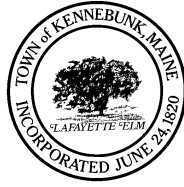


Town of Kennebunk, Maine



**Kennebunk Planning Board Agenda
Room 301, 7:00 p.m.
Monday, January 27, 2020**

***** Please Note NO NEW BUSINESS AFTER 10:00 PM *****

- I. Open Meeting**
- II. Joint Public Hearing**
 - A. Proposed Zoning Ordinance Amendment to permit Adult Use Marijuana Testing Facilities within the Business Park (BP) Zoning District.
- III. Workshop**
 - A. Wetlands Mitigation/ Shoreland Zoning Ordinance Discussion
- IV. Old Business**
 - A. Shoreland Permit – Southgate Road, (Tax Map 72, Lot 32) Impact priority 3 wetlands buffer in order to construct residential driveway.
- V. Approval of Meeting Minutes**
 - A. January 13, 2020
- VI. Adjournment**



John Stoll
Town Planner

Town of Kennebunk Community Development Department

Proposed Amendment to Zoning Ordinance Cover Sheet

Planning Board Public Hearing Date:	January 27, 2020 at 7 p.m.
Article(s) to be Amended:	Article 10 Section 24. Retail Marijuana Article 8, Section 14.B.5. Business Park District Article 2, Section 2 Definitions
Summary:	<p>This would permit retail marijuana testing facilities, licensed by the State of Maine, within the Business Park (BP) Zoning District.</p> <p>This amendment only deals with retail testing facilities and would not permit any retail stores, retail manufacturing or retail cultivation of marijuana within the Town of Kennebunk</p> <p>This amendment changes language from retail to adult use in order to be consistent with State law.</p>
Planning Board Action:	None

**Article 2, Section 2 Zoning Ordinance
Definitions**

~~RETAIL~~ **ADULT USE MARIJUANA:** Marijuana or marijuana concentrate that is cultivated, manufactured, distributed or sold by a retail marijuana establishment or retail marijuana social club.

~~RETAIL~~ **ADULT USE MARIJUANA CULTIVATION FACILITY:** A facility or an entity licensed to cultivate, prepare and package retail marijuana and to sell retail marijuana establishments and retail marijuana social clubs.

~~RETAIL~~ **ADULT USE MARIJUANA ESTABLISHMENT:** A retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility, or a retail marijuana testing facility.

~~RETAIL~~ **ADULT USE MARIJUANA PRODUCT:** A marijuana product that is manufactured, processed, distributed or sold by a licensed marijuana establishment or a retail marijuana social club.

~~RETAIL~~ **ADULT USE MARIJUANA PRODUCTS MANUFACTURING FACILITY:** A facility or an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

~~RETAIL~~ **ADULT USE MARIJUANA SOCIAL CLUB:** A facility or an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

~~RETAIL~~ **ADULT USE MARIJUANA STORE:** A facility or an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

~~RETAIL~~ **ADULT USE MARIJUANA TESTING FACILITY:** A facility or an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

(Article 8, Section 14 Zoning Ordinance)

Section 14. Business Park District (BP)

A. Purposes

The purpose of the Business Park District is to provide for an area centered along Route 1 where businesses can be established and grow without creating unsightly "strip development." The Comprehensive Plan establishes a goal for this area of allowing needed business growth without undue traffic congestion or giving up an attractive entry into the community. The emphasis in this district is on a mix of manufacturing, offices, and commercial activities that do not generate high volumes of traffic moving on and off Route 1.

B. Permitted Uses

The following uses are permitted in the Business Park District:

1. The following resource protection uses:
 - 1-1 Forest management
 - 1-2 Harvesting of wild crops

2. The following institutional uses:
 - 2-1 Municipal uses

3. The following commercial uses:
 - 3-1 Auto repair garages
 - 3-2 Business and professional offices
 - 3-3 Business services
 - 3-4 Commercial schools
 - 3-5 Eating places, provided that any such use which exceeds 2,000 square feet shall meet the definition of "low volume retail" in terms of its generation of traffic (see definition of Retail Sales)
 - 3-6 Motor vehicle retail sales and service
 - 3-7 Rental of equipment
 - 3-8 Retail sales, provided that any retail use which exceeds 2,000 square feet shall meet the definition of "low volume retail" (see definition of Retail Sales)
 - 3-9 Veterinary clinics
 - 3-10 Warehouses
 - 3-11 Wholesale sales

4. The following recreation and marine uses:
 - 4-1 Outdoor recreation

5. The following industrial uses:
 - 5-1 Boat building
 - 5-2 Manufacturing
 - 5-3 Research and development
 - 5-4 Testing facilities
 - 5-5 Tradesmen's shops
 - 5-6 Adult Use Marijuana Testing Facility**

(Article 10, Section 24 Zoning Ordinance)

Section 24. ADULT USE MARIJUANA

A. The following uses as defined in Article 2, Section 2 of this Ordinance and 28-B M.R.S.A. § 102, as may be amended, or any successor provisions thereof, are hereby prohibited in all zoning districts, either as principal or accessory use.

1. **Adult use** ~~retail~~ marijuana social clubs,
2. **Adult use** ~~retail~~ marijuana establishments, including the following uses:
 - a. **Adult use** ~~retail~~ marijuana products manufacturing facilities.
 - b. **Adult use** ~~retail~~ marijuana cultivation facilities.
 - c. **Adult use** ~~retail~~ marijuana stores.
 - ~~d. Retail marijuana testing facilities~~

B. Adult use marijuana testing facilities, licensed by the State of Maine, are permitted in the Business Park Zoning District.



To: John Stoll, Town Planner, Kennebunk
From: Lee Jay Feldman, Director of Planning
Date: 12/19/2019
Re: **Shoreland Zoning Ordinance**

As requested, I have reviewed the proposed shoreland zoning regulations. I have also sent a copy of the regulations with some minor changes to the wording in portions of the ordinance, these changes do not impact the intent of the proposed outcome but clarify what is being communicated.

I have some questions below that I was not sure about and I think you should consider as this process moves forward:

- Understanding the need for preservation of wetlands is a priority for the community, I do wonder if 500 square feet as a threshold is too small to keep manageable as part of the Mitigation program from an administrative and oversight standpoint?
- Who will oversee this program both from a technical standpoint in the field to make sure the standards are adhered to and in the office from an administrative and enforcement aspect? It seems that a full-time position may be needed for the program. Portsmouth has an Environmental Planner that does this type of work. You may want to look to Portsmouth for guidance on this.
- Has a fee schedule been established for the compensation program and how will it be developed? It seems that you need to develop a fair fee on a per square foot basis for compensation so that every project is working off the same amount.

I hope these questions are a help and that the town can work toward getting the best document available for administering .

January 24, 2020

ARTICLE 15
SHORELAND REGULATIONS

Section 1. Applicability

This section shall apply to all lands within the Shoreland Overlay District and Resource Protection District as defined in Article 3 of this ordinance

Section 2. Shoreland Permit Required

There shall be no filling of wetlands except as approved by the Planning Board under the applicable provisions of Article 15, Section 3, Performance Standards and as approved by the US Army Corps of Engineers and by the Department of Environmental Protection, as applicable.

A. Purpose

The Town of Kennebunk's Shorelands and Wetlands are indispensable and fragile resources that provide many public benefits.

B. Shoreland Application Procedures

1. **Required Submissions:**

- (a) Application – the applicant shall submit eleven (11) copies of the completed application, application fee including any professional review costs, and all items listed in Article 15, Section 2.B.1
- (b) A plan showing the full extent of any wetlands impacts and encroachment.
- (c) If a road or driveway is associated with any wetlands impact or shoreland encroachment, then a road profile shall be submitted that demonstrates the following:
 -
- (d) Erosion control details fully illustrating the plan's conformance with Article 15, Section 3.B,

2. Additional Requirements for projects requiring mitigation:

- (a) A mitigation plan prepared by a certified wetlands specialist which:
 - Delineates and evaluates the functions and values of the wetland/shoreland site being impacted by the proposed development.
 - Addresses the impacts to the aquatic resource, and
 - Proposes a plan for replacing the loss of the aquatic resource and/or buffer area by creating, restoring, and/or enhancing similar aquatic resource functions and values

3. Review Procedures.

(a) Once the Town Planner receives a complete application, the application set will be distributed to the Town Engineer, Code Enforcement Officer, and Conservation Commission for their review.

(1) Applications for Piers, Docks, Wharves along the Kennebunk River shall be sent to the Kennebunk River Committee for their review.

~~(b) The Town Planner will place the complete application on the next available development review meeting of the Kennebunk Planning Board.~~

Section 3. Performance Standards

A. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *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).
- (2) There shall be no tilling of soil within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body listed in Article 3, Section 2.B or 3.B.(1) and (2) or within twenty-five (25) feet, horizontal distance, of the normal high-water line of other streams or wetlands located in a shoreland zone.
- (3) Where soil is tilled in a Resource Protection area or where soil in excess of 20,000 sq. ft. lying either wholly or partially within the area covered by this Ordinance is tilled in the Shoreland Overlay District such tillage shall be carried out in conformance with the provisions of a Conservation Plan which meet the standards of the State Soil and Water Conservation Commission. The number of the plan shall be filed with the Planning Board. Nonconformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.
- (4) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of the normal high-water line of any great pond, river, perennial stream or wetland. All 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.
- (5) Agricultural activities within the Shoreland Overlay District involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a 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.
- (6) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor within twenty-five (25) feet, horizontal distance, of tributary streams and 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 Conservation Plan.

B. Filling, Grading, Lagooning, Dredging

Any work under this subsection shall not begin until a permit has been issued for the proposed activity by the Code Enforcement Officer. The applicant shall satisfy the Code Enforcement Officer that:

- 1) The smallest amount of bare ground will be exposed for the shortest time feasible;
- 2) Temporary ground cover, such as mulch, will be used and, as soon as possible, permanent cover, such as sod, will be planted;
- 3) Diversions, silting basins, terraces and other methods to trap sediment will be used;
- 4) Lagooning will be conducted in such a manner as to avoid creation of fish trap conditions;
- 5) Fill will be stabilized according to accepted engineering standards;
- 6) Fill will not restrict the flow of a natural drainageway;
- 7) Sides of a channel or artificial waterway will be stabilized to prevent slumping;
- 8) Sides of channels or artificial watercourses will be constructed with slopes of 2 feet horizontal to 1 foot vertical or less steep, unless bulkheads or riprapping are used; and
- 9) On slopes greater than 25%, there shall be no grading or filling within one hundred (100) feet of the normal high water mark except to protect the shoreline and prevent erosion.

C. Clearing or removal of Vegetation for Activities other than Timber Harvesting

- (1) Within a Resource Protection District, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water mark line, except to remove safety hazards.

Elsewhere, in the Resource Protection District, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in paragraph (1) above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than two hundred and fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forest 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 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, provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section (D)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) 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 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

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 is 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 this section "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 rectangle area. 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.

- (c) Pruning of tree branches, on the bottom third of the tree is permitted.
- (d) 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.

- (e) 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 a footpath or other permitted uses, except as described in Section 3.D.2 and 2(a) above.
 - (f) Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above the ground level may be removed in any ten (10) year period.
- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be 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 4½ 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 any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area for that part of the lot area located in the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the mixed use, commercial, business or industrial districts.

- 4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as permitted by this ordinance.
- 5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation, shall be regulated under the provisions of this section.

D. Piers, Docks, Wharves, Breakwaters, Causeway, Marinas, Bridges, and Uses Extending Over or Below the Normal High Water Line of a Water Body or Within a Wetland.

- (1) Any new permanent, temporary, or material expansion or alteration of a pier, dock, wharf, bridge, or other structure or use extending over or below the normal high water line of a water body or within a wetland shall require a building permit; subject to prior Special Exception review and approval by the Planning Board. Any new permanent structure, or expansion thereof, shall require a permit from the Department of Environmental Protection (DEP) 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. In addition, the applicant shall be required to obtain any other federal and state approvals that may be needed, including evidence of a submerged land lease from the Maine Bureau of Public Lands, if applicable. Prior to Planning Board's final action on any Kennebunk River related application, a copy of the application shall be forwarded to the Kennebunk River Committee and Harbormaster for review and comment; which shall be

made part of the Planning Board's record.

- (2) In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:
- (a) For the purpose of the protection of property against flood and/or storm damage and the protection of identified sensitive environmental habitats, piers, docks, wharves, walkways, ramps or floats shall not be permitted in any areas identified as Velocity Zones as shown on the most recent Flood Insurance Rate Map produced by FEMA,
 - (b) No new permanent, temporary or material alteration of a pier, dock, wharf, bridge, or other structure shall be permitted within the wildlife habitat of species considered endangered or threatened by the Maine Department of Inland Fisheries and Wildlife or U.S. Fish and Wildlife Service,
 - (c) Piers, docks, wharves, walkways, ramps and floats shall be constructed to meet the standards for "Appurtenant Structures" as set forth in FEMA 55, Coastal Construction Manual, third edition, June 2000, as amended. The area of a float or floats shall not exceed 200 square feet, except that when shared by two or more abutting property owners as delineated in 10.3. E. (d), two such floats may be used,
 - (d) Piers, docks, wharves, walkways, ramps or floats require the lot to have a minimum of 60 feet of shore frontage. If a property owner does not meet this standard, the applicant may co-apply with an abutter or abutters and must demonstrate that in combination with such abutting property, this standard will be met. The agreement for shared maintenance, and repair costs, outlining pier location and shared access, including any property easements, must be recorded with the York County Registry of Deeds. Once a property owner has entered into a shared pier agreement, that property owner forfeits the right to build his or her own pier. Subdivisions and Condominium Homeowners Associations with 60 feet or more of frontage are allowed to build only one pier and if the frontage is at least 100 feet, may have a maximum of two floats. All members shall use that pier jointly.
 - (e) No portion of a pier or float shall be located within 25 feet of a property line or property line extension seaward, unless the pier is a shared pier as per 10.3.E.(d),
 - (f) Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion and avoid adverse impact on coastal or freshwater vegetation. Appropriate pile installation techniques shall be utilized to minimize disturbance of sediments. Any ramp, walkway or pier shall be at least one foot above the ground, as measured from the lowest part of the structure. Deck boards shall be a maximum of 6 inches in width and spaced ½ inch apart. Paint, stains and water proofing shall not be applied. Coastal bank shall be protected from erosion by the use of suitable stairs no wider than four feet,
 - (g) The location of any structure shall not interfere with existing developed or natural beach areas, nor impede legitimate passage along a beach,

- (h) The facility shall be located so as to minimize adverse effects on fisheries.
- (i) 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 noncommercial ramp, pier, walkway, dock or wharf shall not be wider than four feet. Pairs of pilings or supports shall be not closer than ten feet,
- (j) Lighting to illuminate walkways, ramps and floats only, and ,any such lighting must meet the private outdoor lighting standards of this ordinance,
- (k) No new structure shall be built on, over or abutting a pier, dock, or other structure extending beyond the normal high waterline of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity,
- (l) New permanent piers and docks on non tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the DEP, pursuant to the Natural Resources Act , 38 M.R.S.A., Section 480-C,
- (m) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high waterline of a water body or within a wetland shall be converted to residential dwelling units in any district,
- (n) 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,
- (o) Any pier, walkway, dock or wharf, including ramps and floats, shall be no longer than a total length of 100 feet nor extend more than one fifth (1/5) of way across a body of water. The Planning Board may, upon review, modify the length requirement if it is demonstrated that no other reasonable alternative exists to provide water access,
- (p) Off–season storage of temporary floats, ramps or walkways must be on upland areas so as to not damage marine or freshwater vegetation. Caution must be exercised to avoid damage to shoreline banks and shoreline vegetation. Ramps may be stored on piers or docks. All stored items must be properly and safely secured so as not to become a wind or wave borne hazard in a severe storm or hurricane, and
- (q) Enlargements, alterations, repairs, or the rebuilding of nonconforming piers, docks, walkways, wharves, ramps or floats shall be governed by the provisions of Art. 5. of the ordinance.

E. Campgrounds

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of suitable land, not 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.
- (2) The areas intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of one hundred (100) feet horizontal distance from the normal high water mark of any pond, river, tributary stream, wetland, or salt water body as defined.

F. Roads, Driveways and Parking Areas

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

- (1) The Planning Board, (or the Site Plan Review Board or Staff Review Committee in the case of site plan applications), may approve a road, driveway, and/or parking area plan which is exempt from the setbacks imposed by Article 8, Section 16.D upon a finding that no reasonable alternative exists, and upon a clear showing by the applicant that no greater setback can be achieved, and that appropriate techniques will be used to prevent sedimentation of the water body. 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 as to avoid sedimentation of the water body, tributary stream, or wetland. On slopes of greater than twenty (20) percent, the road, driveway and/or parking area setback shall be increased by ten (10) feet horizontal distance for each five (5) percent increase in slope above twenty (20) percent. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section D.(1) except for that portion of the road or driveway necessary for direct access to the structure.

In no case shall the Planning Board, Site Plan Review Board, or Staff Review Committee reduce the road, driveway, or parking area setback to less than 50 feet from the shoreline of a water body or tributary stream, or from the upland edge of a coastal wetland or Priority 1 wetland, except for water crossings and unless otherwise allowed by the terms of the underlying district standards in the Ordinance.

- (2) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District, except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (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 herein.
- (5) Road and driveway grades shall be no greater than ten(10) percent, except for short

segments of less than two hundred (200) feet.

- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, 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 width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. 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.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient column or heat to erode the road, driveway or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associate water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<u>Grade</u> (Percent)	<u>Spacing</u> (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.

Article 10, Page 9
Part A. Environmental, Section 3

- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - (d) Ditch relief culverts 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.
- (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.

G. Sanitary Standards

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

- (1) All subsurface sewage disposal systems shall be located in areas of suitable soil of at least one thousand (1,000) square feet in size.
- (2) The minimum setback for subsurface sewage disposal facilities shall be no less than one hundred (100) horizontal feet from the normal high water mark of a perennial water body. This requirement shall not be reduced by variance.
 - a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and
 - b) a holding tank is not allowed for a first-time residential use in the shoreland overlay zone or resource protection zone.
- (3) Replacement systems shall meet the standards for replacement systems as contained in the rules.

H. Signs

Signs within the shoreland areas shall comply with the standards of the applicable underlying zones.

I. Timber Harvesting

- (1) Within the strip of land extending seventy-five (75) feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond, there shall be no timber harvesting, except to remove safety hazards.
- (2) Except in areas as described in Paragraph 1 above, 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 one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings. A well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one hundred (100) feet, horizontal distance, of a great pond or river flowing to a great pond and greater than seventy-five (75) feet, horizontal distance, of the normal high water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) 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) No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground, and no part thereof, extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- (c) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (d) All crossings of flowing water shall require a bridge or culvert designed in conformance with U.S. Army Corps of Engineer Standards, 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.
- (e) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (f) 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 soil and the normal high-water line of a water body or upland edge of a 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 water body or 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 normal high-water line of a water body or upland edge of a wetland.

J. 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, tributary stream or wetland.

K. Erosion and Sediment Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan in conformance with York County Soil and Water Conservation District Standards. The plan shall be submitted to the permitting authority 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 structures such as retaining walls or riprap.

- (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.
- (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.
- (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.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways 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 riprap.

L. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment 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.
- (2) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and

less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

M. 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 permitting authority, shall be submitted by the applicant to the Maine Historic Preservation 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.

N. Shoreland/Wetland Mitigation Plan

1. Purpose-The Town of Kennebunk's Shorelands and Wetlands are indispensable and fragile resources that provide many public benefits including:

- Maintenance of surface and groundwater quality through nutrient cycling, sediment trapping, and serving as biological and chemical oxidation basins;
- Flood and storm water runoff control through temporary water storage, slow release, and ground water recharge;
- Open space and passive outdoor recreation areas; and
- Habitat for fish and wildlife, and rare, threatened or endangered wildlife and plant species.

In recognition of the cumulative effect that frequent minor Shoreland/wetland alterations may have on the environment of the Town, as well as the less frequent larger alterations, these mitigation/compensation standards require that all proposed wetland alterations and/or development be reviewed by the Conservation Commission and receive Shoreland/wetland mitigation plan approval by the Planning Board prior to receiving any permits from the Code Enforcement Officer.

2. Exemptions –

a. A Shoreland / Wetlands Permit is not required under this section for:

- (1.) Alterations in a wetland for an emergency repair of a public road, rail or utility line crossing or a river, stream or brook for a distance of up to 100 feet from the normal high water line on both sides, measured perpendicular to the bank of the river, stream or brook, and provided the total project affects 500 square feet or less of the channel;
- (2.) Walkways/Access structures. A wetland alteration consisting of a walkway or access structure for public purposes or that is necessary to comply with the Americans with Disabilities Act; or
- (3.) Wetland alteration activities required to perform compensation as a condition of a Natural Resources Protection Act (NRPA) permit by the Maine Department of Environmental Protection (MDEP) pursuant to the MDEP Wetlands and Waterbodies Protection Rules

- b. Access roads to a single lot of record that affect XXX or less of wetlands and their setbacks do not require a compensation project plan.

3. Compensation Project Plans

A. Additional Plan Information: Any plan which includes a compensation project will include the information required in Part II. Of the NRPA Application; except that any deed restrictions or conservation easements shall grant a right of enforcement to the Town of Kennebunk.

B. Types of Compensation Projects: More than one type of compensation project may be allowed on a single project. Compensation project may include:

1. Preservation: Preservation of existing wetlands and/or adjacent uplands where the site to be preserved provides significant wetland functions and values that might otherwise be degraded by unregulated activity;
2. Restoration: Restoration of previously degraded wetlands, including but not limited to, removal or invasive non-native wetland plants; or
3. Enhancement: For the purposes of this Ordinance, enhancement is any activity improving the ability of an existing, degraded wetland or water body to support natural aquatic life, through substantial alterations to the soils, vegetation and/or hydrology.
4. Creation: For the purpose of compensation, is defined as an activity bringing a wetland into existence at a site where it did not formerly occur.

C. Compensation amounts – The following ratios indicate the acreage needed in a compensation project relative to the acreage altered by the proposed project or activity.

- 8:1 for preservation projects. At the discretion of the permitting authority, upland areas adjacent to a wetland may be included in a preservation project;
- 1:1 for restoration or creation projects
- 5:1 for enhancement projects

All amounts are doubled for wetlands of Special Significance as defined in Article 2, Section

D. Location of Compensation Projects – The mitigation project shall take place in a location:

- (1) On or close to the project site as possible; preference shall be given to restoration projects that will off-set lost functions and values within, or in close proximity to, the affected wetland.
- (2) If approved by the permitting authority, compensation may occur in an off-site location within Kennebunk where it will satisfy local wetland protection priorities.

E. Standards for Compensation Projects – Where a compensation project is required, the following standards shall apply:

- Financial and Technical Capability: The applicant shall demonstrate sufficient financial resources to complete the proposed compensation work, including subsequent monitoring and corrective actions, if applicable. The applicant shall also demonstrate, for restoration or enhancement projects, sufficient scientific expertise to carry out the proposed compensation work
- Monitoring - For restoration or enhancement projects, the applicant set forth a plan for annual reporting and remediation measures during monitoring of the restored wetland or enhancement over a minimum of five (5) years, which shall include contingency plans for replanting or other corrections if the project fails to meet project goals during that time. The annual report will be addressed to the Kennebunk Town Planner, with a copy sent to the Conservation Commission.
- Maintenance - For restoration, enhancement, or creation projects, the permit holder shall be required to conduct activities to assure the accomplishment of compensation goals, after the implementation phase of a compensation project has been completed.
- Persistence - For restoration, enhancement, and creation projects, on the basis of an updated functional assessment, a minimum of 85% of the compensation area must successfully replace the altered wetland's functions and values after a period of three years unless otherwise approved by the permitting authority. If this level is not achieved, or if evidence exists that the compensation site is becoming less effective, the Town may require additional monitoring and corrective action, or additional wetland restoration in order to achieve the compensation ratio as originally approved.
- Protection - A compensation project involving restoration or preservation of wetlands and/or preservation or enhancement of upland areas adjacent to wetlands shall ensure that the wetlands will remain wetlands in perpetuity, and any upland areas will remain undeveloped in perpetuity, through a covenant and restriction in the deed, or a conservation easement conveyed to a local or state conservation group or the Town of Kennebunk, and approved by the permitting authority. Any easement or deed restriction shall list the Town of Kennebunk as an enforcing agent. The scope of permitted land management practices to be included in the easement or covenant and deed restriction shall be subject to approval by the permitting authority.
- Completion – The Compensation Project Plan must be completed prior to, or concurrent with, the permitted alteration, unless otherwise approved by the permitting authority.

F. Performance Guarantee. A Compensation Project Plan approval shall not be deemed final nor shall the final site plan be released until the developer has filed a performance guarantee with the Town Manager covering 125% of the cost of the Compensation Project Plan. The performance guarantee may be tendered in any of the forms listed in Article 11.10.B of this ordinance and will be held for three years.

4. Wetland Compensation Fees

A. Wetland Compensation: When a proposed activity or development will unavoidably impact a wetland area of 500 square feet or greater, a fee shall be assessed and payment shall be submitted per subsection (B) below, payable to the Town of Kennebunk, prior to issuance of a permit. Such fee will only be accepted if the applicant does not have the option to propose a feasible wetland compensation project that would receive approval of a wetland compensation project consistent with this Ordinance, and shall submit information required for compensation projects as provided in Part II of the NRPA Permit Application. A wetland compensation project must be approved by the permitting authority.

B. Wetland Compensation Fees

1. Compensation fee amounts. Compensation fees shall be computed using the calculation devised under the Maine Natural Resources Protection Act (NRPA) (38 M.R.S.A. § 480 Z). The average assessed land valuation will be the current average assessed per acre value of land in the Town of Kennebunk. In addition, a 5% administration fee will be assessed. Any compensation fee shall be paid to the Town of Kennebunk which shall deposit it into a Wetlands Compensation Fund.

C. Wetland Compensation Fund

1. Establishment. The municipal officers shall establish a Wetland Compensation Fund on or before the effective date of this Ordinance.

2. Purposes and Uses. The Fund shall be permanently and exclusively dedicated to payment of costs and related expenses of wetland compensation projects as defined in this Ordinance, which are approved by the Town's permitting authority and the Board of Selectmen. Costs for administering the fund may be charged to the fund, but shall not exceed five percent of the fees collected or deposited pursuant to this Ordinance.

3. Payments to the Fund. Compensation fees collected pursuant to this Ordinance shall be deposited into the Fund. The Town of Kennebunk may accept payments into the Wetland Compensation Fund for compensation required by the state or federal governments for permits issued by those authorities for wetland alterations.

4. Administration.

a) The Town of Kennebunk may make payments from the fund consistent with the purposes and uses of the fund as stated in 4(C)(2).

b) Income received under this subsection may be invested as provided by law. Interest on these investments must be credited to the Wetlands Compensation Fund.

c) The Town of Kennebunk may enter into an enforceable, written agreement with a public, quasi-public, or private non-profit organization dedicated to the protection of wetlands and other natural areas for the purposes of administering the Wetlands Compensation Fund and ensuring that compensation projects are implemented consistent with the standards and provisions for compensation projects set forth in this Ordinance. If compensation fees are provided to an authorized organization, the organization shall maintain records of expenditures and provide an annual summary report to the Town of Kennebunk. If the organization does not perform in accordance with this subsection or with the requirements of the written agreement, the Town of Kennebunk may revoke the organization's authority to conduct activities in accordance with this subsection. If an organization's authorization is revoked, any funds provided

to it must be returned to the Compensation Fund.

- d) Any compensation fee deposited into the Fund for a permit issued pursuant to this Ordinance that is not committed to a specific wetland compensation project within ten years of deposit into the Fund shall be transferred to the Kennebunk Conservation Land Purchase Account to be used for wetland restoration, replacement or enhancement.

9. Expiration of Permits

A Shoreland / Wetlands Permit issued pursuant to this Ordinance shall remain effective for as long as the accompanying NRPA permit is valid, and may be renewed for up to 1 year.

10. Amendments to the Permit

Wetlands Permits are dependent upon and limited to the wetland mitigation proposals contained in the permit application and supporting documents submitted and affirmed by the applicant. Any variation from the wetland mitigation plans, proposals, and supporting documents, except minor changes that do not affect approval standards or alter the essential nature of the compensation proposal and which have been endorsed in writing on the permit by the Code Enforcement Officer, is subject to review and approval by the Board that granted the original approval.

11. Review and Approval Criteria – The Planning Board (or Site Plan Review Board in the case of Site Plan Application) may permit wetland fills and/or development within the Shoreland setback area upon a positive finding that each of the following criteria has been met:

- a) The project will not fill or disturb a Wetland of Special Significance or its setback.
- b) The project will not fill or disturb a wetland within the Coastal Residential District or the Rural Conservation District.
- c) For projects that fill or disturb from 1 to 499 square feet of wetland and/or Shoreland Zone setback area not described in 11a or 11b, above, the applicant has made a clear showing that:

(1) No reasonable alternative exists and that no greater setback from the Shoreland/wetland area can be achieved. The applicant shall provide evidence that the following alternatives are not feasible:

- Utilizing, managing or expanding one or more other sites that would avoid or reduce the wetland impact,
- Reducing the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact, and
- Developing alternative project designs, such as cluster development, that avoids or lessens the wetland impact;

(2) the project meets all applicable Federal and State permit requirements, and the applicant provides evidence that those agencies have approved the application;

(3) the proposed use will not result in:

- a measurable increase in the discharge of surface waters to the shoreland/wetland,
- a measurable reduction in the shoreland/wetland's capacity for retention and absorption of silt, organic matter, nutrients and pollutants,
- a measurable reduction in the shoreland/wetland's existing capacity to absorb, store and slowly release storm water runoff,
- a measurable loss of important feeding, nesting, breeding or wintering habitat for wildlife or aquatic life and/or
- A measurable increase in the existing seasonal temperature of surface waters

in or discharge to the shoreland/wetland.

- d) In addition to meeting the criteria in (b)(1) above, for projects filling or disturbing from 500 to 14,999 square feet of wetland and/or shoreland setback area, or as otherwise required by the Board, the applicant shall submit a wetland compensation plan showing proposed compensation measures (as set forth in subsection 6 of this Section) to be taken to offset potential adverse environmental impacts to the resource. Mitigation includes the preservation of upland adjacent to the affected wetland, and compensating for an impact by replacing or restoring affected resources.

a) b)

The Board may consult with technical experts, including but not limited to a wetlands consultant, during the course of its review of the project to ensure that proposed methods of compensation are adequate. Applicant is responsible for the fees charged for this review.



John Stoll
Town Planner

Town of Kennebunk Community Development Department

Planning Board

January 27, 2020

Project Summary –Wetlands/Shoreland Application
Findings of Fact, Conditions of Approval, and Conclusions of Law

Project: Southgate Shoreland Permit
Project # #34-19
Property Owners: April Mauro
Address: Southgate Road
Map/Block/Lot: Map 72, Lot 32

Determination of Completeness:

Application is complete

Project Description:

The applicant is requesting permission to construct an access driveway within the 25' setback of a priority 3 wetland. There is a vernal pool identified within the project site.

Project Details:

Zoning: Rural Conservation (RC) Shoreland Overlay
Existing Use: Residential

1. General Comments

1.1 The following comments pertain to Shoreland application submitted by April Mauro and dated November 7, 2019.

1.2 The Board held a site walk on , 20

1.3 This application does not require a public hearing.

2. Article 10. A. Section 3.C. Filling, Grading, Lagooning, Dredging

2.1 Bare Ground Exposed Shortest Time Feasible Met ; Not Met ; Not Applicable

Fact(s)

- Applicant has submitted an Erosion and Sedimentation Control Plan developed in accordance with Best Management Practices and that plan has been reviewed by the Town Engineer for conformance with local regulations.

- Any exposed soils will be covered if unworked for 14 days.

Conclusion: Based upon these facts and those in the record the Planning Board finds that the smallest amount of bare ground will be exposed for the shortest time feasible.

2.2 Temporary ground cover Met ___; Not Met ___; Not Applicable ___

Fact(s)

- Applicant has included measures for temporary ground cover developed in accordance with Maine DEP BMPs. Temporary ground cover, such as mulch, will be utilized by the applicant.
- Temporary seeding, hay bales, straw will be utilized as temporary ground cover.

Conclusion: Based upon this fact and those in the record the Planning Board finds that temporary ground cover, such as mulch, will be used and, as soon as possible, permanent cover, such as sod, will be planted.

2.3 Diversions, silting basins, terraces, etc. used Met ___; Not Met ___; Not Applicable ___

Fact(s)

- Proposed sediment containment methods include the installation of silt fence and berm
- See 2.2 of this report.
- Sediment barriers will remain in place until permanent stabilization can be installed.

Conclusion: Based upon these facts and those in the record the Planning Board finds that diversions, silting basins, terraces, and other methods to trap sedimentation will be used.

2.4 Lagooning Met ___; Not Met ___; Not Applicable ___

Fact(s)

- Applicants have not proposed any lagooning

Conclusion: Based upon this fact and those in the record the Planning Board finds that this standard is not applicable.

2.5 Fill stabilized Met ___; Not Met ___; Not Applicable ___

Fact(s)

- See 2.2 of this report.
- This application does not propose to fill any wetland.

Conclusion: Based upon this fact and those in the record the Planning Board finds that fill will be stabilized according to accepted engineering standards.

2.6 Fill will not restrict flow of natural drainage way. Met ___; Not Met ___; Not Applicable ___

Fact(s)

- No drainage ways will be impacted by this proposal.

Conclusion: Based upon this fact and those in the record the Planning Board finds that fill will not restrict the flow of a natural drainage way.

2.7 Sides of channel stabilized Met ___; Not Met ___; Not Applicable ___

Fact(s)

- No artificial waterways will be created by this application.

Conclusion: Based upon this fact and those in the record the Planning Board finds that sides of channel or artificial waterway will be stabilized to prevent slumping.

2.8 Sides of channels constructed with slopes 2:1 Met ___; Not Met ___; Not Applicable ___

Fact(s)

- No channels will be created by this proposal.

Conclusion: Based upon this fact and those in the record the Planning Board finds that sides of channels or artificial watercourses will be constructed with slopes of 2 feet horizontal to 1 foot vertical or less steep, unless bulkheads or rip rapping are used

2.9 Slopes greater than 25% Met ___; Not Met ___; Not Applicable ___

Fact(s)

- No grading or filling proposed on slopes greater than 25%

Conclusion: Based upon this fact and those in the record the Planning Board finds that on slopes greater than 25%, there shall be no grading or filling within one hundred (100) feet of the normal high water mark except to protect the shoreline and prevent erosion.

2.10 Filling of Wetlands. Met ___; Not Met ___; Not Applicable ___

Fact(s)

- This application is being reviewed by the Planning Board under the provisions of Sections 3E, 3G, an 3P of the zoning ordinance

Condition of Approval: All applicable state and federal approval shall be submitted prior to the issuance of a building permit.

Conclusion: Based upon this fact and those in the record the Planning Board finds that this application has been reviewed under the provisions of Article 10, Sections 3.E, 3.G, and 3.P (Performance Standards) as applicable, and as approved by the US Army Corps of Engineers and by the Maine Department of Environmental Protection, as applicable.

3. Article 10.A.Section 3.G Roads, Driveways and Parking Areas

3.1 In General Met ___; Not Met ___; Not Applicable ___

Fact(s)

- The applicants appear to have designed the driveway in order to minimize impacts to natural resources and there does not appear to be a more reasonable alternative for the location of the driveway.

Conclusion: Based upon these facts and those in the record the Planning Board finds that no reasonable alternative exists and no greater setback from the shoreland/wetland can be created, and appropriate measures have been proposed.

3.2 Existing Public Roads Met ___; Not Met ___; Not Applicable ___

Fact(s)

- This project does not propose any work related to an existing public road.

Conclusion: Based upon this fact and those in the record the Planning Board finds that this standard is not applicable.

3.3 Resource Protection Met ___; Not Met ___; Not Applicable ___

Fact(s)

- This project is not in a resource protection district

Conclusion: Based upon this fact and those in the record the Planning Board finds that this standard is not applicable.

3.4 Driveways at 2:1 slope Met ___; Not Met ___; Not Applicable ___

Fact(s)

- No driveway will constructed greater than a 2:1 slope

Conclusion: Based upon this fact and those in the record the Planning Board finds that road and driveway banks will be no steeper than a slope of 2 horizontal to 1 vertical.

3.5 Driveway Grades Met ___; Not Met ___; Not Applicable ___

Fact(s)

- Proposed driveway grades do not exceed 10% except for short segments of less than 200 feet.

Conclusion: Based upon this fact and those in the record the Planning Board finds that driveway grades shall be no greater than 10% except for short segments of less than 200 feet.

3.6 Road & Driveway Surface Drainage Met __; Not Met __; Not Applicable __

Fact(s)

- No culvert has been proposed by this application.

Conclusion: Based upon this fact and those in the record the Planning Board finds that 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 width between the outflow point of the ditch or culvert and the normal high water line of a water body.

3.7 Culverts, dips, and turnouts Met __; Not Met __; Not Applicable __

Fact(s)

- No culverts have been proposed by this application.

Conclusion: Based upon these fact and those in the record the Planning Board finds that culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient column or heat to erode the driveway.

3.8 Ditches, culverts, bridges, dips, turnouts runoff control Met __; Not Met __; Not Applicable _

Fact(s)

- Maintenance of runoff controls will be handled by the homeowner

Conclusion: Based upon this fact and those in the record the Planning Board finds that Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways will be maintained on a regular basis

4. **Article 10. A. Section 3P. Shoreland Mitigation Plan** Met __; Not Met __; Not Applicable _

4.1 Projects that fill less than an acre of Wetland

Fact(s)

- The proposed location of the driveway running along the property boundary appears to offer the least impact to the wetlands. There does not appear to be a practical alternative.

Condition of Approval: The applicants will show evidence that all applicable remaining federal and state permit requirements have been fulfilled prior to the issuance of a building permit.

Conclusion: Based upon this fact and those in the record the Planning Board finds that no reasonable alternative exists and no greater setback from the shoreland/wetland can be achieved and that the project meets all applicable Federal and State permit requirements.

5. Decisions

5.1 Proposed Motion: The Kennebunk Planning Board **grant/not grant** approval to the request by April Mauro to construct a residential driveway within the required 25' setback of a priority 3 wetland (project # 34-19) subject to the following condition(s) of approval:

a.) The applicants will show evidence that all applicable remaining federal and state permit requirements have been fulfilled prior to the issuance of a building permit.

5.2 Proposed Motion: The Kennebunk Planning Board **approve/not approve** the Findings of Fact, Conditions of Approval, and Conclusions of Law for project #34-19.

Town of Kennebunk
Planning Board
Meeting Minutes
Monday, January 13th, 2020

Present: Richard B. Smith—Vice Chair; Janice Vance; Robert Metcalf; Edward Trainer—Alt.;

Absent: Chris MacClinchy—Chair; David Smith—Secretary

Also Attending: John Stoll—Town Planner

1. Open Meeting

R. Smith opened the meeting at approximately 7:00 PM. Today is Monday, January 13th, 2020.

2. Agenda Items

I. Marijuana Testing Facility Zoning Proposal

R. Smith states that the first item on the agenda is marijuana testing facility zoning.

J. Stoll notes that this is a proposed amendment to the zoning ordinance that is time sensitive. He notes that there are two gentlemen here [from the State Office of Marijuana Policy]. He states that basically the testing of retail marijuana is not allowed in Kennebunk and this would require [a change in the zoning ordinance to allow such testing]. He notes that this would require a “fast turn-around,” so a public hearing would be January 27th. He notes that the Board could schedule a public hearing and [he could provide the Board with additional information at a later date]. He notes that he does have a set of questions.

Eric Gunnerson introduces himself as the director of marijuana policy. He notes that [the administration] was established in February 2019 by the Mills administration. He notes that they have passed the regulations at the state level to have the infrastructure for the [adult-use marijuana] program. He notes that they have developed a licensing and application process; they have put together a compliance team; and they have a data analytics team. He states that they are saying the mission statement of the Office of Marijuana Policy is to ensure the public health and safety of all Mainers by efficiently and effectively regulating marijuana establishments. He notes that a “key aspect” is having a close relationship [between] “our office” and the testing facilities. He notes that all marijuana that moves through the program needs to be tested for a number of different analytes to ensure that it is safe to consume and that consumers know what is [in the products]. He notes that there are only a few [testing facilities] that have shown interest in filling “this space.” He notes that “hurdles that need to be cleared...are incredibly high,” which brings “us” to the testing facility in Kennebunk. He notes that in the other marijuana testing facility, they gauged readiness. He

notes that the facility with the higher amount of readiness is Nelson Analytics. He notes that, however, Kennebunk has not allowed retail or adult-use marijuana for testing. He states that they are at a point where they want to start their program [but] will not do so without a testing facility [that is ready to go]. He notes that they are hoping to expediate the process. He notes that [by allowing this facility to test] they would have a testing facility [by] April, that would allow them to have the program and have a retail launch date. He notes that there are other labs that have shown interest. He notes that they have been “sitting on” this project for “over three years.” He notes that they are [trying to ensure] that weed and weed products are safe for consumers, which is why they are hoping Nelson Analytics, who is already testing medical marijuana will be able to test adult use marijuana. He states that testing for adult-use [means] the regulations are higher than for medical marijuana facilities and [therefore testing facilities] would have to have a security plan, facility plan, [and] operating plan to ensure [the facility is following all State regulations].

J. Stoll states that as far as specifics, “Lori” will have to provide those. He notes that E. Gunnerson can answer the states [information] but anything related to [specifics] can be [directed] towards “Lori.” He notes that “Lori” provided that the products for adult use are taken to the laboratory, [with] samples being picked up at the laboratory and medical is brought to the laboratory by the patients; that the amount tested depends on the sample but is typically between 0.5-2.5 grams; that after the sample is tested, it is held in secure storage and/or are disposed in accordance with State law; products are mixed in a way to make them unusable [when disposed]; disposal is not considered a special waste; cannabis plant material is not considered hazardous and plant material waste can be put in compost but [Nelson Analytics] is not doing that at this time; the testing process is not hazardous and is uses the same chemicals and compounds used in regular laboratory testing; and First Responders need no unusual procedures based on cannabis testing; cannabis does not add any additional risk or chemical than what is already on site.

J. Stoll notes that this [proposal] was sent to “Fire and Police” and there was a response from “Police,” where the Police Chief questioned what type of security [was at the facility]. He notes that [“Lori”] answered that [Nelson Analytics] has a “basic” security system right now and samples are stored in a way of no access; [the security system] will be upgraded when the requirements [will be known]; security cameras are in use with cannabis handling, with the tapes being kept for 3 months and an alarm security system is installed.

Paul Demers [introduces himself as the Town Code Enforcement Officer]. He states that Nelson Analytics on Route 1 have been in Kennebunk for “quite some time.” He notes that when [Nelson Analytics] built their new building, they expanded their offerings. He notes that they have been testing medical marijuana since March 2016, prior to Kennebunk putting a prohibition onto the recreational “side of things.” He notes that [Nelson Analytics] knew they would need licensing [which is what] initiated their request. He states that [Nelson Analytics’] intent is to amend the ordinance not for Nelson Analytics specifically but to recognize recreational testing. He notes that [Nelson Analytics] is testing medical [marijuana already] but this would be recreational [use marijuana].

Chris Osterrider [introduces himself as the Town Engineer]. He notes that one thing [staff] talked about a lot is the way the ordinance is structured that all use is prohibited. He notes that [staff] debated and ultimately the feeling was that this use is “pretty clearly regulated” at the State level. He notes that to create special standards doesn’t make sense because there are so many standards. He notes that this is about testing.

E. Trainer states that he has been following the policy development in Augusta and is comfortable with the “good work” that has been done and the policies, as well as the regulatory activity in the Town of Kennebunk. He states that this is an “opt-in” program and that Kennebunk is in the earlier phase. He wonders if choosing to opt-in also applies to testing and if the Town has to “put in” for this process. E. Gunnerson notes that [the opt-in process would involve] a Town vote.

E. Trainer wonders what [the Board] is being asked to do in this context. E. Gunnerson notes that a Town vote would trigger the opt-in. E. Trainer states that it would be recommended to the whole Town and would get into the larger question of marijuana use.

R. Smith states that [the Board’s] role is to hold a public hearing and then make a recommendation to the [Board of] Selectmen and they make a decision, [then] the Town makes a final decision. He states that no one is looking to change the entire marijuana [policy] for the Town, [but rather only to] allow a testing facility. He notes that currently the way it is requested via Nelson Analytics [which would be] in the business park district. He states that [the Board should consider] if this could expand to other zones or just [be permitted] in the business park district.

J. Vance notes that [this new testing] would be an increase of what [the testing facility already is doing]. She wonders if there is any kind of proposal or anticipation of when the product would arrive and how it is actually transported.

E. Gunnerson notes that it is a business decision and he is not sure Nelson Analytics’ capacity. He states that the sample size is either half a gram or two and a half [grams].

P. Demers wonders if there is daily testing with medical [marijuana]. J. Vance wonders if there will be an increase in activity.

E. Gunnerson states that the adult-use program has a collection of the samples as part of the facility and there wouldn’t have other licenses outside of Kennebunk bringing [the marijuana] in.

R. Metcalf wonders if there is a cap on how many labs [there can be in the State]. E. Gunnerson states, “the more the merrier.” He notes that Nelson Analytics has the highest level of readiness. He states that there are three other facilities [that are interested].

R. Metcalf states that when [the Town] went through the whole ordinance, one question was about the development of testing for alcohol with breathalyzers and if [this ordinance] would allow for this “kind of language” to occur. P. Demers states that it would only be for laboratory testing at this point.

R. Metcalf states because of the nature of expediting [the process] without [the Board being able to] deliberate [permitting this use in] other zones, he suggests keeping [this use] in the business

park. He notes that if [Nelson Analytics] is already doing medical marijuana testing, this isn't changing very drastically.

R. Smith wonders who designs the security system. E. Gunnerson notes that the security is set by laws and regulations. He notes that he does want to speak to "Lori" but he would assume that [Nelson Analytics] is looking to fill the space and all that is outlined in the regulations. He notes that [the State] sets the guidelines and then [the facility] finds a security vender to set up.

R. Smith wonder who will monitor the security. E. Gunnerson notes that [the State] monitors it, [where] part of the compliance division is doing site checks to ensure compliance.

R. Smith wonders about [taking] samples from clients. E. Gunnerson notes that the regulations are that [the testing] is for THC potency, heavy metals, [etc.]. He states that each time marijuana and marijuana products are transferred, they are required to be tested. He notes that the clients would be other marijuana established licenses in the program.

R. Smith states that "our duty" is to take a look at the change for the zoning that has been recommended. He wonders if this is ready "for prime time."

J. Stoll states that he will draw "it up" in ordinance format. He notes that P. Demers just reminded him that if [the Board] does want [this to apply just to the] business park zone, [the Board] will have to amend article 8 to make that a permitted use. He notes that he will change article 10 section 24 for retail marijuana to eliminate the testing facility as a prohibited use and make it a permitted use.

R. Smith states that if the public hearing is on the 27th, then [J. Stoll] has to have [the ordinance] "ready to go tomorrow." He wonders if this can be done. J. Stoll states [that he can].

R. Metcalf notes that under section 24 this is listed as non-permitted. He wonders if "we are" referencing another section or subsection.

J. Stoll states "you would strike out number 4 there" and make it paragraph A, and make a second paragraph B.

R. Metcalf suggests [also inserting information into the ordinance about] these facilities being permitted with licensing by the State of Maine.

P. Demers notes that in article 8 and the business park and industrial zones, "it" already recognizes testing facilities. He notes that recreational marijuana is something to differentiate between the two.

R. Metcalf states that [hopefully the public hearing will be] notified in the paper. He notes that "hopefully" there won't be any substantive changes [to the ordinance]. He wonders when it needs to be [given] to the [Board of] Selectmen.

J. Stoll notes that he can email [the Board] the language [for the ordinance] as soon as he is done with it.

R. Smith wonders if this is being "passed by" Town Council. P. Demers states, "yes."

R. Smith notes that [J. Stoll] mentioned this [ordinance proposal] had been passed by [the Fire Chief for his approval, as well as] the Police [Department]. He wonders if [the Fire and Police Departments] brought up anything.

J. Stoll states that they just asked about security and active testing.

R. Metcalf states that he wants to reiterate that when the Board did the deliberation about this last time around, testing was “one of the ones” that could be within the Town but putting the legislation forward for just one thing [wasn’t done]. He notes that [the Board] has been looking at this [concept].

J. Vance thanks [everyone] for doing their homework which makes [the Board] deliberation much simpler. She notes that she is comfortable with this. E. Trainer states, “I am too” and that he understands it is from the State [with a need for testing facilities] which is why there is time pressure.

E. Gunnerson notes that it is “two-fold,” where there is a timing issue from the State perspective where they are ready to “open the program” but they can’t until there is a testing facility, [and the time pressure is also for] the “general health of the public,” [where they] need to make sure the product is tested.

E. Trainer [wonders about phrasing where], we have been using [both the phrases] “adult use” and “recreational.” E. Gunnerson notes that “adult use” is [the phrase used by the State]. J. Stoll notes that retail [use is listed] in the ordinance. E. Trainer notes it would be simpler [to just use one phrase in the ordinance]. E. Gunnerson notes [these phrases are] interchangeable.

E. Trainer wonders if there are other testing sites in Southern Maine and Maine, or if this would be the first.

E. Gunnerson notes that this would be the first. He notes that “Lori” runs a good operation at Nelson Analytics. He notes that there are two [other] facilities that are showing interest, one in Portland and one in Bangor.

E. Trainer wonders about compliance with enforcement from the State.

E. Gunnerson notes that there is [State] compliance and enforcement [at licensed marijuana establishments with enforcement related to] compliance teams and an enforcement arm. He notes that the relationship with local enforcement [occurs] with illicit market activity and homegrown [product].

R. Metcalf moves that the Town of Kennebunk direct the Town Planner to “put this on” for a public hearing on January 27th, [2020].

J. Vance seconds the motion.

All in favor, none opposed. The motion passes 4/0.

II. Lower Village Design Standards Proposal

R. Smith begins discussing agenda item number 2, Lower Village Design Standards.

J. Stoll notes that the Lower Village Design Standards have been put into ordinance format. He notes that there are application procedures and applicability. He states that he has prepared a staff comment memo which he can summarize. He notes that other than this, [the Lower Village Committee] is looking for [the Board's] prior to going to a formal ordinance adoption format.

J. Stoll [goes over his staff comment memo]. He notes that [this memo] was arranged by technical comments based on the way [the ordinance] has been proposed at this point. He states that for B1, he thinks [the Board] should reference the map that [the Board] saw before or a map as defined by the Board; for B2, he notes that there does appear to require a significant number of minor alterations to go through a whole design review, rather than a site review process; for C2, he feels that staff review is very efficient and he feels [staff] can handle the applicability of design review. He asks that this be retained as staff review. He states that he did discuss this with C. MacClinchy to have a public forum and public feedback to gauge [public comment].

R. Smith wonders what [the Lower Village Committee] wants from [the Board] tonight.

Miriam Whitehouse [introduces herself as a member of the Lower Village Committee]. She states that [the Lower Village Committee] is looking for approval and to send [the ordinance] to the [Board of Selectmen].

R. Smith wonders if [the Lower Village Committee] is looking for [the Board] to hold a public hearing. M. Whitehouse states, "yes." R. Smith wonders if [the ordinance] is ready for a public hearing.

M. Whitehouse states, "yes, I think so." She notes that she brought a copy of the 2015 Lower Village Visioning Process which preceded the Harriman Study. She notes that at the end of the attachments is a list--in order of importance--of feedback from residents and business owners [in Lower Village]. She does want to stress that everything [the Lower Village Committee] has done with this project has been an attempt to answer and respond to requests of both "elements" ([residential and commercial]) because it is a mixed-use area. She notes that [the Lower Village Committee] feels comfortable that what they have written up does [fulfill both requests]. She notes that J. Vance has helped [the Lower Village Committee with writing this ordinance in the correct format]. She notes that the purpose of the design standards is to respond to concerns such as retaining the ambiance, concerns about natural resources, concerns about the balance of business and residential, and concerns specifically about the scale of buildings. She notes that clearly there have been changes that people have been unhappy with, [which is where] the "importance" of this ordinance came from.

E. Trainer [notes that he has been impressed with] this process in the earlier work [the Lower Village Committee] has done. He notes it is difficult not living in Lower Village, [but] it seems to him that this makes a lot of sense. He has no comments about the substance [of the ordinance, but] does agree with staff review and a public hearing.

J. Vance states that [the Lower Village Committee and herself] thought they were building in room for staff review. She notes that if something needs to be changed, [please let them know]. She notes that on the second page, 2E, they thought they were “covering” [the need for staff review].

J. Stoll states that he can “add in” [the ability] to retain staff review. He notes that it does mention it here. He states that he wants to make sure that staff review maintains some review [by the] staff committee.

J. Vance wonders what [an applicant] can do in a minor [review] before it has to come to the Board.

J. Stoll states that anything that qualifies for a minor site plan [review] goes to site plan review.

J. Vance states that [the Lower Village Committee] wants to not be too restive [but also avoid] being not restrictive enough.

R. Metcalf states that [he had] one comment in terms of staff review. He notes that the last time [the Board] looked at this [ordinance proposal], he asked questions about public review. He notes that he thought [the Board was going to get copies of] the Harriman Review. He states that he wants to see the comments [related to this study].

J. Stoll states that he doesn't have the catalog or the input. He notes that C. Osterrider just “sent me something” that he forwarded on to the Board.

M. Whitehouse notes that Elizabeth Smith [another member of the Lower Village Committee] will be away until “the 22nd.” She notes that [E. Smith] can tell [the Board more]. She states that [the public hearing process with the Harriman Study involved] a minimum of 3, maybe 4 [public meetings] held at Sea Road School. She notes these had “heavy advertising.” She states that [the Lower Village Committee] went “door to door” and explained the process and had “hundreds of people come.” She notes [these participants] were broken into small groups and asked what they liked best and didn't like [about Lower Village]. She notes at the end of the public input process they did walking tours and walked the whole district, asking people to point out concerns or thoughts. She notes that she was really impressed with the public input.

R. Metcalf states that he would like to make sure [the Board] hasn't “stepped in the wrong direction” and have [instead] achieved what [the Lower Village Committee] wanted to achieve. He notes that on page 4, Landscape and Buffering, the “second one down,” he has concerns [about the use of the words] “shall be retained.” He notes that [the Board] doesn't want to [discourage] development or redevelopment of a parcel because the ordinance says, “shall be retained.”

M. Whitehouse notes that [this phrasing] had a “lot to do” with street frontage because on of the “things” [the Lower Village Committee] heard from feedback was that [the residents] don't like “Cooper's Corner” and the asphalt. She notes that [the residents] want to retain trees. She notes that there aren't many open lots.

R. Metcalf states that there aren't open lots but there is redevelopment. He notes that with ordinance [cannot] prevent someone from "coming in" and redeveloping a parcel. He states that the language should [allow] redevelopment [to] sites.

M. Whitehouse states that she would like to reiterate that [this phrasing is done] in the "idea of retaining." R. Metcalf states, "lets phrase the language a little differently." J. Stoll states, "yes."

R. Metcalf states that he doesn't want to have staff review [use this language in this ordinance] and say "wait you can't take the tree down because it says, 'shall be retained.'" M. Whitehouse wonders if there is a way to "split the difference" so it isn't easy to "come and cut down the trees." R. Metcalf states that the language could be "written in there." He notes J. Stoll can "go over it."

R. Metcalf states that there needs to be a time frame [listed] in terms of installing plants. He also notes that on the "last page," in the solar guidelines, he [wonders what the Lower Village Committee thinks about] roof mounting [in terms of] architecture characteristics.

M. Whitehouse states that [the Lower Village Committee] looked at more verbiage on this. She notes that they didn't want to over-direct. She notes that "every year more and more unique and novel ways of doing rooftop solar comes up." She notes that [solar can be used] as roofing material. She notes that the choices are there for [residents] to maintain the integrity of the Village's character. She is not sure how [R. Metcalf wants to make the language stronger].

R. Metcalf states that there were other references to utilities and screening. He notes that solar panels is not the character [the Village is looking for], but they are sustainable.

M. Whitehouse states that [the Lower Village Committee] was assuming the solar choices would be "more and more" preferable. She notes that their original language did address ground installation and asked that [the panels] be shielded from frontage.

R. Smith states that perhaps instead of refencing solar, [the Lower Village Committee] could refence whatever possible green architecture that is utilized.

R. Smith states that he had one question on page 2. He notes that [the ordinance says] that [applications] go to the Site Review Board or the Planning Board. He wonders how it will be determined which it will go to. He wonders if there are standards to decide that.

J. Stoll states that current the design review is based on Site Plan [Review]. He notes that if [an applicant] qualifies for Site Plan [Review], then [the applicant] either goes to Staff Review or Site Plan Review. He notes that the only time [the applicant would come to the Planning Board] is for commercial subdivisions or shoreland.

R. Smith states that [the Planning Board] wouldn't be involved often [in this area of Lower Village], so perhaps [the ordinance] should state [the rules of determining where an application will be reviewed].

R. Metcalf wonders if someone wanted to build [a modern building] on Port Road, there is no control over the character. R. Smith states that the language [in this ordinance] talks about being compatible.

M. Whitehouse states that on page 1, the language is that all properties touching the “south west side” [would be affected by the ordinance].

R. Metcalf notes that single-family residential use doesn’t go through design review.

J. Vance states that she thinks there is an exception in here. She notes that the intent was to be [design standards] for non-single family or mixed-use or multi-residential or business.

J. Stoll states that this isn’t explicitly stated but [it is] expected through the language. He notes that it does exempt single-family residential.

R. Smith wonders if [this ordinance is] saying that if someone wants to build a single-family residence it would not be applicable to what [the Lower Village Committee is requesting].

M. Whitehouse states, “no,” [that] under the last bullet it assures that the buildings are complementary to adjacent buildings and are compatible with the district. She notes that this is what “the people talked about” [in terms of] not having a building that is “glaringly” out of place in the Village.

R. Metcalf states that the purpose statement determines what the buildings are as either commercial or residential properties. He notes that “stand-alone” residential does not comply with the language.

J. Stoll notes that the language could be adjusted under B2A because “right now” it exempts “it.” He notes that [the ordinance] does [note] multi-family but it does exempt single-family. R. Smith states that if [the Lower Village Committee] wants single-family [included] there needs to be an adjustment.

M. Whitehouse states that she “hates” to make a unilateral decision. She states that she will wait until she can meet with the Committee.

R. Metcalf states he wants to see the additional input [of the] Harriman Study.

R. Smith states that [the Lower Village Committee] has included the two major stakeholders [in their public discussions]—the businesses and the people who live there. He notes that there is a third stakeholder who doesn’t live there or work there perhaps, or own a business there, but is part of the whole Town. He notes that from his perspective, he would like to have some input and he thinks the rest of the Town does [as well]. He notes that there needs to be an opportunity [for the rest of the Town] to comment.

M. Whitehouse notes that there will be an opportunity for public input and again with the [Board of] Selectmen. She notes that she likes the idea of meeting with people [from the Town] involved.

R. Metcalf wonders if [J. Stoll] is going to create an overlay [zone]. J. Stoll states that he created an overlay with the reference map and the description. R. Metcalf states that he wanted to ensure [the Board] is creating an overlay zone. J. Stoll wonders [if he is referring to] formal zoning. He notes that it is an overlay. R. Metcalf states that as long as there is a graphic description, [this will satisfy his request].

R. Smith states at “this point” [the Lower Village Committee] should do some work to get [the ordinance] back to [the Board for review]. He notes that there was talk about “getting maps.”

J. Stoll states that he has a map that he will include and will add what was discussed “tonight.” R. Smith asks that this [and the updated ordinance] be brought back [to the Board for review].

III. Consideration of the Residential Use & Suburban-Commercial SC District

R. Smith states that the third item on the agenda is to consider the residential use and suburban commercial SC district.

J. Stoll notes that this is being brought as information. He notes that last time the Board asked for a map of existing uses. He states that there is a large vacant development parcel and a map that marks out where the parcels are. He notes that this agenda item is for an information transfer. He states that “Helen Curry” isn’t here.

R. Metcalf states that when [the Board] discussed [with “Helen”], he understood her dilemma. He notes that this Board had discussed how to introduce residential in a mixed [commercial setting]. He notes that [the Board] has discussed [this area just] being residential. He states that there may be situations where this only makes sense to have residential. He notes that he will not make a change without deliberation. He still “feels strongly” [that the Board] needs to look “at this” as a zone [that] introduces residential. He notes that [the zone] was starting to [only include] residential uses which was starting to “chew up” valuable property. He states that this is why [the Board] took residential out of the zone. He notes that the discussion [around this was to have] residential, commercial and business and not [have these defined]. He notes that [the Board would need to have time to look “at that.” He states that it comes down to the schedule. He notes that [J. Stoll] has the [Post Road] Business Park listed as residential. He notes that the horn property on Shape Drive is residential. He wonders if “Bob Crowley’s” property is the vacant “piece in the back.”

C. Osterrider states, “yes.” He notes that it is further down the road and “that particular quarter” is outside the Maine Turnpike. He doesn’t think there would be too many residential uses that directly abut Portland Road. He notes that [one of the] objectives of the Comprehensive Plan is to update the Portland Road study.

J. Vance states that she looked at the “whole thing” in Google Maps. She notes that there are a couple of parcels along the road that she would have to see as residential. She thinks [the Board] needs to preserve [the commercial area] and could [entertain] some rear parcels [as being]

residential]. She notes that [the Board] needs to look at infrastructure with roadways. She notes that [the Portland Road study] is a pretty intensive study.

R. Metcalf states that [the Board's] concern was when there were so many residential and senior housing projects coming in and "chewing up" valuable commercial land, [the Board] decided to "put the brakes" [on residential development in the zone]. He notes that to reintegrate residential [would be looking to create] a mixed use [zone].

J. Vance states that [there is the option of having] traditional [mixed use development with] retail on the first floor and residential on the second floor. She states that she does like the idea of residential [areas] being able to [be within walking distance] of amenities. She notes that a lot could be done [with this and with] affordable housing.

R. Metcalf states that when the Town did the study with the Waterhouse Center, [the Town] was trying to look at the mix of commercial and residential. He notes that "this is the direction" [the Board] was looking at. He states that [redevelopment could be done] and [the Board] should be cognizant of this.

E. Trainer notes that he recalls earlier discussions [about this topic] and thinks getting the map is helpful. He notes that [the Board] is not ready [to make a decision about this]. He notes that "going at this piecemeal" would be a disservice to the Town. J. Stoll states that he is not asking [the Board to make any specific decision about this issue tonight].

R. Smith states that he agrees with what "everyone said" that [the Board] needs to "think carefully."

3. Approval of Minutes of Previous Meeting

R. Smith begins [to review the previous meeting minutes].

R. Metcalf moves that the [Town of Kennebunk] Planning Board approve the Planning Board meeting minutes of Monday December 9th, 2019, as corrected.

J. Vance seconds the motion.

All in favor, none opposed.

The motion passes 3/0, with one abstention.

4. Other Business

5. Adjourn

J. Vance moves to adjourn.

R. Metcalf seconds the motion.

All in favor, none opposed.

The motion passes 4/0.

The meeting adjourned at approximately 8:33 PM.

Respectfully submitted by Megan M. Hall.

Town of Kennebunk Planning Board
Meeting Minutes for January 13th, 2020
Page 13 of 13

Town of Kennebunk Planning Board
Meeting Minutes for _____
Page ____ of ____

Signature Page:

Signature Date: