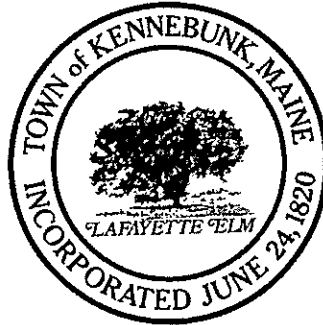


# Town of Kennebunk, Maine



## Planning Board

### MEETING MINUTES

March 27, 2023

In Person Meeting, Town Hall, 3<sup>rd</sup> Floor, 1 Summer Street, Kennebunk

This meeting was held in person and televised on Cable TV Channel 5.  
It is available for public viewing at any time at [TownHallStreams.com](http://TownHallStreams.com).

- Present: Chris MacClinchy [Chair], Janice Vance [Member], Robert Metcalf [Member], and Daniel Kiley [Alternate];
- Absent: Richard Smith [Vice Chair], and Edward Trainer [Member];
- Also Attending: Christopher Osterrieder [Town Engineer and Director of Community Development], Karen Winton [Deputy Director, Community Development], Brittany Howard [Town Planner], William Ward, Jr. [Select Board Liaison], Jim Corcoran [Terradyn Consultants LLC], and Connor Ritter [Walsh Engineering].

- 1. Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on March 27, 2023. The meeting was held in person at Town Hall. MacClinchy elevated D. Kiley to voting status for the purpose of this meeting. The number of voting members present was, therefore, four: MacClinchy, Vance, Metcalf, and Kiley. The Chair likewise advised the public that digital presentations during this session would not take place due to technical difficulties.

## 2. Agenda Items

### a. Continued Public Hearing LD 2003 Review

B. Howard stated that LD 2003 was a new state law meant to increase housing opportunities in Maine. The new law, Howard said, primarily makes changes in three areas: (1) affordable housing; (2) accessory dwellings, and (3) housing density in residential areas. She explained each one.

At prior meetings, Howard said, the Planning Board had begun to look at possible revisions of the Town's Ordinance to align it with the new law. Howard highlighted some of the initial proposed changes. They are available at length for public inspection at on the Town's website, Agenda Center, March 27<sup>th</sup> Planning Board meeting.

B. Howard also cited this definition of "short-term rentals" which had also been considered:

**SHORT-TERM RENTAL:** The use, control, management or operation of a legally existing dwelling unit, in whole or in part, for dwelling, sleeping or lodging purposes for fewer than fifteen (15) consecutive days and for compensation, directly or indirectly. This exclude motels, hotels, renting of rooms and furnishing of board, and inns.

The proposed definition of "short-term rental" cites 15 days as a threshold. According to Howard, a number of neighboring communities in Maine use 30 days, instead.

Board members had no questions or comments. The Chair consequently opened a Public Hearing and solicited comments from the public.

William Ward, Jr., a Select Board member, spoke as a public commentator and asked if beach properties would be "grandfathered" when Kennebunk's zoning revisions went into effect. Would a small cottage be affected, he asked. "If it's stand-alone," C. Osterrieder responded, "it should be fine."

Wayne Berry, another commentator, questioned the minimum space requirements for single and two-family dwellings with or without access to public sewer. Berry said that Kennebunk was contemplating "sewer" versus "non-sewer" figures which seemed inconsistent with the new state law. LD 2003, he said, did not distinguish between the two. "The Town will be requiring more [minimum space] for a non-sewer dwelling unit," Berry said, "and that should be fixed."

Mr. Berry also observed that the Town was contemplating a maximum space amount for accessory dwelling units [ADUs] of 1,000 square feet or 40% of the size of the main dwelling. He recommended citing 1,000 sq. ft. alone.

B. Howard read an email from Richard Smith, a Board member who could not attend but who wished to convey four concerns: (1) the easement of parking requirements dictated by LD 2003, Smith said, was unlikely to work for a town like Kennebunk because the Town lacked public transportation, requiring residents to use cars; (2) higher density development in areas not served by town sewer and water will push development into fragile land areas which should be protected; (3) re-classifying Kennebunk's suburban residential zone as a growth zone likewise exacerbates development pressure on properties that are fragile; and (4) the new law treats all Maine communities as if they were Portland and the law had been, in Smith's view, "rushed through without proper dialogue from the many diverse areas of the state."

J. Vance observed that the Ordinance changes proposed thus far "were a good start". R. Metcalf concurred. However, Metcalf also agreed with R. Smith that a number of

LD 2003's mandates could be problematic. "Ultimately," Metcalf said, "it will come down to the voters" and voter acceptance or disapproval of these Ordinance changes.

C. MacClinchy agreed that the short-term rental issue had to be addressed because of LD 2003, but he thought a change to 30 days, as other towns had espoused, was not a major shift. J. Vance agreed. Adopting the "majority view" of most other communities might be helpful, she ventured. Vance also stated that she hoped there would be strong public comment on and input into the final changes made to Kennebunk's Ordinance.

C. Osterrieder reported that the Sewer District intends to expand service into Kennebunk's growth area in anticipation of LD 2003's impact. "However, LD 2003 should not be a major change for Kennebunk," Osterrieder remarked.

Board members agreed that the Ordinance amendments thus far proposed would be a good starting point for public dialogue and Town consideration. "We can revise from there," J. Vance said.

Discussion ensued about the definition of short-term rentals and, specifically, the citation of 15 versus 30 days. R. Metcalf favored keeping Kennebunk's "original" 15 day threshold. Board members ultimately agreed to leave that number unchanged [i.e. as 15] as Metcalf had suggested.

Motion: **Move that the Town of Kennebunk Planning Board send a positive recommendation to the Select Board for its action on the proposed Ordinance changes for LD 2003.**

Moved: J. Vance

Second: R. Metcalf

Vote: **Show of hands vote, 4 in favor, none opposed; the motion carried.**

**b. Public Hearing – Subdivision Amendment – “Millstone Farm” – Millstone Farm Lane – Map 30 Lots 177, 178, 179, and 99-99**

B. Howard reminded the Board that this was a request to amend an approved site plan to adjust the property line which had been erroneously cited due to a survey error.

Jim Corcoran of Terradyn Consultants, representing the applicant, confirmed that a survey error had taken place and this amendment would rectify the previously approved site plan. Board members had no questions or comments. The Chair opened a Public Hearing and solicited public comments, but there were none. C. MacClinchy consequently closed the Public Hearing and proceeded to Findings of Fact.

**Town of Kennebunk  
Planning Board**

**FINDINGS OF FACT AND CONDITIONS OF APPROVAL**

**FINAL MAJOR SUBDIVISION PLAN OF: Millstone Farm Amendment**  
Subdivision Name

1. Property Owner: Binnhill Phase 2 LLC
2. Site Location: Millstone Farm Lane
3. Project Description: Subdivision Amendment – property line correction between subdivision and abutting property (Plan - Book 423 Page 43)
4. Zoning District (s): West Kennebunk Village Residential (WKVR)
5. Assessor's Map 30 Lots 177, 178, 179, & 99-999
6. Applicant: Binnhill Phase 2 LLC has shown legal interest in the property by deed.
7. INFORMATION REVIEWED BY PLANNING BOARD:
  - Preliminary Review: 2/27/2023
  - Public Hearing: 3/27/2023

CONDITIONS/WAIVERS:

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. The Kennebunk Planning Board has reviewed the above noted development utilizing the Kennebunk Standards for Reviewing Land Subdivisions and the Kennebunk Zoning Ordinance. Based upon the application and materials submitted in support of the application, together with the evidence submitted at the public hearing on the application, the Planning Board makes the following findings with respect to the standards of Title 30-A § 4404 and Article 11, Section 8 of the Zoning Ordinance Guidelines listed below:

**A. M.R.S.A. 30-A §4404**

1. **Pollution.** Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above the sea level and its relation to the floodplains, the nature of soils and sub-soils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

2. **Sufficient water.** Has sufficient water available for the reasonably foreseeable needs of the subdivision.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

3. **Municipal water supply.** Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

\_\_\_\_\_

Rationale for negative determination: \_\_\_\_\_

4. **Erosion.** Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

5. **Traffic.** Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed, and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of the Town, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

6. **Sewage disposal.** Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on Town services if they are utilized.

Standard is met \_\_\_\_\_, not met \_\_\_\_\_, N/A\_\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

7. **Municipal solid waste disposal.** Will not cause unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.

Standard is met \_\_\_\_\_, not met \_\_\_\_\_, N/A\_\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

8. **Aesthetic, cultural and natural values.** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Standard is met \_\_\_\_\_, not met \_\_\_\_\_, N/A\_\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

9. **Conformity with local ordinances and plans.** Is in conformance with the duly adopted subdivision regulation, comprehensive plan, and zoning ordinance of the Town of Kennebunk.

Standard is met \_\_\_\_\_, not met \_\_\_\_\_, N/A\_\_\_\_\_, met with following conditions and or waivers:  
The new lot lines conform in all regards to the zoning performance standard for the underlying zoning district.

Rationale for negative determination: \_\_\_\_\_

10. **Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of these regulations.

Standard is met \_\_\_\_\_, not met \_\_\_\_\_, N/A\_\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

11. **Surface waters; outstanding river segments.** Whenever situated, in whole or in part, within 250

feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

12. **Ground water.** Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

13. **Flood areas.** The sub divider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plat approval requiring that principal structures in the subdivision shall be constructed with their lowest floor, including the basement, at least two feet above the 100-year flood elevation.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A X, met with following conditions and or waivers:  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

14. **Stormwater.** The proposed subdivision will provide for adequate storm water management.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

15. **River, stream or brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

Standard is met\_\_\_\_, not met\_\_\_\_, N/A\_\_\_\_, met with following conditions and or waivers  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

16. **Freshwater wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

Standard is met\_\_\_\_\_, not met\_\_\_\_\_, N/A\_\_\_\_\_, met with following conditions and or waivers  
The amended subdivision plan complies with the previous approval and there are no changes to this criteria.

Rationale for negative determination: \_\_\_\_\_

17. **Spaghetti-lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of these lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

Standard is met\_\_\_\_\_, not met\_\_\_\_\_, N/A\_ X\_, met with following conditions and or waivers  
\_\_\_\_\_

Rationale for negative determination: \_\_\_\_\_

18. **Lake phosphorous concentration.** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

Standard is met\_\_\_\_\_, not met\_\_\_\_\_, N/A\_ X\_, met with following conditions and/or waivers  
\_\_\_\_\_

Rationale for negative determination: \_\_\_\_\_

19. **Impact on adjoining municipalities.** For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

Standard is met\_\_\_\_\_, not met\_\_\_\_\_, N/A\_ X\_, met with following conditions and or waivers  
\_\_\_\_\_

Rationale for negative determination: \_\_\_\_\_

20. **Lands subject to liquidation harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, Section 8869, Subsection 14.

Standard is met\_\_\_\_\_, not met\_\_\_\_\_, N/A\_ X\_, met with following conditions and or waivers  
\_\_\_\_\_

Rationale for negative determination: \_\_\_\_\_

- B. Article 11, Section 8** (As applicable for multi-family and non-residential subdivisions): N/A – this is for a 9-lot single family subdivision amendment



\*\*\* Based on the above noted findings, the Kennebunk Planning Board votes to

approve, (4-0)

approve with the conditions noted on first page or above, or

deny

the Final Plan Application of

**Millstone Farm Amendment**

**Subdivision Name**

Motion: **Move that the Planning Board of the Town of Kennebunk approve the Findings of Fact and [approve] the amendment to the final major subdivision plan to correct a survey error.**

Moved: J. Vance

Second: R. Metcalf

Vote: **Show-of-hands vote, 4 votes in favor, none opposed; the motion carried.**

**c. Public Hearing – 61 York Street**

B. Howard re-introduced this application for a multi-family development on York Street which would create 12 rental units of which three would be “affordable housing”. At a prior hearing, Howard said, the Board had expressed concern about the landscaping and the “bunching” or segregation of the affordable units. The applicant also sought several waivers.

Connor Ritter of Walsh Engineering spoke next, offering more detail. The apartments, he said, were going to be erected on a 1.2 acre parcel of land. The land was wooded and without buildings at this time. The parcel was surrounded by a condominium complex, single-family homes, and a motel. The three “affordable” units would be identical to the “market-rent” ones, but have a restrictive deed. There would be 27 parking spaces needed, and they would all be met on-site. The project would likewise be served by public water and sewer.

C. Ritter went on to enumerate and explain the waivers sought for this project. The applicant specifically sought three: (1) reduction of the required 50 ft. “green buffer” to 20 feet “so the project can fit into a fairly narrow property”; (2) reduction of the space between the proposed driveway and existing curb cuts from 100 feet to 86 feet to “allow the project to meet radii standards”; and (3) elimination of the 2-ft. landscaping strip otherwise required between the sidewalk and the units.

Ritter likewise enumerated the revisions to the plan that had already been made. A fire truck turning plan showed that truck movement on the site would be feasible with only a slight adjustment of the driveway. The Police Department called for lighting changes and visible unit numbering. A revised lighting plan, Ritter said, had consequently been done and would prevent light trespass.

C. Ritter then addressed the verbal and written concerns he had received from abutters. The Waterford Greene Condominium Association, he said, had expressed concern about lighting and drainage. The project's stormwater management plan, Ritter insisted, would ensure that there be no incremental water flow coming onto neighboring properties. The Condominium Association, Ritter said, also expressed concern about the reduced, 20-ft buffer. In response, the applicant proposed to plant four-season evergreens in the space to afford year-round privacy.

Ritter went on to address other concerns that had been communicated by Brenda Robinson, a resident in the area. She alleged that the project's setbacks were significantly less than those stipulated by Ordinance and that this development was squeezing too many units into too small a space. Ritter addressed each of these comments, showing that the project would comply with Town Ordinance standards with the waiver exceptions.

In response to other abutter concerns, C. Ritter stated that lighting would be "full cut-off", "down-cast", and "dark-sky compliant". The Post Office, he said, had approved the location of the cluster mailboxes which the applicant proposed. The Water District had also approved the plan as shown.

R. Metcalf asked for a "scenario plan" or some aerial depiction the project's units in relation to the condominium units at Waterford Greene. Ritter replied that one was included in the submission. Metcalf reiterated a disclosure he had made at the Board's prior hearing of this project. His mother, Metcalf said again, owned a condo in Waterford Greene. However, Metcalf professed that he was strictly neutral and unbiased about the project, and other Board members concurred. Board members did not believe that Metcalf had to recuse himself.

J. Vance inquired whether the applicant would be willing to install more fencing for added privacy if required, and Ritter answered in the affirmative. Vance also asked if a retaining wall might be needed because of the grading, and Ritter responded that grading would be done to a lower 3-to-1 sloping, presumably offsetting the need for a retaining wall.

J. Vance also asked how cars could be prevented from parking on or into the sidewalk. C. Ritter responded that the applicant was considering putting in a curb in some locations to prevent this. There may also be specific parking spaces earmarked for larger vehicles.

Discussion ensued about the project's grass areas. Ritter affirmed that there would be small grass areas in front of each unit. D. Kiley thanked the applicant for proposing to create affordable units and not segregate them. However, Kiley expressed concern about fire truck maneuverability, and Ritter reiterated that the Fire Department had visited the site and deemed the driveway to be adequate.

In response to other Board questions, C. Ritter affirmed that snow would not be stored near Waterford Greene, but would instead be located near the project's Units #1 and

#2. C. MacClinchy asked if there would be stairs on the back decks, and Ritter answered in the negative. However, B. Howard countered that the building plans show stairs at the back. These plans, she said would need to be revised.

At this juncture, the Chair formally opened a Public Hearing and invited public comments and questions.

Marie Louise St. Onge, president of the Waterford Greene Condominium Association, addressed the Board and made four main points:

- **Drainage:** The Association, she said, had concerns about this project's drainage. The York Street site has a higher elevation than Waterford Greene. What would be done to prohibit run-off from the site onto Waterford Greene properties?
- **Setbacks:** The developer assumes that the Town will grant a setback reduction from 50 to 20 feet. However, the Town's Ordinance specifically requires a 50-ft. setback for reasons of privacy and reasonable spacing. "The Planning Board," the speaker insisted, "should not relax the setback to 20 feet."
- **Fencing:** The Condominium Association preferred a vegetation buffer rather than fencing. However, vinyl ("not metal") fencing might be installed near Waterford Greene Unit #2. And,
- **Lighting:** Ms. St. Onge asked that this project's exterior lighting be "down-cast" and steps taken to avoid headlight intrusion.

Ms. St. Onge also asked what recourse neighbors had if the project's drainage or lighting representations did not materialize as promised. C. Osterrieder responded that the Town could enforce project commitments and remedy many lapses. However, Osterrieder stated that the elevation of this particular project was going to remain unchanged, so there was little likelihood of neighbors experiencing increased run-off.

Katherine and John Toth, owners of Kennebunk Gallery Motel and Cottages at 65 York Street, addressed the Board next, also expressing concerns about the project's proposed setbacks and traffic impact. "The proposed [20-ft.] setback is inadequate," K. Toth stated. She also remarked that when her motel drains its swimming pool, the water was going to run right onto the development property. The project's location was problematic.

Ms. Toth also asked how the Town would police the enforcement of "affordable" rents over time. C. MacClinchy replied that, if approved, there would be documentation in place to help ensure that affordable renting was adhered to.

The Toths then spoke of the already great congestion on York Street near "Smoke" and "Cheryl's". This project, they said, was going to aggravate an already bad situation.

Josh Maynard, the owner of "Smoke" restaurant, addressed the Board next. He said that 800 sq. ft. for a two-bedroom apartment was unreasonably small and he also expressed concern about the traffic and speed along Route One. "It's completely unsafe", he said. J. Maynard alluded to a promise by Town officials to put a crosswalk across Route One near his restaurant. But if the traffic speed and congestion on Rte. One are not dealt with, Maynard said, there could be fatalities.

Cynthia Flow, an owner of 2 Waterford Greene Drive, said that large trees near her property afforded privacy and helped drainage, but the new development would eliminate them. She called on the Board to (1) enforce the 50 ft. buffer setback without fail; (2) prevent the wholesale removal of large trees; (3) reduce the number of units to be constructed to limit the project's traffic and light-trespass impact; and (4) re-inspect the project's drainage plan to ensure that heavy rainfalls would not result in heavy run-off coming onto her property.

Ms. Flow added that the driveway for this project would come out on Route One near "Smoke" restaurant, so traffic would most certainly be impacted.

Another public commentator and resident at 63 York Street, Adam Dobrovitch, concurred that the extensive vegetation currently on the project site helped with drainage in the area. This development, he said, would necessarily reduce vegetation, create a large impermeable area, and cause drainage problems for neighbors. The proposed location for snow storage, he added, would also cause water to directly drain onto his property. He also asked that a fence be installed surrounding the entire project or at least his property line. "There are way too many units", he concluded, "and too much of a drainage threat."

B. Howard then read into the record a letter from the owners of Unit #2 at 2 Waterford Greene Drive. The letter reiterated the very same points which Ms. Flow, the writer, had already voiced in person [see above].

There being no other public comments or questions, the Chair formally close the Public Hearing. He invited C. Ritter to respond to each of these concerns.

C. Ritter stated that the project's drainage plan had been formulated based on "highly conservative" assumptions and that the possibility of a huge surge of rainwater had already been taken into account. Soil scientists had conducted site tests, he said, and had conservatively estimated the probable infiltration rate. The project's proposed catch basins and culverts should provide for more-than-ample drainage *without* overflow onto Waterford Greene, Ritter insisted.

Ritter commented, as well, on the applicant's intent to preserve as many large trees as possible. As for fencing, the applicant was amenable to install fencing which matches or compliments that of 2 Waterford Greene. Lighting, too, would be downcast to abate light trespass. "There should be no light intrusion," Ritter said,

C. Ritter went on to explain that affordable housing would be based on a renter's income via-a-vis York County income levels. It would be Town officials, not the project's

owner, who would define that income threshold. All units, too, would be long-term rentals. "They are likely to generate a low volume of traffic," Ritter stated.

Ritter agreed that large trees are important for drainage, and said that only smaller trees were slated to come down. A number of new trees and vegetation was being added as well. As for the number of units, Ritter observed that if the project created only ten units instead of the proposed 12, it would not be economically feasible to create affordable housing. That was the trade-off.

"If abutters want more fencing or landscaping," Ritter concluded, "we are willing to look at that."

K. Toth, the motel owner, asked if water was going to drain onto her property. Ritter explained that the elevation and slope of the project site were not going to change. There should be, he insisted, no change in the motel's run-off experience. Moreover, the additional vegetation to be planted should help contain water flow as well.

R. Metcalf then offered his views:

- **Curbs:** Curbs, Metcalf said, would do little to prevent drivers from parking on or over the sidewalk. Another solution should be considered.
- **Lighting:** The photometric study submitted for this project only addresses the footcandles of the pole lights - and does not show the light cast behind the poles. The study should be improved.
- **Drainage:** The project's drainage system has to address the legitimate concerns of abutters. Metcalf asked for Ritter to provide the "conservative assumptions" underlying the applicant's drainage plan.
- **Traffic:** This project's traffic report does not take into account the challenge of moving onto Route One. While "trip generation" caused by the project, itself, might not be significant, Metcalf said, there is nevertheless a cumulative effect. The Board had to take that cumulative effect into account.
- **Crosswalk:** Metcalf questioned the mention of a "promise" that Town officials allegedly made to install a cross-walk. C. Osterrieder clarified that, while that idea had once been discussed, it was not an immediate or guaranteed consideration. "Painting stripes on the road is not a cure-all," Osterrieder said, "and that particular crosswalk is something we won't say 'yes' to right now" in any event.
- **Buffer Setback:** As for the reduction of the setback from 50 to 20 feet, Metcalf urged the Board — if, indeed, members agreed to approve that waiver — to make "perpetual, on-going maintenance of the 20-ft buffer a condition of approval" and to insert that requirement in the deed so that current as well as future owners would have to honor it.
- **Vegetation and Plants:** Metcalf stated that the project needed to install plants more than five or six feet in height. Smaller plants, he said, would not afford the neighbors much privacy or meaningfully prevent light trespass. In particular, the 20 ft. or 50 ft. buffer area had a pronounced slope, so the

plants there had to have “sufficient height and maturity” to block light intrusion. The plants currently proposed, Metcalf said, would not accomplish this.

- **Site Plan:** Metcalf said the site plan also needed to be amended to contain a drawing list as well as list of waivers. C. MacClinchy interjected that the plan should also contain a note — and the deed contain a covenant — that the requirement to designate three [3] units as “affordable” would be an on-going requirement for present and future owners.

Members then discussed whether another Public Hearing was required. C. MacClinchy suggested that another Public Hearing and plan review were warranted. “We’re not ready to react to this preliminary plan,” MacClinchy stated.

Members agreed to continue today’s hearing until April 24, 2023 so as to afford the applicant time to address the concerns and recommendations surfaced at today’s hearing. The proposed waivers, they agreed, would be considered at that later date. D. Riley then asked for an aerial view of the tree line from Unit #2 of Waterford Greene to the proposed development.

### 3. Prior Meeting Minutes

C. MacClinchy next led the Board in a review of the minutes of its meeting of March 13, 2023. Several errors were identified and corrected.

Motion: **Move that the Town of Kennebunk Planning Board approve the Minutes of its meeting of March 13, 2023 as amended.**  
Moved: J. Vance  
Second: R. Metcalf  
Vote: **Show of hands vote, 4 in favor, none opposed; the motion carried.**

### 4. Other Business

There was none.

### 5. Adjournment:

There being no further business, the Chair adjourned the meeting at 10:18pm.

Motion: **Move that the Planning Board of the Town of Kennebunk adjourn this meeting.**  
Moved: J. Vance  
Second: D. Riley  
Vote: **Show-of-hands vote, 4 votes in favor, none opposed; the motion carried.**

Respectfully submitted by  
J. Schlagheck, Clerk

Adopted by the Planning Board in its Meeting of April 10, 2023

Signed by:



PLANNING BOARD