

Chapter 102. Zoning

ARTICLE II. Administration

DIVISION 3. Permits

Subdivision I. In General

Sec. 102-71 . through Sec. 1 02-80. (Reserved)

Subdivision II. Building Permit

Sec. 102-81 . Work requiring permit.

[Ord. No. 28-1997, S 301 .1 , 3-4-1997]

In addition to the requirements of the City building code, the City electrical code, the state plumbing code, the City plumbing code, the site plan regulations (chapter 90), permits required by the state fire marshal's office, and the provisions of this chapter, a building permit shall be required for:

- (1) Any building construction, addition, alteration and retrofit, for all structures.
- (2) Any modification in the footprint or volume of any structure.
- (3) The construction of a shed, provided that the shed exceeds 64 square feet in floor area, and exceeds six feet in height at the eaves or eight feet in height at the peak.
- (4) Retaining walls.
- (5) Curb cuts. Curb cuts are subject to approval of the City highway superintendent and/or state department of transportation and/or City council.
- (6) Fences or stone walls which are more than four feet in height.

Response: *A building permit application will be filed upon final site plan approval.*

Sec. 102-85. Wastewater disposal system required.

[Ord. No. 28-1997, S 301 .5, 3-4-1997]

All residential, commercial and industrial structures shall be served by municipal sewer in compliance with chapter 62, article II, or an approved subsurface wastewater disposal system designed and installed in compliance with state subsurface wastewater disposal rules. No building permit shall be issued unless the proposed development is in compliance with this section.

Response: *The proposed development includes domestic wastewater service by municipal sewer. NAF proposes to tie into the existing municipal sewer line*

along Perkins Road. NAF has attained an easement with Mathews Brother's (Attachment 08) to enable this connection as well as a capacity to serve letter from the Belfast waste water treatment facility (Attachment 10). Plans depicting the proposed connection are included in the plan set (Attachment 20).

Sec. 102-86. Wastewater disposal permit required.

[Ord. No. 28-1997, S 301 .6, 3-4-1997]

No building permit shall be issued for any structure or use involving construction that requires a wastewater disposal system or an increase in wastewater flow unless the applicant has demonstrated that the proposed structure or use has been issued a permit for the disposal of such wastewater.

Sec. 102-87. Standards for issuance.

[Ord. No. 28-1997, S 301 .7, 3-4-1997]

The code enforcement officer shall review all applications for building permits under permitted uses and shall approve all such applications which comply fully with all the provisions of this chapter, the site plan review regulations (Chapter 90), and the technical standards (Chapter 98), where applicable.

Sec. 102-88. Submission of plans.

[Ord. No. 28-1997, S 301 .8, 3-4-1997]

Any application for a building permit shall be accompanied by a legible plan, drawn to scale, showing the location, shape and dimensions of all buildings and structures to be built or altered, the intended use of each building and structure to be built or altered, and the size and location of any building already on the lot which will be within 50 feet of the building structure to be built or altered, and such other information as the code enforcement officer may reasonably require for his review in order to evaluate compliance with this chapter.

Response: *A full set of proposed development engineering plans, sections, details, and notes has been provided in Attachment 20 of this application.*

Sec. 102-89. Signing of application.

[Ord. No. 28-1997, S 301.9, 3-4-1997]

Every application for a building permit shall be signed by the owner of the premises or his authorized agent.

Sec. 102-90. Expiration.

[Ord. No. 28-1997, S 301.10, 3-4-1997]

A permit secured under the provisions of this division shall expire if the work or change is not commenced within one year after the date on which the permit is granted, or if so commenced if the work or change is not substantially completed within two years after the date on which the permit is granted.

Sec. 102-91 . Issuance of certificate of occupancy.

[Ord. No. 28-1997, S 301 .1 1, 3-4-1997]

No new structure or vacant structure shall be occupied until the code enforcement officer has inspected the structure and issued a certificate of occupancy. A certificate of occupancy, however, shall not be construed as a waiver by the City of any land use or zoning violations which may exist and may be known or unknown by the City at the time of issuing the certificate of occupancy.

Sec. 102-92. through Sec. 102-100. (Reserved)

Subdivision III. Permit for Uses Requiring Review

Sec. 102-101 . Authority of planning board; site plan required.

[Ord. No. 28-1997, S 302.0, 3-4-1997]

The planning board shall review and approve, approve with conditions or deny all permits for permitted uses requiring planning board review. All applications for permits requiring planning board review shall be accompanied by a site plan.

Sec. 102-102. Submission requirements.

[Ord. No. 28-1997, S 302.2, 3-4-1997]

For any application under section 102-101, the planning board or the code enforcement officer may require any or all of the following information:

- (1) A map prepared at a scale of not less than one inch to 50 feet which includes:
 - (a) The name and address of the applicant or his authorized agent, the name of the proposed use, and a clear identification of any land within 500 feet of the proposed use in which the applicant has title or interest.

Response: *These items are provided on the proposed conditions drawing set, see Attachment 20*

- (b) Existing soil conditions as described by a registered soil scientist.

Response: *These items are provided in this submission. Refer to Attachments 12 for a full Class B Soil Analysis.*

- (c) The names of abutting landowners.

Response: *These items are provided on the proposed conditions drawing set, see Attachment 20, Survey by Good Deeds, as well as CD101.*

- (d) A perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total area.

Response: *These items are provided on the proposed conditions drawing set, see Attachment 20- Survey by Good Deeds.*

- (e) Existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, storm drainage facilities and public or private right-of-way.

Response: *These items are provided on the proposed conditions drawing set, see Attachment 20*

- (f) Location, ground floor area and elevations of all buildings and other structures on parcels abutting the site.

Response: *Structures adjacent to work areas are indicated in the attached drawing set, see Attachment 20.*

- (g) If the site is not to be served by a public sewer line, an on-site soils investigation report, including septic design for the proposed use/building, by a site evaluator licensed by the state department of human services.

Response: *The site will be served by a public sewer line.*

- (h) Location and dimensions of on-site pedestrian and vehicular accessways, parking areas, and loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets, and curb and sidewalk lines.

Response: *These items are provided on the proposed conditions drawing set, see Attachment 20: CG and CP Drawing series.*

- (i) A landscape plan showing the location, type and approximate size of plantings and the location and dimensions of all fencing and screening.

Response: *These items are provided on the proposed conditions drawing set, see Attachment 20: LP101-107, LP501*

- (j) Topography indicating contour intervals of not more than five feet or as requested by the planning board and/or the code enforcement officer.

Response: *These items are provided on the proposed conditions drawing set, see Attachment 20: CG101-107, CG201, CG501*

- (k) Location on the site plan of the Aquifer-Watershed Overlay District, if applicable.

Response: *These items are provided on the proposed conditions drawing set, see Attachments 20 and 23.*

- (l) Location of important scenic vistas which are listed in the comprehensive plan which are in the vicinity of the site.

Response: *These items are provided on the proposed conditions drawing set, see Attachments 20 and 27.*

- (2) A written statement by the applicant that shall include the following:

- (a) Evidence by the applicant of his title and interest in the land for which the application is made.

Response: *The applicant has entered into the following purchase or lease agreements to secure title, right or interest to all portions of upland and submerged property required for site and ocean pipeline development (refer to Attachment 8 for copies of documents):*

1. *Options and Purchase Agreement and Amendment with the Belfast Water District for approximately 30 acres of City of Belfast Tax Map 29 Lot 39;*
2. *Lease Agreement and Amendment with Samuel E. Cassida for approximately 12.2 acres of City of Belfast Tax Map 4 Lot 104;*
3. *Purchase and Sale Agreement, Amendment and Easement Deed with Goldenrod Properties, LLC for approximately 14.8 acres of City of Belfast Tax Map 4 Lot 12-A;*
4. *Easement Purchase and Sale Agreement and Amendment with Richard and Janet Eckrote for a portion of City of Belfast Tax Map 29 Lot 36; and*
5. *Submitted Application for a Submerged Lands Lease and Supplement with the State of Maine Bureau of Parks and Lands for submerged lands within Belfast Bay.*

In addition, Nordic has obtained the following city permits for infrastructure to be placed in public right-of-ways:

1. *Permit to Open Street with the City of Belfast for approximately 6,600 square feet of Northport Avenue; and*
2. *Permit to Open Street with the City of Belfast for approximately 7,950 square feet of Perkins Road.*

Copies of these agreements, application, and permits are included in attachment 8.

- (b) A description of proposed uses of the site.

Response: *The purpose of the project is to provide 33,000 metric tons per year of safe, high quality and sustainable seafood to the consumers in the northeast of the United States. This project is poised to become a significant new commercial driver for the mid-coast and state of Maine with local, regional and global benefits. Being at the forefront of the aquaculture industry expansion, Nordic is providing Maine with a unique position as an innovator and environmental leader in commercial fish production, propelling the iconic Maine seafood industry into the next generation and ensuring it remains a part of the Maine economy, culture and identity for generations to come.*

The proposed development is land based aquaculture and includes uses that are accessory to the aquaculture operation such as fish processing, process water cooling and treatment, byproduct handling, sampling laboratory, offices, storage, and a visitor's center. The project also includes three significant groundwater wells, and significant water intake and discharge/outfall pipes. All of these uses are permitted uses pursuant to the current City of Belfast zoning ordinances as described below in Article 5. For a more detailed description of proposed activities, refer to Attachment 2.

- (c) Total floor area, height and ground coverage of all proposed buildings and structures and percentage of lot covered by all buildings or structures.

Response: *The total floor area will be 855,004 square feet representing 36% coverage of the 54 acre lot. The total impervious cover of the proposed development is 51% of the site. The proposed development will be constructed in two phases.*

Phase 1 would consist of the following:

- 1. Office/Maintenance Building – 8,936 square feet (SF)*
- 2. Water/Wastewater Treatment Plant – 20,056 SF*
- 3. Central Utility Plant – 18,998 SF*
- 4. Module 1 Building – 112,223 SF*
- 5. Module 2 Building – 112,223 SF*
- 6. Module 3 Building – 112,223 SF*
- 7. Smolt 1 Building – 53,947 SF*
- 8. Processing Building – 24,096 SF*
- 9. Gate House – 298 SF*

Phase 2 consists of:

- 1. Module 4 Building – 112,223 SF*
- 2. Module 5 Building – 112,223 SF*
- 3. Module 6 Building – 112,223 SF*
- 4. Smolt 2 Building – 53,947 SF*
- 5. Visitor Center- 2,188 SF- existing to be renovated*

- (d) Description of existing and proposed easements, restrictions and covenants placed on the property.

Response: *NAF has acquired easements from Goldenrod Properties (Mathews Brothers) for construction associated with establishing utilities connections and with the owner of 282 Northport Ave for the construction of seawater access pipes. These easements and deed restrictions related to the project are described in Attachment 8 and are depicted in Attachment 20. Additionally, the applicant has proposed to deed restrict areas of wetland buffer along stream 9 (eastern property boundary) as part of the DEP wetland compensation package. The proposed buffer area is depicted in the proposed conditions plans in Attachment 20.*

- (e) Method of solid waste disposal.

Response: *Nordic has worked to establish markets for operational by-products including salmon processing solids such as heads, viscera, and mortalities and wastewater treatment filtrate high in organics and nutrients. With DMR approval for re-use of heads and racks for lobster bait, agreements will be pursued with the lobster industry to use this as a bait source. Construction and operational waste streams (including daily garbage) will also be transported and disposed of by commercial operators licensed in the State of Maine for such operations. Various companies have provided Letters of Interest expressing the capacity to recycle and refine waste streams. See Attachment 21.*

- (f) Copies of letters to be sent by the applicant to any owner of land located within 150 feet of any boundary of the property, as depicted on the on the current City tax maps, upon which development is proposed, the City Clerk, the MSAD 34 school superintendent, and the Belfast Water District superintendent notifying them of the proposed development.

Response: *Property owners within this perimeter have been notified of the project. Notification of plan review to be issued by the City to property owners including Notice of Public meetings.*

- (3) A written statement by the applicant that shall include the following information if required by the planning board:

- (a) Erosion and sedimentation control plan.

Response: *Nordic has retained third party experts to develop an SESC plan for all phases of construction and operations. This plan is fully compliant with all local, state, and federal guidelines and is described in Attachment 14.*

- (b) Statement of financial capacity, which should include the names and sources of the financing parties, including individuals, banks, government agencies, private corporations, partnerships and limited partnerships, and whether these sources

Response: *See Attachment 9. NAF currently has a strong base of shareholders with significant financial capacity. NAF may invite additional institutional investors to invest in*

the project in phased development. NAF is also in dialogue with Norwegian and US banks for providing debt financing, with state backed loan guarantees from the Danish government/EKF as a key ingredient. Future phases of development will be partially funded from cash flow from operations. The applicant understands that this will be reviewed further upon final plan review.

- (c) List of applicable local, state and federal ordinances, statutes, laws, codes and regulations pertaining to the development of the site.

Response: *See Attachments 22. Nordic Aquafarms will be required to submit permits to Federal, State and local departments for approval. These are as follows:*

1. *State of Maine DEP- Site Location of Development Act*
2. *State of Maine DEP- Natural Resource Protection Act*
3. *State of Maine DEP- Significant Groundwater Extraction Permit*
4. *State of Maine DEP- Maine Pollution Discharge Elimination System*
5. *State of Maine DEP- Minor Source Air Emissions License.*
6. *City of Belfast Planning and Zoning- Site Plan Application (Preliminary and Final)*
7. *City of Belfast Planning and Zoning- City Use Permit, Chapter 102*
8. *City of Belfast Planning and Zoning- Shoreland Permit, Chapter 82*
9. *State of Maine Department of Agriculture, Conservation, & Forestry- Land Based Aquaculture License*
10. *State of Maine Department of Agriculture, Conservation, & Forestry- Bureau of Parks and Lands Submerged Lands Lease Program*
11. *US Army Corp of Engineers – Sections 10 and 404*
12. *City of Belfast significant groundwater well permit 102-1077.B*

- (d) The applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water, streets and solid waste.

See Attachment 10 for capacity to serve letters from the following:

1. *The Belfast Water District*
2. *The Belfast waste water treatment plant*
3. *Agri-Cycle Energy, Casella Organics, Channel Fish Co., Inc., Coast of Maine Organic Products, Inc., Compost Maine LLC, and Waste Management for solid waste*

A traffic study to evaluate the capacity of the public roadways to accommodate any and the additional traffic associated with the facility are presented in Attachment 17. Operation of the facility was determined to not have a significant impact on local traffic. This study considered traffic associated with commuting employees, and shipments of product and materials.

- (e) A statement from the fire chief as to the availability of fire hydrants and/or fire ponds, or provisions of fire protection services.

Response: NAF has contacted the Belfast Fire Department and is prepared to discuss this matter moving forward, refer to letter submitted in Attachment 25. The proposed development is designed in accordance with applicable fire codes including full access via perimeter roads, open courtyard, and hydrants spaced per department guidelines.

(f) A statement from the Belfast Water District dealing with:

1. Availability of public water, if the public water supply is to be used.

Response: See Attachment 10. The Belfast Water District has provided a letter of capacity to serve indicating the availability of public water on the site. Nordic Aquafarms will be occupying the former Belfast Water District site. All the infrastructure required to bring city water to the property is already in place. An agreement is in place for the District to supply up to 500 GPM to the site, see Attachment 10 for copy of the agreement.

2. The proposed impact of the project in terms of quantity and/or quality of the water on the Aquifer-Watershed Overlay District if applicable.

Response: See Attachments 23 and 24. NAF proposes to use up to 455 gallons per minute of water from onsite production wells. NAF engaged licensed, third-party, hydrogeologists to perform a comprehensive evaluation of the groundwater resources at the site and potential impacts of the proposed groundwater withdrawal on the aquifer. NAF's initial selection of the site was based on a desktop evaluation of the capacity of the aquifer.

In addition to the proposed groundwater withdrawal, NAF proposes a surface water withdrawal of 250 gpm from the BWD Reservoir Number One. This is based on rules set forth in Maine Department of Environmental Protection (MEDEP) Chapter 587 allowing for a withdrawal of 70 gpm plus inflows to Belfast Reservoir Number One (also known as the Lower Reservoir). In order to account for inflows into Belfast Reservoir Number One in the planning process, a rate of 250 gpm is presented in the table below as a conservative estimate of the baseflow of the Little River. This rate is derived from the estimated 5% duration flow of the Little River. For a detailed discussion of the hydrology of the Little River watershed, the proposed surface water withdrawal, the BWD resources, and the proposed groundwater withdrawal please refer to Attachment 23.

Planned Use	Composition	Source	Usage Rate
Domestic	Freshwater	Belfast Water District Municipal Supply	238 gpm 342,720 gpd
Process	Freshwater	Belfast Water District Municipal Supply	262 gpm 377,280 gpd
Process	Freshwater	On-site groundwater Well Network	455 gpm 655,200 gpd
Process	Freshwater	Belfast Reservoir Number One Surface Water Withdrawal	250 gpm 360,000 gpd
Process	Saltwater	Belfast Bay Ocean Pipeline	3,925 gpm 5,652,000 gpd

gpm= gallons per minute; gpd= gallons per day

- (a) A statement from the public works director that any proposed public road or street construction or alteration will meet City specifications.

Response: See Attachment 25. During construction of the proposed seawater intake and discharge pipelines below Route 1, a bypass will be constructed to allow the continued flow of traffic along Route 1. This bypass will adhere to City specifications. See Attachment 20 for plans depicting this bypass.

- (b) An estimate of the date when construction will start and when it will be completed.

Response: A construction schedule has been developed based on information available during permit application preparation. The current schedule indicates a fall 2019 start date, however the schedule is provided primarily to describe scope and phasing durations, and milestone dates are subject to change based on receipt of permit approvals.

- (c) A statement as to what measures will be taken to preserve scenic vistas as identified in the comprehensive plan.

Response: Nordic Aquafarms recognizes the value that the area's visual character has to the community, and retained SMRT, Inc to do a visual impact assessment. See Attachments 27 and 28 for full description of the assessment and the means for mitigating impacts. The 2012 Comprehensive Plan notes a narrow scenic view from the Little River Bridge. A statement regarding the preservation of this view is included as a supplement to Attachment 27.

- (d) Any other information reasonably required by the planning board and/or the code enforcement officer to determine whether the provisions of this chapter will be met.

Sec. 102-103. Uses subject to review.

[Ord. No. 28-1997, S 302.3, 3-4-1997; Ord. No. 57-1997, 6-17-1997].

- (a) Planning board. The planning board shall review all:

- (1) Major developments and developments which substantially affect the environment, except one previously approved by the state department of environmental protection; and

Response: The proposed development is fully compliant with the permitted uses of all zoning areas in which work is proposed, including Residential II and the South Business Park

- (2) Permitted uses requiring planning board review which have previously been reviewed by the planning board.

- (b) Code enforcement officer. The code enforcement officer shall review all:

- (1) Minor developments which are either:
 - (2) Permitted uses; or
 - (3) Permitted uses requiring planning board review, which have been reviewed by the planning board.
- (2) Major developments and/or developments which substantially affect the environment which have been approved by the state department of environmental protection.

Sec. 102-104. Deadline for submission of application.

[Ord. No. 28-1997, S 302.4, 3-4-1997]

A complete application for a permitted use requiring planning board review must be submitted 13 days prior to the planning board meeting at which the application is to be reviewed.

Sec. 102-105. Fees.

[Ord. No. 28-1997, S 302.5, 3-4-1997]

Fees for any permit required by this subdivision and review of any application for the permit shall be set by the City Council and shall accompany any application. No application shall be scheduled for any review until the fees have been paid.

***Response:** The applicant understands that a fee structure for this proposal shall be developed by the City upon submission of the application and that the applicant is responsible for fees upon determination.*

Sec. 102-106. Application review and approval.

[Ord. No. 28-1997, S 303.0, 3-4-1997]

- (a) Timeframe for determining if application is complete. Within 15 days of receiving a written application for a permit for a permitted use or 20 days for a permitted use requiring Planning Board review, the code enforcement officer shall determine whether the application is complete and begin a preliminary review.
- (b) Review process.
 - (1) The first step in the review process is for the code enforcement officer to undertake a preliminary review to determine whether the application and accompanying submissions are sufficiently complete and adequate for the purposes of a substantive review. Should the code enforcement officer determine that the application and submissions are complete and adequate so as to allow substantive review, he shall so notify the applicant in writing. Should the code enforcement officer determine that the application or submissions are incomplete or inadequate so as to preclude substantive review, he shall so notify the applicant in writing and shall specify what additional

information and/or material is needed to make the application complete and adequate for purposes of substantive review.

- (2) If the matter involves a review only by the code enforcement officer, the code enforcement officer shall issue a decision regarding the application.
 - (3) If the application is one which requires Planning Board review, the application shall be scheduled for the Planning Board agenda, subject to the provisions of all of the applicable City ordinances, rules and regulations, and subject to the Planning Board's rules and regulations for placing applications upon the Planning Board's agenda. Following a review of the submission made by the applicant in support of his application, the Planning Board may, before undertaking further review, request further submissions as it deems necessary, or the Planning Board may begin the formal review process and, if and when necessary for completion of its review, request further information or submissions from the applicant. When the Planning Board, in either of such circumstances, requests of the applicant additional information not then before the Planning Board, such submissions shall be made within 60 days from the date of the request, and the matter shall be tabled to a date certain for further proceedings before the Planning Board. The failure to provide requested information as and when requested may result in the denial of the application by the Planning Board. After all requested information has been submitted by the applicant, and the Planning Board determines through a formal finding that all requested information has been provided, the Planning Board shall, within 30 days of that finding, either approve, approve with conditions, or disapprove the application. Any conditions of approval shall be those necessary to ensure that the provisions of this chapter are followed. The failure to approve or disapprove an application within the thirty day period shall constitute a denial of the application, unless the applicant and the Planning Board agree to the extension to a date certain, not more than 90 days after such thirty-day period. Any application remaining pending for any reason without final action more than three months after its date of filing with the City shall be deemed denied unless the Planning Board, by official vote at a Planning Board meeting, upon the written request of the applicant, affirmatively extends such time period for an additional period of time of not more than 90 days. The Planning Board shall make written findings as to why the matter should remain pending, and further provide that the extension shall be to a date certain after which the application shall be denied.
 - (4) If the code enforcement officer or the Planning Board requests information and/or submissions from the applicant which the applicant contends are not necessary for the review of his application, the applicant may so indicate in writing and request that the code enforcement officer or, as applicable, the Planning Board render a decision on the application, based upon what has been submitted.
- (c) Notification of decision. Within seven days of reaching a decision, the code enforcement officer or Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.

Sec. 102-107. through Sec. 102-130. (Reserved)

CHAPTER 102. ZONING

ARTICLE V. DISTRICT REGULATIONS

Chapter 102. Zoning

ARTICLE V. District Regulations.

DIVISION 7. Residential II District.

(NOTE TO USERS: The only provision of the Residential 11 District that was changed by the Ordinance amendments adopted on October 16, 2018 is Sec 102-422, Permitted uses requiring Planning Board review. Use (12), Significant Water Intake or Significant Water Discharge or Outfall Pipes, was added to the Ordinance. All other provisions of Residential 11 district are the same as existed prior to October 16, 2018. The only Nordic Aquafarm facility that is proposed to be located in the Residential 11 zoning district is the water intake and water discharge pipes that will be located between Route One and Belfast Bay.

Sec. 102-421. Permitted uses requiring Code Enforcement Officer review. [Ord. No. 28-1997, 606.1, 3-4-1997; Ord. of 8-3-2010(2)]

Permitted uses requiring Code Enforcement Officer review in the Residential II District are as follows:

- (1) Residential, single-family dwelling. Manufactured housing units are prohibited.
- (2) Residential, two-family dwelling. Manufactured housing units are prohibited.
- (3) Residential, one or two bedroom accessory dwelling unit in a detached structure. Manufactured housing units are prohibited.
- (4) Public parks.
- (5) Municipal uses deemed necessary by the City Council, but, prior to taking action thereon, the council shall hold a public hearing for which 10 days' public notice shall be given.
- (6) Domesticated chickens, subject to requirements of Chapter 10, Animals.
- (7) Accessory uses to principal uses to which the Code Enforcement Officer can issue a permit, including yard sales on no more than 10 days in any calendar year.
- (8) Accessory structures to principal structures for which the Code Enforcement Officer can issue a permit.

Sec. 102-422. Permitted uses requiring Planning Board review. [Ord. No. 28-1997, 606.2, 3-4-1997; Ord. No. 1-1999, 7-6-1999; Ord. No. 21-2006, 2-7-2006]

Permitted uses with Planning Board review in the Residential II District are as follows:

- (1) Bed and breakfast, including class I, class 2 and class 3.
- (2) Health service offices and professional offices.
- (3) Essential services.
- (4) Funeral homes.

- (5) School, day nursery, or institution of an educational, religious, philanthropic, fraternal, political or social nature.
- (6) Nonmunicipal public and quasipublic uses.
- (7) Residential planned unit development and cluster housing development.
- (8) Congregate retirement residential housing.
- (9) Health care facilities.
- (10) Home occupations.
- (11) Stealth telecommunications facilities.
- (12) Significant water intake or significant water discharge or outfall pipes.

Response: *In the Residential II District the project will include two (2) significant water intake pipes and one (1) significant water discharge pipe. These uses are, permitted uses per item (12) above. Refer to CS series drawings in Attachment 20 for pipe layouts and construction details.*

Sec. 102-423. Applicability of shoreland zoning and floodplain regulations. [Ord. No. 28-1997, 606.3, 3-4-1997]

Provisions of Chapter 82, pertaining to Shoreland Zoning, and Chapter 78, Article II, pertaining to floodplains, may apply in the Residential II District. See the shoreland zoning maps and FIRM flood maps.

Sec. 102-424. Standards.

Ord. No. 28-1997, 606.4, 3-4-1997; Ord. No. 24-1998, 10-20-1998]

- (a) The general standards of performance in Article IX of this Chapter shall be observed in the Residential II District.
- (b) The following standards shall also apply:
 - (1) Maximum residential density for one-family dwelling structures is as follows:
 - (a) Public sewer and water: One dwelling structure per net one-third acre.
 - (b) Unsewered structure: One dwelling structure per net 1/2 acre.
 - (2) Maximum net residential density for two-family dwelling structures is as follows:
 - (a) Public sewer and water: One dwelling structure per new one-third acre.
 - (b) Unsewered structure: One dwelling structure per net acre.
 - (3) Minimum lot frontage is 60 feet.

- (4) The minimum rear and side setback is 15 feet for all buildings.
- (5) Maximum building height is 38 feet. The Planning Board may approve a steeple or cupola-like architectural enhancement which has no usable floor area which exceeds the height limitation of this section.
- (6) The minimum setback shall be 25 feet from the road right-of-way line as determined by either measuring a distance from the center of the traveled way that equals 1/2 the right-of-way distance plus 25 feet, or determining the right-of-way boundary by a survey at the owner's expense and adding 25 feet.

Collective Response to Sec. 102-424(1-6): *No permanent above ground structures will be constructed in the Residential II district, and the buried pipes do not qualify as Buildings under Chapter 66. NAF has acquired an easement from the existing property owner to install intake seawater intake and discharge pipes through this property. Following construction the pipes will be underground and the easement area will be restored. Shoreland Zoning concerns are addressed in Chapter 82 narrative, refer to Attachment 6 of this application.*

Sec. 102-425. Planned unit development and cluster housing development. [Ord. No. 28-1997, 606.5, 3-4-1997]

In the case of a residential planned unit development or cluster housing development in the Residential II District, the standards in section 102-424 may be modified in accordance with the special provisions of article VI of this chapter. In addition, planned unit development or cluster housing development shall be reviewed under the City's subdivision ordinance.

Sec. 102-426. Prohibited uses.

[Ord. No. 28-1997, 606.6, 3-4-1997]

Only those uses specifically listed as permitted uses or permitted uses requiring Planning Board review are allowed within the Residential II District. All other uses are excluded.

Response: *Project includes only installation of Significant water intake and discharge pipes in the Residential II zone, a permitted use per Sec. 102-422 above.*

Sec. 102-427. through Sec. 102-440. (Reserved)

CHAPTER 102, ZONING

ARTICLE V, DISTRICT REGULATIONS

[NOTE TO USERS. The following Ordinance provisions for Division 19, Route One South Business Park District were adopted by the City Council at its meeting of October 16, 2019. This is the zoning district in which most of the Nordic Aquafarm project is proposed to be located.]

DIVISION 19. Route One South Business Park District

Sec. 102-681. Permitted uses requiring Code Enforcement Officer review.

The City Code Enforcement Officer shall review and make decisions regarding applications for a Use Permit for the following uses in the Route One South Business Park District:

- (1) Essential services.
- (2) Recreational and community activities.
- (3) Recreational facility, outside, excluding motorized vehicles.
- (4) Public park.
- (5) Municipal uses deemed necessary by the City Council for which the Council shall hold a public hearing with ten days' public notice given.
- (6) Quasi-public and non-municipal public uses.
- (7) Commercial agriculture, dairy and horticultural activities.
- (8) Animal breeding/husbandry.
- (9) Forestry, woodlot management and timber harvesting.
- (10) Fill activities that exceed 25 cubic yards.
- (11) Accessory nonresidential structures that are less than 500 square feet in size (to a permitted use or a nonconforming use of record).

Sec. 102-682. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding an application for the following types of uses in the Route One South Business Park District:

- (1) Light industrial and light manufacturing, including accessory retail sales.
- (2) Manufacturing, processing and industrial activities, including accessory retail sales.
- (3) Aquaculture, land based, including uses that are accessory to the aquaculture operation, such as but not limited to: fish processing, byproducts, research laboratory, offices, on-site child care, storage, accessory retail sales, and a visitor's center. A land based aquaculture operation may discharge wastewater to and use water from a marine or fresh waterbody.
- (4) Research laboratory.
- (5) Professional office.
- (6) Storage facility/warehouse.
- (7) Docks, floats, and similar uses that occur below the normal high water mark/high annual tide.

- (8) Hydropower generation.
- (9) Significant groundwater well.
- (10) Significant water intake or significant water discharge/outfall pipe.
- (11) Accessory nonresidential structures that are 500 square feet or greater in size and accessory nonresidential uses (to a permitted use or nonconforming use of record).
- (12) Stealth telecommunications facility

Response: *In the Route 1 South Business Park District the project will include land based aquaculture including uses that are accessory to the aquaculture operation such as fish processing, process water cooling and treatment, byproduct handling, sampling laboratory, offices, storage, and a visitor's center. The project also includes three significant groundwater wells, and significant water intake and discharge/outfall pipes. Refer to drawings in Attachment 20 for proposed site layout and details.*

Sec. 102-683. Prohibited uses.

Only those uses specifically listed as permitted uses requiring Code Enforcement Officer review or permitted uses requiring Planning Board review are allowed within the Route One South Business Park District. All other uses are prohibited.

Response: *The proposed project in the Route One South Business Park is only for permitted uses as listed above.*

Sec. 102-684. Dimensional standards for nonresidential uses and nonresidential structures located in the Route One South Business Park District.

- (a) Minimum lot size and minimum lot frontage requirements for nonresidential uses.

A lot (property) that is occupied by a nonresidential use shall be a minimum of 87,120 net square feet (2 net acres) in size and shall have a minimum of 250 lineal feet of road frontage, if the lot has frontage on a road. This lot size requirement applies regardless if the lot is connected to public sewer or uses a subsurface system for wastewater disposal.

Response: *The proposed lot will be 54 acres. Road frontage along Route 1 is approximately 900 feet. Refer to Attachment 20 for survey drawings.*

- (b) Minimum structure setback requirements for nonresidential structures.

- (1) The following minimum setback requirements shall apply to nonresidential structures and accessory structures to said nonresidential structures that are located on a lot (property) that has road frontage on Route One or on another road other than Perkins Road:

- Front - 75 feet
- Side - 50 feet
- Rear - 50 feet

Response: *Setbacks of 50 feet along the back (west) and sides (North and South) of the property and 75 feet at the front of the property (along Route 1 will be maintained as depicted in Attachment 20.*

All structure setbacks shall be measured from the respective property lines. If a lot does not have frontage on a road, the front setback requirement shall not apply and all structures shall comply with the side and rear setback requirements.

Response: *The proposed development has been designed and will be constructed in accordance with the setback requirements stated above, see Attachments 20 and 28.*

- (2) The following minimum setback requirements shall apply to nonresidential structures and accessory structures to said nonresidential structures that are located on a lot (property) that has road frontage on Perkins Road:

Front- 40 feet

Side - 50 feet

Rear - 50 feet

All structure setbacks shall be measured from the respective property lines. If a lot does not have frontage on a road, the front setback requirement shall not apply and all structures shall comply with the side and rear setback requirements.

Response: *NAF's property does not include road frontage on Perkins Road.*

- (3) Parking areas/spaces and solid waste/recycling containers shall be prohibited in the structure setback areas identified in (1) and (2) above.

Response: *NAF will not place parking spaces or solid waste containers in the setbacks identified in 102-684 (1). New Parking areas will be as depicted in Attachment 20.*

- (c) Minimum vegetated buffer yard areas.

A lot (property) on which a nonresidential use or structure is located shall retain or provide a naturally vegetated buffer yard area in all structure setback areas identified in subsection (b) above. The vegetated buffer yard area shall comply with the following standards:

- (1) The minimum width of the buffer yard area shall be 80 percent of the amount of the respective structure setback area. An exception to this standard applies to a front setback area located adjacent to Route One. In such cases, the front buffer yard area shall be no less than the amount of minimum front setback area for structures; reference b), l) of this Section.

Response: *NAF will retain applicable buffers and supplement naturally vegetated buffer yards in structure setback areas identified in subsection 102-684 (b)(1) above. This*

includes the 40' buffer alongside lot lines (80% of the 50' setback) as well as the 75' buffer along Route 1 per the Route 1 South Business Park requirements. The only areas where these buffers will be impacted is at the location of the proposed seawater intake and discharge pipes where installation of the pipes will require removal of vegetation at the area of the trench and Rt. 1 temporary realignment. Impacts will be mitigated by the trench traversing the buffer perpendicularly, as well as minimizing trench width where possible through use of trench shoring. This will also allow the temporary road realignment to stay as close to the permanent ROW as possible. After installation of the pipes the permanent roadway will be re-established and the buffer replanted with a mix of native species appropriate for the conditions, and suitable for providing visual buffer. See Attachments 20, 27 and 28 for more information.

- (2) Vegetation in any naturally vegetated buffer yard area shall be consistent with the type and amount of vegetation that existed prior to the construction of the nonresidential use or structure for which a permit is requested. An applicant shall retain the maximum amount of existing mature trees as is practical, and shall supplement such mature plantings with understory and other plantings to provide a more effective visual buffer. The buffer yard area may incorporate approaches such as berms, fences and similar techniques to enhance the quality of the vegetative buffer. The planting plan for a vegetated buffer yard that is submitted to the City shall be prepared by an appropriately licensed professional.

Response: *A replanting plan was developed by SMRT Inc. (SMRT). Existing vegetation within the required buffers will be maintained as described in item 1 above. Supplemental replanting will be done with native species consistent with the appearance of current vegetation.*

As presented in a Visual Assessment Report prepared by SMRT, Inc. (SMRT) (Attachment 27), there will be no unreasonable adverse impact to public viewing areas as they are buffered by existing and maturing vegetation and, because they are under public ownership, they will be protected in perpetuity. Additionally, in accordance with city ordinance requirements, there will be an added 40 feet of undisturbed vegetation immediately inside the project boundary. New perimeter plantings are proposed to augment and enhance this 40-foot zone and the cut/fill slopes leading to it around the developed areas. These plantings are oriented more towards providing screening to the Perkins and Rt. 1 views, including the noteworthy Scenic View from the Little River Bridge as identified in the City Comprehensive Plan.

A planting plan was developed by SMRT to incorporate a mix of plant sizes and types to emulate existing species diversity. A restoration seed mix will be used to stabilize the immediate ground surface and allow larger species to take hold. Additional planted screening is proposed at the southeast corner of the site between Building 8 and U.S. Route 1 / Northport Avenue. The area between Building 8 and the entry drive (stream area) will be planted in native restoration species. Areas with high visual interest and visibility including the main entrance outside of Building 4, the public spaces around Building 7, and the open space in front of Building 10 will be planted with flowering accent trees, low shrubs, and ornamental grasses. See Attachments 20 and 28.

- (3) Parking spaces/areas and solid waste/recycling containers are prohibited in any buffer yard area. Roads/driveways shall only be permitted to the extent that such must cross the buffer yard area to access the area permitted for development. The only other structures permitted in the buffer yard area, when there is no practical alternative as determined by the Planning Board, are utilities, stormwater management control facilities, significant water intake or significant water discharge/outfall pipes, and essential services.

Response: *No parking spaces or waste/recycling containers will be within the buffer yards. Facility parking is provided in accordance with applicable site and building regulations, refer to Chapter 90-98. All new parking for the facility will be installed outside of the Shoreland Zone. Existing parking at the current Belfast Water District shall remain and be improved per current access and storm water management requirements. Refer to engineering drawing CP101.*

- (a) Maximum lot coverage for a lot (property) occupied by a nonresidential use. The maximum amount of lot coverage for any lot shall be 70 percent. Lot coverage is based on the amount of impervious surface on a lot.

Response: *The total new impervious area at the Site will be 27.4 acres at full build-out. Impervious space that will remain from the existing development of the BWD property will be 0.4 acres. The proposed lot will be 54 acres, thus lot coverage as defined above will be approximately 51%.*

- (b) Maximum structure height for a nonresidential structure.

The maximum structure height for a nonresidential structure or an accessory structure to a nonresidential structure shall be 45 feet. The height requirement does not apply to a water standpipe storage tank, a utility pole, a storage silo for an agricultural use, and structures similar in function and design to the above structures.

Response: *See Attachment 20. Buildings and their associated ventilation systems will not exceed the 45-foot height limit. Parapets of the tallest buildings will be at 33 feet. As part of the visual assessment conducted by SMRT (See Attachment 27) weather balloons were raised to 45-feet and photographed from key vantage points. Computer generated images showing the building height were then superimposed on these images to simulate views.*

Sec. 102-685. Performance standards for nonresidential uses and structures.

All nonresidential uses in the Route One South Business Park District shall comply with applicable performance standards identified in Chapter 102, Zoning, Article V III, Supplementary District Regulations, and Article IX, Performance Standards, Division 2, Environmental Standards. The City shall use the Chapter 98, Technical Standards to assist in implementation of applicable performance standards and to establish requirements for the construction of project infrastructure.

Sec. 102-686. Applicability of Shoreland Zoning and Floodplain Regulations.

- (a) The provisions of Chapter 82, Shoreland, shall apply to any portion of a lot (property) in the Route One South Business Park District that is located in any district of the Shoreland Zone, as such is identified in Chapter 82, Shoreland.

Response: *See Attachment 6 of this application for Shoreland Zoning.*

- (b) The provisions of Chapter 78, Floods, shall apply to any portion of a lot (property) in the Route One South Business Park District that is located in the floodplain, as such is identified on the Flood Insurance Rate Maps that the City has adopted as part of Chapter 78, Floods.

Response: *See Attachment 19 of this application for discussion and analysis regarding flooding standards.*

Sec. 102-687 through Sec. 102-700. (Reserved)

CHAPTER 102, ZONING

ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS

[NOTE TO USERS: The City is including only the Divisions of Article VIII, Supplementary District Regulations that may apply to the Nordic Aquafarm permit in this Notebook.]

DIVISION 2. Screening of Outside Storage Areas.

Sec. 102-940. Dumpsters. [Ord. of 5-6-2008(1)]

All dumpsters or containers used for the disposal of solid waste (trash) or recycling shall be screened by the construction of a four-sided solid fence or wall that is a minimum of six feet in height, or an alternative enclosure or screening that similarly screens the dumpster from public view. Notwithstanding this requirement, if such dumpsters or containers are located in an area that is not frequented by the public and which is not visible from abutting properties or a public or private road, the Planning Board has the authority to allow the placement of said facilities and to not require the construction of a fence or similar screening.

Response: *All disposal containers will be appropriately screened according to Sec. 102-940.*

Sec. 102-942. through Sec. 102-960. (Reserved)

Division 3. Off-Street Parking Facilities.

Sec. 102-961. Required Facilities.

Off-street parking facilities shall be as provided in Chapter 98.

Response: See Attachment 20. Facility parking will be provided in accordance with applicable site and building regulations, refer to Chapter 90-98. All new parking for the facility will be installed outside of the shoreland zone. Existing parking at the current Belfast Water District shall remain and be improved per current access and storm water management requirements.

[NOTE TO USERS: The City adopted the following Division 7 standards at its meeting of October 16, 2018. The following Permit standards will apply to the Nordic proposal to establish and operate one or more significant groundwater wells.]

Division 7. Significant Groundwater Well Permit.

Sec 102-1075. Purpose and Applicability.

Any person who proposes to remove groundwater in the amounts identified in this Division as part of a residential, commercial, industrial or land excavation operation, where such is allowed under Chapter 82, Shoreland or Chapter 102, Zoning, shall be required to obtain approval by the City Planning Board. The Planning Board, through its review of a permit application, shall establish that the water extraction associated with the significant groundwater well or wells will not have a significant adverse impact on the ongoing sustainability and quality of water supplies, will avoid the interruption or degradation of water quality and quantity to members of the general public within the City, and will generally protect the health, safety and welfare of persons dependent upon such water supplies. This Division shall not apply to the extraction of groundwater by the Belfast Water District for the purposes of providing a public water supply, or for any public fire suppression operation.

Response: The applicant proposes the installation and operation of Significant Groundwater Wells as part of this application. Refer to sections below, as well as Chapter 90 (Attachment 5) of this application.

sec. 102-1076. Definitions.

- (a) Extraction (or "water extraction" or "extraction of water") means withdrawal, removal, diversion, taking or collection by any means of water from groundwater sources, aquifers, springs, wells, pumps or similar sources.
- (b) Extraction point or extraction facility means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.
- (c) Ground water means underground water located in an aquifer or unconsolidated sediment or rock below the water table.
- (d) Significant Groundwater Well. A well, wellhead, excavation, or other structure, device or method used by a private person to obtain groundwater that is:
 - (1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great

pond, significant vernal pool habitat, water supply well not owned or controlled by the private person (applicant), or river, stream or brook; or

- (2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the private person (applicant), or river, stream or brook.

Withdrawals of water for firefighting or preoperational capacity testing are not applied to the above thresholds.

- (e) Significant Groundwater Well Permit. A permit required from the City Planning Board from any private person who proposes to operate a significant groundwater well.
- (f) Water table means the underground water surface at which the pressure is equal to that of the atmosphere. The water table changes throughout the year in response to precipitation recharge and the level of nearby surface waters. The water table fluctuates naturally in response to recharge by precipitation and discharge to surface water.

Response: *Definitions acknowledged*

Sec. 102-1077. Application and Information Requirements.

- (a) A private person who proposes an activity that qualifies as a significant groundwater well shall submit the following information to the Belfast Planning Board for review, and shall pay the specific fees identified in this Section. Said fees shall be in addition to fees identified in Chapter 82, Shoreland for a Shoreland Permit, Chapter 90, Site Plan, for a Site Plan Permit, Chapter 94, Subdivision, for a Subdivision Permit, and in Chapter 102, Zoning for a Use Permit, if said application for a significant groundwater well is submitted in conjunction with one or more of the above permit applications.

Response: *NAF is proposing three significant groundwater wells as part of the project and understands that the fees for this application will include additions for those wells.*

- (b) Permit Fees.

- (1) The permit fee to establish one or more significant groundwater wells shall be \$500.00 for the first significant groundwater well and \$250.00 for each additional significant groundwater well identified in the application, plus the cost of any required advertising associated with a public hearing that may be required. The City may waive the advertising cost for any application that is submitted as a component of a request for a Shoreland Permit, Site Plan Permit, Subdivision Permit, or Use Permit that requires advertising for a public hearing, and for which the City collects a fee for advertising.

- (2) A request to amend a permit for a significant groundwater well granted by the Belfast Planning Board shall be \$250.00, plus the cost of any required advertising for a public hearing for said permit, The City may waive the advertising cost for any application that is submitted as a

component of a request for a Shoreland Permit, Site Plan Permit, Subdivision Permit or Use Permit that requires advertising for a public hearing, and for which the City collects a fee for advertising.

Response: *Fee structure acknowledged*

(c) Application Requirements

The application shall be in writing and be accompanied by site plans prepared by a licensed surveyor, licensed engineer, or similar appropriately licensed professional. The application shall include:

- (1) Evidence of the Applicant's right, title and interest in and to the properties from which water is to be extracted.

Response: *See Attachments 8 and 20. Nordic has entered into the following purchase or lease agreements to secure title, right and interest to all parcels of upland and submerged property required for site and ocean pipeline development:*

- (a) *Options and Purchase Agreement and Amendment with the Belfast Water District for approximately 30 acres of City of Belfast Tax Map 29 Lot 39;*
 - (b) *Lease Agreement and Amendment with Samuel E. Cassida for approximately 12.2 acres of City of Belfast Tax Map 4 Lot 104;*
 - (c) *Purchase and Sale Agreement, Amendment and Easement Deed with Goldenrod Properties, LLC for approximately 14.8 acres of City of Belfast Tax Map 4 Lot 12-A;*
 - (d) *Easement Purchase and Sale Agreement and Amendment with Richard and Janet Eckrote for a portion of City of Belfast Tax Map 29 Lot 36; and*
 - (e) *Submitted Application for a Submerged Lands Lease and Supplement with the State of Maine Bureau of Parks and Lands for submerged lands within Belfast Bay*
- See Attachment 8 for evidence of right, title and interest to these properties.*

- (a) A statement of the total maximum quantity of water to be extracted, expressed as the annual total, the maximum monthly rate, the maximum weekly rate, and the maximum daily rate. The rate shall be provided for the total number of wells operated on the property and for each well involved in the operation.

Response: *A maximum of 455 gallons per minute (gpm) will be extracted from a network of 3 proposed production wells on the property. Location of proposed production wells are labeled PW-1, DRX-102 and GWW-103 on Attachment 23. Proposed pumping rates are 250 gpm for PW-1, 175 gpm for GWW-103, and 30 GPM for DRX-102. Wells GWW-103 and DRX-102 will be renamed PW-2 and PW-3 upon being established as production wells. The total maximum quantity to be extracted for all wells operated on the property will be as follows:*

Table 102-1077.C.2.1

	PW-1	GWW-103 (PW-2)	DRX-102 (PW-3)	Total
Gallons per minute	250	175	30	455
Gallons per day	360,000	252,000	43,200	655,200
Gallons per week	2,520,000	1,764,000	302,400	4,586,400
Gallons per month	10,950,000	7,665,000	1,314,000	19,929,000
Gallons per year	131,400,000	91,980,000	15,768,000	239,148,000

- (b) A site plan that accurately identifies the location(s) of the points of extraction by the groundwater well(s). The site plan shall identify the location of the proposed wells in relation to other proposed project development.

Response: *See Attachments 23 and 20*

- (c) A hydro-geologic investigation report stamped by a Maine certified professional geologist or Maine registered professional engineer. The report shall, at a minimum, include the following information:

- (a) A map of the entire topographic drainage basin associated with the water extraction well(s) that identifies the basin boundaries, sub-basin boundaries that may be of significance to the recharge of the water extraction well(s), and the location of the groundwater well(s). The map shall identify wetlands that are greater than 0.5 acre in size, all streams, and all open bodies of water located on the site and in the surrounding area. The identification of off-site resources may be based on the best publicly available information.

Response: *Attachment 23 provides a description of the basin boundaries, wetlands, streams and open bodies of water in the surrounding area. Refer also to Attachment 11 for project wetland boundaries.*

- (b) A map that identifies the location of all public and private wells located within 1,000 feet of the proposed extraction wells. The map also shall identify all properties located within 2,000 feet of the proposed extraction wells that are served by public water.

Response: *See Attachment 23- Hydrogeological Investigation Report, Figure 2.*

- (c) An assessment of how the short-term and long-term rate and amount of groundwater extraction are estimated to impact local and regional ground water levels, wetlands, pond or lake levels, base flow in streams and any water quality changes in ground water and in surface water.

Response: *The Hydrogeologic Investigation prepared by Ransom Consulting (Attachment 23) concluded that a system of 3 wells, drawing a combined maximum rate of 455 gallons per minutes (gpm) of groundwater could be continually operated without adverse impacts to the bedrock aquifer or surrounding wells. This was based on the collection of data from site and neighborhood wells and surface water bodies, multiple pumping tests, a computational model to simulate aquifer and water resource impacts under longer time intervals and varied conditions. As part of Nordic's application, a Water Resource*

Monitoring Plan (Attachment 23) has been proposed, which enumerates strategies for ongoing aquifer capacity and quality monitoring during facility construction and operation, along with action plans developed to avoid or remediate any future impacts from groundwater extraction.

The proposed surface water extraction of 250 gpm from the Lower Reservoir was also calculated in the Hydrogeologic Investigation Report based on MEDEP Chapter 587 rules. This allows for a base withdrawal rate of approximately 70 gpm plus inflows; given that there is a significant inflow into the Lower Reservoir throughout the year, a withdrawal rate of 5% duration flow (~250 gpm) was proposed as a conservative estimate of reliable extractive capacity. Stream gauges are to be installed within the Little River to monitor inflows into the Lower Reservoir, and extraction rates will be altered if a significant reduction in supply is observed.

- (d) The characteristics of the groundwater resource or aquifer from which groundwater is proposed to be extracted, the rates of drawdown and rebound, the sustainable yearly rates, any depression(s) which may develop about the proposed wells, and other impacts on the water table and private or public wells located within 1,000 feet of the proposed extraction facilities shall be assessed. This assessment also shall identify potential impacts that could occur to water table and public or private wells located greater than 1,000 feet from the proposed extraction facilities.

Response: *See Attachment 23.*

- (e) An assessment (calculation) of how the proposed rates of extraction will be sustainable during a drought and how such rates of extraction would affect groundwater supplies located within the watershed. In conducting this assessment, the following shall be considered: historical data on the amount of rainfall and the length and severity of drought conditions that have occurred in Belfast, and said impacts on the variability of groundwater supplies in the Little River watershed; information that projects how future levels of rainfall over the next 10 years, 20 years and 50 years may affect drought conditions in Belfast and in Maine, particularly the length and severity of future drought conditions, and impacts on the variability of groundwater supplies in the Little River watershed; and an assessment of how a drought that has a probability of occurring in both a one in ten year period and in a two year in ten year period would affect groundwater supplies in the Little River watershed.

Response: *See Attachment 23.*

- (f) The report that is prepared shall identify and consider impacts on groundwater supplies located in the Little River watershed, including impacts that may occur on land areas that are located outside the municipal boundaries of Belfast.

Response: *See Attachment 23.*

- (d) Identification of an effective monitoring program that the City could implement to assist in ensuring that the rate and amount of groundwater extraction does not adversely affect groundwater resources and public and private wells located within 1,000 feet of the proposed extraction facilities.

Response: *See Attachment 23.*

- (e) A copy of all required permit applications that are submitted to a state or federal agency that has jurisdiction over the extraction of groundwater from a significant groundwater well, and copies of all correspondence issued by said state or federal agency regarding the respective permit application.

Response: *See Attachment 22. A copy of the DEP NRPA application will be provided to the City in response to this request. DEP applications were submitted on May 17, 2019.*

Collective Response 102-1077 (6) (1-6): *See Attachment 23. An extensive hydro-geologic investigation was conducted on the property by Ransom Consulting to characterize the aquifer, identify suitable production wells and establish sustainable withdrawal practices to serve the needs of the facility. This investigation included the drilling of multiple test and monitoring wells, and placement of monitoring equipment in private wells within a 1,000 feet of the property as granted by the well owners. Water was pumped from test wells on the proposed site while monitoring private wells and nearby natural water bodies. The investigation was conducted for more than a year encompassing all seasons and collecting over 200,000 data points.*

These data were used to create a mathematical model of groundwater flow predict the short- and long-term effects of NAFs proposed groundwater withdrawal on the aquifer, wetlands, private wells and water quality. This model also incorporated simulations to indicate effects of NAF's withdrawal during drought conditions.

The results of the hydrogeologic study and the modeling done by McDonald Morrissey (consultant to Ransom), support the proposed withdrawal rates and production wells identified. A proposed Water Resource Monitoring Plan was also developed by Ransom for continued monitoring. The proposed monitoring plan is designed to enable the detection of deviations from modeled results early, allowing NAF to take corrective action.

Should future monitoring data suggest that pumping from NAF's wells is having a material adverse impact on the water quantity or quality of nearby wells, NAF will take corrective action. This could include installing a water treatment system, changing the depth of the well pump, drilling a deeper well, or connecting households to municipal water. These corrective measures will be included in the monitoring plan reviewed by the MEDEP as a part of the permitting process.

- (f) An applicant/person who proposes any of the following shall be required to obtain an amendment to the approved groundwater permit application: increase the amount of groundwater that was approved to be extracted; develop and use groundwater wells that were not identified in the approved application; cease use of groundwater wells .

identified in the original application and to shift the amount of water extracted from said well to another well; or to change the purpose for which groundwater is being extracted. Any request to amend an approved permit for the above purposes shall require an applicant/person to obtain an amendment from the Planning Board to the approved permit, and any amendment shall be considered pursuant to the process identified in this Division.

Sec. 102-1078. Planning Board review of application.

The Planning Board shall use the following process to review an application for a permit for a significant groundwater well. The Planning Board, in conducting its review of an application for a significant groundwater well permit that is submitted to the Board as a component of a request for one or more of the following permits: a Shoreland Permit pursuant to Chapter 82, Shoreland, Site Plan Permit pursuant to Chapter 90, Site Plan, Subdivision Permit pursuant to Chapter 94, Subdivision, or a Use Permit pursuant to Chapter 102, Zoning, may choose to conduct the public hearing process for the significant groundwater well permit in conjunction with the public hearings that are held for one or more of the above permits, and shall not be required to conduct an independent public hearing on the request for a permit for a significant groundwater well.

- (a) Applicant shall submit a permit application to the Code and Planning Department that addresses all information required in Sec 102-1077.
- (b) The Code and Planning Department, within 45 days of receiving a permit application that addresses requirements of Sec 102-1077, shall schedule the application for review by the City Planning Board.
- (c) The City Planning Board shall conduct a public hearing on any permit application that is submitted. The Code and Planning Department, a minimum of 13 calendar days prior to the Planning Board meeting, shall provide written notice of the application and hearing date by first class mail to all property owners located within a radius of 1,000 feet of the proposed groundwater well(s), and shall publish notice of the hearing in a newspaper with local circulation and on the City website. The first notice in the newspaper shall occur a minimum of 13 days prior to the Board meeting and the second notice a maximum of 7 days prior to the hearing.
- (d) The Planning Board shall review the application and determine if it complies with the performance standards identified in Sec. 102-1079. The Board may establish conditions of approval as a requirement to obtain applicant compliance with the performance standards. The Planning Board shall adopt findings of fact to identify how it determined that the applicant proposal did or did not comply with City requirements.

Sec. 102-1079. Performance Standards.

The City Planning Board must determine that an applicant request to extract groundwater by a significant groundwater well(s) has and will meet the following performance standards to grant a permit for a significant groundwater well(s).

- (a) The quantity of water to be taken from a ground water source will not substantially lower the water table beyond the property lines, cause saltwater intrusion that would affect groundwater located on a property not owned by the applicant, cause unreasonable impacts to ground water flow patterns, or cause unreasonable ground subsidence beyond the property lines.

Response: *The Hydrogeologic Investigation prepared by Ransom Consulting (Attachment 23) concluded that a system of 3 wells, drawing a combined maximum rate of 455 gallons per minutes (gpm) of groundwater could be continually operated without adverse impacts to the bedrock aquifer or surrounding wells. This was based on the collection of data from site and neighborhood wells and surface water bodies, multiple pumping tests, a computational model to simulate aquifer and water resource impacts under longer time intervals and varied conditions. As part of Nordic's application, a Water Resource Monitoring Plan (Attachment 23) has been proposed, which enumerates strategies for ongoing aquifer capacity and quality monitoring during facility construction and operation, along with action plans developed to avoid or remediate any future impacts from groundwater extraction.*

- (b) Any proposed use shall not cause unreasonable adverse diminution in water quality or quantity of the aquifer or surrounding surface/ground water. This includes any impacts to the upwelling of a natural spring, ground water source, aquifer recharge area, or wetlands.

Response: *See previous response as well as Attachment 23.*

- (c) Safe and healthful conditions shall be maintained at all times within and about the proposed use and structures.

Response: *See Attachment 23 for detailed discussion of water withdrawal.*

The treatment system being considered is for the freshwater drawn from the bedrock wells and the surface water drawn from the lower reservoir, the municipal freshwater is subjected to a different treatment process described later. The well and surface water treatment system consists of four key functions:

- *Aeration: removal of N₂/CO₂ gas super-saturation and oxidize metal ions (Fe, Al etc.) for precipitation and removal in subsequent fine filtration steps.*
- *Filtration: Removal of fine particles and precipitated metals.*
- *Ozonation: Color removal to ensure high UV-transmittance for correct dosing in the UV sterilization.*
- *Sterilization: UV-C sterilization of intake water, 250-300 mJ/cm² @ UVT > 85%.*

- (d) The proposed use shall require the applicant to provide a stormwater management plan prepared and stamped by a professional engineer registered in the State of Maine that details both construction and long-term controls associated with the groundwater wells. The Planning Board

may accept a stormwater management plan submitted for its review as a component of a Site Plan Permit, Shoreland Permit or Use Permit that satisfactorily addresses this requirement.

Response: *A stormwater management plan was developed and stamped by professional engineering staff at Ransom Consulting. See Attachment 15.*

- (e) The proposed extraction site is not within the defined aquifer or groundwater recharge area of a public water supply, unless public notice is provided to the operator thereof, and the Planning Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.

Response: *Based on a review, as part of the Hydrogeologic Assessment, of the Maine Drinking Water Program Public Water Supply System database and maps, the proposed extraction site does not fall within a defined aquifer or groundwater recharge area of a public water supply. For additional information about the hydrogeology of the proposed extraction site, please see the Hydrogeologic Investigation Report included as Attachment 23.*

- (f) The operator shall keep monthly operating records of the quantity of water extracted and shall make said operating records available to representatives of the City Code and Planning Department or a designee upon request. .

Response: *See Attachment 23. The proposed monitoring plan will consist of the maintenance of monthly records made available to the City upon request.*

- (g) Nothing in this procedure, and no decision by the City Planning Board shall be deemed to create groundwater rights other than those rights that the applicant may possess under Maine law.
- (h) The City Planning Board, based on its review of all information submitted and considered as part of a permit application, shall have the authority to establish the maximum daily, weekly, monthly and annual quantity of groundwater that may be extracted; said amount shall not exceed the amount specified by the Applicant in its application. If an Applicant exceeds said amounts, the City shall have the authority to require the Applicant to reduce the volume of water it is using to the maximum amounts established in the City Permit.

Response: *Withdrawal rates will not exceed those specified in Table 102-1077.C.2.1 above.*

- (i) The applicant shall demonstrate that it possesses the expertise and financial resources to construct and operate the requested significant groundwater wells and to adhere to the conditions of approval adopted by the City Planning Board.

Response: *The assembled project team is highly qualified with extensive experience in developing, permitting, constructing, managing, and operating large*

scale developments projects, including land-based fish farms incorporating groundwater extraction wells. The project has been under the supervision of Nordic's senior project and technical staff. See Attachment 29 and Attachment 9.

- (j) The City Planning Board shall consider conditions of approval established by a state or federal agency that has jurisdiction to regulate a significant groundwater well and the extraction of groundwater resources and how said permit conditions may interact with the City Significant Groundwater Well Permit. The Planning Board may choose to use conditions enacted by a state or federal agency as a method to identify and obtain applicant compliance with conditions identified by the Planning Board.

- (k) The City Planning Board shall have the authority to require an applicant to prepare and implement a monitoring program of wells located within 1,000 feet of the boundary line of the applicant property, and to require that said monitoring program be in effect for the time period that any significant groundwater well is in operation. The monitoring program shall consider the rate and total amount of groundwater being extracted, and shall monitor potential adverse impacts on private or public wells located in the above identified area. The Board, in establishing the monitoring program, shall, at a minimum, consider the following: recommendations from a hydro-geologist engaged by the City, recommendations from a hydrogeologist engaged by the applicant, recommendations identified by a state or federal permitting authority, and information provided by the public. The Planning Board may consider requiring the applicant to implement a monitoring program for private or public wells located more than 1,000 feet of the boundary line of a property on which one or more wells is operating, if information identified in a hydro-geologic assessment establishes the value of requiring a larger area to be subject to monitoring. All information obtained from a monitoring program shall regularly be provided to the City Code and Planning Department and all such information shall be considered public records.

Response: *A water resource monitoring plan has been developed and included as part of NAF's application for Site Location of Development Act permit. See Attachment 23.*

Section 102-1080. Independent Expert Assistance.

The City Planning Board shall have the authority to engage the services of an independent expert(s) to assist in providing professional services such as but not limited to: the review of an application, particularly the hydro-geologic investigation report, the development of permit conditions, and preparing and implementing an ongoing monitoring program. The costs of such services shall be the responsibility of the applicant. The Code and Planning Department will collect and manage all fees and assist in determining the amount of the fees to assess the applicant.

Response: *The applicant acknowledges the requirements of this section.*

CHAPTER 102, ZONING

ARTICLE IX, PERFORMANCE STANDARDS

[NOTE TO USERS: The only new standards to Division 2 that were adopted on October 16, 2018 are 102-1137 regarding Significant Groundwater Permits and 102-1138 regarding Significant Water Intake and Significant Water Discharge Pipes. All other Environmental Standards existed prior to October 16, 2018.1

DIVISION 2. Environmental Standards

Sec. 102-1121. Applicability.

[Ord. No. 28-1997, S 700.0, 3-4-1997;

Ord. No. 48-2001, 1-23-2001; Ord. No. 75-2001, 6-5-2001; Ord. No. 76-2001 ; 6-5-2001 ; Ord. No. 77-2001, 6-5-2001; Ord. No. 78-2001, 6-5-2001; Ord. No. 80-2001, 6-7-2001; Ord. No. 81-2001, 6-7-2001]

These standards apply to all properties located within the City, except properties that are located in the Route 3 Commercial District, the Searsport Avenue Waterfront District, the Searsport Avenue Commercial District, the Route 141 and Mill Lane Commercial District, the Route 137 Commercial District, the Route One South Commercial District, and the Office Park District, that are used for nonresidential uses.

- (1) Properties in the Route 3 Commercial District that are used for a nonresidential use are subject to the nonresidential development performance standards found in article [X, division 3 of this chapter.
- (2) Properties in the Searsport Avenue Water-front District, the Searsport Avenue Commercial District, the Route 141 and Mill Lane Commercial District, the Route 137 Commercial District, and the Route One South Commercial District that are used for a nonresidential use are subject to the nonresidential development performance standards found in article IX, division 4 of this chapter.
- (3) Properties in the Office Park District that are used for a nonresidential use are subject to the nonresidential development performance standards found in article 'X, division 5 of this chapter.

Sec. 102-1122. Subsurface wastewater disposal. [Ord. No. 28-1997, s 701.1, 3-4-1997]

- (a) In all zoning districts, the approval of permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal, and, where on-site septic disposal is proposed, shall be subject to prior obtainment of a plumbing permit for the installation of the subsurface water disposal system.

Response: *Domestic wastewater will be disposed of through municipal lines via a connection to be established along the municipal sewer line along Perkins Road. See Attachments 20. A Class B (High Intensity) Soil Survey was performed by a Maine Certified Soil Scientist (Attachment 12) and was used to inform the site design development.*

- (b) The requirements and standards of the state department of environmental protection and department of human services and the latest revised edition of the state plumbing code shall be met.

Response: *NAF's proposed sewer connection will comply with all applicable state laws.*

- (c) A subsurface wastewater disposal system must be designed and installed for any new use, expanded use or change of use unless the use is to be served by municipal sewer.

Sec. 102-1123. Erosion control. [Ord. No. 28-1997, S 701.2, 3-4-1997]

Erosion of soil and sedimentation of water-courses and water bodies be minimized by employing the following best management practices as set forth in Maine Erosion and Sediment Control Handbook for Construction Best Management Practices, prepared by the Cumberland County Soil and Water Conservation District and the state department of environmental protection, 1991:

- (1) Stripping of vegetation, soil removal and regrading or other development shall be accomplished in such a way as to minimize erosion.

Response: *See Attachment 14. Soil will be covered with geotextile fabric following stripping, excavating or regrading to prevent erosion.*

- (2) The duration of exposure of the disturbed area shall be kept to a practical minimum.

Response: *See Attachment 14. Construction will be phased, and generally expedited to minimize the exposure time of stripped, excavated or regraded soil.*

- (3) Temporary vegetation and/or mulching shall be used to protect critical areas during development.

Response: *See Attachment 14. Areas disturbed during construction, but not subject to other restoration (paving, riprap, etc.), will be loamed, limed, fertilized, mulched, and seeded to protect critical areas.*

- (4) Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction begins.

Response: *See Attachment 14. Replanting and establishment of stormwater control infrastructure will be established as soon as possible following construction.*

- (5) Until a disturbed area is stabilized, sediment in runoff water shall be trapped by the use of debris basins, silt traps, or other acceptable methods as determined by the code enforcement officer.

Response: *See Attachment 14. Catch basins shall be provided with sediment sumps for all outlet pipes that are 12" in diameter or greater or where winter sand use is contemplated. A sediment collection bag shall be installed in all basins.*

- (6) The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the code enforcement officer or the Planning Board. Extraction operations (sand pits, etc.) shall not be permitted within 100 feet of any property line, except as provided for in this chapter.

Response: *See Attachment 14. Proximity of cuts, fills and extraction operations will adhere to restrictions on proximity to property lines set forth in section 102-1123(g).*

- (7) During grading operations, methods of dust control shall be employed.

Response: *See Attachment 14. Contractors will employ whatever measures that may be necessary to control fugitive dust emissions from the site, with adjustments made based on forecasted weather conditions. During summer months special measures will be taken to control dust such as watering or covering materials.*

- (8) Those areas with soil unsuitable for construction shall be utilized for open space.

Response: *See Attachment 14. Areas not suited for construction will be used for open space.*

- (9) Trees and other vegetation shall be preserved wherever possible.

Response: *See Attachments 14, 28. Existing vegetation will be maintained wherever practicable. Areas will be appropriately replanted to further prevent erosion and to supplement visual buffers.*

- (10) Lot grading shall be held to a minimum by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade.

Response: *See Attachment 14. Grading will be minimized to the greatest extent practicable.*

Collective Response to 1-10 above: *See Attachment 14. NAF retained Atlantic Resource Consultants (ARC) to develop a Soil Erosion and Sedimentation Control Plan. This plan provides a narrative of temporary and permanent erosion control methods, expected final stabilization date, locations of drainage features and erosional control features, limits of construction disturbed areas, calculations for sizing, spacing or stabilizing each erosion and sedimentation control measure, and inspection and maintenance plans. Erosion and sedimentation control notes, phasing plan, design drawings and installation details are also included in the project engineering plan set (Attachment 20). Refer also to Attachment 15 for the stormwater management plan which includes handling of flows and stormwater appliances to be used to prevent erosion and run-off.*

Sec. 102-1124. Control of stormwater run-off. [Ord. No. 28-1997, s 701.3, 3-4-1997]

Surface water runoff shall be minimized and detained on-site if possible. If it is not possible to detain water on-site, downstream improvements to the channel may be required to prevent flooding. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible. The stormwater design shall be for a fifty-year storm, that is, the largest storm which would be likely to occur during a fifty-year period.

Response: *Ransom Consulting developed a comprehensive stormwater management plan for the proposed facility including proposed retention ponds, improvements to existing stormwater infrastructure and ongoing maintenance plans. This plan and the associated infrastructure was developed to preserve natural conditions to the greatest extent possible. Stormwater systems were designed to accommodate a 100-year storm. See Attachments 15 and 19.*

Sec. 102-1125. Wastewater pollution. [Ord. No. 28-1997, s 701.4, 3-4-1997]

- (a) Wastewater to be discharged into City sewers, should they be available, shall be in such quantities and/or such quality as to be compatible with federal and state standards and in compliance with chapter 62, article II.

Response: *At full build-out, the estimated average daily flow of domestic wastewater generated by the Project is calculated at 1,500 gallons. The Belfast Waste Water Treatment Facility has provided a capacity to serve letter indicating their ability to accommodate this. See Attachment 10.*

- (b) To meet those standards, the City may require that such wastes shall undergo pretreatment or full treatment at the site in order to render them acceptable for treatment processes.

Response: *NAF will apply pretreatment to domestic wastewater as required by the City.*

- (c) The disposal of wastewater by means other than a public system must comply with the laws of the state.

Response: *Domestic wastewater will be disposed of through municipal lines and will comply with all applicable state laws. Waste water from fish production will be treated at NAF's waste water treatment plant prior to being discharged into Penobscot Bay. This discharge will comply with the limitations set forth by ME DEP in our approved MEPDES permit.*

Sec. 102-1126. Air pollution. [Ord. No. 28-1997, S 701.5, 3-4-1997]

Uses which would cause emission of dust, fly ash, fumes, vapors or gases which will have an adverse impact on human health, animals, vegetation, or property, or strain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall also comply with applicable federal and state regulations. Construction is not a use for the purposes of this section.

Response: *NAF is planning to install Eight 2-MW reciprocating diesel engine sets. To operate this equipment NAF has applied for A New Minor Source Application with the Maine DEP, see Attachment 22. As part of the application requirements NAF retained Mainely Environmental to do an analysis of Best Available Control Technology (BACT) to identify appropriate equipment to install to control emissions such that the operation of this equipment will comply with all relevant federal, state and local regulations. See Attachment 22 for further detail on this analysis as well as the proposed equipment.*

Sec. 102-1127. Odors. [Ord. No. 28-1997, S 701.6, 3-4-1997]

No land use or establishment shall be permitted to produce noxious or harmful odors perceptible beyond the lot lines, either at ground or habitable elevation.

Response: *Modern fish production facilities capture and store byproduct streams in airtight and/or cooled storage, to maintain their economic value. Odor in the seafood industry generally emanates from waste exposure to air; with the result of also destroying the value of potential byproducts. In our case, that would lead to economic losses. All processes with the potential for creating odors will take place in completely enclosed buildings and containers. Nordic will partner with established recycling and disposal professionals with years of experience. We have obtained capacity to serve letters from multiple companies for each of these byproduct streams. Through consultation with these partners we will install proven equipment at key areas for added odor control. See Attachment 37 for more details on odor control measures.*

Sec. 102-1128. Glare. [Ord. No. 28-1997, S 701.7, 3-4-1997]

No land use or establishment shall be permitted to produce a light or reflection of that light beyond its lot lines onto neighboring properties which would interfere with the permitted use of that property or be inconsistent with the character of lighting in the area, or onto any City way so as to impair the vision of the driver of any vehicle upon that City way.

Response: *NAF will not utilize building material that will result in impactful glare, as described above, on neighboring properties. Refer to Attachment 33. Additionally, a study has been completed regarding proposed site lighting and again, the proposed development will meet all requirements and have no impact on adjacent properties. Dark sky fixtures and motion sensors will be utilized as further described in Attachment 18.*

Sec. 102-1129. Noise. [Ord. No. 28-1997, S 701.8, 3-4-1997]

Noise may be equal to but not exceed, during any consecutive eight hour period, an average of 75 dB(A) (re 20 microneutons/m²) measured at any boundary line. During the peak activity of 60 minutes in a twenty-four-hour period a noise may not exceed 115 dB(A) when measured at the source.

Response: *A noise study presenting the potential noise-related impacts from both construction and operation of the development was done by Acentech Incorporated. See Attachment 30. According to the assessment, sounds associated with construction, operation or maintenance of the Project will be in compliance with federal, state and local noise level requirements.*

Sec. 102-1130. Gravel extraction. [Ord. No. 28-1997, S 710.09, 3-4-1997]

Regardless of acreage involved, all gravel extraction operations in the City shall be subject to the rules and guidelines of the state department of environmental protection referenced under the Site Location Law, 38 M. R.S.A. SS 481-490, and department of environmental protection regulations pursuant to the Site Location Development Law, 38 M.R.S.A. chapters 371-377, and the provisions of chapter 90, pertaining to site plan review, no matter what the size of the non-vegetated area.

Response: *Not applicable- The proposed development will not include gravel extraction operations.*

Sec. 102-1131. Heating systems and oil storage tanks. [Ord. No. 28-1997, S 701.10, 3-4-1997]

Home heating oil systems, including oil storage tanks, shall be installed in compliance with 32 M.R.S.A. Ch. 33, the current edition of National Fire Protection Standard No. 31, and any other standards and regulations adopted by the state oil and solid fuel board.

Response: *Diesel fuel for backup generators will be stored in underground storage tanks. All fuel burning equipment and storage vessels will be compliant with all relevant local, state and federal regulations.*

Sec. 102-1132. Burning of household trash, brush and stumps. [Ord. No. 28-1997, S 701.11, 3-4-1997]

All burning or disposal of household trash, brush and stumps shall require approval from the state department of environmental protection, except backyard burning of trash for a single-family occupancy in an approved container as allowed by state law, rules or regulations.

Sec. 102-1133. Timber harvesting. [Ord. No. 28-1997, s 701.11, 3-4-1997]

Persons carrying on timber harvesting operations must submit a forestry harvesting plan prepared by a Maine licensed forester. The requirements of this section shall be met by selecting the most appropriate best management practices (BMPs) options contained in the publication entitled "Erosion and Sediment Control Hand-book for Maine Timber Harvesting Operations: Best Management Practices," Maine Forest Service, June 1991, as amended. The Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations: Best Management Practices is hereby specifically incorporated in this section.

Response: *The proposed development will not fall under regulations for Timber Harvesting based on Definitions Chapter 66 of the City ordinances. However, Comprehensive Land Technologies (CLT), a licensed harvester and logger, has submitted a letter of intent to provided services as required relating to clearing of the site.*

Sec. 102-1134. Uses in wetlands. [Ord. No. 28-1997, S 701.13, 3-4-1997]

Any proposed land use located in wetlands must demonstrate compliance with the provisions of the National Resource Protection Act.

Response: *NAF has submitted a Natural Resource Protection Act application for its proposed development. See Attachments 11, 22, and 35. All land uses and operations will comply with the restrictions set forth by these regulations.*

Sec. 102-1136. Soils. cord. No. 28-1997, S 701.15, 3-4-1997]

Soils must be adequate for the intended purpose.

Response: *See Attachment 12. The proposed Project will be constructed on soils suitable for the nature of the undertaking. A Class B (High Intensity) Soil Survey and Geotechnical investigations were performed by a Maine Certified Soil Scientist and licensed geotechnical engineer to ensure the adequacy of the soils for the development. Enough soft compressible clay was found to indicate that a conventional spread footing foundation was not suitable without improvement of soil conditions or utilizing a deep foundation system (e.g. piles). Design considerations for the geotechnical conditions at the Site will be made to overcome limitations presented by existing soil characteristics. NAF plans to excavate and replace the unsuitable soils or design the buildings to bear at elevations corresponding to suitable soils.*

Sec. 102-1137. Significant Groundwater Well.

(a) Exploration to establish a significant groundwater well.

A person may conduct exploratory drilling and testing to identify the potential availability of significant groundwater resources in anticipation of establishing a significant groundwater well. A permit from the Code Enforcement Officer shall be required for all such exploratory drilling. All areas disturbed by such exploratory drilling shall be restored and revegetated to prevent erosion.

Response: *Permission was granted for exploratory drilling of test wells prior to the start of those activities.*

(b) Extraction of a significant groundwater resource.

A request to extract water from a significant groundwater resource by the development of one or more significant groundwater wells shall require the issuance of a permit by the Belfast Planning Board pursuant to the process and standards identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 7, Significant Groundwater Well Permit.

Response: *The applicant proposes the installation and operation of Significant Groundwater Wells as part of this application. Refer to sections above, as well as Chapter 90 (Attachment 5) of this application.*

Sec. 102-1138. Significant Water Intake or Significant Water Discharge/Outfall Pipe.

A significant water intake or significant water discharge/outfall pipe may be permitted by the Planning Board under the following conditions:

- (1) The installation of and physical location of the pipe or pipes does not have a significant adverse impact, if any, on a shoreland regulated area, and the amount of area disturbed by the installation of the pipe is minimized to the greatest extent practical.

Response: *See Attachments 2, 11. The pipeline will be constructed to extend from the proposed site, under Route 1 and through the parcel at 282 Northport Ave and into the bay. Normandeau Associates was contracted to survey existing natural resources and compile a report detailing the anticipated impacts of the project. Three wetlands were identified in this area (W10-12, Attachment 11). Construction of the pipeline will result in 2,611 square feet of temporary impact to wetlands in this area. These wetlands will be fully restored upon completion of construction. A three-sided sheet pile cofferdam will be used at the existing stream/shoreline interface to cross that area with the least impact. Temporary impacts to salt marsh and cobble beach as a result of installing the intake and discharge pipes will be restored in place once the pipes are buried. Wildlife habitats disturbed during construction are expected to recover within months (Attachment 11).*

Cianbro's Corporate Environmental Manager will oversee this construction to ensure compliance with environmental requirements. Construction crews will be staffed with qualified craftspeople to install and maintain the environmental best management practices (BMPs); plus, one team member will be dedicated to daily inspections and reporting of environmental conditions. The responsible erosion control personnel will check equipment and erosion control measures continuously. In predicted weather events where significant rain/snow is forecast, additional resources will be readied, and crews lined up to monitor and respond according to the event. In addition to contracted

professionals, the DEP is expected to require a 3rd party inspector to be on site to monitor work for compliance with approved construction methods.

- (2) The applicant restores the area disturbed by the installation of a significant water intake or significant water discharge/outfall pipe so as to prevent both short-term and long-term soil erosion and sedimentation and the area is revegetated to present a natural appearance that is consistent with the surrounding area.

Response: *Intake and discharge pipelines will be installed through the property located at 282 Northport Ave. Construction will be performed in a manner so as to prevent short and long-term erosion. Upon completion of this construction this area will be replanted and restored to retain a natural appearance.*

Upon crossing Route 1 the pipeline will pass through a steeply raised access road on this property. As part of the installation through this area NAF plans to permanently lower the elevation of an existing access road on the property to reduce the potential for future erosion.

Erosion and sediment controls will be used to divert runoff and handle water. Perimeter sediment barriers will be installed downstream of all work areas. Stabilization fabric will be placed over exposed soils immediately after excavation to minimize the period of soil exposure. This will be maintained for the duration of construction and until permanent seeding can be done. Silt fence, ditching and sediment bags will be installed to prevent the transport of sediment to receiving water. During excavation, temporary sumps will be used to retain sediment contaminated runoff which will then be pumped to sediment bags. Measures to capture sediment before it is conveyed to sediment sumps such as hay bales, or silt fences will be employed.

This area will be replanted with native vegetation following construction to maintain a natural appearance. The easement provides for the landowner to participate in the final restoration design and appearance within jurisdictional regulation.

- (3) The location of any above ground structures associated with the intake or discharge/outfall pipes complies with the minimum structure setback requirement for the respective Shoreland District, subject to consideration of structure setback requirements that apply to a structure that is a water dependent activity.

Response: *No above ground structures will be located within this shoreland zoned area through which the pipeline will be constructed.*

- (4) A person who proposes to install a significant water intake or significant water/discharge pipe shall provide evidence to the City that they can or have obtained any and all state and federal permits associated with the location and operation of the proposed water intake or discharge, including ongoing monitoring, that may be required.

Response: *NAF has submitted or will soon submit applications for the following permits required for the development of the site and construction of the intake and discharge pipelines (Refer to Attachment 22:*

- 1. Maine Pollution Discharge Elimination System (MEPDES)*
- 2. Site Location and Development Act (SLODA)*
- 3. Natural Resource Protection Act (NRPA)*
- 4. Army Corp of Engineers (ACOE)*
- 5. Submerged Lands Lease (ME DACF-BPL)*

Construction on the pipeline will not begin until these permits are granted.

The Planning Board is responsible for the review and issuance of the required City permit. The permit application does not require review by any other City board, committee, or similar body.