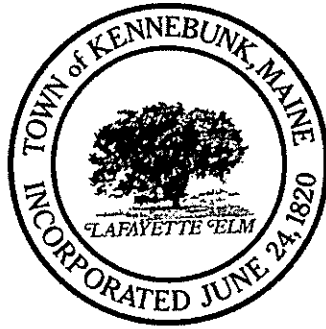


# Town of Kennebunk, Maine



## Planning Board

### MEETING MINUTES

October 24, 2022

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], Richard Smith [Vice Chair], David Smith [Secretary], Robert Metcalf [Member], Janice Vance [Member], Edward Trainer [Alternate]; and Daniel Kiley [Alternate];

**Absent:** None;

**Also Attending:** Brittany Howard [Town Planner], Lucien Langlois [Atlantic Resources Consultants, LLC], Steve Doe [Sebago Technics], Greg Patterson [Patco Construction], Jim Logan [Longview Partners, LLC], and Daniel Boothby [Cummings Market].

- 1. Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on October 24, 2022. The meeting was held in person and there were five voting members present: C. MacClinchy, J. Vance, R. Smith, D. Smith, and R. Metcalf.

## 2. Agenda Items

### a. Public Hearing — Contract Zone Revision/Site Plan Review — 6 Independence Drive — Map 20 Lot 2-3

B. Howard re-introduced this application, reminding the Board that Kennebunk Port Hotel LLC sought to amend the One Alfred Road Contract Zone to expand the Hampton Inn & Suites Hotel and to add parking where Unit D was shown on the original plan. The application, Howard said, was now before the Board for a public hearing.

Howard noted that at the Board's last hearing of this application, Board members had asked that the plan be amended to show (a) the proposed sewer line, and (b) the "striping" to be put on the road near Cummings Market to regulate traffic flow. Both suggestions had been enacted.

S. Doe of Sebago Technics, representing the property owner, then advised the Board that minor adjustments had also been made to the plan in response to concerns raised by Cummings Market. Doe said the specific modifications included changes of the proposed sidewalk, curbing, and loading dock. Doe stated that the current design addressed most of the concerns and recommendations raised by Town Engineer Chris Osterrieder. However, Sebago Technics was still formulating several drainage calculations which the Town Engineer had requested. Doe suggested that those numbers and satisfaction of all of the Town Engineer's concerns could be made formal conditions of approval.

J. Vance posed questions about the proposed loading dock. S. Doe stated that the dock would only accommodate one delivery truck at a time. However, he affirmed that there would be adequate lane width for Cummings Market traffic to come and go without interruption even if deliveries at the loading dock were in progress.

D. Smith asked if drainage calculations had been done, and S. Doe re-iterated that the Town Engineer sought that same information. It was being tabulated, Doe said, and would be submitted soon. R. Metcalf asked if the gravel base below the sidewalk would be satisfactory, and S. Doe responded in the affirmative.

R. Smith expressed safety concerns about delivery trucks having to drive over sidewalks. R. Smith also asked if the applicant had spoken with the property's three abutters, and S. Doe responded "not since the site walk". R. Smith then noted that only one interested party [Cummings Market] was in attendance. E. Trainer nevertheless encouraged the applicant to meet with all three abutters to address any concerns they might have.

C. MacClinchy formally opened a public hearing and solicited public comments and questions. Daniel Boothby, representing Cummings Market, voiced concern about the space available to accommodate delivery trucks. Boothby said many hotel clients shopped at Cummings Market, but he opined that the proposed sidewalk should be sufficiently safe for that foot traffic.

In response to other Board questions, Mr. Boothby described how deliveries at Cummings Market took place. As there were no other public comments, however, C. MacClinchy subsequently closed the public hearing. MacClinchy observed that the Planning Board would not take action until the applicant responded to the Town Engineer's questions and provided the drainage calculations requested. However, MacClinchy asked B. Howard to tentatively include this application on the agenda of the Board's next, November 14<sup>th</sup> 2022 meeting.

Motion: **Move that the Kennebunk Planning Board consider the preliminary review of this application to be complete for amendment of [the] Contract Zone and the project of Kennebunk Port Hotel LLC, 6 Independence Drive, Tax Map 20 Lots 2 and 3, represented by Sebago Technics, to add 33 additional rooms to the Kennebunk Port Hotel aka "Hampton Inn & Suites".**

Moved: D. Smith  
Second: R. Metcalf  
Vote: **Show of hands vote, 5 in favor, none opposed; the motion passed.**

**b. Final Plan – Major Subdivision – Downing Road – “Kingsmeadow” – Map 30 Lot 41.**

B. Howard gave a brief overview of this application, reminding the Board that Downing Road Pastures LLC sought authorization to create eight [8] residential lots on 58.8 acres. The land is currently vacant, Howard said, and is zoned Rural Conservation, Resource Protection, and Shoreland Overlay.

The proposed net lot area is 1,772,020 sq. ft. while the existing lot area is 2,561,328 sq. ft. The minimum lot area, Howard stated, is 3 acres or 130,568 sq. ft. Howard observed that this application was now before the Board for final review. The Board, Howard said, should determine whether another public hearing was needed or proceed to Findings of Fact.

Since the Planning Board’s previous hearing of this application, Howard added, the applicant had amended the plan to include:

- A mowing schedule;
- A note citing the restriction that only certified organic pesticides and fertilizers can be used;
- An easement for access to open spaces;
- Lot line adjustments to address the Board’s prior wetland concerns and ensure that lots conform with setback requirements; and,
- A note confirming that the maintenance of the storm water infrastructure would remain the responsibility of homeowners (and not the Town) in the event the subdivision road were to one day become a Town roadway.

In response to Fire Department concerns, the applicant also agreed to modify the plan to install a cistern. B. Howard additionally cited the conditions of approval (enumerated below). Lucien Langlois of Atlantic Resource Consultants, representing the land owner, then offered to respond to any Board or public questions.

D. Kiley inquired about the conditions of approval called for by the Town Engineer, and L. Langlois affirmed that all three of them had been addressed. B. Howard added that

two of the three would be formal conditions of approval and the Town Engineer's third condition would be added to the plan.

J. Vance noted that the plan comments on Lot #1 twice, perhaps meaning to comment on Lot #1 and, separately, Lot #8. Vance also asked about the likely impact of winter salt use on vegetation at the level spreader at the end of the cul-de-sac, and L. Langlois responded that only "minor" use of salt was anticipated with negligible impact on plant life.

J. Vance also posed questions about the shared wastewater system, and Jim Logan of Longview Partners provided details in response. Logan observed that a "wastewater pump maintenance schedule" was required by Maine law. The schedule, he said, should appear in individual deeds as well.

D. Smith noted that Exhibit -303 of the application did not cite the specific material to be used ("presumably iron") for the cistern system. D. Smith called for that detail to be added to the plan. He also asked for confirmation of the location of the proposed leach field, and J. Logan pointed out the location on an aerial diagram of the property.

D. Smith then asked if there was sufficient distance between the leach field and individual wells. J. Logan responded that the leach field would be located more than 200 ft. away from any well – "a distance greater than required by State law". D. Smith then urged the applicant to consider installing a generator to backup the pump moving waste to the leach field. J. Logan and L. Langlois made notes of the remark, but did not comment.

R. Metcalf observed that Sheet 101 of this application needed to be amended as it had the stamp of a New Hampshire surveyor when that of a Maine surveyor was required. E. Trainer, in turn, re-iterated the importance of monitoring the area between the stormwater buffer and the river for a period of time following the road construction, and other Board members agreed.

C. MacClinchy then called on B. Howard to enumerate the conditions of approval for this application to include those set forth by the Town Engineer as well as the Planning Board:

### **Conditions of Approval**

1. Provide an "as-built" of the force main depicting the depth and horizontal location of the utility as part of the financial guaranty reduction.
2. Provide sample language for the signage to be used to delineate the no-cut buffer zone from the open drainage system.
3. Monitor the area between the stormwater buffer and the Kennebunk River for a period of one [1] year following road construction, with performance guaranty money

4. Include the conceptual driveway culvert location in Sheet C-101 and likewise insert a table of designated culvert sizes for each lot in the plan.
5. On sheet C-200 there are two lot #1. One lot should be changed to lot 8.
6. The HOA documents should contain a maintenance/pumping schedule for the shared septic system.
7. It should be confirmed that the materials on the cistern plan are consistent with the Fire Chiefs requests. Also, the maintenance requirements of the cistern should be added to the HOA documents.
8. The net lot areas for lots 2, 5, 6, and 7 should be added to the plan.
9. The applicant should review the need for a generator at the pump station in case of a power outage. If the homes have their own generators, the pump station could be inundated.
10. The surveyors stamp on the plan is New Hampshire, this should be a Maine stamp (sheet 1 of 1).
11. Sheet S-100 in the notes section reference the greed code, this should state green.
12. Sheet C-303 shall be added to the cover page and title table on the recording pages.
13. Sheet S-101 should have the same MDEP mowing reference as Sheet S-100.

C. MacClinchy then proceeded to Findings of Fact.

## **Town of Kennebunk Planning Board**

### **FINDINGS OF FACT AND CONDITIONS OF APPROVAL**

#### **FINAL MAJOR SUBDIVISION PLAN OF: Kingsmeadow** Subdivision Name

1. Property Owner: Downing Road Pastures, LLC has shown legal interest in the property by deed.
2. Site Location: Downing Road
3. Size and # of lots/units: Creation of 8 residential lots on 58.8 acres.
4. Zoning District (s): Rural Residential, Resource Protection, & Shoreland Overlay
5. Assessor's Map 30 Lot 41
6. Applicant: Jason Vafiades – Atlantic Resource Consultants
7. INFORMATION REVIEWED BY PLANNING BOARD:
  - Staff reviews (Fire Chief, Police Chief, Planner, Town Engineer): X
  - Sketch: 4/13/2020 & 2/8/2022
  - Site Walk completed by Board: 9/2020
  - Completeness: 2/28/2022
  - Public Hearing: 4/11/2022

- Conservation Commission: X
- State/Federal Reviews: N/A

CONDITIONS/WAIVERS:

1. Provide an “as-built” of the force main depicting the depth and horizontal location of the utility as part of the financial guaranty reduction.
2. Provide sample language for the signage to be used to delineate the no-cut buffer zone from the open drainage system.
3. Monitor the area between the stormwater buffer and the Kennebunk River for a period of one [1] year following road construction, with performance guaranty money in the amount of 10% of the project maintenance bond to be retained by the Town Planner until said area is deemed to be satisfactorily stable.
4. Include the conceptual driveway culvert location in Sheet C-101 and likewise insert a table of designated culvert sizes for each lot in the plan.
5. On sheet C-200 there are two lot #1. One lot should be changed to lot 8.
6. The HOA documents should contain a maintenance/pumping schedule for the shared septic system.
7. It should be confirmed that the materials on the cistern plan are consistent with the Fire Chiefs requests. Also, the maintenance requirements of the cistern should be added to the HOA documents.
8. The net lot areas for lots 2, 5, 6, and 7 should be added to the plan.
9. The applicant should review the need for a generator at the pump station in case of a power outage. If the homes have their own generators, the pump station could be inundated.
10. The surveyors stamp on the plan is New Hampshire, this should be a Maine stamp (sheet 1 of 1).
11. Sheet S-100 in the notes section reference the greed code, this should state green.
12. Sheet C-303 shall be added to the cover page and title table on the recording pages.
13. Sheet S-101 should have the same MDEP mowing reference as Sheet S-100.

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  X , not met  , N/A  , met with following conditions and or waivers

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

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

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

Water is being provided by private wells.

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  X , met with following conditions and or waivers

This plan is not connecting to the municipal water system.

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  X , not met  , N/A  , met with following conditions and or waivers:

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  X , not met  , N/A  , met with following conditions and or waivers:

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  X , not met  , N/A  , met with following conditions and or waivers:  
This proposal is using private subsurface waste disposal with part of the disposal being a common disposal field for six of the lots.  
 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  X , not met  , N/A  , met with following conditions and or waivers:  
 \_\_\_\_\_  
 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  X , not met  , N/A  , met with following conditions and or waivers:  
 \_\_\_\_\_  
 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  X , not met  , N/A  , met with following conditions and or waivers:  
 \_\_\_\_\_  
 Rationale for negative determination: \_\_\_\_\_  
 \_\_\_\_\_
  
10. **Financial and technical capacity.** The sub divider has adequate financial and technical capacity to meet the standards of these regulations.  
 Standard is met  X , not met  , N/A  , met with following conditions and or waivers:  
 \_\_\_\_\_  
 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  X , not met  , N/A  , met with following conditions and or waivers:  
 \_\_\_\_\_  
 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  X , not met  , N/A  , met with following conditions and or waivers:  
 \_\_\_\_\_



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  X , not met  , N/A  , met with following conditions and or waivers:

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

14. **Stormwater.** The proposed subdivision will provide for adequate stormwater management. Standard is met  X , not met  , N/A  , met with following conditions and or waivers: The Town Engineer reviewed the stormwater plan. The applicant shall address the Town Engineers comments regarding stormwater as conditioned.

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  X , not met  , N/A  , met with following conditions and or waivers

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  X , not met  , N/A  , met with following conditions and or waivers

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

The project abuts but does not cross any municipal boundaries.

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 8-lot single family subdivision

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

       approve,

  X   approve with the conditions noted on first page or above, or (5-0)

       deny

the Final Plan Application of

Kingsmeadow

Subdivision Name

Motion: **Move that the Planning Board of the Town of Kennebunk approve the Findings of Fact, Conditions of Approval, and final plan for "Kingsmeadow" and the creation of eight [8] residential lots on 58.8 acres on Downing Road, Map 30 Lot 41.**

Moved: D. Smith

Second: R. Smith

Vote: **Show of hands vote, 5 in favor, none opposed; the motion passed.**

**c. Sketch Plan – Subdivision – 7 Traditional Lane – Map 62 Lot 19.**

B. Howard then introduced the application of Split Rock LLC to divide a property on Traditional Lane into three lots. The existing property measures 132,404 sq. ft. and has extensive wetlands. It spans several zoning districts or areas: (1) Business Park [BP]; (2) Branch Brook Aquifer Protection Zone A, (3) Branch Brook Aquifer Protection Zone B, (4) B-BPA, and (5) Shoreland Overlay. There is, Howard added, an existing building on the property. However, L. Langlois affirmed that the applicant was not declaring a “designated use” of the proposed two lots at this time.

E. Trainer observed that opining on the merits of this application was “challenging” without knowing the use and possible wetland impact of the project. D. Smith asked if he understood correctly that this application sought authorization to (a) divide the property into three lots, and (b) fill 7, 232 sq. ft. of wetlands for a roadway. L. Langlois and J. Logan responded in the affirmative.

R. Metcalf and J. Vance elected to hold off on questions until a site walk. However, Vance did inquire about the turnaround needed by the Fire Department, and L. Langlois pointed out where the turnaround would be located using an aerial depiction of the property.

C. MacClinchy asked whether the applicant proposed to install a rock sandwich for the wetland fill, and L. Langlois answered in the negative, stating that his group instead planned to work with the Army Corps to determine whether culverts should be used.

The Board and representatives then agreed to conduct a site walk on Saturday, October 29<sup>th</sup> at 8:00am. Board members instructed the representatives to have the property “staked” for that visit to delineate the property, fill area, and lot lines. The back-up date for the site walk, they agreed, would be November 5<sup>th</sup> at 8:00am.

**3. Approval of Meeting Minutes**

C. MacClinchy then led the Board in a page-by-page review of the Minutes of its meeting of September 26, 2022. Several errors were identified and corrected.

Motion: **Move that the Town of Kennebunk Planning Board approve the Minutes of its meeting of September 26, 2022 as corrected.**

Moved: D. Smith

Second: R. Smith

Vote: **Show of hands vote, 5 in favor, none opposed; the motion carried.**

**4. Other Business**

**a. Items for Signature:** B. Howard asked Board members for their signatures on several documents.

**b. Meeting Format:** B. Howard next reminded the Board that its policy was to hold remote or "Zoom" teleconference meetings when the CDC's color-coded rating of the COVID infection level for York County was red [meaning "high"] or yellow [meaning "medium"]. The most recent rating was yellow, Howard said. She stated that she would advise Board members of any change of the CDC's rating in advance of the next meeting and confirm whether the next meeting would be conducted in-person or via Zoom.

**5. Adjournment:** There being no further business, the Chair adjourned the meeting at 8:38pm.

Motion: **Move that the Planning Board of the Town of Kennebunk adjourn this meeting.**

Moved: D. Smith

Second: R. Metcalf

Vote: **Show-of-hands vote, 5 votes in favor, none opposed; the motion carried.**

Respectfully submitted by  
J. Schlagheck, Clerk

Adopted by the Planning Board in its Meeting of November 14, 2022

Signed by:



11/28/22

PLANNING BOARD