

Section 19. 12 DEPOT STREET CONTRACT ZONE

CONTRACT ZONING AGREEMENT
BETWEEN RIVER TREE ARTS and THE TOWN OF KENNEBUNK

This Contract Agreement is made this 12th day of February, 2004 by and between the TOWN OF KENNEBUNK, a body corporate and politic located in the County of York and State of Maine (hereinafter the "Town") and RIVER TREE ARTS, a Maine non-profit corporation located at 35 Western Avenue, Kennebunk, Maine (hereinafter "RTA").

WHEREAS, RTA is the owner of a parcel of real estate located at Depot Street in Kennebunk, Maine which is shown on Tax Map 45, Lot 62 (hereinafter the "Property") and is shown on Exhibit A attached hereto and incorporated herewith.

WHEREAS, the Property is currently located in the Industrial Zone under the Kennebunk Zoning Ordinance.

WHEREAS, the property is improved with an historic structure that RTA and the Town wish to preserve.

WHEREAS, RTA previously operated the Property as a music school but has since relocated to Lower Village and desires to sell the Property.

WHEREAS, RTA has encountered difficulties in selling the Property because of the limited uses allowed in the Industrial Zone which prohibits such uses as professional offices.

WHEREAS, the existing building on the site limits the number of industrial uses that may be created on the site.

WHEREAS, RTA and the Town believe that other appropriate uses compatible with the neighborhood are possible for the property such as some of the uses allowed by Suburban Commercial Zone.

WHEREAS, RTA and the Town wish to create a separate zone known as the Depot Street Contract Zone which will enable uses from both the Industrial Zone and Suburban Commercial Zone to exist on the Property.

WHEREAS, RTA wishes to reasonably assure the protection of the historic character of the Property.

WHEREAS, the Town has the authority to enter into a contract re-zoning for the Property pursuant to 30-A M.R.S.A. §4352 and Article 13(3) of the Kennebunk Zoning Ordinance.

WHEREAS, after notice and hearing and due deliberation on the re-zoning phase, the Kennebunk Planning recommended re-zoning of the Property.

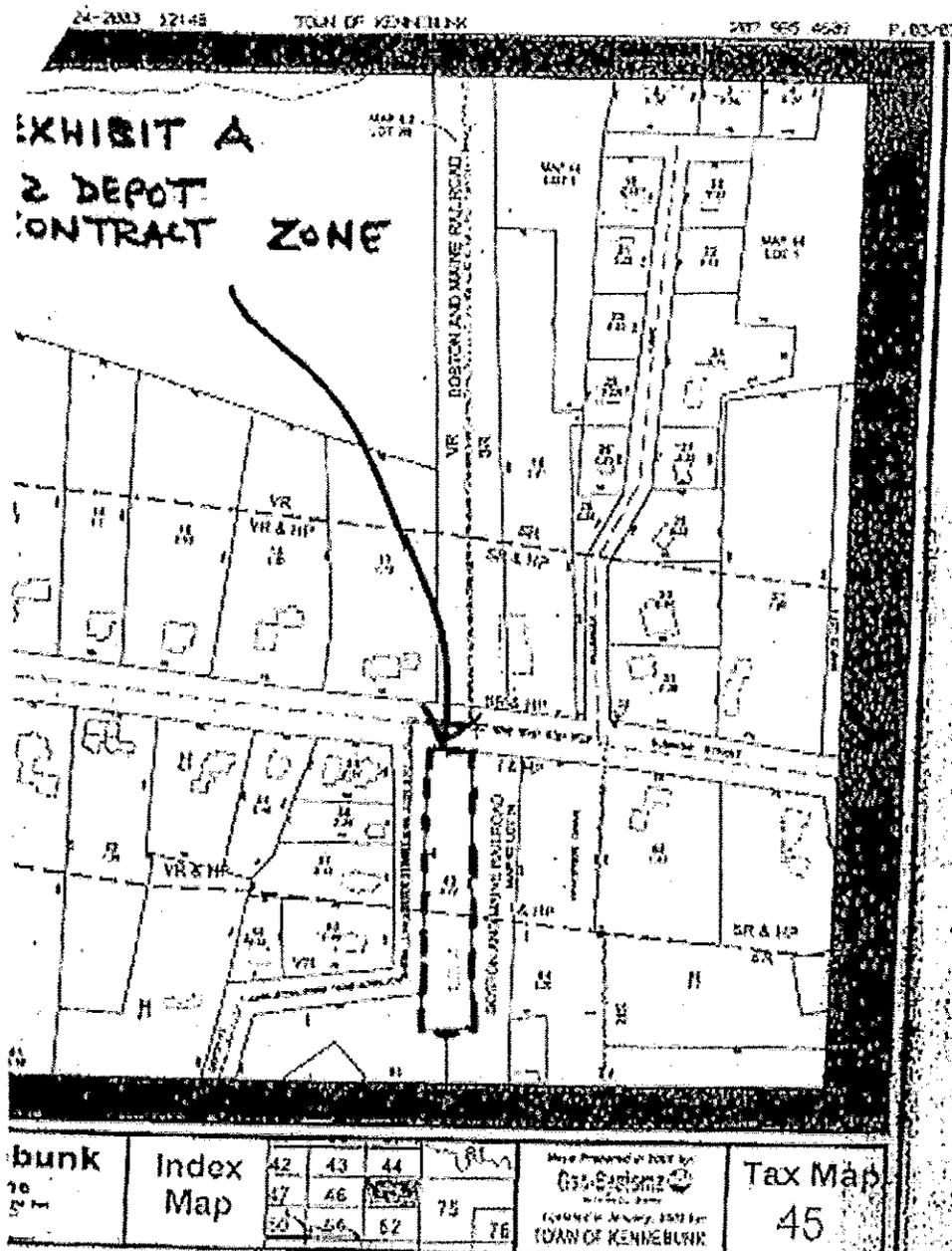
WHEREAS, the Planning Board and the Board of Selectmen have determined that the re-zoning will be pursuant and consistent with the Town's Comprehensive Plan.

WHEREAS, the re-zoning has been authorized at Town Meeting.

NOW THEREFORE, in consideration of the mutual promises made to each other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Ordinance and map to create and make reference to the 12 Depot Street Contract Zone as identified on Exhibit A.
2. Subject to final Site Review Board approval and after public hearing, RTA will be authorized to develop the Property with any of the uses set forth in the description of the zone attached hereto as Exhibit B and incorporated herewith.
3. In reviewing any redevelopment of the Property, the Site Review Board will apply the standards set forth in the Kennebunk Zoning Ordinance except as modified by the description of the 12 Depot Street Contract Zone attached hereto as Exhibit B and incorporated herewith.
4. The Property shall be redeveloped in a manner that retains and respects the historic quality of the building exterior with any change being compatible with the current architecture.
5. RTA shall record the Contract Zoning Amendment in the York County Registry of Deeds and shall submit proof of recording to the Town's Code Enforcement Officer and Planner before any site work is undertaken or any building permits are issued.
6. The provisions of this Contract Zoning Amendment shall be deemed restrictions on the use of the Property and shall be amended only upon further written agreement of the Town and RTA or its successors in interest to the Property.
7. The above restrictions, provisions and conditions are an essential part of the re-zoning, shall run with the Property and shall bind RTA, its successors in interest and any assigns of the Property or any party in possession or occupancy of the Property or any part thereof and shall inure to the benefit of and be enforceable by the Town.
8. If any of the restrictions, provisions, conditions or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portions shall be deemed as separate, distinct and independent provisions and such determination shall not affect the validity of the remaining portions hereof.
9. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Town of Kennebunk Zoning Ordinance.
10. In the event that RTA or its successors or assigns fail to develop or operate the project in accordance with this Agreement or in the event of any other breach of any conditions set forth in this Agreement, the Board of Selectmen of the Town shall have the authority, after written notice to RTA, and reasonable opportunity to cure, to terminate this Agreement or to recommend to the Town Meeting to re-zone the Property to Industrial or any successor zone. In the event of such a re-zoning, the Property shall then be used for only such uses or otherwise allowed by law. The Town shall also have the ability to enforce any breach

of this Agreement or any other violation of the Zoning Ordinance through the provisions of 30-A M.R.S.A. § 4452.



DEPT OF REVENUE
 1000 MARKET STREET
 PORTLAND, ME 04102

EXHIBIT B

12 DEPOT STREET CONTRACT ZONE

A. Purpose

The purpose of the 12 Depot Street Contract Zone is to allow the former depot building located at 12 Depot Street (Map 45, Lot 62) to be used for a limited number of industrial uses, commercial and residential uses as allowed under this Ordinance.

B. Permitted Uses

The following uses are permitted in the 12 Depot Street Contract Zone:

Horticulture; convalescent and rest homes; churches; community buildings; municipal uses; museums; public and private schools; business and professional offices; business services; commercial schools; eating places, provided no service is furnished directly to customers in their motor vehicles; funeral homes; health service facilities; theaters; Inns; personal services; rental of equipment; retail sales; studios of artisans; Veterinary clinics; warehouses; wholesale sales; outdoor recreation; marine sales and services; fully enclosed places of recreation; boat building; manufacturing; research and development; testing facilities; tradesmen's shops, provided there is no outdoor storage visible from the public road frontage; essential services; accessory buildings and uses; and home occupations. Single family dwellings and/or a two family dwelling within the existing structure. There shall be no outdoor display or storage of merchandise.

C. Special Exceptions

The following uses may be permitted only upon approval as special exceptions in accordance with Article 7 of this Ordinance:

1. The following utility uses:
 - 1-1 Public utilities

D. Prohibited Uses

- (1) Manufacturing and warehouse uses which are obnoxious, offensive, or detrimental to the abutters, the neighborhood, or the Town, by reason of special danger of fire or explosion, pollution of waterways, emission of corrosive, toxic, or disagreeable odors, offensive noises, or other objectionable characteristics such as, but not limited to, glare of light at night, heavy vibration, or noise.
- (2) Uses not allowed as permitted uses or special exceptions are prohibited within this district.

E. Standards

(1) Space and Bulk Standards

The following space and bulk standards shall apply in the 12 Depot Street Contract Zone:

Minimum net lot area	N/A								
Minimum net lot area per dwelling unit	N/A								
Minimum lot width	N/A								
Minimum setbacks for new structures or additions	15 feet from the Depot Street pavement, 50 feet from Summer Street and 15 feet for all other boundaries								
Shoreland area	Per paragraph F1) below and Article 8, Section 16								
Maximum height for new structures	35 feet								
Maximum lot coverage for new structures or additions	25 %								
Minimum width of green buffer strip (except surrounding existing depot building)	<table> <tr> <td>Front yard</td> <td>10 feet</td> </tr> <tr> <td>Side yard</td> <td>10 feet</td> </tr> <tr> <td>Rear Yard</td> <td>10 feet</td> </tr> <tr> <td>Summer Street</td> <td>50 feet</td> </tr> </table>	Front yard	10 feet	Side yard	10 feet	Rear Yard	10 feet	Summer Street	50 feet
Front yard	10 feet								
Side yard	10 feet								
Rear Yard	10 feet								
Summer Street	50 feet								

(2) Performance Standards

Uses within the 12 Depot Street Contract Zone shall conform to all applicable performance standards of this Ordinance, including but not limited to the following:

- | | | |
|-----|--------------------------|------------------------|
| (a) | Soils | Article 10, Section 2 |
| (b) | Private Outdoor lighting | Article 10, Section 6 |
| (c) | Signs | Article 10, Section 7 |
| (d) | Off-street parking | Article 10, Section 9 |
| (e) | Home occupations | Article 10, Section 14 |

F. Overlay Districts

- (1)** Any lot or use within the Shoreland Overlay District shall additionally comply with the provisions of Article 8, Section 16, and of Article 10, Section 3, of this Ordinance.

(2) Any lot or use within the Historic Preservation Overlay District shall additionally comply with the provisions of Article 8, Section 17, and of Article 12 of this Ordinance.

G. Flood Plains

Any construction or development within a flood plain, as defined by the Kennebunk Flood Plain Management Ordinance, shall additionally comply with the terms of that Ordinance.

H. Site Plan Review

Any proposals as described in Article 11 (Site Plan Review), Section 3 of this Ordinance shall be subject to site plan review and approval prior to receipt of a building permit or plumbing permit.

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F. Overlay Districts

(1) Any lot or use within the Shoreland Area Overlay District shall additionally comply with the provisions of Article 8, Section 16, and of Article 10, Section 3, of this Ordinance.

(2) Any lot or use within the Historic Preservation Overlay District shall additionally comply with the provisions of Article 8, Section 17, and of Article 12 of this Ordinance.

G. Flood Plains

Any construction or development within a flood plain, as defined by the Kennebunk Flood Plain Management Ordinance, shall additionally comply with the terms of that Ordinance.

H. Site Plan Review

Any proposals as described in Article 11 (Site Plan Review), Section 3 of this Ordinance shall be subject to site plan review and approval prior to receipt of a building permit or plumbing permit.

Received York SS
03/09/2004 10:53PM
REGISTER OF DEEDS

Debra L. Anderson