

From: Jen Navarro <blondie_mamita84@icloud.com>
Sent: Wednesday, March 5, 2025 12:09 PM
To: Julie Erdman
Cc: Julia Henze; Town Council; Fran Smith; James Dealaman
Subject: Re: ATTN: Henze, Councilors, Staff

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Subject: RE: Immediate Demand to Halt Unlawful Development at Tedford Housing, 65 Thomas Point Rd

Let's be crystal clear: You cannot legally reissue a new Conditional Use Permit (CUP) while restricting public comment to only six pre-determined approval criteria.

A true, lawful reapplication for a new CUP requires:

• A full public hearing where any concerns related to zoning, infrastructure, life safety, and site development can be raised.

• A review under all current zoning laws and site plan requirements, not just select CUP approval standards.

• The revocation of any prior approvals tied to the expired permit.

The fact that the Town restricted public comment and claimed the previous site plan and final development approvals were still valid proves this was never a real new application. Instead, it was a coordinated effort to work around the expired CUP while avoiding a full legal review.

The Fatal Legal Flaws in This Process:

1. A new CUP means full review – not cherry-picking what's already approved.

• The site plan was never properly reevaluated after the CUP expired.

• Claiming the "site plan and final development were still approved" is legally invalid once the permit supporting them expires.

2. You cannot restrict public comment when issuing a "new" CUP.

“ If this was a legitimate reapplication, residents had the right to challenge the entire project, including life safety concerns, flood risks, and zoning compliance.

“ Limiting the discussion to only six CUP approval criteria is an admission that this was not a real new application” it was a rubber stamp to bypass the expiration.

3. A new application must comply with current zoning laws.

“ The expired CUP means the project must now be reviewed under today’s zoning standards.

“ Floodplain concerns, pedestrian safety, emergency access, and ADA compliance were all ignored.

“ Bottom line: The May 14, 2024, approval was a procedural farce.

Immediate Corrective Action Required:

“ ... Halt all construction under this unlawfully issued CUP.

“ ... Force Tedford Housing to submit a full, legitimate new application subject to today’s zoning laws and full public scrutiny.

“ ... Ensure all past approvals tied to the expired CUP are revoked.

“ ... Do not suppress public comment or limit legal challenges in any future hearing.

Your claim that a “new” CUP was issued collapses under legal scrutiny. If this was truly a fresh application, then the Town must produce evidence that all legal procedural requirements were met, including full public rights to challenge the project.

If the Town continues to push this project forward under a knowingly flawed process, I will take this to state and federal oversight authorities for enforcement.

Fix it now.

Jennifer Navarro

90 Thomas Point Rd.

Brunswick, Maine 04011

In the context of land use and zoning regulations, the expiration of a Conditional Use Permit (CUP) typically results in the nullification of associated site plan and major development approvals. This principle is supported by both Maine case law and local ordinances.

1. Maine Case Law: Cobbossee Development Group v. Town of Winthrop

In the case of Cobbossee Development Group v. Town of Winthrop, 585 A.2d 190 (Me. 1991), the Maine Supreme Judicial Court addressed the implications of a CUP expiration:

“The court upheld that a CUP would expire if construction did not commence within a specified period, as outlined in the local zoning ordinance.

“The court emphasized that the Planning Board lacked the authority to alter these time constraints, reinforcing that such permits are subject to strict adherence to the timelines established in the zoning ordinance.

This case underscores that once a CUP expires due to inaction within the designated timeframe, any related approvals, such as site plans or development plans contingent upon the CUP, also become void.

2. Brunswick Zoning Ordinance

The Town of Brunswick’s Zoning Ordinance contains provisions that align with this legal precedent:

“Subsection 5.2.9.Q(5) (Conditional Use Permit Approval Expiration):

“A Conditional Use Permit shall expire two (2) years after it is approved by the Planning Board if no Certificate of Occupancy is granted for the use.”

This clause indicates that if a CUP expires without the issuance of a Certificate of Occupancy within the two-year period, the permit is rendered void. Consequently, any site plan or major development approvals reliant on the CUP would also be invalidated.

3. Legal Interpretation

The expiration of a CUP signifies that the foundational approval for the proposed use is no longer valid. Since site plan and major development approvals are typically contingent upon an active CUP, the lapse of the CUP inherently nullifies these associated approvals. Proceeding with development without a valid CUP and corresponding approvals would be inconsistent with legal and regulatory standards.

Conclusion

Both Maine case law and the Brunswick Zoning Ordinance establish that the expiration of a Conditional Use Permit results in the nullification of any dependent site plan and major development approvals. This ensures that developments proceed only under valid and current authorizations, maintaining compliance with local and state regulations.

[https://tv3hd.brunswickme.org/CablecastPublicSite/show/5775?site=1%0A6/6/24%20appeals%20starting%20at%202:22:00%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5786?site=1%0A6/20/24%20Jennifer%20Navarro%E2%80%99s%20zoning%20board%20Appeal%20against%205/14/24%20reapproval%20of%20expired%20CUP%20case%20#24_005%0A%20Begins%20at%2037:00%20mins%20in.%20Hear%20Tedford%20lawyer%20at%201:15:00%20hear%20key%20points%20by%20board%20member%20Michelle%20Dolly%20at%201:37:00%20and%20Bob%20Thompson%20at%201:41:00%20both%20were%20correct%20but%20ZBA%20error%20ruled%20against%20them.%20It%20was%20not%20De%20novo,%20if%20so%20I%E2%80%99d%20be%20unconstrained%20and%20able%20to%20speak%20to%20site%20plan%20in%20addition%20to%20cup%20\(6%20criteria%20approval%20thresholds%20they%20constricted%20me%20to.%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5683?site=1%0A3/14/24%20town%20council%20meeting%20where%20I%20expose%20towns%20non%20regulated%20or%20enforced%20Conditional%20Use%20permit%20for%20Tedfords%20I%20spoke%20at%202:27:00%20%0A%20%20%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5730?site=1%0A4/24/24%20staff%20review%20meeting%20for%20case%20%23%2024_20%20Tedfords%20reapproval%20of%20conditional%20use%20permit.%20Kevin%20Bunker%20spoke%20at%2015:00%20admitting%20to%201/11/22%20C.U.P.%20had%20expired%20but%20this%20was%20not%20de%20novo%20application%20as%20I%20was%20constricted%20to%20speak%20on%20only%206%20cup%20criteria%20for%20approval%20versus%20allowed%20to%20speak%20on%20all%20the%20site%20plan%20and%20cond%20major%20dev%20review%20and%20plan.%20Planning%20board%20erroneous%20error%20and%20bias%20favored%20toward%20Tedford%20I%20also%20spoke%20at%2012%20mins%20in%20and%20again%20at%2028:00%20mins%20in.%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5742?site=1%0APlanning%20board%20reapproval%20of%20supposed%20de%20novo%20Conditional%20use%20permit%20starts%20at%202:35:00-ends%20at%202:49:00.%20%20Case%20%2324_020%20@2:35:00%20limited%20public%20comment%20to%20review%20of%206%20approval%20criteria%20for%20cup%20approval.%20%20DISCLOSURES%20of%20Conflict%20of%20interest%20by%204-5%20board%20members%20at%202:39:00%20but%20no%20recusal%20and%20did%20not%20add%](https://tv3hd.brunswickme.org/CablecastPublicSite/show/5775?site=1%0A6/6/24%20appeals%20starting%20at%202:22:00%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5786?site=1%0A6/20/24%20Jennifer%20Navarro%E2%80%99s%20zoning%20board%20Appeal%20against%205/14/24%20reapproval%20of%20expired%20CUP%20case%20#24_005%0A%20Begins%20at%2037:00%20mins%20in.%20Hear%20Tedford%20lawyer%20at%201:15:00%20hear%20key%20points%20by%20board%20member%20Michelle%20Dolly%20at%201:37:00%20and%20Bob%20Thompson%20at%201:41:00%20both%20were%20correct%20but%20ZBA%20error%20ruled%20against%20them.%20It%20was%20not%20De%20novo,%20if%20so%20I%E2%80%99d%20be%20unconstrained%20and%20able%20to%20speak%20to%20site%20plan%20in%20addition%20to%20cup%20(6%20criteria%20approval%20thresholds%20they%20constricted%20me%20to.%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5683?site=1%0A3/14/24%20town%20council%20meeting%20where%20I%20expose%20towns%20non%20regulated%20or%20enforced%20Conditional%20Use%20permit%20for%20Tedfords%20I%20spoke%20at%202:27:00%20%0A%20%20%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5730?site=1%0A4/24/24%20staff%20review%20meeting%20for%20case%20%23%2024_20%20Tedfords%20reapproval%20of%20conditional%20use%20permit.%20Kevin%20Bunker%20spoke%20at%2015:00%20admitting%20to%201/11/22%20C.U.P.%20had%20expired%20but%20this%20was%20not%20de%20novo%20application%20as%20I%20was%20constricted%20to%20speak%20on%20only%206%20cup%20criteria%20for%20approval%20versus%20allowed%20to%20speak%20on%20all%20the%20site%20plan%20and%20cond%20major%20dev%20review%20and%20plan.%20Planning%20board%20erroneous%20error%20and%20bias%20favored%20toward%20Tedford%20I%20also%20spoke%20at%2012%20mins%20in%20and%20again%20at%2028:00%20mins%20in.%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5742?site=1%0APlanning%20board%20reapproval%20of%20supposed%20de%20novo%20Conditional%20use%20permit%20starts%20at%202:35:00-ends%20at%202:49:00.%20%20Case%20%2324_020%20@2:35:00%20limited%20public%20comment%20to%20review%20of%206%20approval%20criteria%20for%20cup%20approval.%20%20DISCLOSURES%20of%20Conflict%20of%20interest%20by%204-5%20board%20members%20at%202:39:00%20but%20no%20recusal%20and%20did%20not%20add%20)

20included%20written%20disclosure%20conflicts%20into%20finding%20of%20facts%20and%20charitable%20donations%20showed%20a%20biased%20favor%20towards%20the%20development%20they%20are%20approving%20violating%20due%20process%20rights%20to%20impartial%20board.%20@%202:43:00%20admits%20cup%20permit%20approval%20DID%20expire.%20%20@2:44:00%20Alison%20Harris%20board%20member%20conflict%20of%20interest%20bias%20and%20favor%20as%20she%20freely%20states%20she%20is%20inclined%20to%20approve%20this%20through%20again,%20@%202:44:00%20my%20testimony%20public%20comment%20and%20at%202:49:00%20it%20was%20approved%20and%20over.%20Quick%20approval%20demonstrates%20lack%20of%20review%20and%20going%20through%20the%20required%20bare%20minimum%20motions.%20Erroneously%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/4721?channel=1%0A1/11/22%20initial%20case%23%2021_069%20Conditional%20use%20permit.%20Starts%20at%201:12:00%20@1:14:00%20announced%20it%E2%80%99s%20a%202%20part%20process%20approval%20which%20cup%20is%20first%20upon%20approval%20then%20onto%20final%20major%20dev%20and%20site%20plan,%20conditioned%20upon%20the%20cup%20approval%20first.%20@3:04:00%20non%20included%20DEP%20permit%20by%20rule%20stormwater%20permit.%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5719?site=1%0A4/16/24%20town%20council%20meeting%20approval%20of%20fema%20flood%20maps.%20I%20spoke%20at%201:32:00%20of%20extreme%20flooding%20here%20and%20fema%20called%20to%20help%20with%20basement%20flooding%20in%202017%20built%20new%20home.%20@%201:34:00%20said%20Tedford%20lots%20is%20flooded%20and%20wouldn%E2%80%99t%20get%20needed%20approvals%20for%20federal%20fund%20grants%20due%20to%20unsustainable%20building%20dev.%20And%20life%20safety%20hazards.%20Spoke%20of%20unenforced%20negligent%20CEO%20complaint%20I%20filed%20on%203/20/24%20asking%20for%20help.%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5973?site=1%0A11/18/24%20Town%20council%20%20member%20mocked%20me%20caught%20on%20Hot%20LIVE%20mic%20saying%20%E2%80%9Cof%20course%E2%80%9D%20@2:08:00%20when%20being%20announced%20as%20a%20speaker%20for%20public%20comment%20on%20zoom.%20Humiliating%20and%20intimidating.%20I%20spoke%20on%20opposition%20to%20a%20second%20extension%20for%20Senator%20Mattie%20Daughtry%20of%20district%2023%20business%20venture%20with%20Tedford%20board%20member%20and%20developer%20Kevin%20Bunker%20of%20Developers%20Collaborative%20LLC.%20They%20bought%20this%20\$1.7%20million%20dollar%20historical%20town%20fire%20station%20for%20laughable%20low%20cost%20of%20\$200,000%20which%20was%20a%20closed%20bid%20not%20brought%20to%20open%20public%20market.%20Are%20getting%20millions%20worth%20of%20grants%20including%20CDBG,%20Historical%20development%20to%20housing%20grant,%20workforce%20housing%20grant,%20TIF%20job%20grant%20and%20tax%20breaks,%20town%20general%20fund%20grants%20awarded%20from%20housing%20committee%20in%20sum%20of%20\$200k%20so%20essentially%20paying%20them%20back%20what%20they%20paid%20to%20purchase%20and%20all%20for%20a%20FOR%20profit%20business%20and%205%20tiny%20apartments.%20Moderation%20brewery%20owned%20by%20Senator%20Daughtry.%20Kevin%20being%20the%20project%20developer.%20Sounds%20and%20appears%20to%20be%20collusion,%20advantage%20procurement,%20conflict%20of%20interests,%20racketeering%20and%20fraud.%20I%20believe%20this%20is%20a%20part%20of%20why%20Tedford%20approvals%20were%20accepted%20and%20push%20through%20even%20with%20all%20the%20zoning%20violations%20and%20issues.%20Political%20ties%20and%20favor.%20Kevin%20also%20developed%20the%20Asylee%20housing%20buildings%20on%20old%20BNAS%20and%20no%20one%20has%20access%20to%20how%20that%20hot%20approved%20and%20town%20says%20they%20didn%E2%80%99t%20know%20it%20would%20be%20that.%20It%E2%80%99s%20known%20as%20a%20bait%20and%20switch%20per%20online%20chat.%20All%20worth%20investigating.%20%0A%0A%0Ahttps://tv3hd.brunswickme.org/CablecastPublicSite/show/5738?site=1%0A5/6/24%20town%20council%20meeting%20also%20mocked%20at%20@

[48:00%20in%20by%20live%20mic%20and%20councilors%20%E2%80%9Ccomg%20did%20someone%20mention?%E2%80%9D%20When%20speaking%20at%20@46:00%20in%20against%20CDBG%20grant%20for%20central%20fire%20station%20elevator%20awarded%20to%20Senator%20matter%20and%20Kevin%20bunker%20business%20development%20deal.%20@2:12:00%20denied%20appointment%20to%20comprehensive%20plan%20committee,%20I%20spoke%20@1:06:00%20against%20too%20many%20zoning%20ordinance%20amendments%20to%20my%20zone%20district%20and%20cooks%20corner.%20@2:00%20councilors%20attempt%20to%20constraint%20freedom%20of%20speech%20of%20attendees%20and%20committee%20altering%20no%20disparaging%20words.%20They%20needed%20that%20advice%20themselves%20considering%2011/18/24%20and%205/6/24%20town%20staff%20and%20councilors%20disparaging%20me.%20%0A%0A%0A%0A%0A%0A](#)

On Mar 5, 2025, at 9:35 AM, Julie Erdman <jerdman@brunswickme.gov> wrote:

Good Morning Jennifer,

I will include your correspondence in tomorrow's Zoning Board of Appeals packet as previously requested. Please be aware that the Planning Board did not issue an extension of the Conditional Use Permit in May, they issued a new Conditional Use Permit. As you noted, the previous Conditional Use Permit had expired, and they had been informed by staff that they needed to reapply so that they could begin construction.

Best Regards,

Julie Erdman
Director
Planning and Development
P: (207) 721-4022
E: jerdman@brunswickme.gov

<image001.png>
85 Union Street
Brunswick | ME 04011
www.brunswickme.gov

<image002.jpg>

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From: Jen Navarro <blondie_mamita84@icloud.com>
Sent: Wednesday, March 5, 2025 5:25 AM
To: Julia Henze <jhenze@brunswickme.gov>; Town Council <towncouncil@brunswickme.gov>; Julie Erdman <jerdman@brunswickme.gov>; Fran Smith <fsmith@brunswickme.gov>
Subject: ATTN: Henze, Councilors, Staff

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Formal Letter to Brunswick Town Manager Julia Henze, Town Councilors, and Staff

Date: March 5, 2025

To: Julia Henze, Town Manager
Town of Brunswick
85 Union Street
Brunswick, ME 04011

From:
Mrs. Jennifer Navarro
90 Thomas Point Rd.
Brunswick, Maine 04011
(305) 608-3167

Subject: Immediate Action Required: Illegal Construction, Public Safety Violations, and Unjust Burden on Residents

Dear Ms. Henze, Town Councilors and Staff,

I am writing to formally demand that you take immediate action regarding the illegal construction occurring at the Tedford Housing development site at 65 Thomas Point Rd. Brunswick Maine 04011. This project is moving forward under an expired Conditional Use Permit (CUP) that was unlawfully extended by the Brunswick Planning Board on May 14, 2024—a decision that is legally void under both Maine law and Brunswick’s zoning ordinance.

In addition to the illegality of the CUP extension, the Tedford Housing development fails to meet critical life safety and infrastructure requirements, creating a severe liability for the town and putting both my family and vulnerable residents at risk.

1. The CUP Expired on January 11, 2024 – Any Construction Under It Is Illegal

Brunswick Zoning Ordinance § 5.2.9.Q.5 explicitly states that Conditional Use Permits automatically expire after two years if no Certificate of Occupancy has been issued. Tedford Housing did not obtain a Certificate of Occupancy by the deadline, meaning the permit expired on January 11, 2024.

Under Maine’s Vested Rights Rule (1 M.R.S. § 302), once a permit expires, it cannot be retroactively extended. A new application must be submitted, and the project must be reviewed under current regulatory standards. This legal principle has been reaffirmed by Maine courts, including:

- Southridge Corp. v. Board of Environmental Protection (1995) – Expired permits require reapplication.
- Stewart v. Town of Sedgwick (2001) – Towns have no discretion to revive expired permits unless explicitly stated in their ordinances.

-

State v. Gagne (2011) – Any approvals issued under an expired permit are legally void.

Because Tedford’s CUP was already expired when the Planning Board voted to extend it on May 14, 2024, this extension has no legal effect. All subsequent approvals granted under the expired CUP are void, and all ongoing construction must be halted immediately.

2. Life Safety and Infrastructure Failures Put the Town at Risk

Beyond the permit violations, the Tedford Housing project fails to meet fundamental life safety and infrastructure standards, creating a serious liability for the town and an unacceptable risk to residents.

Lack of Required Entry and Exit Points for Emergency Response

-

Tedford Housing does not meet life safety standards due to the lack of two compliant entry/exit points for a development of this size.

-

Emergency services require adequate access to large residential facilities, yet Tedford’s design does not provide the legally required egress routes for fire safety and emergency evacuation.

Lack of Adequate Infrastructure on Thomas Point Road

-

Thomas Point Road is not designed to support a high-traffic, high-occupancy development like Tedford Housing.

-

The increased pedestrian and vehicle traffic creates a severe hazard, especially given the lack of adequate sidewalks, street lighting, and traffic controls.

Recent Death Outside Portland’s Homeless Shelter Highlights the Danger

On February 23, 2025, Justin Mitchell was struck and killed by a car outside a homeless shelter in Portland. This tragic incident underscores the real and immediate dangers of placing high-density homeless housing in areas without proper infrastructure.

If the town allows Tedford Housing to proceed without ensuring adequate safety measures, it is creating the same conditions that led to Mitchell’s death—putting vulnerable residents directly at risk.

By approving this project without proper egress, emergency access, or roadway infrastructure improvements, the town is exposing itself to massive liability for any future accidents or fatalities.

3. The Town’s Failure Has Forced Me Into Another Unjust Appeal

I should not have to waste my time, resources, and emotional energy fighting yet another appeal on March 6, 2025, regarding the January 28, 2025, site plan reapproval—a process that should have been handled correctly from the start.

This is a direct failure of both your office and the Planning Board. The fact that I am once again forced into an unnecessary and avoidable battle is not just frustrating—it is a blatant injustice.

I resent the stress, financial burden, and disruption this has caused me. This situation is entirely avoidable had the town properly enforced its own zoning laws and CUP expiration policies.

To that end, I would like to be spared from having to go before the Zoning Board of Appeals yet again tomorrow—swift action is preferred to resolve this before it escalates further.

4. Immediate Actions Required

I am formally requesting that you take immediate corrective action to address these violations and prevent further harm to my property and community. Specifically, I demand that you:

1.
Issue an immediate Stop-Work Order for Tedford Housing, as all approvals issued after the CUP expired are legally void.
2.
Require Tedford Housing to submit a new application and undergo a full review under current zoning and environmental standards.
3.
Ensure compliance with life safety requirements, including the legally mandated entry/exit points.
4.
Conduct an independent review of the town's failure to provide necessary infrastructure improvements on Thomas Point Road before approving this project.
5.
Take proactive steps to prevent further discriminatory development practices that place an undue burden on my community while wealthier areas remain unaffected.

Failure to act swiftly will leave me no choice but to escalate this matter further, including legal action, public exposure, and direct appeals to state authorities. I will absolutely take this letter to public comment at town council meetings.

I do not recommend attempting to amend any zoning ordinance text because I have dated print outs that verify per this sent letter on 3/5/25 all these violations are valid. Also, they would not apply to this approval.

5. Disclosure Statement

Disclaimer: I am not an attorney, nor am I providing legal advice. I am a tax-paying citizen exercising my right to raise concerns regarding the Town of Brunswick's compliance with state and local laws. My statements are based on publicly available legal statutes, zoning

ordinances, and case law interpretations that appear to indicate significant legal violations regarding the Tedford Housing development.

If these statutes and legal precedents hold true, I demand that you take swift and appropriate remedial actions to rectify these violations and uphold the integrity of Brunswick's zoning and permitting processes. My intent is solely to ensure compliance with the law and to protect my property and community from unlawful and unsustainable development. Also, hold the planning board accountable and demand they make more informed and responsible decisions. They have allowed this, even if as you told me last week spoke, "they (approved) acted on the Town councils wishes" - Henze, on in approvals of Tedford.

This letter should not be misconstrued as legal representation or an attempt to offer legal conclusions beyond my rights as a concerned resident. My statements are made in good faith, and I reserve the right to seek legal counsel if necessary to protect my interests.

I request a written response within seven (7) days detailing the specific steps you will take to remedy these violations.

Sincerely,
Mrs. Jennifer Navarro
90 Thomas Point Rd.
Brunswick, Maine 04011
(305) 608-3167

Clear Evidence of Noncompliance with Legal Requirements

1. Tedford Housings CUP Expired on January 11, 2024

Brunswick Zoning Ordinance Â§ 5.2.9.Q.5 explicitly states that Conditional Use Permits (CUPs) lapse after two years if no Certificate of Occupancy has been issued.

â€¢ Fact: No Certificate of Occupancy was issued by January 11, 2024. This means the CUP expired automatically by operation of lawâ€”not by discretion, but as a mandatory legal consequence.

Conclusion: Since the CUP had already expired, it no longer existed as a valid approval when the Planning Board voted to extend it on May 14, 2024.

2. Retroactive Extensions Are Prohibited Under Maine Law

Maines Vested Rights Rule (1 M.R.S. Section 302) states that permit rights are only vested while the permit remains valid. Once a permit expires, it has no legal standing and cannot be revivedâ€”only a new application can be submitted.

Brunswick Zoning Ordinance does not provide any mechanism for retroactive reinstatement of an expired CUP.

Conclusion: The Planning Board had no legal authority to extend a non-existent permit. Their decision is ultra vires (beyond their legal power) and must be overturned.

3. The May 14, 2024, Decision Did Not Meet the Required Standards

Even if the town tries to argue that this was a “de novo” review, the record shows that Tedford Housing was not required to submit a new application, undergo a fresh review under current zoning laws, or provide new public notice and hearings.

A true de novo review requires the applicant to be subject to all new regulatory changes and procedural requirements. Instead, Tedford was merely granted an “extension” outside the scope of legal authority.

Key Failure:

No new public notice or public hearing was issued for a fresh CUP application.

No re-evaluation under updated zoning, environmental, or safety standards was conducted.

The decision was labeled as an “extension,” proving it was not a de novo review.

Conclusion: The towns attempt to retroactively extend the expired CUP is a procedural and substantive violation of both state law and Brunswick’s ordinances.

4. Any Approvals Granted After the CUP Expired Are Legally Void

Maine case law consistently holds that approvals based on expired permits have no legal effect.

30-A M.R.S. Â§ 4452 allows legal enforcement actions against municipalities that authorize development based on expired permits.

Since Tedford Housing’s approvals were all tied to the now-expired CUP, they are legally void, and any construction done under those approvals is unauthorized.

Shutting Down Any Counterarguments

Potential Argument from the Town/Tedford, Rebuttal

The Planning Board had discretion to extend the CUP., No, it did not. Brunswick Zoning Ordinance § 5.2.9.Q.5 mandates expiration after two years. There is no discretion to override this.

This was a “de novo” review., No, it was not. A true de novo review requires a new application, fresh public notice, and compliance with current laws. None of these occurred.

The town has historically allowed permit extensions., Precedent does not override the law. The town cannot create exceptions where none exist in the zoning ordinance.

The project meets the intent of the ordinance, so an extension is reasonable., Intent does not override explicit legal requirements. The ordinance states that expired CUPs require a new application—no exceptions.

Conclusion & Action Required

1. The Planning Board’s May 14, 2024, decision to extend the expired CUP is legally invalid and must be overturned.

2. Tedford Housing must submit a new application and undergo a full review, including public notice, hearings, and evaluation under current regulations.

3. Any construction or approvals issued under the expired CUP are unauthorized and must be halted immediately.

Legal Precedents Supporting the Invalidity of the CUP Extension

1. Maine Supreme Court Rulings on Expired Permits

Several Maine court cases establish that once a permit expires, it cannot be revived retroactively it must go through a new application process and meet current legal requirements.

• *Southridge Corp. v. Board of Environmental Protection*, 655 A.2d 345 (Me. 1995)

Key Finding: Once a permit expires, the applicant must reapply and is subject to new regulatory standards. The ruling reinforced that municipalities cannot extend expired permits outside of statutory authority.

• *Stewart v. Town of Sedgwick*, 2001 ME 52, 769 A.2d 631

Key Finding: Towns do not have discretion to reinstate an expired permit unless an ordinance expressly provides such a mechanism. Since Brunswick's zoning ordinance does not allow retroactive reinstatement, Tedfords extension is unlawful.

State v. Gagne, 2011 ME 64, 21 A.3d 1026

Key Finding: Even if a municipality mistakenly allows development based on an expired permit, such an error does not validate the permit or the approvals issued under it. Any actions taken under an expired permit are legally void.

2. Enforcement Obligations Under Maine Law

Under 30-A M.R.S. Section 4452, a municipality must enforce zoning and permitting regulations, and any failure to do so can result in legal action against the town.

This means that if the Town of Brunswick allows Tedford Housing to continue construction under an expired and unlawfully extended CUP, the town is liable for enforcement failures, potentially leading to court-ordered injunctions and damages.

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This was a “de novo” review., No, it was not. A true de novo review requires a new application, fresh public notice, and compliance with current laws. None of these occurred. It also is listed as extension in the fact of findings.

The town has historically allowed permit extensions., Precedent does not override the law. The town cannot create exceptions where none exist in the zoning ordinance.

The project meets the intent of the ordinance, so an extension is reasonable., Intent does not override explicit legal requirements. The ordinance states that expired CUPs require a new application—no exceptions.

Kind regards,
Mrs. Navarro

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