

**CITY OF BELFAST CITY COUNCIL
SECOND READING & PUBLIC HEARING
TUESDAY, APRIL 17, 2018 7:00 PM
COUNCIL CHAMBERS OF BELFAST CITY HALL**

**PROPOSED AMENDMENTS
CITY CODE OF ORDINANCES
CHAPTER 82, SHORELAND ZONING**

FOCUS OF AMENDMENTS - NORDIC AQUAFARMS PROJECT

Notes to Public

1) Background Information and Explanation of Proposed Amendments

Nordic Aquafarms, a Norwegian company, conducted a press conference in Belfast on January 30, 2018 to announce their plans to construct a major land based salmon aquaculture farm near Reservoir #1 on the Little River. The proposed farm would be located on a 40 acre site now owned by the Belfast Water District (about 28 acres) and Sam Cassida (about 12 acres). Nordic Aquafarms has stated that the project represents an initial investment of \$150 million and when all phases of construction are completed, a \$400 - \$500 million investment. Nordic Aquafarms has stated that it will employ about 60 persons by 2020 and more at full build-out.

A portion of the property that Nordic Aquafarms proposes to acquire and develop as a land based salmon aquaculture farm is now located in the Shoreland Zone. The City Shoreland Zone, as mandated by the State Mandatory Shoreland Zoning Act, includes land located within 250 feet of a regulated waterbody, such as the lower Reservoir. The current City Shoreland Ordinance now allows many aquaculture activities. The amendments that are now proposed include the following:

- a) Amendments clarify the types of aquaculture that would be allowed in the Shoreland Zone.
- b) An area that is about .5 acres in size that is now owned by the Belfast Water District is proposed to be reclassified from the current Resource Protection Shoreland District to the General Development District.
- c) Definitions are established for several types of aquaculture and other activities.
- d) Significant groundwater wells and Significant Water Intake and Significant Water Discharge/Outfall pipes are identified as activities subject to a Shoreland Permit, and Land Use Standards are proposed for the regulation of such activities.

The text of the proposed amendments is identified in this proposal. The attached maps identify the boundaries of the existing shoreland zoning districts and the boundaries of the proposed (amended) shoreland zoning district.

2) Explanation of Public Process for Council Consideration of Proposed Amendments.

Introduction of Amendments. The Council considered the Introduction of the proposed amendments at its meeting of March 6, 2018, and at this same meeting, scheduled the First Reading of the amendments for its meeting of March 20. The purpose of the Introduction was to inform the public of the proposed purpose and scope of the amendments and the public review schedule for Council consideration of the amendments. It is noted that State law and the City Charter do not require the Council to conduct a formal Introduction of proposed Ordinance amendments at a public meeting.

First Reading of Amendments. The Council conducted the formal First Reading of the proposed Shoreland amendments at its meeting of March 20, and also conducted a public hearing at this same meeting. The main purposes of the First Reading were to present the proposed amendments to the Council and the public and to provide the Council an opportunity to identify any amendments that would be presented as part of the formal Second (final) Reading. The Council scheduled the Second Reading and public hearing on the amendments for its meeting of April 17, 2018. State law and the City Charter requires that the Council conduct a First Reading of any proposed amendments to a City land use Ordinance.

Second Reading of Amendments. The Council is scheduled to conduct the formal Second Reading of the proposed amendments at its meeting of Tuesday, April 17, beginning at 7:00 pm in the Council Chambers of Belfast City Hall. The Council also will conduct a public hearing at this same meeting. The Council, at this meeting and after conducting the public hearing, has the authority to take one of the following actions on the proposed amendments: adopt the amendments as proposed, to reject the amendments as proposed, to make changes to the proposed amendments, or to take no action on the amendments at this meeting. If the Council makes significant changes to the amendments, the Council must conduct a new duly noticed public hearing at a follow-up Council meeting.

3) How to Offer Public Comment on the Proposed Amendments.

The public may offer comment on or by the date of the April 17 public hearing on the Second Reading proposal in one of three ways:

- You can attend the April 17 public hearing and offer verbal comment to the Council at the hearing.
- You can submit comment in writing to: Wayne Marshall, Code and Planning, City of Belfast, 131 Church St, Belfast, ME, 04915.
- You can submit comment via email to: wmarshall@cityofbelfast.org.

All comment that is provided in writing or via email will be provided to the Council at the hearing. If you chose to submit comment in writing or via email, we ask that you do so by 4:00 pm on April 17 so that copies can be made for the Council in advance of the 7:00 pm public hearing. Also, the Council gives equal consideration to all forms of comment that are offered.

Questions regarding the proposed Ordinance amendment should be directed to Wayne Marshall, Director, Code & Planning at 338-1417 x 125 or at wmarshall@cityofbelfast.org.

4) Format of Proposed Amendments

All text shown in black font is current text in the adopted City Code of Ordinances, Chapter 82, Shoreland Zoning. **All text shown in red font** is new language that is proposed to be added, and ~~all text shown in blue and strike through font~~ is language that is proposed to be deleted. Text shown in **green font** under the heading, Note to Public, is provided to help explain the proposed amendments. Text shown in **green font** is not part of the actual Ordinance amendments.

TEXT OF PROPOSED AMENDMENTS

CHAPTER 82, SHORELAND

ARTICLE I. In General

Sec. 81.1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definition of other words, terms and phrases used in this chapter shall have the meanings ascribed to them in the City Code of Ordinances, eChapter 66, General Provisions, except where the context clearly indicates a different meaning.

AQUACULTURE, LAND BASED. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species in an onshore land based facility. Said facility may involve the intake of marine waters or discharge of waters to marine waters and be considered a land based aquaculture operation.

AQUACULTURE, FRESHWATER. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species in a freshwater waterbody; such as a stream, river or pond. Said facility may involve the intake of marine waters or discharge of waters to marine waters and be considered a freshwater aquaculture operation.

AQUACULTURE, MARINE. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species entirely within a marine environment, such as Belfast Bay.

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 now 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.

SIGNIFICANT WATER INTAKE OR SIGNIFICANT WATER DISCHARGE/OUTFALL PIPE. A water intake or discharge/outfall pipe used by a private person to service at least 50,400 gallons during any week and 36,000 gallons on any day that originates onshore and crosses above or below ground in or through a waterbody or land area identified on the City Official Shoreland Zoning Map or Official Zoning Map and that is subject to Shoreland regulation.

ARTICLE IV. Districts

Sec. 82-131. Districts established; ~~o~~Official ~~s~~Shoreland ~~z~~Zoning map.

[Ord. No. 8-1997, § 9, 7-15-1997; Ord. No. 16-2000, 8-15-2000; Ord. No. 20-2004, 1-6-2004; Ord. No. 3-2005, 7-20-2004; Ord. of 3-31-2011]

- (a) Districts established. The areas to which this chapter is applicable are hereby divided into the following districts as shown on the ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps, which are made a part of this chapter:
 - (1) Resource Protection.
 - (2) Limited Residential.
 - (3) Urban Residential.
 - (4) General Development.
 - (5) (Reserved)
 - (6) Stream Protection.
 - (7) Stream Development.
 - (8) Manufactured Housing Community.
 - (9) Waterfront Development.
- (b) Scale of maps. The ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps shall be drawn at a scale of not less than one inch equals 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the maps.

- (c) Certification and location of maps. The ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps shall be certified by the attested signature of the City Clerk and shall be located in the City offices.
- (d) Changes to maps. If amendments, in accordance with ~~s~~Section 82-9, are made in the district boundaries or other matter portrayed on the ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps, such changes shall be made on the ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps within 30 days after the amendment has been approved by the ~~s~~State ~~b~~Board of ~~e~~Environmental ~~p~~Protection.

Note to the Public. The City, as part of this amendment, proposes to change the district classification for a land area that is about .5 acres in size that is now part of Map 29, Lot 39 and that is owned by the Belfast Water District. The Water District has cleared this land area and uses such as a storage area for its operations. This area is now identified on the Official Shoreland Zoning Map as part of the Resource Protection district. The City proposes to amend the classification for this area on the Official Map to the General Development district; reference attached map for the area that is associated with this proposed change. The City proposes to change the classification because the other land areas that the Water District owns on Map 29, Lot 39 that it has developed to support its operations, an area that is about 3 acres in size, is now classified as being in the Resource Protection district. All remaining lands that the Water District owns that are part of Map 29, Lot 39 and that are in the Shoreland Zone (area within 250 feet lineal feet of the lower reservoir on the Little River), nearly all of which are undeveloped except for a nature trail (Little River Trail), shall remain in the Resource Protection district.

- (c) Official Shoreland Zoning Map. The City of Belfast has adopted the attached map as the Official Shoreland Zoning Map of the City of Belfast. Pursuant to requirements of the State of Maine Mandatory Shoreland Zoning Law, the Commissioner of the State Department of Environmental Protection, has reviewed and approved the Official City Shoreland Zoning Map. This Shoreland Zoning Map is provided to assist readers of the Ordinance in the interpretation and application of information in Chapter 82, Shoreland, particularly Article IV, Districts, and the Article V, Land Use Standards. The attached map reflects all Chapter 82, Shoreland Zoning ordinances adopted by the City of Belfast through ~~March 31, 2011~~, ~~2018~~ **(Insert Date that the Commissioner of DEP approves amendments to the Map identified in these Ordinance amendments)** ~~which is the last date for which updates have been provided to the City Code of Ordinances on the Municipal Code Corporation website.~~

Sec. 82-135. Table of ~~l~~Land ~~u~~Uses.

[Ord. No. 8-1997, § 14, 7-15-1997; Ord. No. 16-2000, 8-15-2000; Ord. No. 54-2003, 6-17-2003; Ord. No. 20-2004, 1-6-2004; Ord. No. 3-2005, 7-20-2004; Ord. No. 3-2005, 7-20-2004]

- (a) All land use activities as indicated in Table 1 shall conform with all of the applicable land use standards in ~~a~~Article V of this chapter. The district designation for a particular site shall be determined from the ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps.

- (b) A person performing any of the following activities shall require a permit from the **s**State **d**Department of **e**Environmental **p**rotection, pursuant to 38 M.R.S.A. § 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:
- (1) Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
 - (2) Draining or otherwise dewatering;
 - (3) Filling, including adding sand or other material to a sand dune; or
 - (4) Any construction or alteration of any permanent structure.

City of Belfast

Table 1. Land Uses in The Shoreland Zone

Key to table 1:

- Yes Allowed (no permit required but the use must comply with all applicable land use standards).
- No Prohibited
- PB Requires permit issued by the Planning Board.
- CEO Requires permit issued by the Code Enforcement Officer
- LPI Requires permit issued by the Local Plumbing Inspector.

Abbreviations:

- RP Resource Protection
- LR Limited Residential
- UR Urban Residential
- GDI General Development I
- CFMA Commercial Fisheries/Maritime Activities
- SP Stream Protection
- SD Stream Development
- MHC Manufactured Housing Community
- WD Waterfront Development

Land Uses	Districts							
	SP	SD	RP	LR	UR	GDI	WD	MHC
(1) Nonintensive recreational uses not requiring structures, such as hunting, fishing and hiking	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(2) Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(3) Forest management activities except for timber harvesting	Yes	Yes	CEO	Yes	No	Yes	No	No
(4) Timber Harvesting	CEO	CEO	CEO	CEO	No	CEO	No	No
(5) Clearing of vegetation for approved construction and other allowed uses	CEO	CEO	CEO	Yes	Yes	Yes	CEO	CEO
(6) Fire prevention activities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(7) Wildlife management practices	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(8) Soil and water conservation practices	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(9) Mineral exploration	No	No	Yes 2	Yes 2	No	Yes 2	Yes 2	No

Land Uses	Districts							
	SP	SD	RP	LR	UR	GDI	WD	MHC
(10) Mineral extraction, including sand and gravel extraction	No	No	PB 3	PB	No	PB	No	No
(11) Surveying and resource analysis	Yes	Yes						
(12) Emergency Operations	Yes	Yes						
(13) Agriculture	Yes	Yes	PB	PB	Yes	Yes	Yes	Yes
(14) Aquaculture								
a. In Belfast Bay Subsection Repealed on _____ 2018	No	No	No	No	No	PB	PB	No
b. In all other areas Subsection Repealed on _____ 2018	PB	PB	PB	PB	PB	PB	Yes	PB
c. Land based.	PB	PB	PB	PB	No	PB	PB	No
d. Freshwater	PB	PB	PB	PB	No	PB	PB	No
e. Marine	No	No						
(15) Principal Structures and uses:								
a. One and two-family residential	PB 4	CEO	No	CEO	CEO	CEO	PB 11	CEO
b. Multi-unit residential	No	PB	No	PB	No	PB	PB 11	PB
c. Commercial	No	PB	No	No	No	PB	PB 11	PB 10
d. Industrial	No	PB	No	No	No	PB	PB 11	No
e. Governmental and institutional	No	PB	No	No	PB	PB	PB 11	PB
f. Small nonresidential facilities for	PB 4	CEO	No	CEO	CEO	CEO	PB 11	CEO
g. Manufactured housing communities	No	No	No	PB	No	PB	PB 11	PB
(16) Structures accessory allowed uses	PB 4	CEO	No	CEO	CEO	CEO	PB 11	PB

	Districts							
Land Uses	SP	SD	RP	LR	UR	GDI	WD	MHC
(17) Piers, docks, wharfs, bridges and other								
a. Temporary	PB	PB	PB	PB	PB	PB	PB 11	No
b. Permanent	PB	PB	PB	PB	PB	PB	PB 11	No
(17a) Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line of waterbodies or wetlands that are not located in Belfast Harbor:								
a. Temporary	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
b. Permanent	PB	PB	PB	PB	PB	PB	PB 11	PB
(18) Conversions of seasonal residences to year-round residences	LPI	LPI	No	LPI	LPI	LPI	PB	PB
(19) Home Occupations	PB	PB	No	PB	CEO	Yes 9	PB	PB
(20) Private sewage disposal systems for allowed uses	LPI	LPI	No	LPI	No	LPI	No	LPI
(21) Essential services	PB 6	CEO	PB 6	CEO	CEO	CEO	CEO	CEO
(22) Service drops to allowed uses	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(23) Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	CEO	CEO	PB 11	PB
(24) Individual private campsites	CEO	CEO	CEO	CEO	CEO	CEO	No	No
(25) Campgrounds	No	No	No	PB	No	PB	No	No
(26) Road and driveway construction	PB	CEO	No 8	CEO	CEO	CEO	PB 11	PB
(27) Parking facilities	No	PB	No 7	PB	PB	PB	PB 11	No
(28) Marinas	PB	PB	No	PB	No	PB	PB 11	No
(29) Filling and earthmoving of <10 cubic yards	CEO	Yes	CEO	Yes	Yes	Yes	CEO	CEO
(30) Filling and earthmoving of >10 cubic yards	PB	CEO	PB	CEO	CEO	CEO	PB 11	PB

Land Uses	Districts							
	SP	SD	RP	LR	UR	GDI	WD	MHC
(31) Reserved								
(32) Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
(33) Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
(34) Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB	PB 11	PB
(35) Hydropower	PB	PB	PB	PB	PB	PB	PB 11	PB
(36) Telecommunication facilities, provided such facilities are allowed in the underlying zoning district	NO	PB	NO	PB	PB	PB	PB	PB
(37) Stealth telecommunication facilities, provided such facilities are allowed in the underlying zoning district	PB	PB	PB	PB	PB	PB	PB	PB
(38) Significant groundwater Well	PB	PB	PB	PB	No	PB	No	No
(39) Significant water intake or outfall/discharge pipe	PB	PB	PB	PB	PB	PB	PB	PB

Footnotes for table 1:

- 1 (Eliminated Per Ordinance amendment of January 6, 2004.)
- 2 Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- 3 In RP, not permitted in areas so designated because of wildlife value.
- 4 Provided that a variance from the setback requirement is obtained from the zoning board of appeals.
- 5 Functionally water-dependent uses accessory to such water-dependent uses only.
- 6 See further restrictions in section 82-352(b).
- 7 Except when area is zoned for resource protection due to floodplain criteria, in which case a permit is required from the PB.
- 8 Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.
- 9 (Eliminated per ordinance amendment of January 6, 2004.)
- 10 The only commercial use permitted is an office for the sale and the display of manufactured houses on the site.
- 11 Shoreland permits for this use in the Waterfront Development district may involve Planning Board and Harbor Committee review pursuant to the contract rezoning process established in this chapter (chapter 82, shoreland), and chapter 102, zoning, article X, division 4.

ARTICLE V. Land Use Standards

Note to the Public. The amendments do not involve any proposed changes to the existing land use standards identified in Article V, Division 1, Generally through Division 15, Archaeological Sites. This proposal involves adding two new Divisions, Divisions 16 and 17 as described below.

DIVISION 16. Significant Groundwater Well.

Sec. 82-460. 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.

Sec. 82-461. Extraction of a significant groundwater resource.

A significant groundwater well may be permitted under the following conditions:

- (1) The groundwater well complies with the minimum structure setback requirement identified for a permitted use in the respective Shoreland district.**
- (2) A person (applicant) who proposes to install one or more significant groundwater wells shall provide evidence to the City that they can or have obtained a State Department of Environmental Natural Resources Protection Act permit for any and all proposed significant groundwater wells**
- (3) In keeping with the purposes of this chapter, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with the drilling and operation of a significant groundwater well on surrounding uses and resources.**

DIVISION 17. Significant Water Intake or Significant Water Discharge/Outfall Pipe.

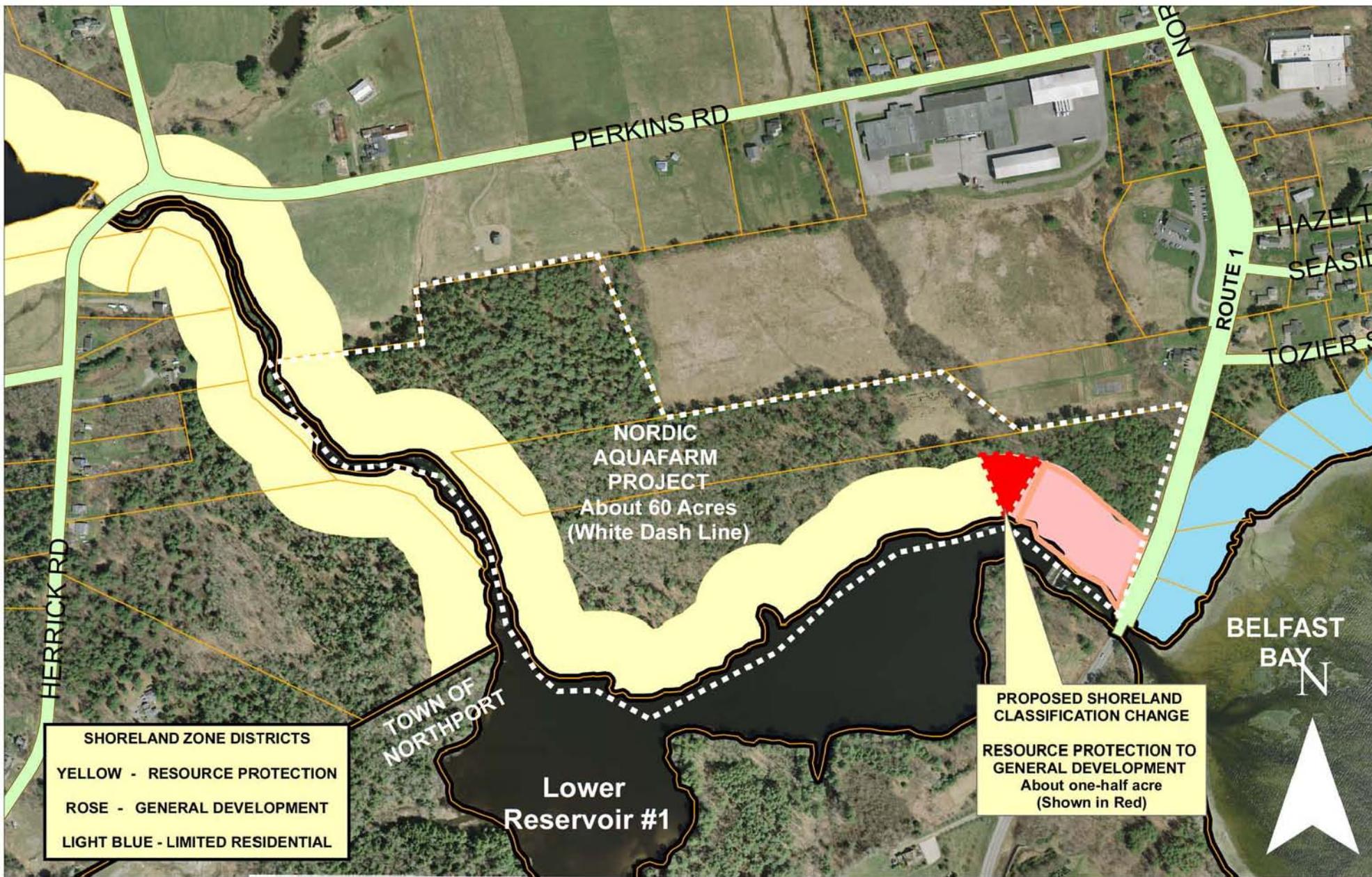
A significant water intake or significant water discharge/outfall pipe may be permitted by the Planning Board under the following conditions:

- (1) The degree of adverse impact, if any, on a shoreland regulated area associated with the physical location of the pipe in said area.**
- (2) A person who proposes to install a significant water intake or significant water discharge/outfall 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.

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.

PROPOSED SHORELAND ZONING AMENDMENT - NORDIC AQUAFARMS 4-17-18 CC Mtg



DETAIL of PROPOSED AMENDMENT - OFFICIAL SHORELAND ZONING MAP

