

# Town of Kennebunk, Maine



Doc# 2008012661  
Bk 15382 Pg 0891  
Received York SS  
03/31/2008 12:31PM  
Debra L. Anderson  
Register of Deeds

Tel: (207) 985-2102, ext. 1308  
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WHEREAS, by a duly authorized and properly called vote at the Town of Kennebunk's Town Meeting held on February 21, 2008, a certain lot or parcel of land to be known as the Terrace Green project and consisting of approximately 101 acres, lying on the generally southerly side of the Alfred Road (and adjacent thereto) and running down to the Mousam River, designated initially as four separate lots by the Town Assessor as Map 14, Lot 7; Map 16, Lot 3; Map 17, Lot 11; and Map 23, Lot 35; and being more specifically described in deeds recorded in the York County Registry of Deeds in Book 14793, Pages, 832, 833, 838, 841, 844, 847 and 850 was rezoned by vote of said Town Meeting; and

WHEREAS, subsequent to that Town Meeting vote, three of those four lots were split by their owners, such that three additional map and lot designations by the Town Assessor became necessary, to wit, a new Map 14, Lot 23 (formerly part of Map 14, Lot 7); a new Map 14, Lot 22 (formerly part of Map 17, Lot 11) and a new Map 14, Lot 24 (formerly part of Map 16, Lot 3), (collectively "Three New Lots") but said Three New Lots still remain part of, and subject to, the February 21, 2008 re-zoning;

NOW, THEREFORE, to remove any ambiguity as to the zoning designation of said three new lots, the Board of Selectmen hereby authorizes and directs the Town Clerk to attest this Order and then to record a copy of the same in the York County Registry of Deeds to provide record notice that said Three New Lots are, as of the date of this Order, still subject to, and benefited by, the above-referenced re-zoning as a part of the Terrace Green Contract Zone.

Dated: March 25, 2008

*Wayne E. Berry, Chairman*  
Wayne E. Berry, Chairman  
Kennebunk Board of Selectmen

A True Copy  
Attest:

*Joanna H. Moran*  
Joanna H. Moran, Town Clerk

SEAL

Mailing Address: 1 Sumner Street, Kennebunk, ME 04043  
Website Address: <http://www.kennebunkmaine.org>  
E-Mail: [tro@kennebunk.maine.org](mailto:tro@kennebunk.maine.org)

*1997  
Bergew & Parkerson  
62 Portland Rd  
Kennebunk, ME 04043*



Doc# 2008012662  
Bk 15382 Pg. 0092 - 0904  
Received York SS  
03/31/2008 12:31PM  
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TERRACE GREEN CONTRACT ZONE

CONTRACT ZONING AGREEMENT

BETWEEN FESTIGAN, INC., GEORGE E. HISSONG, KURT D. HISSONG  
and THE TOWN OF KENNEBUNK

This Contract Zoning Agreement is made this 10th day of March 2008, 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 **FESTIGAN, INC.**, a Maine corporation with a place of business at 48 York Street, Kennebunk, Maine, **GEORGE E. HISSONG**, of Kennebunk, York County, Maine, and **KURT D. HISSONG**, of Wells, York County, Maine (hereinafter "Developer").

WHEREAS, Developer is the owner of a parcels of real estate located on or near Alfred Road in Kennebunk, Maine (Tax Map 14/Lot 7, Tax Map 22/Lot 35, Tax Map 17, Lot 11, Tax Map 16, Lot 3) as depicted on the Sebago Technics Contract Zone Site Plan (the "Site Plan") and attached hereto as Exhibit A and incorporated herewith (hereinafter the "Property").

WHEREAS, the Property is currently located in the Rural Residential Zone, West Kennebunk Village Residential Zone, Resource Protection and Shoreland Overlay Zones under the Kennebunk Zoning Ordinance.

WHEREAS, the Property consists of approximately 101 acres including approximately 5,000 feet of shorefront on the Mousam River.

WHEREAS, Developer wishes to develop the property for the following purposes: Affordable Housing, Single-Family Housing, Conservation and Recreation.

WHEREAS, Developer agrees to provide limited public access for passive recreational purposes to the Mousam River by a walking trail. The location, limitations on use and maintenance of the trail will be as agreed upon by the parties as a part of the subdivision review process before the Planning Board.

WHEREAS, Developer and the Town wish to create a separate zone known as Terrace Green Contract Zone which will enable above-described uses to exist on 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 Board recommended re-zoning of the Property.

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

WHEREAS, the re-zoning has been authorized at a 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 Terrace Green Contract Zone as depicted on Exhibit A.
2. Subject to final Planning Board Subdivision approval and after public hearing, of the Site Plan, the Developer and/or its heirs, successors and assigns shall be authorized to use the Property for any of the uses set forth in the description of the Terrace Green Contract Zone attached hereto as Exhibit B and incorporated herewith.
3. In reviewing the Site Plan, the Planning Board will apply the standards set forth in the Kennebunk Zoning Ordinance except as modified by the description of the Terrace Green Contract Zone attached hereto as Exhibit B and incorporated herewith. The project shall be developed substantially conforming with the layout shown on the Site Plan, Exhibit A. The Planning Board may make modifications of the Site Plan without amendment of this Agreement but, in no event, shall the maximum number of lots be increased without an amendment approved at Town meeting. The number of lots may be decreased by the Planning Board only if necessary to comply with applicable subdivision or zoning requirements. Notwithstanding any provision of this Agreement, Developer hereby agrees to build a minimum of seven (7) units of affordable housing as that term is defined in Article 2, Section 2 of the Town of Kennebunk Zoning Ordinance, in accordance with the standards of Article 10, Section 12(D) of the Ordinance.
4. Developer 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.
5. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property and shall be amended only upon further written agreement of the Town and Developer and/or its heirs, successors and assigns 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 Developer and/or its heirs, successors and 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 Developer and/or its successors and assigns fail to develop or operate the Property 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 Developer and/or its successors and assigns, and reasonable opportunity to cure, to terminate this Agreement or to recommend to the Town that it should re-zone the Property to the current zone 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.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the 10<sup>th</sup> day of March, 2008.

TOWN OF KENNEBUNK

*[Signature]*  
Witness

By: *[Signature]*  
Its Board of Selectmen, by Wayne Berry,  
Its Chairman, duly authorized

*[Signature]*  
Witness

FESTIGAN, INC.  
By: *[Signature]*  
Its PRESIDENT  
Thereunto duly authorized

*[Signature]*  
Witness

*[Signature]*  
George E. Hissong

*[Signature]*  
Witness

*[Signature]*  
Kurt D. Hissong

STATE OF MAINE  
YORK, ss.

March 25, 2008

Personally appeared the above-named Wayne Berry, Chairman of the Board of Selectmen, Town of Kennebunk and acknowledged the foregoing instrument to be his/her/their free act and deed in said capacity on behalf of said Town.

Before me,

Kathleen Nolette  
Notary Public/Attorney at Law

Printed Name: KATHLEEN NOLETTE  
NOTARY PUBLIC, MAINE  
Commission Expires: MY COMMISSION EXPIRES, 4/21/13

SEAL

STATE OF MAINE  
YORK, ss.

MARCH 19, 2008

Personally appeared the above-named GEORGE HISSONG as PRESIDENT of FESTIGAN, INC. and acknowledged the foregoing instrument to be his/her free act and deed in said capacity on behalf of said FESTIGAN, INC.

Before me,

C. Wesley Crowell  
Notary Public/Attorney at Law

Printed Name: C. WESLEY CROWELL  
Commission Expires:

STATE OF MAINE  
YORK, ss.

MARCH 19, 2008

Personally appeared the above-named George E. Hissong and acknowledged the foregoing signed by him to be true and of his own personal knowledge.

Before me,

C. Wesley Crowell  
Notary Public/Attorney at Law

Printed Name: C. WESLEY CROWELL  
Commission Expires:

STATE OF MAINE  
YORK, ss.

MARCH 19, 2008

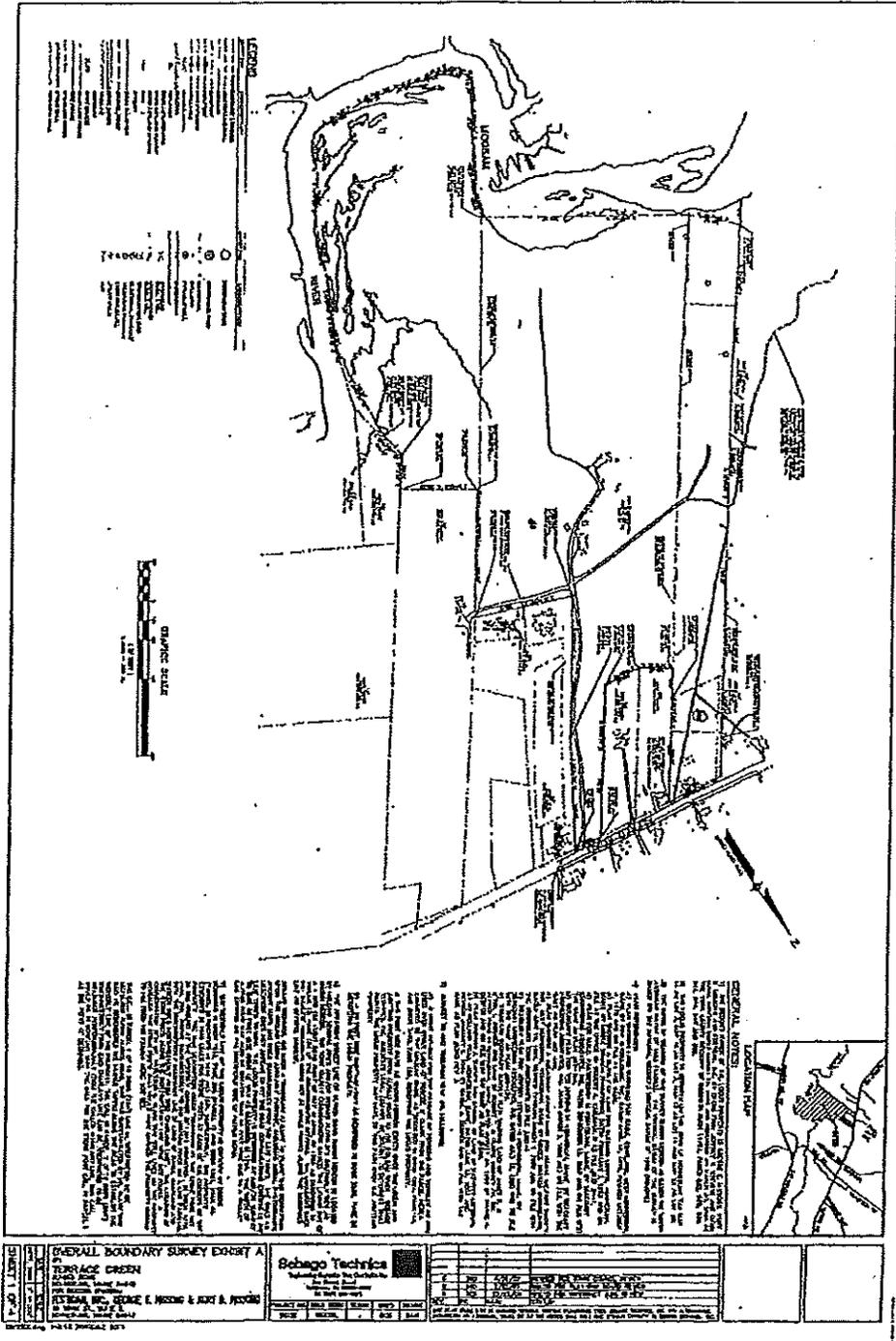
Personally appeared the above-named Kurt D. Hissong and acknowledged the foregoing signed by him to be true and of his own personal knowledge.

Before me,

  
Notary Public/Attorney at Law  
Printed Name: C. WESLEY CROWEN  
Commission Expires:



**EXHIBIT A**  
 (Pg 2 of 4)





**EXHIBIT A**  
 (Pg 4 of 4)



W. J. C. ENGINEERS 1000 W. 10th St. Oklahoma City, Oklahoma 73106 Phone: (405) 521-1111 Fax: (405) 521-1112	CONTRACT ZONE SITE PLAN EXHIBIT A OF TERRACE GREEN 1000 W. 10th St. OKLAHOMA CITY, OKLAHOMA 73106 PREPARED BY: GEORGE C. HENNING & DAVID B. MESSING DATE: 10/12/04	Echigo Technics 1000 W. 10th St. Oklahoma City, Oklahoma 73106 Phone: (405) 521-1111 Fax: (405) 521-1112	SHEET NO. 1004-001 OF 1004-001 DATE: 10/12/04 SCALE: AS SHOWN	THIS PLAN IS THE PROPERTY OF W. J. C. ENGINEERS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF W. J. C. ENGINEERS.
	W. J. C. ENGINEERS 1000 W. 10th St. Oklahoma City, Oklahoma 73106 Phone: (405) 521-1111 Fax: (405) 521-1112			W. J. C. ENGINEERS 1000 W. 10th St. Oklahoma City, Oklahoma 73106 Phone: (405) 521-1111 Fax: (405) 521-1112

**EXHIBIT B**  
**(Pg 1 of 4)**  
**Terrace Green Contract Zone**

**EXHIBIT B**  
**TERRACE GREEN CONTRACT ZONE**

**A. Purpose**

The purpose of the Terrace Green Contract Zone is to allow for a clustered, single-family detached housing project with an affordable single-family detached housing component to be developed in the least sensitive areas of a parcel currently split by the West Kennebunk Village Residential Zone (WKVR) and the Rural Residential Zone (RR), Resource Protection (RP) and Shoreland Overlay Zone. The WKVR Zone is located in the lower terrace of the property which allows for higher density and no cluster provision. This land area is more sensitive to development and located along the Mousam River. The majority of the property is zoned RR which allows lower density, but requires cluster development for subdivisions. This land area contains previously developed areas that are more suitable for higher density cluster developments.

This Contract Zone will permit a higher density development in the upper terrace, while retaining approximately 74% of the land in open space, with most of it to be set aside in a conservation easement. In addition, seven affordable homes with ownership will be constructed and public water will be extended to the site.

**B. Permitted Uses**

The following uses are permitted in the Terrace Green Contract Zone:

- Single-family detached dwelling.
- Affordable housing.
- Community buildings.
- Outdoor recreation.
- Accessory buildings and uses.
- Forest management.
- Essential Services
- Municipal Uses
- Accessory Apartments

**C. Special Exceptions**

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

- Public utilities
- Temporary docks

**EXHIBIT B**  
 (Pg 2 of 4)

**D. Prohibited Uses**

- (1) 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 Terrace Green Contract Zone:

Single-Family Detached

Minimum net lot area	14,000 square feet
Minimum lot area per dwelling unit	N/A
Minimum lot width	70 feet *
Minimum setbacks	front - 10 feet * side - 10 feet rear - 10 feet
Shoreland setback	per Article 8 Section 16 Shoreland Zone
Maximum lot coverage	25%
Maximum lot coverage (Shoreland Zone)	20%
Minimum width of green perimeter strip from abutting properties	50 feet as shown on the Site Plan **
Maximum height	35 feet

\* Lots which abut a park and do not have direct access to a street shall have the park designated as the lot frontage and lot front.

\*\* Within the 50 foot green perimeter strip, there shall be a minimum vegetative buffer strip at least 25 feet in width adjacent to all abutting lot lines that provides a visual screen of the housing development from adjacent dwellings. This can be natural woodland, screen fencing, earthen berms, new landscape plantings or a combination thereof.

Affordable Housing

Minimum net lot area	12,000 square feet
Minimum lot area per dwelling unit	N/A
Minimum lot width	70 feet
Minimum setbacks	front - 10 feet side - 10 feet rear - 10 feet
Shoreland setback	Per article 8 Section 16 Shoreland Zone
Maximum lot coverage	25%
Minimum width of green perimeter strip	50 feet as shown on site plan *

**EXHIBIT B**  
**(Pg 3 of 4)**

Maximum height	35 feet
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\*within the 50 foot green perimeter strip, there shall be a minimum vegetative buffer strip at least 25 feet in width adjacent to all abutting lot lines that provides a visual screen of the housing development from adjacent dwellings. This can be natural woodland, screen fencing, earthen berms, new landscape plantings or a combination thereof.

(2) Performance Standards

Uses within the Terrace Green 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) | Affordable housing       | Article 10, Section 12(D) |
| (f) | Home occupations         | Article 10, Section 14    |
| (g) | Accessory Apartments     | Article 10, Section 15    |

F. Overlay Districts

- (1) Any portion of the Terrace Green Contract Zone within the Shoreland Area Overlay District shall additionally comply with the provisions of Article 8, Section 16, and of Article 10, Section 3, of the Town of Kennebunk Zoning 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. Planning Board Review

Any site plan review shall be conducted by the Planning Board. The Planning Board may make modifications of the Site Plan without amendment of this Agreement but, in no event, shall the maximum number of lots be increased without an amendment approved at Town meeting.

I. Street Standards

A. Public

**EXHIBIT B**  
**(Pg 4 of 4)**

Any public street proposed as part of the Terrace Green Contract Zone shall be designed to a Minor Street standard for growth areas, with the following exceptions:

1. Sidewalks shall be required.
2. Proposed road D shall have a road connecting to the abutting Mousam River Campground in lieu of a turnaround.
3. A distance of 150 feet shall be maintained between center lines of intersecting streets and alley ways.

**B. Private Alley Way**

The private alley way proposed as part of the Terrace Green Contract Zone shall be designed to the Town standards for a local paved street with the following exceptions:

1. Right-of-way shall be 30 feet in width.
2. Pavement width shall be 18 feet.
3. No curb or sidewalk is required.
4. Alley may have a reverse roadway crown.
5. Minimum centerline radius is 75 feet.

13997 Bergen + Packinson  
62 Portland Rd  
Kennelworth, NC 28043

**END OF DOCUMENT**