

Section 18. THE 39 PORTLAND ROAD CONTRACT ZONE

**CONTRACT ZONING AGREEMENT BETWEEN
KENNEBUNK SAVINGS BANK and THE TOWN OF KENNEBUNK**

This Contract Zoning Agreement 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 **KENNEBUNK SAVINGS BANK** (hereinafter "KSB"), a Maine banking corporation with an address of 104 Main Street, P.O. Box 28, Kennebunk, Maine 04043-0028.

WHEREAS, KSB is the holder of an option on a parcel of real estate located at 39 Portland Road, Kennebunk, Maine (the "Property") which is shown on Tax Map 43, Lot 78.

WHEREAS, the Property is currently located in a Suburban Commercial Zone as established by the Kennebunk Zoning Ordinance.

WHEREAS, KSB has received approval from the Town's Site Review Board for the development of a financial center across the street from the Property at 39 Portland Road.

WHEREAS, KSB wishes to obtain additional employee parking for the financial center.

WHEREAS, there are restrictions under the requirements of the Suburban Commercial Zone which would make development of the Property as the parking lot impractical.

WHEREAS, KSB and the Town have agreed that it is desirable that the Property be developed as a parking lot rather than other intensive commercial uses.

WHEREAS, the Town has the authority to enter into contract 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 this re-zoning proposal, the Kennebunk Planning Board recommended the re-zoning of the Property.

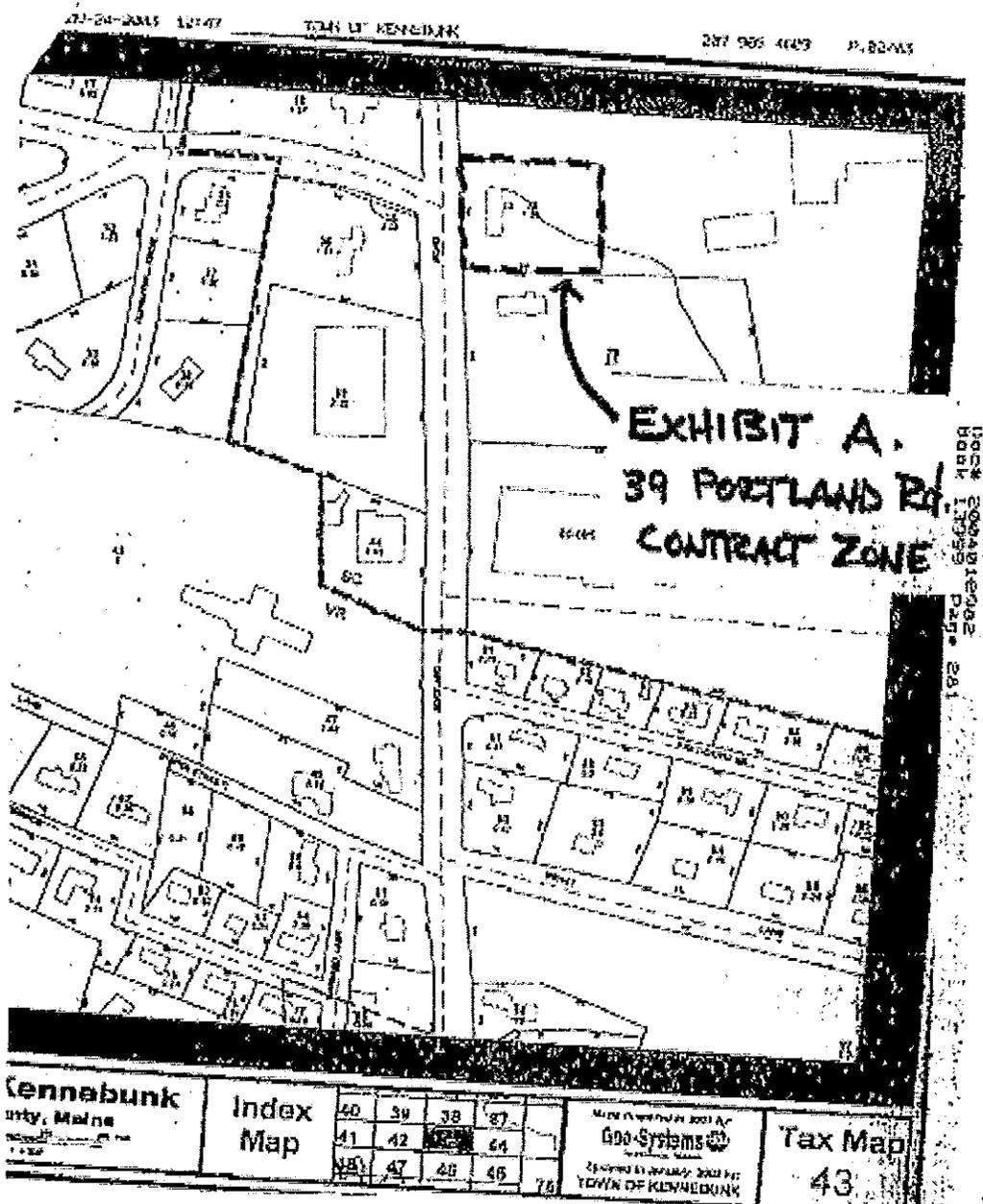
WHEREAS, the Town, by and through its Planning Board and Board of Selectmen, have determined that the re-zoning is consistent with the Comprehensive Plan.

WHEREAS, this re-zoning has been authorized by Town Meeting vote.

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

1. The Town will amend the Zoning Ordinance and Zoning Map of the Town of Kennebunk to create and to make reference to the 39 Portland Road Contract Zone, as shown on Exhibit A, attached hereto and hereby incorporated by reference.

2. Subject to final Planning Board approval, KSB will be authorized to develop a parking lot on the Property substantially in conformity with the plans attached hereto as Exhibit B1 and B2 and incorporated herewith.
3. In reviewing the project, the Planning Board will apply the minor site plan standards set forth in the Kennebunk Zoning Ordinance except as modified as shown on the plans attached hereto as Exhibit B1 and B2 or in the description of the 39 Portland Road Contract Zone attached hereto as Exhibit C and incorporated herewith. KSB agrees to grant the Town a 10' right of way on the westerly side of the Property as shown on said plans.
4. KSB 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.
5. 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 KSB or its successors in interest to the Property.
6. The above restrictions, provisions and conditions are an essential part of the re-zoning, shall run with the Property and shall bind KSB, 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.
7. 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.
8. 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.
9. In the event that KSB 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 KSB, and reasonable opportunity to cure, to terminate this Agreement or to recommend to the Town Meeting to re-zone the Property to Suburban Commercial 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.



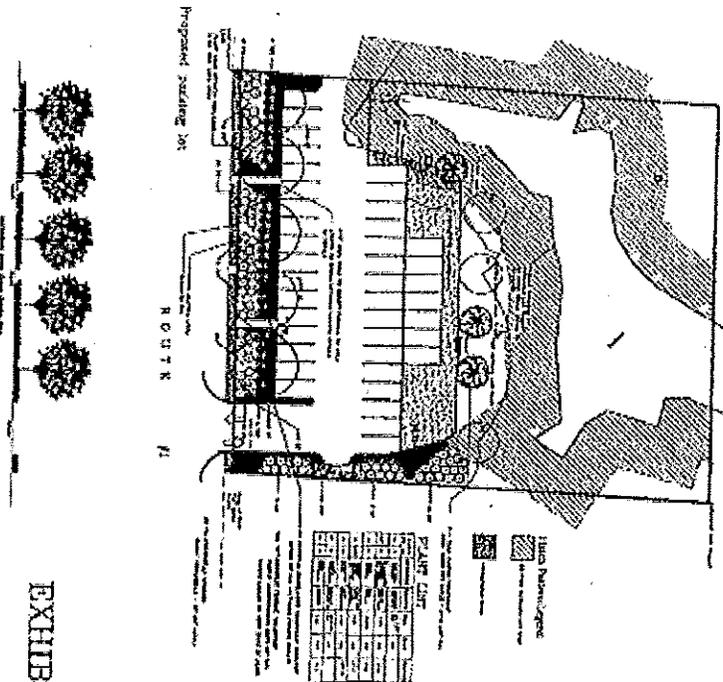
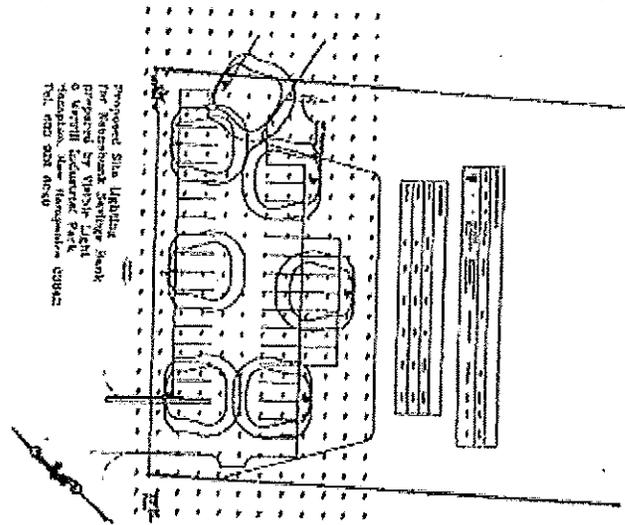


EXHIBIT C

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39 Portland Road Contract Zone

A. Purpose

The purpose of the 39 Portland Road Contract Zone is to provide parking on a small lot on Route One (tax map 43 lot 78). This use will provide parking for a principal building. The intent is to provide additional parking on this unique site. This use is compatible with a commercial district.

B. Permitted Uses

The following uses are permitted in the Limited Use Commercial District:

1. The following commercial uses:

1-1 Parking

C. Prohibited Uses

(1) All uses are prohibited except for parking

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REGISTER OF DEEDS

Debra L. Anderson

D. Standards

(1) Space and Bulk Standards/Performance Standards -- as established on Exhibits B1 and B2 attached hereto.

E. 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.

F. 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.

G. Planning Board Review

Except as otherwise modified by the Contract zoning Agreement, including its attachments, development of the site shall be subject to the performance standards in Article 10. The project will be approved by the Planning Board under the provisions for minor site plan review established under Article 11.