Machine LLC to fund three phase power. The motion carried with eight (8) yeas. Councilor Klatt was opposed.

(Copies of supporting information will be attached to the official minutes.)

86. The Town Council will hear public comments on amendments to Chapter 9 (Human Services) of the Municipal Code of Ordinances to increase emergency medical service fees, and will take any appropriate action.

Chair Daughtry opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Favreau and Councilor Watson spoke on this item.

John Eldridge, Finance Director, answered questions.

Councilor Knight moved, Councilor Tucker seconded, to adopt amendments to Chapter 9 (Human Services) of the Municipal Code of Ordinances to increase emergency medical service fees. The motion carried with nine (9) yeas.

(A copy of the adopted language will be attached to the official minutes.)

TABLED ITEMS:

82. The Town Council will discuss the possibility of Federal stimulus money to fund renovations of the Central Fire Station, and determine if any future action is necessary.

Manager Brown spoke on this item.

Councilor Watson, Councilor Tucker and Councilor King spoke on this item.

Senator Gerzofsky spoke on this item.

Councilor King moved, Councilor Tucker seconded, to authorize the Town to apply for the grant for Federal stimulus money to fund renovations to the Central Fire Station.

Councilor Watson suggested amending the motion to allow for up to \$425,000 in matching funds. Councilor King and Councilor Tucker, as the motion makers, agreed.

Councilor King moved, Councilor Tucker seconded, to authorize the Town to apply for the grant for Federal stimulus money to fund renovations to the Central Fire Station, with the Town providing a \$425,000 match. The motion carried with nine (9) yeas.

NEW BUSINESS ITEMS:

87. The Town Council will consider adopting the 2009-2010 School Budget Articles, and will take any appropriate action.

Article 1. Vocational Region Ten Budget

Councilor Watson moved, Councilor Favreau seconded, to approve the Maine Vocational Region Ten budget as approved by the Cooperative Board of Maine Vocational Region Ten in the amount of \$1,914,459 with Brunswick's assessment as part of the total appropriation to the Brunswick School Department being \$775,215 for operating expenditures and \$0 for debt service expenditures. The motion carried with nine (9) yeas.

Article 2. Vocational Region Ten Adult Education Budget

Councilor Watson moved, Councilor Atwood seconded, to approve the Maine Vocational Region Ten budget for adult education as approved by the Cooperative Board of Maine Vocational Region Ten in the amount of \$132,869 with Brunswick's assessment as part of

the total appropriation to the Brunswick School Department being \$11,751. The motion carried with nine (9) yeas.

Article 3. Local Contribution Required under EPS to Receive Full State Dollars; and State Subsidy

Councilor Watson moved, Councilor Favreau seconded, to appropriate the sum of \$27,316,740 toward the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act; and as part of the \$27,316,740 to raise and appropriate the sum of \$13,331,455 as the Town's contribution toward the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688; and as part of the \$27,316,740 to accept state subsidy anticipated in the amount of \$13,985,285. The motion carried with nine (9) yeas.

Article 4. Non-State-Funded Debt Service

Councilor Favreau moved, Councilor Watson seconded, to raise and appropriate the sum of \$233,039 for the annual payments on debt service previously approved by the legislative body for non-state-funded school construction projects, non-state-funded portions of school construction projects and minor capital projects in addition to the funds appropriated as the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12. The motion carried with nine (9) yeas.

Article 5. Additional Local Funds

Councilor Watson moved, Councilor Tucker seconded, to raise and appropriate the sum of \$1,847,850 in additional local funds, which exceeds the State's Essential Programs and Services allocation model by \$1,071,799.

Councilor Pols, Councilor Tucker, Councilor King, and Councilor Watson spoke on this item.

Manager Brown spoke on this item.

Councilor Watson moved, Councilor Tucker seconded, to raise and appropriate the sum of \$1,847,850 in additional local funds, which exceeds the State's Essential Programs and Services allocation model by \$1,071,799. The motion carried with six (6) yeas. Councilor Tucker, Councilor Klatt and Councilor Pols were opposed.

Article 6. Other Funds

Councilor Watson moved, Councilor King seconded, to accept funds from other sources as estimated below and to appropriate the amount of \$1,713,710:

<u>Federal School Subsidy</u>	<u>\$ 550,000</u>
<u>Tuition and other charges</u>	<u>935,000</u>
<u>Miscellaneous</u>	<u>228,710</u>
	<u>\$1,713,710</u>

The motion carried with nine (9) yeas.

Article 7. Unexpended Balances

Councilor Favreau moved, Councilor Watson seconded, to appropriate \$1,500,000 from the existing, or estimated, unexpended balances of the Brunswick School Department. The motion carried with nine (9) yeas.

Article 8. State Fiscal Stabilization Fund (Federal ARRA, American Recovery and Reinvestment Act).

Councilor King moved, Councilor Knight seconded, to accept and appropriate federal stabilization funds during the school year for school purposes provided that such grants do not require the expenditure of other funds not otherwise appropriated. It is anticipated that the Brunswick School Department will receive \$753,426 in federal stabilization funds which are included in the expenditures authorized by this article. The motion carried with nine (9) yeas.

Article 9. Kindergarten to Grade 12 Total Budget

Councilor Favreau moved, Councilor Watson seconded, to authorize the Brunswick School Department to expend \$33,364,765 for the fiscal year beginning July 1, 2009 and ending June 30, 2010 from the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes Title 20-A Section 15690, unexpended balances, tuition receipts, state subsidy, and other receipts for the support of schools. The motion carried with nine (9) yeas.

Article 10. Adult Education

Councilor Watson moved, Councilor Tucker seconded, to appropriate \$106,319 for adult education and to raise \$76,319 as the local share; and to accept state subsidy anticipated in the amount of \$30,000; with authorization to expend the herein appropriated \$106,319 and any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program. The motion carried with nine (9) yeas.

Article 11. Cost Center Allocation

Councilor King moved, Councilor Favreau seconded, pursuant to 20-A M.R.S.A., to authorize allocation of the school budget, \$33,471,084 to the various cost centers as recommended by the Brunswick School Committee as below.

<u>Cost Center Summary Budget Category</u>	<u>Amount Recommended by School Board</u>	<u>Amount Approved by Town Council</u>
State Fiscal Stabilization	\$ 753,426	\$ 753,426
Regular Instruction	\$ 14,730,854	\$ 14,730,854
Special Education	\$ 3,873,334	\$ 3,873,334
Career and Technical Education	\$ 0	\$ 0
Other Instruction	\$ 715,736	\$ 715,736
Student and staff support	\$ 3,129,939	\$ 3,129,939
System Administration	\$ 836,616	\$ 836,616
School Administration	\$ 1,487,315	\$ 1,487,315
Transportation and Buses	\$ 1,705,285	\$ 1,705,285
Facilities Maintenance	\$ 4,041,696	\$ 4,041,696

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Debt Service and Other Commitments	\$ 1,086,125	\$ 1,086,125
All Other Expenditures	\$ 1,110,758	\$ 1,110,758
Summary of Total		
Authorized Expenditures	\$ 33,471,084	\$ 33,471,084

The motion carried with nine (9) yeas.

Article 12. Grants, Donations, and other revenues

Councilor Watson moved, Councilor Favreau seconded, to authorize the Brunswick School Department to make application for grants and other revenues as opportunities may become available and to authorize the Brunswick School Department to accept and expend any grant awards, donations, or other revenues that may be received. The motion carried with nine (9) yeas.

(A copy of the Budget Resolution will be attached to the official minutes.)

- 88. The Town Council will consider a warrant for the School Budget Validation Referendum to be held on June 9, 2009, and will take any appropriate action.**

Councilor Favreau moved, Councilor Watson seconded, to approve the Election Warrant for the School Budget Validation Referendum to be held on June 9, 2009. The motion carried with nine (9) yeas.

(Copies of the Warrant and Notice of Amounts Adopted at the Town Council meeting for Voters at School Budget Referendum will be attached to the official minutes.)

- 89. The Town Council will consider adopting the 2009-2010 Budget Resolution for the Town, and will take any appropriate action.**

Mr. Eldridge spoke on this item.

Suzan Wilson, Chair of Marine Resources Committee, spoke on this item.

Councilor Knight moved, Councilor Watson seconded, to adopt the Budget Resolution for July 1, 2009 – June 30, 2010 Fiscal Year. The motion carried with nine (9) yeas.

(A copy of the Budget Resolution will be attached to the official minutes.)

- 90. The Town Council will consider adopting supplemental Budget Resolutions for the 2009-2010 Budget Year to fund certain projects contained in year one of the proposed 2010-14 Capital Improvement Program, and will take any appropriate action.**

Mr. Eldridge spoke on this item.

Councilor Klatt spoke on this item.

Councilor King moved, Councilor Watson seconded, to adopt a Supplemental Budget Resolution Appropriating \$218,000 from the Unreserved Undesignated Balance of the General Fund to Fund Capital Acquisitions and Projects. The motion carried with nine (9) yeas.

(A copy of the supplemental Budget Resolution will be attached to the official minutes.)

91. The Town Council will consider any other matters related to the adoption of the 2009-2010 Budget and will take any appropriate action.

There were none.

92. The Town Council will consider approving a lease agreement with JHR Development that would result in the Town being the Master Tenant of space in Building #3 at the Maine Street Station, and will take any appropriate action.

Councilor Knight explained this item and asked for it to be postponed for a vote until June 15.

Councilor King and Councilor Pols spoke on this item.

Manager Brown and Mr. Eldridge spoke on this item.

Fred Blanchard, Harpswell Road, spoke on this item.

This item will come back to the Council at their June 15 meeting.

93. The Town Council will consider appointments to the Town's Boards and Committees, and will take any appropriate action.

Councilor Knight nominated the following people:

Mark Latti to the Marine Resources Committee

John Gregory Shea to the People Plus Board

Ralph Trombley to the Marine Resources Committee

Barbara Yuods nukis to the Growstown School Board

They were appointed by a unanimous vote.

CONSENT AGENDA

(a) **Approval of the Minutes of May 14, 2009**

(b) **Approval of Minutes of May 18, 2009**

(c) **Approval of Games of Chance Licenses and Bingo:**

Sealed Tickets & Games of Chance

Brunswick Lodge of Elks #2043

D/B/A Brunswick Elk's Lodge

Colette Cullen, Chairperson

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Councilor Watson moved, Councilor Favreau seconded, to approve the Consent Agenda. The motion carried with nine (9) yeas.

Councilor Favreau moved, Councilor Watson seconded, to adjourn the meeting. The motion carried with nine (9) yeas

The meeting adjourned at 9:37 p.m.

PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. A VIDEO RECORDING OF THE MEETING IS AVAILABLE AT THE TOWN CLERK'S OFFICE DURING REGULAR BUSINESS HOURS.

Frances M. Smith

Town Clerk

June 3, 2009

June 15, 2009

Date of Approval

Council Chair

**CONSENT AGENDA B
BACK UP MATERIALS**

MEMORANDUM

TO: Gary Brown, Acting Town Manager
FROM: John A. Foster, Director, PWD
DATE: June 6, 2009
SUBJECT: Utility Location Permits – From Maine Natural Gas

Attached, for presentation to the Town Council for approval, is an application for a Utility Location Permit to install a gas main on Garrison Street and Hambleton Avenue.

Application ULP 2009-04, Garrison Street & Hambleton Avenue Maine Natural Gas seeks authorization to install a 4" gas main along Garrison Street and Hambleton Avenue. The gas main will extend from the existing gas main, located on the north side of Purchase Street just east of Garrison Street, across Garrison Street to a point 3 feet behind the utility poles on the west side of Garrison Street, then behind the utility poles on Garrison Street south 375 feet to the shoulder on the north side of Hambleton Avenue, then along the shoulder on the north side of Hambleton Avenue about 475 feet to 9 Hambleton Avenue.

1. Maine Natural is responsible for determining the bounds of the public easement in which the infrastructure is being installed.
2. The gas lines shall have a minimum of 36 inches of cover as proposed on the applications.
3. The final location of the gas line is subject to adjustment, as determined necessary by the Town Engineer, to provide adequate clearance from any actual underground facilities as determined by field verification by each utility.
4. Installation across public ways paved within the past 5 years will be done by directional boring.
5. All work is subject to compliance with the Town's Street Opening and road restoration requirements.

Town of Brunswick
Public Works Department

Application for Utility Location Permit

DATE May 22, 2009

Permit Number: 2009-04
(to be provided by Town)

The Maine Natural Gas and _____
(Name of Utility) Joint Utility Name (if applicable)

duly authorized under the laws of the State of Maine to construct, maintain and
operate a natural gas distribution system
(Type of Utility)

within the Right of Way of highways within the State, hereby applies, pursuant to Title 35A M.R.S.A., Section 2503, and 17-229 C.M.R. Chapter 205, for a Location Permit for the following installation in the Town of Brunswick.

Provide a Brief Description. (Attach both a general location map and a detailed plan of the installation indicating the exact utility location with offsets for centerline or edge or right of way provided.):

Name of Street: Garrison/Hambleton
Starting Point: Purchase/Garrison End Point: Hambleton/Clover Place

Maine Natural Gas proposes to install a 4-inch Medium Density Polyethylene (MDPE) gas main on Garrison Street and Hambleton Avenue. The proposed 4" gas main extension will extend on Garrison Avenue from Purchase Street to Hambleton Avenue and Hambleton Avenue from Garrison Street to the proposed Clover Place located at 9 Hambleton Avenue. The extension will run approximately 375 feet along the west side of Garrison and approximately 475 feet along the north side of Hambleton Avenue before ending at the proposed Clover Place site.

Minimum Depth of Cover 36" (if applicable) Maximum PSI 60 (if applicable)

"Any person, firm or corporation owning property which abuts the public way described above and claiming to be adversely affected by this proposed location, may file a written objection with the Town of Brunswick Public Works Dept, 9 Industry Rd, Brunswick, ME 04011, stating the cause of said objection within fourteen (14) days after the publication of this notice. The written objection must be served by delivery in hand or by registered certified mail".

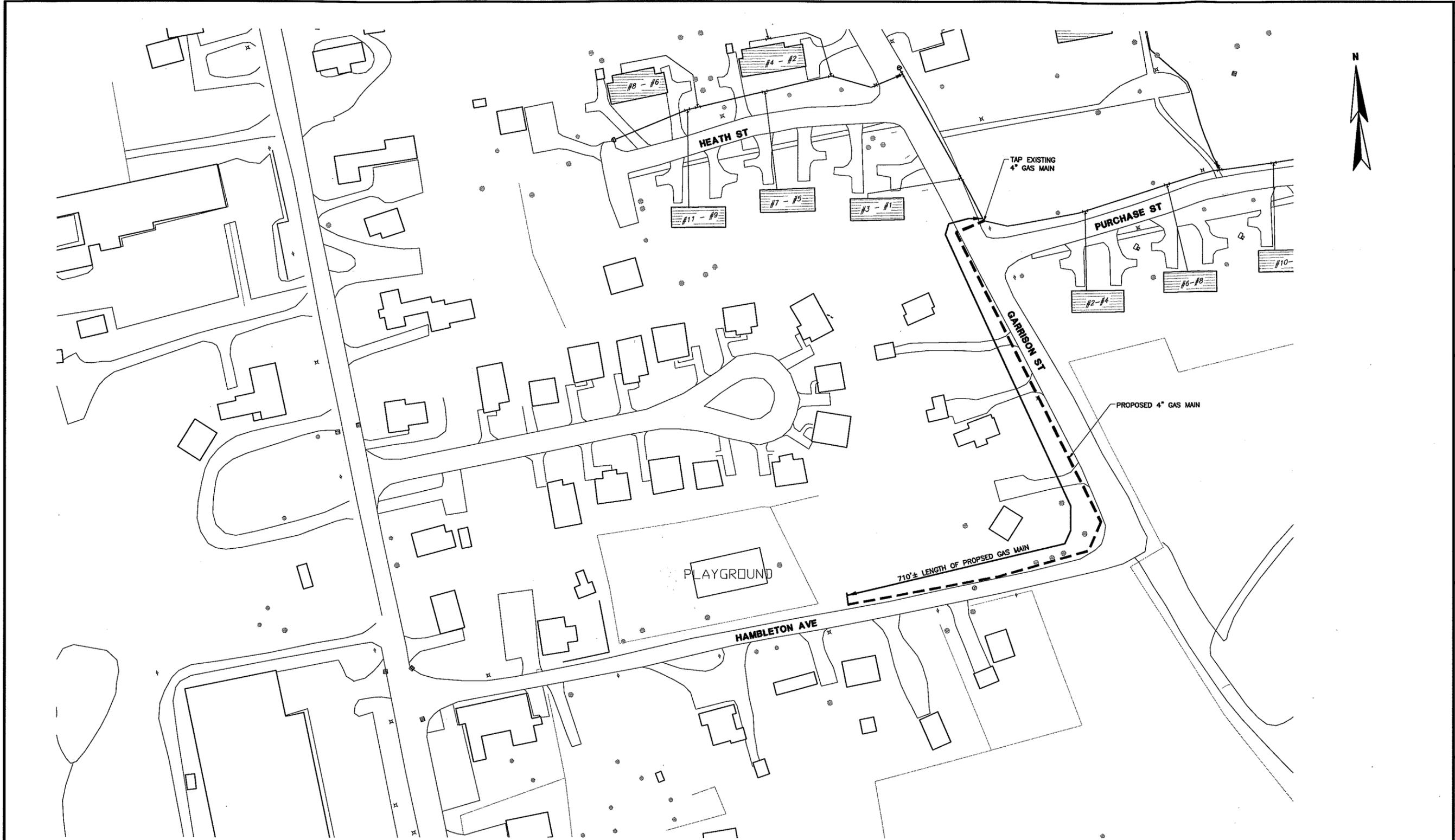
The text of this application will will not be published*: Publish Date: _____

Name of Newspaper: _____

Signature of Utility: Gary A Kenny

Print Name and Title: Gary A. Kenny, P.E. - Manager of Engineering & Operations

*If publication is chosen, the entire application above the double line is to be published. Submit completed applications to the address provided above in the objection statement.



PLAN
SCALE: 1" = 25'

NOTES:
UTILITIES INDICATED ON THE PLANS ARE APPROXIMATE ONLY AND SHALL BE FIELD VERIFIED. ADDITIONAL UTILITIES NOT INDICATED ON LAYOUT PLAN MUST BE FIELD VERIFIED PRIOR TO COMMENCEMENT OF CONSTRUCTION

WO#: _____ DATE: XX-XX-00
 DESCRIPTION: INSTALL 400± FEET 4" MDPE MAIN (GARRISON STREET)
 INSTALL 310± FEET 4" MDPE MAIN (HAMBLETON AVENUE)
 TOTAL FOOTAGE: _____ SIZE: 4" LENGTH: _____
 CONTRACTOR: ETI
 FOREMAN: _____ NOTE:
 TEST INFO: _____ PSI _____ HR(S)
 _____ MINS _____ MEDIUM
 PIPE INFORMATION: _____

NO.	REVISIONS	APP'D	DATE

DRAWN BY: _____
 CHECKED BY: _____
 DATE: _____
 APPROVED BY: _____
 DATE: _____
 BOOK NO: 70871
 PROJECT NO: AS NOTED
 SCALE: AS NOTED

WRIGHT-PIERCE
 Engineering & Better Environment
 Offices Throughout New England
 888.671.8186 | www.wright-pierce.com

Maine Natural Gas
 4 Industrial Parkway
 PO Box 99
 Brunswick, Maine 04011

MAINE NATURAL GAS
GAS MAIN INVENTORY MAPPING
BRUNSWICK MAINE
GAS MAIN EXTENSION
HAMBLETON AVENUE