

CITY OF BELFAST PLANNING BOARD
CONDITIONS OF APPROVAL
NORDIC SITE PLAN PERMIT
ADOPTED DECEMBER --?--, 2020

The City of Belfast Planning Board approved the issuance of a Site Plan Permit to Nordic Aquafarms, Inc (hereinafter Nordic) at its meeting of December --?--, 2020. The Board, at this same meeting, adopted Findings of Fact that describe the project and its decision to find that the Nordic Site Plan application satisfies requirements of the City Code of Ordinances, Chapter 90, Site Plan, particularly Section 90-42, Criteria for Review by Planning Board.

Planning Board approval of the Site Plan Permit is predicated on the Site Plan application and accompanying plan sheets, as such have been amended, that were submitted and accepted by the Board, and which are incorporated as part of the Board approved project, a copy of which are on file at the Code and Planning Department offices in Belfast City Hall. Further, Board approval is subject to Nordic's compliance with the following Conditions of Approval adopted by the Board.

1. Permitted Uses.

The Planning Board determined that the uses proposed by Nordic are permitted uses in both the zoning districts and the shoreland districts in which the Nordic project is located. This Board decision enabled the Board to consider the Site Plan Permit application submitted by Nordic. The permitted uses include:

1.1 Route One South Business Park zoning district. Nordic proposes to operate a land-based aquaculture facility for the rearing and processing of salmon that includes the installation and use of two significant water intake pipes and one significant water discharge pipe, the installation of three significant groundwater wells, and accessory uses such as a visitors' center. The Planning Board determined that the following provisions of Chapter 102, Zoning, Article V, District Regulations, Division 19, Route One South Business Park, Section 102-682, Permitted Uses Requiring Planning Board Review, allow the following uses:

- Subsection (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.
- Subsection (9) Significant groundwater well.
- Subsection (10) Significant water intake or significant water discharge/outfall pipe.

1.2 Limited Residential zoning district. The Ekrote easement area that is located on the easterly side of Route One is proposed to be used for the installation of significant water intake and significant water discharge pipes associated with Nordic's facility. The Planning Board determined that the following provisions of Chapter 102, Zoning, Article V, District Regulations, Division 7, Residential II Zoning District, Section 102-422, Permitted Uses Requiring Planning Board Review, Subsection (12) allows Significant water intake or significant water discharge or outfall pipes.

1.3 Shoreland Zoning. The portion of the Nordic project located near the existing Belfast Water District offices is located in the General Purpose District of the Shoreland Zone. This is the only portion of the Nordic site located on the westerly side of Route One that is in the Shoreland Zone. Nordic proposes to use the existing Water District offices as a Visitors Center, and to use the existing paved area for access to the Visitors Center and for parking. The Planning Board found that the Official Shoreland Map adopted as part of Chapter 82, Shoreland, Article IV, Districts, Sec. 82-131, Districts established; Official Shoreland Zoning map, identifies that the above referenced area is in the General Purpose district of the Shoreland Zone. Further, the Board found that Sec. 82-135, Table of Land Uses of this same Article, Subsection (14) allows Land Based Aquaculture.

1.4 Shoreland Zoning. The Ekrote easement area located on the easterly side of Route One is located in the Limited Residential District of the Shoreland Zone. The Planning Board found that the Official Shoreland Map adopted as part of Chapter 82, Shoreland, Article IV, District, Section 82-131, Districts established: Official Shoreland Zoning Map, identifies that the above referenced area is in the Limited Residential district of the Shoreland Zone. Further, the Board found that Section 82-135, Table of Land Use of the same Article, allows the following uses: Subsection (14), Land Based Aquaculture, and Subsection (16), Significant Water Intake or Discharge/Outfall Pipes.

The Planning Board determined that any proposal by Nordic to establish a new use on the property or to convert an existing use to an alternative use that was not considered by the Board shall require the review and approval by the Belfast Planning Board as a change of use.

2. Size of Site.

The Nordic Site Plan application identifies the size of the Nordic site and all property that will be owned or leased by Nordic or controlled by Nordic via easement rights. The main Nordic site located on the northwesterly side of Route One is about 56 acres in size and consists of the following properties: Belfast Water District, propose to acquire ownership of part of Map 29, Lot 39; Samuel Cassida, propose to lease Map 4, Lot 104; and Goldenrod Properties, LLC (Matthews Brothers), propose to own part of Map 4, Lot 12A. Nordic also has an agreement

with Richard Ekrote to acquire certain easement rights to a property located on the easterly side of Route One, Map 29, Lot 36, for the installation of the significant water intake and significant water discharge/outfall pipes.

Any proposal by Nordic to increase or decrease the amount of land owned or controlled by Nordic for the operation of their land-based salmon aquaculture facility shall require the review and approval of the Belfast Planning Board as an amendment to the approved Site Plan Permit.

3. Compliance with City Planning Board Permits.

Section 90-42(b)(9), Conformity with City Ordinances and Plans, requires the Planning Board to make a finding that a proposed development complies with requirements of the City Code of Ordinances, including Chapter 78, Floods, Chapter 82, Shoreland, Chapter 98, Technical Standards, and Chapter 102, Zoning, to issue a Site Plan Permit. The Belfast Planning Board has approved five permits (see list below), including this requested Site Plan Permit, in its review of the Nordic project, and has determined that the Nordic project complies with standards identified in the above City Ordinances. Nordic must comply with the Conditions of Approval established by the Planning Board in each of the five respective permits approved by the Board to allow Nordic to operate pursuant to terms of this Site Plan Permit. If Nordic fails to comply with the Conditions of Approval identified in any or all of the respective permits, and the City issues one or more Notices of Violation pursuant to standards identified in Chapter 90, Site Plan, Section 90-2, Violations, Enforcements, Penalties, Chapter 82, Shoreland, Section 82-2, Violations, Enforcements, Penalties, and/or Chapter 102, Zoning, Article II, Administration, Division 5, Enforcement, associated with Nordic's failure to comply, and Nordic fails to resolve said Violations to the City's satisfaction, the City Code and Planning Department shall find Nordic in default of terms of the Site Plan Permit and shall suspend approval of the Site Plan Permit and Nordic's ability to operate pursuant to terms of the Site Plan Permit until such time that the Violation(s) is resolved to the City's satisfaction.

The Permits approved by the Belfast Planning Board that are associated with Condition # 3 include:

- Chapter 90, Site Plan, Site Plan Permit;
- Chapter 82, Shoreland, Shoreland Permit;
- Chapter 102, Zoning, Significant Water Intake Pipe and Significant Water Outfall/Discharge Pipe Permit;
- Chapter 102, Zoning, Significant Groundwater Well Permit; and
- Chapter 102, Zoning, Zoning Use Permit.

4. Compliance with Permits Issued by Code Enforcement Officer.

Construction of the Nordic project will require the issuance of permits by the City Code Enforcement Officer. Nordic shall be responsible for obtaining all City

permits required from the Code Enforcement Officer by City Ordinances and complying with terms of said permits.

The Board specifically noted that it reviewed and considered requirements of Chapter 78, Floods, in its award of the Site Plan Permit and Zoning Use Permit. The only structure proposed to be located in a designated flood zone is the existing Belfast Water District offices that Nordic intends to use as a Visitor's Center. If Nordic's conversion of this existing office facility to a Visitor's Center qualifies as a substantial improvement pursuant to Chapter 78 requirements, Nordic shall be responsible for obtaining the required permit and complying with terms established by the Code Enforcement Officer to be in compliance with terms of this Site Plan Permit approved by the Planning Board. However, any proposed expansion in the footprint of the facility shall require the review and approval of the Belfast Planning Board.

5. Amendments to City Site Plan Permit.

Amendments proposed to the Conditions of Approval and the accompanying approved Nordic Site Plans identified in this Site Plan Permit shall require the review and approval of the Belfast Planning Board, unless the terms of a specific Condition adopted by the Board authorize the City Code and Planning Department and/or the Department's Code Enforcement Officer to approve an amendment to a Condition of Approval and/or the accompanying Site Plans. A request for an amendment that requires review by the Planning Board shall include the Board conducting a duly noticed public hearing regarding said request.

6. Expiration of Site Plan Permit.

Pursuant to Section 90-19, Expiration of Site Plan Approval, the Site Plan Permit issued by the Planning Board to Nordic shall expire on -- ? --, 2025, if Nordic has not initiated substantial construction and development on the project site.

7. Transfer of Ownership.

The Belfast Planning Board issued this Site Plan Permit to Nordic Aquafarms, Inc. (Nordic). Nordic shall not sell, lease, assign or otherwise transfer the development or any portion thereof, and shall not transfer Nordic's obligations pursuant to this Site Plan Permit, without the prior written approval of the Belfast Planning Board. Nordic must establish to the satisfaction of the Planning Board that the party to whom Nordic's obligations are proposed to be transferred has the financial ability and technical capacity to comply with all Site Plan Permit requirements, and if there are any deficiencies or violations at the time of the proposed transfer, that the identified deficiencies or violations can be resolved prior to the transfer, or there is a definitive plan to address said concerns that has been reviewed and approved by the Planning Board. The Belfast Planning Board shall conduct a duly noticed public hearing regarding any request to approve a transfer of ownership.

8. Compliance with State and Federal Permits.

Nordic shall comply with terms of all permits issued by the State of Maine (State) and the U.S. (Federal) government, and shall provide the City Code and Planning Department copies of all such issued permits, and any and all amendments to said permits. Nordic, within ten business days of an action by a State or Federal permitting authority, shall inform the Code and Planning Department of any orders regarding project construction, operation and compliance that may be issued by a State or Federal agency, and shall describe the action performed by Nordic to comply with the respective order. Further, if there are significant discrepancies between terms of permit conditions stipulated in a respective State or Federal permit and requirements stipulated by the Planning Board in the City Site Plan Permit that could materially impact facility operations or construction, Nordic shall bring such concerns to the attention of the Planning Board for review and potential action.

9. Phased Construction.

The Belfast Planning Board has approved Nordic's proposed approach to construct the Nordic facility in two distinct phases. Nordic, post the completion of Phase I construction, shall provide a report to the Planning Board that identifies how project construction satisfies Conditions of Approval and Site Plan Permit requirements established by the Board, and that describes Nordic's operations conducted to date regarding the rearing and processing of salmon. Nordic shall produce this report to the Board prior to the commencement of any Phase II construction. If the report produced by Nordic, or the Planning Board's review of this report and information provided by the Code and Planning Department or its agents identifies deficiencies regarding compliance with City Permits, Nordic shall not be issued any City Permits to begin Phase II construction until such deficiencies and non-compliance concerns are resolved to the satisfaction of the City.

10. Public Sewer.

10.1 Construction of Private Sewer Connection. Nordic shall construct a privately owned sewer service that connects to the public (City) sewer service for sanitary wastes generated at the Nordic facilities. This sewer line shall be constructed in the location shown on the approved Site Plan. Bob Richards, Superintendent, Public Works, on March 7, 2019, issued a Road Opening Permit that allowed and established terms for the installation of Nordic's private sewer service in the Perkins Road right-of-way. Nordic shall comply with all terms established in the Final Road Opening Permit. Nordic also shall obtain a Sewer Connection and Service Use Permit from the City and pay all fees associated with said permit.

The Road Opening Permit issued by Bob Richards identified the payment of a performance guarantee, an escrow account, to the Public Works Department

for work to be performed pursuant to this Permit. This performance guarantee shall be replaced and included in the Performance Guarantee, an Irrevocable Letter of Credit, required by the Belfast Planning Board in Condition of Approval 36, particularly reference 36.1.

10.2 Wastes to City Wastewater Treatment Facility. Jon Carmen, Superintendent of the City Wastewater Treatment Facility, has provided Nordic a letter that identifies the wastes that the City Wastewater Treatment Plant will accept from the Nordic facility. If Nordic sends unacceptable wastes to the Wastewater Treatment Plant, the City, pursuant to Chapter 62, Utilities, Article II, Sanitary Sewer System, Division 1, Generally, Section 62-33, Violations, Enforcement, Penalties, may pursue such action as a nuisance and land use violation.

10.3 Sewer Connection Required. Nordic shall establish the connection to the City sewer system as part of Phase 1 operations. This connection must be established prior to issuance of a Certificate of Occupancy for any building that will produce sanitary wastes.

11. Public Water.

The Nordic facilities will use public water provided by the Belfast Water District. Nordic shall construct all connections to public water in accordance with requirements of the Belfast Water District and shall provide a letter attesting to such from the Belfast Water District prior to the Belfast Code Enforcement Officer issuing a Certificate of Occupancy for any building that is connected to public water.

12. Electrical Service.

12.1 On-Site Electrical Service. On-site electrical service shall be constructed in the manner and locations shown on the approved Site Plans. Nordic shall demonstrate that it has provided required electrical service to each respective building prior to the Belfast Code Enforcement Officer issuing a Certificate of Occupancy for said building.

12.2 Off-Site Electrical Service. Based on preliminary information provided by Nordic to the Belfast Planning Board, Nordic's operations may require extensive off-site improvements to Central Maine Power's (CMP) facilities to address electrical demands associated with Nordic's facilities and operations. To date, however, Nordic has provided no specific information regarding the extent of improvements required to CMP's facilities, how such improvements (or lack thereof) could impact electrical service to Belfast and surrounding communities, when such improvements may be constructed and who will pay for such, and how such improvements may interface with Nordic's on-site power generation facilities. Further, the Minor Air Emissions Permit issued to Nordic by the Board of Environmental Protection establishes maximum limits

on the amount of power (limits on amount of emissions that can occur based on amount of fuel used) that Nordic can produce from its on-site generators, meaning that Nordic, as identified in its Site Plan application, will be reliant on CMP for the majority of its power.

Planning Board approval of the Nordic project is predicated on information provided in the Nordic application and testimony from Nordic representatives to the Board, including: Nordic shall rely on CMP for the majority of its power, improvements are required to CMP's facilities to support Nordic's operations, and Nordic's on-site power generation will occur within the parameters established in the BEP Minor Air Emissions Permit. As only limited information has been provided to date to the Planning Board regarding Nordic's use of electricity, Nordic, within one year of the date of issuance of a Site Plan Permit, shall provide information to the Code and Planning Department that identifies the following: off-site improvements that CMP must make to support the Nordic facility; how and when CMP will make required improvements; the party responsible for the cost of making required improvements; how Nordic's on-site electrical power generation will interface with CMP's service; and the degree to which Nordic will rely on power provided by CMP. The Board anticipates that most of this information can be provided through documentation provided by CMP to the Public Utilities Commission.

The Code and Planning Department shall review the above information, determine if the identified approach is consistent with the Nordic permit application submitted to the Planning Board, and report its findings to the Planning Board. In particular, any proposal by Nordic to change the classification of Air Emissions Permit issued to Nordic by the Board of Environmental Protection shall require Nordic to submit an amendment to the City Site Plan Permit for Board review and approval.

12.3 On-Site Power Generation. Nordic, as identified in 12.2 above, has obtained a Minor Air Emissions License (Permit) from the Department of Environmental Protection to operate a series of 8 on-site generators to provide both peak shaving and emergency power for Nordic's operations. The Planning Board, recognizing that the City has minimal definitive standards to regulate air emissions, has determined that it largely will rely on the above DEP Permit to regulate specific air emissions associated with Nordic's on-site power generation activities, and by extension, regulating the amount of power (amount of fuel used) that Nordic can operate its on-site power generation facilities. And, as identified in 12.2 above, any proposal by Nordic to change the classification of the DEP Air Emissions license shall require the review and approval of the Belfast Planning Board as an amendment to this Site Plan Permit.

Further, any proposal by Nordic to increase the height of the exhaust pipes (chimneys) to greater than 70 feet, shall require review and approval by the Planning Board as an amendment to this permit application to determine if the proposed increase in height has any adverse impact on air quality, air emissions and odors, and to determine if there is any adverse impact on public views.

12.4 City Electrical Permit. The Belfast Planning Board, in consultation with the Code and Planning Department, has determined that the electrical installations proposed by Nordic, both in scale and complexity, raise concerns regarding the amount of time and expertise required to conduct on-site electrical inspections to ensure compliance with the State Electrical Code. Thus, the Planning Board authorizes the Code and Planning Department and City Code Enforcement Officer to obtain third-party professional services to conduct required electrical inspections and to assess a fee, a surcharge, in addition to the standard fee for a City Electrical Permit, to obtain third party inspection services. The Code and Planning Department is authorized to determine the appropriate amount of this fee for any and all City Electrical Permits requested by Nordic. The Code and Planning Department shall be responsible for providing Nordic a report on how said surcharge fees were expended, and shall return any unexpended funds to Nordic.

13. On-Site Solar.

Nordic has expressed interest in installing on-site solar to assist in addressing its energy demands. The City Code Enforcement Officer, consistent with standards identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 9, Solar Energy Systems, is authorized to review and issue a permit for any roof-mounted solar energy system, regardless of the size of the system that is proposed. The Belfast Planning Board shall be responsible for the review and approval of any request to install a ground-mounted solar energy system, regardless of its size, to ensure that the location of the proposed system complies with requirements of the above referenced Division 9, and the requirements of Chapter 90, Site Plan.

14. On-Site Dumpsters.

The Nordic project involves the use of several on-site dumpsters for the management of solid wastes and recyclable materials. Nordic shall obtain contractual services for the regular servicing of these solid waste dumpsters and recyclable containers. The Planning Board determined that these dumpsters do not need to be screened in the areas shown on the plan where the dumpsters will be located, however, if any dumpster location is visible from a neighboring property or from the Visitors Center and associated parking areas, then screening would be required. The Planning Board authorized the Code Enforcement Officer to review and approve proposed revisions to the locations for the identified dumpsters, and/or to approve the location of additional dumpsters, provided all locations and the screening of dumpsters comply

with the above guidelines established by the Board, and if warranted, City requirements identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations. Nordic shall not use said dumpsters for the storage of fish wastes or wastes associated with operations of the Wastewater Treatment Plant.

15. Fish Waste and Wastes Associated with Operation of the Wastewater Treatment Plant.

Nordic shall provide for the regular collection, storage and disposal of fish wastes and wastes associated with operation of the Wastewater Treatment Plant. All such wastes and containers shall be stored in an indoor area to minimize the amount of odors associated with such wastes. Nordic identified potential facilities that could properly collect and dispose of these wastes in its Site Plan application, and shall provide evidence to the Code and Planning Department that it has obtained contractual services for the regular collection and disposal of such wastes at an appropriate facility.

16. Odor Management.

16.1 Nordic Odor Response Protocol. Prior to operation of the facility, Nordic shall submit an odor complaint response and resolution protocol to the Code and Planning Department for review and approval. The proposed protocol shall establish guidelines for reporting, documenting, investigating, responding to, and providing notification to the Code and Planning Department, of odor complaints associated with project operations. This protocol shall include measures for Nordic self-reporting (no specific outside complaint) facility operations that resulted in unintended odors. Nordic shall notify the Code and Planning Department of any odor complaints within one business day of receiving the complaint, and shall notify the Department of the outcome of its investigation including any corrective actions taken within two business days of its completion.

16.2. Odor Violations and Nordic Corrective Measures. Chapter 102, Zoning, Article IX, Performance Standards, Division 2, Environmental Standards, Section 102-1127, Odors, states that no land use shall be permitted to produce harmful or noxious odors that are perceptible beyond lot lines. Nordic, upon any finding by the Code and Planning Department with Section 102-1127 requirements, shall take immediate short-term action to adjust operations at the source of the odor to reduce odor output and achieve compliance. Within 21 calendar days of a determination of non-compliance by the Department, Nordic shall submit, for review and approval, a mitigation plan, including a schedule for implementation, that proposes long-term actions to resolve the odor issue and bring the development into compliance.

17. Hazardous Wastes and Management of Hazardous or Special Materials.

17.1 Hazardous Waste during Construction. Neither Nordic or the City are aware of the potential presence of any hazardous wastes on this site, and neither has any reason to suspect the presence of hazardous materials. The Planning Board, however, requires that if any development of this site results in the discovery of any hazardous material, that Nordic immediately alert the City Code Enforcement Officer and State Department of Environmental Protection of the presence of hazardous materials, and that all construction activities in the affected area cease until a course of action to correct the problem is identified.

17.2 Handling of Special Wastes. Certain wastes that are routinely generated at the Nordic site, such as materials from the wastewater treatment facility, and wastes that may be generated from unanticipated events, such as a massive fish die-off, require special handling and disposal. Nordic shall comply with all State and Federal requirements regarding the handling of such wastes and the proper disposal of such in State approved landfills or other facilities licensed to accept such wastes.

18. Emergency Response Plan.

18.1 Requirement to Prepare and Submit Plan to City. The Maine Department of Environmental Protection (DEP), in the Site Location of Development Act/Natural Resources Protection Act (NRPA/SLODA) Permit that it issued to Nordic, reference Conditions 17 and 18 in the DEP NRPA/SLODA Permit, requires Nordic to develop an emergency response and facility closure plan that identifies worst case scenarios, including unanticipated disease outbreak and spread, unanticipated fish die-off, and unanticipated closure of the wastewater treatment facility or the facility as a whole. The DEP stipulated that this plan may be a standalone document or incorporated into an overall operations and maintenance plan for the facility, and that the emergency response and facility closure plan must establish thresholds that trigger implementation of the plan. Continuing, for the scenarios accounted for in the plan, Nordic must identify all possible solid waste types and potential volumes associated with each phase of operation, including those types of solid waste identified by Nordic in its application and additional waste types associated with closure of the wastewater treatment facility and facility as a whole, if any, and must address how each type of solid waste will be handled and disposed. Lastly, the DEP determined that the plan may be developed sequentially with each phase, and that it must be submitted to the DEP for review and approval prior to construction of the corresponding phase of development.

The Planning Board requires Nordic to concurrently submit to the Code and Planning Department the above referenced Emergency Response Plan that will be presented to the DEP. The Code and Planning Department shall have an opportunity to review the Emergency Response Plan and to

identify additional specific measures, if any, that Nordic shall be required to incorporate into a similar Plan to address concerns identified in this Site Plan Permit, or other Permits issued by the Planning Board or the Code Enforcement Officer. This Plan will be considered Nordic's Emergency Response and Closure Plan for the City of Belfast. The Code and Planning Department must accept this Plan prior to the start of any construction on Phase I and Phase II.

18.2 Requirement to Implement Plan. Nordic shall implement the emergency response and facility closure plan should a triggering event occur, and shall immediately contact the Code and Planning Department to inform the Code Enforcement Officer that they have implemented the emergency response and facility closure plan and shall regularly inform the Code Enforcement Officer of their implementation efforts. Post the duration and response to the event, Nordic shall provide a report to the Code Enforcement Officer that identifies the following: what caused the triggering event, the steps that Nordic implemented to address the event, how all wastes were properly disposed, overall adverse impacts, if any, on Nordic's operations, and the measures that Nordic implemented to resume operations.

19. Noise

19.1 Construction Activities. Nordic shall conduct on-site construction activities between the hours of 7:00 am and 7:00 pm, or during daylight hours, whichever is longer, and shall not conduct construction activities on Sundays. There are four specific exceptions to this Condition authorized by the Planning Board:

- a) Activities associated with the construction and removal of the temporary by-pass road on Route One. There are no specific time of day or number of days per week limits on this construction activity.
- b) Activities associated with the construction of the private sewer line within the bounds of the Perkins Road right-of-way. There are no specific time of day or number of days per week limits on this construction activity.
- c) Activities associated with the construction of the significant water intake and significant water outfall discharge pipes, both on-land and off-shore construction. There are no specific time of day or number of days per week limits on this construction activity.
- d) Activities associated with construction that occurs entirely within the confines of an enclosed building, provided that said construction does not generate noise levels that exceed 55 db as measured 25 feet from the exterior of the building in which the construction activities are taking place. The City may take sound measurements using a hand-held decibel meter to determine compliance with this standard.

In addition to the above exceptions specifically authorized by the Planning Board, Nordic may request and the Code Enforcement Officer may grant specific one-time exceptions to the above standards if Nordic demonstrates to the satisfaction of the Code Enforcement Officer that an exception is warranted to address a specific construction concern.

In adopting this Condition, the Planning Board noted that the City Code of Ordinances, Chapter 34, Miscellaneous Offenses, exempts construction activities that occur between the hours of 5:00 am and 10:00 pm from specific sound level regulation. The Board, in an effort to better regulate construction noise, and to be consistent with DEP Standards (reference SLODA/NRPA Permit), chose to impose the DEP standards for regulating construction noise rather than relying upon the standards in Chapter 34 of the City Code of Ordinances.

19.2 Construction Equipment. The applicant shall employ the use of non-road heavy equipment during all phases of construction of the project such as, but not limited to, backhoes, bulldozers, front-end loaders, excavators, and dump trucks, that are equipped with engines which at minimum meet U.S. Environmental Protection Agency Tier 2 emission standards as specified in 40 C.F.R. § 89.112 (effective June 17, 1994 and last revised July 13, 2005) and 40 C.F.R. §89.113 (effective June 17, 1994 and last revised October 23, 1998).

19.3 Project Operations. All project operations shall comply with the maximum decibel levels established by the State Department of Environmental Protection in Chapter 375 §10. Further, the City Code Enforcement Officer shall enforce these DEP standards in lieu of standards currently identified in the City Code of Ordinances, Chapter 102, Zoning, Article IX, Performance Standards, Division 2, Environmental Standards, Section 102-1129, to manage Nordic project operations. The Code Enforcement Officer has the authority to issue a Notice of Violation based on noncompliance with standards identified in Chapter 375 §10. Further, the Code Enforcement Officer can use a hand-held decibel meter to determine noise levels.

20. Stormwater Management.

20.1 Construction of Stormwater Improvements. Nordic shall construct all stormwater management improvements identified on the approved Site Plan to the standards identified in the Nordic Plans. Nordic shall complete construction of improvements associated with a specific Phase of construction during that Phase of construction, and may not begin Phase II construction until all Phase I stormwater facilities are constructed and operational.

The City, prior to issuance of an Occupancy Permit for any building on the site, shall require the completion of the stormwater improvements associated with the respective Phase of construction, and shall require a certificate of construction from a licensed civil engineer certifying that the stormwater improvements have been constructed to the specifications identified on the approved Site Plan.

20.2 Inspection of Stormwater Improvements. Condition of Approval 23 in the Natural Resources Protection Act/Site Location of Development Act Permit issued by the Board of Environmental Protection identifies State requirements for Nordic to use two third-party inspectors to monitor all phases of construction. The specific language for this condition is as follows: "The applicant shall retain the services of at least two third party inspectors to monitor all phases of construction of the proposed primary facility site. The inspectors must be retained and work in accordance with the Special Condition for Third-Party Inspection Program included with this Order. The applicant may alter the number of third-party inspectors needed for the project with prior Department approval".

- a) The City, similar to the Department of Environmental Protection, must monitor Nordic activities associated with construction of stormwater improvements to determine compliance with City Permit requirements. The City is prepared to accept reports generated by the above third-party inspectors to assist the Code Enforcement Officer and/or City Engineer in determining compliance with City Stormwater requirements, provided said reports are submitted to the City Code Enforcement Officer in their entirety and in a timely manner. This approach to stormwater inspections, however, does not preclude the City Code Enforcement Officer or City Engineer from conducting independent on-site inspections and making determinations that may or may not be consistent with those of the third-party inspectors or the Department of Environmental Protection.
- b) While it is the City's intent to use the State's Third-Party Inspection Program, if the Code Enforcement Officer determines that the services available through the State's third-party inspection program are inadequate for the City's inspection needs, Nordic shall be responsible for paying a fee to the City to enable the City to engage the services of City Engineer or similar services to provide necessary inspection services on behalf of the City.
- c) Nordic, in accordance with Condition 26 in the Bureau of Environmental Protection Natural Resources Protection Act/Site Location of Development Act Permit, shall retain the services of the project's stormwater design engineer to oversee the installation of the stormwater treatment structures according to the details and notes

specified on the approved plans. Further, within 30 days of completion of the stormwater structures, Nordic must submit a log of inspection reports detailing the items inspected, photographs taken, and the dates of each inspection to the Department of Environmental Protection for review. The City hereby requires Nordic's stormwater design engineer to submit this same report to the City and in accordance with the same monthly schedule. The City Code Enforcement Officer and/or City Engineer shall review the report to determine compliance with City requirements established in the City Site Plan Permit.

20.3 Amendments to Stormwater Improvement Plans. The City Code Enforcement Officer, after consultation with the City Engineer and/or other inspector services available to the City, shall have the authority to approve changes in the location, size or type of specific stormwater improvements that may be proposed during project construction by Nordic or recommended by City Engineer or other inspection services. Said authority applies to limited forms of field changes. Any proposal that involves significant alterations to the method to manage stormwater shall require the review and approval of the Belfast Planning Board as an amendment to this Site Plan Permit.

20.4 Maintenance of Stormwater Improvements. Post project construction, Nordic shall be responsible for maintaining all stormwater improvements in good working condition. Nordic shall provide the Code Enforcement Officer (CEO) a plan for the regular inspection and maintenance of all stormwater improvements. All maintenance reports and any and all corrective action taken by Nordic to address any identified deficiencies shall be provided to the CEO within 30 calendar days of the inspection. Any failure by Nordic to address identified deficiencies shall be considered a violation of City Ordinances and shall be subject to penalties for a violation identified in City Ordinances and State law. Further, the CEO shall have the authority to inspect stormwater facilities at any point in time, and if warranted, to cite any deficiencies that the CEO deems warrant corrective action, and to issue a notice of violation that the CEO may deem appropriate.

21. Soil and Erosion Control.

21.1 Implementation of Soil and Erosion Control Measures. The Nordic project development involves a significant amount of soil removals. It is critical that Nordic consistently employ the soil and erosion control measures identified in the approved Site Plan application in a good quality and consistent manner, and that the number of open areas at any point in time and the re-stabilization of such areas, complies with limitations identified in the soil and erosion control plan.

21.2 Inspection of Soil and Erosion Control Measures. Condition of Approval 23 in the Natural Resources Protection Act/Site Location of Development Act Permit issued by the Board of Environmental Protection, identifies State requirements for Nordic to use two third-party inspectors to monitor all phases of construction. The specific language for this condition is as follows: "The applicant shall retain the services of at least two third party inspectors to monitor all phases of construction of the proposed primary facility site. The inspectors must be retained and work in accordance with the Special Condition for Third-Party Inspection Program included with this Order. The applicant may alter the number of third-party inspectors needed for the project with prior Department approval".

- a) The City, similar to the Department of Environmental Protection, must monitor Nordic construction to determine compliance with City Permit requirements regarding the implementation of effective soil and erosion control measures. The City is prepared to accept reports generated by the above third-party inspectors to assist the Code Enforcement Officer and/or City Engineer in determining compliance with City soil and erosion control requirements, provided said reports are submitted to the City Code Enforcement Officer in their entirety and in a timely manner. This approach to conducting regular soil and erosion control inspections, however, does not preclude the City Code Enforcement Officer or City Engineer from conducting independent on-site inspections and making determinations that may or may not be consistent with those of the third-party inspectors or the Department of Environmental Protection.
- b) If the Code Enforcement Officer determines that the services available through the State's third-party inspection program are inadequate for the City's inspection needs, Nordic shall be responsible for paying a fee to the City to enable the City to engage the services of City Engineer or similar services to provide necessary inspection services on behalf of the City.

21.3 Amendments to Soil and Erosion Control Measures. The City Code Enforcement Officer, after consultation with the City Engineer and/or other inspector services available to the City, shall have the authority to approve changes in the on-site measures that Nordic and its contractors employ to best management soil and erosion control concerns. Said authority applies to limited forms of field changes. Any proposal that involves significant alterations to the method to manage soil and erosion control, particularly any proposal to increase the amount of area that can be open at any point in time, shall require the review and approval of the Belfast Planning Board as an amendment to this Site Plan Permit.

21.4 Reports to Code Enforcement Officer. Any reports prepared by Nordic's General Contractor or by Nordic's project design engineer shall regularly be provided to the City Code Enforcement Officer for review and potential action.

22. Wetland Alterations and Mitigation.

The City of Belfast does not have independent City standards regarding the regulation of inland wetlands. Chapter 102, Zoning, Article IX, Performance Standards, Division 2, Environmental Standards, Section 102-1134, Uses in Wetlands, requires that any use in a wetland area must demonstrate compliance with a DEP Natural Resources Protection Act Permit. The Belfast Planning Board recognizes that the Board of Environmental Protection has issued a Natural Resources Protection Act Permit to Nordic that allows the fill and alteration of certain wetland areas subject to Nordic making a payment to the Maine in Lieu Fee Compensation Program and making certain on-site wetland/stream restoration improvements. The Planning Board requires Nordic to provide evidence to the Code and Planning Department and Planning Board of any amendments to the issued State permits that affect the amount of wetland disturbance or the requirements that Nordic must satisfy regarding any wetland alterations.

23. Traffic Management and Internal Driveways.

23.1 Site Access. Access to the Nordic site during both project construction activities and long-term facility operations shall be limited to the single access drive off of Route One that now serves the Belfast Water District facilities. This access shall be constructed to the specifications identified on the approved plan, as such was amended and presented to the Board for review in the Nordic Final Site Plan application. Any request to construct or use an additional access to the site shall require the review and approval of the Belfast Planning Board as an amendment to this Site Plan Permit.

Notwithstanding this Condition, the Planning Board recognizes that construction activities associated with the installation of Nordic's sanitary sewer line from their facility to Perkins Road will result in some construction activities accessing the site from Perkins Road. Traffic associated with said construction activities shall be limited solely to construction of the sanitary sewer line.

23.2 Management of Construction Traffic. Nordic shall prepare and submit a plan to the Code and Planning Department that identifies how Nordic and its contractors shall manage truck traffic associated with project construction, particularly truck traffic associated with the on-site removal or addition of earthen materials. Said plan shall be submitted a minimum of 30 days prior to the start of any Phase I construction, and said plan shall be updated and resubmitted prior to the start of any Phase II construction. The report shall address the following:

- a) Where earthen materials that will be added to the site will be sourced and the proposed travel route for all trucks.
- b) Where earthen materials that are to be removed from the site will be disposed and the proposed route for all trucks.

- c) Information regarding the size of trucks that the contractor will typically use, estimates of the average number of truck trips/day, estimates of the number of truck trips each day and for each hour between the hours of 7:00 am and 9:00 pm and 3:00 pm to 6:00 pm, and estimates of the number of days per week and days per month that this amount of truck traffic is projected to occur.
- d) A description of measures that Nordic and its contractors propose to implement to minimize potential traffic conflicts at key intersections in the City of Belfast, and a description of why Nordic believes the proposed measures may serve to reduce potential traffic conflicts at the significant intersections in Belfast that may be impacted by this construction traffic. Examples of such measures include but are not necessarily limited to: number of trucks that can use an intersection during specific times of the day, size of the truck that will be used to reduce the total number of trips, the route for truck traffic, signage, temporary flaggers, temporary signalization changes, and such. The assessment shall be prepared by a traffic consultant engaged by Nordic and will focus on key intersections that involve truck turning movements. Nordic shall consult with the Code and Planning Department to determine the key intersections associated with the assessment.

The Code and Planning Department shall be responsible for the review and approval of the traffic management plan for Phase I construction. The Code and Planning Department shall be responsible for the review and approval of any proposed amendments to the Phase I Plan associated with Phase II construction.

23.3 Construction of Temporary By-pass Road on Route 1. Nordic shall construct a temporary by-pass road on Route 1 to foster installation/construction of the intake/discharge pipe under Route 1. Construction of the by-pass road shall comply with the lay-out identified in the Site Plan presented to the Planning Board. Any significant amendments to this lay-out that are required by the Maine Department of Transportation or the City Public Works Department shall require the review and approval of the Belfast Planning Board to ensure that overall Site Plan Permit requirements are satisfied. Construction of the by-pass road shall be prohibited between May 15 and September 15. The sole purpose of the by-pass road is to enable construction of the intake/discharge pipes. Thus, post the completion of construction of the above pipes, Nordic shall work to remove the by-pass road, and to complete any and all reconstruction of the lay-out of Route One as soon as reasonably practical.

The Maine Department of Transportation has determined that this section of Route One is located within the Urban Compact area and that the City is responsible for the issuance of any Road Opening Permit associated with the installation of the intake/discharge pipes. Bob Richards, Belfast

Superintendent of Public Works, issued a Conditional Road Opening Permit to Nordic for the proposed installation of the intake/discharge pipes on February 20, 2019. Nordic shall provide evidence to the Code Enforcement Officer that Nordic has obtained a Final Road Opening Permit from the Public Works Director and any and all permits that may be required from the Maine Department of Transportation prior to the construction of the temporary by-pass road on Route One and construction of the intake/discharge pipes.

It is also noted that the Conditional Road Opening Permit identified the payment of a performance guarantee, an escrow account, to the Public Works Department for work to be performed pursuant to this Permit. This performance guarantee, subject to the consent of the Superintendent of Public Works, shall be replaced and included in the Performance Guarantee, an Irrevocable Letter of Credit, required by the Belfast Planning Board in Condition of Approval 36.1.

23.4 Approaches to Traffic Management. The Traffic Study dated June 3, 2019 prepared by Traffic Resources Management on behalf of Nordic identified two recommendations that should be implemented to benefit traffic management. In addition, the Belfast Planning Board identified an improvement that should benefit traffic safety and sight distance at the intersection. These recommendations include:

- a) The roadside edge to the north of the main access drive should be mowed further to the north and regularly maintained to provide greater sight distance. Nordic shall be responsible for performing this work prior to the start of project construction and maintaining such through-out operation of the facility. This recommendation was identified by Traffic Resources Management.
- b) The existing bank located to the south of the access entrance to the site shall be regraded to increase the amount of visibility of vehicles exiting the access drive. Nordic shall be responsible for performing this work during construction of the temporary by-pass road. This recommendation was identified by the Belfast Planning Board.
- c) Traffic Resources Management recommended that the City request MDOT to reduce the existing traffic speed from 50 mph to 40 mph for an area that is about 400 feet in length to encompass all of the Nordic access drive after the salmon farm is operational. The Belfast Planning Board requires Nordic to cooperatively work with the City to pursue MDOT reducing the traffic speed in this area and potentially an area that is greater in length, and to make this request prior to the start of project construction traffic.

23.5 Internal Driveway Construction. The Nordic Site Plan identifies the location of internal driveways that Nordic intends to construct to serve on-site facilities. All internal driveways shall be constructed to the standards identified on the Nordic plans. Nordic shall provide the City Code Enforcement Officer a certificate of construction from a licensed civil

engineer certifying that the construction of the respective driveway complies with standards identified on the Site Plan prior to the Code Enforcement Officer issuing a Certificate of Occupancy for any building/facility that uses that driveway for access.

24. Parking.

24.1 Amount and Location of Parking. Nordic shall provide the amount of parking, including handicap accessible parking, in the locations identified on the approved Site Plans. The Code Enforcement Officer shall have the authority to approve a proposed amendment that involves a shift in the location of the on-site parking between approved parking areas, or that results in an addition or a reduction in the amount of parking in any parking area, provided any such request for an amendment involves 10 percent or less of the amount of parking shown in any parking area on the Site Plan. Any such request that affects greater than 10 percent of the identified parking shall require the review and approval of the Planning Board as an amendment to the Site Plan Permit.

24.2 Parking for Visitors Center/Little River Trail. Nordic shall provide on-site parking in the locations shown on the Site Plan to benefit persons who wish to use the Little River Trail (future City property) and the Visitors Center that Nordic proposes to establish. Nordic shall not unduly restrict the ability of persons, the public, to use this parking for the Little River Trail. Further, during all construction activities, Nordic shall ensure that there is safe access and adequate parking for vehicles and safe access for all pedestrians who want to use the Trail.

24.3 Construction of Parking Areas. All on-site parking areas shall be constructed to the standards identified on the Nordic Site Plans. Nordic shall provide the City Code Enforcement Officer a Certificate of Construction from a licensed civil engineer certifying that the parking areas were constructed to standards identified on the Nordic plans prior to issuance of a certificate of occupancy.

25. Site Lighting.

On-site exterior lighting installed by Nordic shall comply with the locations and style of fixtures identified on the approved Site Plan. Nordic shall ensure that none of their exterior lighting causes a glare on any public road or on any adjacent private or public property. The Planning Board requested that Nordic minimize the intensity of any exterior lighting to the greatest extent practical between the hours of 9:00 pm and 5:00 to minimize the degree of impact on the night sky. The Planning Board authorized the Belfast Code Enforcement Officer to review and approve specific requests from Nordic to change the location or style of light fixture shown on the

approved plan, provided the new location and/or style of fixture is consistent with the overall lighting plan approved by the Planning Board.

26. Buffering and Landscaping.

26.1 Amount of Bufferyard. Nordic shall retain the size of all bufferyards identified on the approved Site Plan. The bufferyard for the area located adjacent to Route One between the site entrance and the site's property boundary that abuts the Cassida property (Map 29, Lot 40) shall be a minimum of 60 feet in width/depth; the minimum structure setback requirement is 75 feet. For all other developed areas on the site, the minimum width/depth of the bufferyard shall be 40 feet; the minimum structure setback is 50 feet. Any request by Nordic to change the amount of bufferyard for any area shown on the approved Site Plan shall require the review and approval of the Belfast Planning Board.

26.2 Amount of Planting in Bufferyards and On-Site Landscaping. The amount of planting and the size and type of plantings shall comply with information depicted on the landscaping plans submitted in the Nordic Site Plan, including LP 101 (as such was amended, 'LP 101, Planting Plan, Area A, Response to City Comments, dated 8-18-20 prepared by SMRT'), LP 101A, LP 102, LP 103, LP 104, LP 105, LP 106, LP 107, and LP 501.

Nordic shall be required to plant all bufferyard areas (areas along common lot lines with abutting properties) as soon as reasonably practical to try and stimulate the growth of plantings in the bufferyard yards and to enhance the effectiveness of said plantings providing vegetative screening. Nordic shall plant on-site landscaping for the respective buildings and parking areas as soon as practical post the construction of the respective buildings and parking areas, and prior to issuance of a Certificate of Occupancy for the respective building. However, if an occupancy permit is requested during the winter months, the Code Enforcement Officer can issue a temporary occupancy permit until the plantings can be installed during the next regular growing season.

For all new landscaping, Nordic must implement an effective program for at least the first 2 years after planting of the new landscaping for the maintenance and watering of this landscaping. This maintenance program shall be described in writing and the written maintenance plan shall be provided to the Code Enforcement Officer prior to issuance of an occupancy permit for any building on the site. Nordic also shall provide semi-annual reports to the CEO regarding the operation and status of this maintenance plan. Further, any landscaping that dies shall be replaced with similar quality landscaping within that growing season, or if the plants die during the winter months, the following growing season.

Nordic shall obtain the review and approval of the Code Enforcement Officer prior to the removal of any tree in a recognized bufferyard area for the bufferyards adjacent to Route One and the private properties located along Perkins Road.

26.3 Plantings on Private Properties. Several private property owners on Perkins Road have requested (through the Planning Board public hearing process) that Nordic install plantings on their respective private properties in an effort to enhance the amount of vegetative buffer on their property. Two specific property owners who approached the Board to request such include Eleanor Daniels and Donna Broderick, owners of Map 4, Lot 10A, and Randy and Jackie Curtis, owners of Map 4, Lot 12. The Planning Board noted that there are only 4 private residential property owners on Perkins Road who directly abut the Nordic site, and that there are no other residential properties on other roads who share a common property line. The Planning Board requested that Nordic, if requested by a private property owner, openly work with the individual private property owners on Perkins Road who directly abut the Nordic site and to enter agreements with said owners to install additional plantings on their properties.

27. Nordic Water Use.

Nordic has identified its plans to use up to 455 gpm (gallons per minute) of groundwater produced from its on-site groundwater wells, up to 500 gpm of water from the Belfast Water District and up to 250 gpm of surface water from the Little River to support its fish rearing and production operations. Nordic also intends to use 3,925 gpm of saltwater from Belfast Bay.

27.1 Maximum Amount of Water Use. Pursuant to information identified in Nordic's Site Plan Permit application, the Planning Board establishes the following as limits on the amount of freshwater that Nordic can use to support its fish rearing and processing activities:

- a) Water from Nordic's on-site groundwater wells, at a rate of up to 455 gallons per minute, calculated as a daily average rate;
- b) Public water supplied by the Belfast Water District, a maximum of 500 gallons per minute; and
- c) Surface water from the Little River, regardless if the extraction of said waters involves the impoundment from the Lower Reservoir Dam or directly from the surface flows of the River should the dam be removed, at a rate of up to 250 gallons per minute, calculated as a daily average rate.

Any request by Nordic to increase the amount of freshwater used from any or all of the above sources shall be considered an amendment to this Site Plan Permit and shall require the review and approval of the Belfast Planning Board. The Board shall conduct a duly noticed public hearing associated with its review of an amendment.

27.2 Monitoring and Reporting on Amount of Water Use. Nordic, beginning with the commencement of any fish rearing activities, shall submit monthly reports to the Code and Planning Department that identify the amount of water used on a daily basis and the source of such water to conduct its fish rearing and production/processing activities. The amount of water used shall be expressed in total gallons of saltwater used per day, total gallons of freshwater used from each of the three identified sources per day, and a calculation of the average gallons of water used on a per minute basis from each of the three identified sources. Nordic shall provide a written description of any significant daily, weekly and monthly variations in the amount of freshwater used from any of the above sources, and shall identify if there were any extenuating circumstances associated with said variations. The report also shall identify how water use was impacted by the start and continuance of Phase II operations.

27.3 Monitoring of Little River Flows. Condition 31 in the Department of Environmental Protection Natural Resources Protection Act/Site Location of Development Act Permits establishes certain requirements for Nordic to collect background data regarding groundwater quality and surface flows of the Little River during project construction and to provide monthly reports on these issues to the DEP no less than monthly. The Belfast Planning Board requires Nordic to provide this same reporting information to the Code and Planning Department, and if not stipulated by the Department of Environmental Protection, requires that the monitoring efforts occur during the time period of both Phase I and Phase II construction.

27.4 Monitoring of Goose River Flows. Conditions 32 and 33 in the Department of Environmental Protection Natural Resources Protection Act/Site Location of Development Act Permit establishes certain requirements for Nordic to collect background data regarding water quality and water flows in the Goose River. This monitoring effort is associated with Nordic's projected use of up to 500 gpm of water from the Belfast Water District. The DEP also requires Nordic to establish a longer-term monitoring program. The Planning Board hereby establishes a requirement that Nordic must provide all information collected from this monitoring effort required by the DEP to the Code and Planning Department.

28. Nordic Use of Lower Reservoir Dam.

The Nordic Site Plan Permit application identifies Nordic's intent to extract surface water from the Little River to support facility operations, and to use the existing Lower Reservoir Dam to assist in the extraction of surface waters. Nordic, however, has also provided testimony to the Planning Board indicating that they can successfully support facility operations by using surface waters from the Little River if the Lower Reservoir Dam is removed. The following Conditions address

requirements that Nordic must satisfy regarding the long-term availability of the Dam or its removal.

28.1 Evidence of Right, Title and Interest. Nordic, prior to the start of construction of any on-site facilities, shall submit compelling evidence to the Planning Board that it has Right, Title and Interest, subject to the future receipt of any and all federal, state and City permits, to install any piping and other needed infrastructure to extract surface water from the Little River should the Lower Reservoir Dam be removed at a future date.

28.2 Purchase of Lower Reservoir Dam. Nordic, per its purchase and sale agreement with the Belfast Water District (and the City of Belfast), has a window of time to exercise its option to purchase the Lower Reservoir Dam. Nordic, a minimum of 60 days prior to the expiration of this option, shall submit a statement to the Planning Board regarding its decision to purchase or not purchase the dam, and how this decision will affect the approach Nordic intends to use to extract surface water from the Little River.

28.3 Board Review of Removal of Lower Reservoir Dam. If Nordic or another party proposes to remove the Lower Reservoir Dam, Nordic shall submit detailed plans for how it proposes to extract surface water from the Little River for the review and approval of the Belfast Planning Board. Said plans shall be submitted to the Planning Board a minimum of 6 months prior to the removal of the dam.

28.4 Permits to Extract Water if Dam is Removed. Nordic shall apply for and shall obtain any and all required federal, state and City permits for extracting surface water from the Little River, if the Lower Reservoir Dam is to be removed, and shall provide evidence to the City Code Enforcement Officer that it has obtained any federal and state permits that may be required.

28.5 Nordic Cooperation with Public or City Interest to Consider Removal of the Lower Dam. Nordic, regardless if it is or is not the owner of the Lower Reservoir Dam, shall work cooperatively in future community and agency discussions that may occur regarding the potential removal of the Lower Reservoir Dam, should it be requested to do so by the City Council.

29. Nordic Use of Visitors Center with Respect to Safety of the Upper Reservoir.

Nordic's Site Plan application identifies its intent to convert the existing Belfast Water District offices located near the Lower Reservoir Dam to a Visitors Center. The Planning Board supports this proposal, however, it identified potential issues regarding how the building may be used with respect to potential safety issues associated with the Upper Reservoir Dam on the Little River, a dam that is not located on the Nordic site, and a dam that Nordic has no intent to use to support its operations. The following conditions identify measures that Nordic must address

regarding its use of the existing Water District offices as a Visitors Center. The Board noted that the Visitors Center is proposed to be established in Phase II of project construction, and that more information may become available regarding the Upper Reservoir Dam in the intervening years between the issuance of this Site Plan Permit and when the Visitors Center is established that could affect the applicability of these Conditions or Nordic's establishment of the Visitors Center.

29.1 Nordic Contingency Plan. Nordic shall prepare a contingency plan for an emergency evacuation of the existing Belfast Water District offices that will be converted to a Visitors Center in the event of a potential failure of the Upper Reservoir Dam. Should a failure of the Upper Dam occur, Nordic shall provide evidence for the review and approval of the Planning Board that it is safe for persons to reoccupy the Visitors Center building prior to any re-occupancy of the building.

29.2 Analysis of Dam Safety Reports. Nordic shall consider any and all engineering assessments of the condition and safety of the Upper Dam that may be prepared by any party in evaluating its use of the Belfast Water District building as a Visitors Center, and shall provide copies of said assessments to the Code and Planning Department.

29.3 Discontinuance of Visitors Center. Nordic shall obtain the review and approval of the Belfast Planning Board prior to discontinuing the long-term use of the current Belfast Water District office building as a Visitors Center. This Condition, however, shall not prohibit Nordic from closing the building as a Visitors Center in the short-term if Nordic believes there is too great of a public safety risk to continue use of the building as a Visitors Center.

30. City Purchase of Water District Property Adjacent to the Lower Reservoir.

Planning Board approval of the Nordic Site Plan Permit, as well as the Shoreland Permit and Zoning Use Permit, is contingent on the sale of about 40 acres of land located adjacent to the Lower Reservoir to the City of Belfast. Approximately 24 acres of this land is located in the City of Belfast and about 16 acres are located in the Town of Northport. The City is committed to purchasing this property as part of the current Purchase and Sale Agreement between the Belfast Water District, Nordic Aquafarms and the City. The Planning Board determined that the City acquiring public ownership of the 40 acres is critical to providing public protection of critical public and Shoreland resources, including but not limited to public access to the Little River Trail.

31. On-Site Fuel and Oxygen Storage.

The Nordic project involves both the on-site storage of bulk amounts of fuel and oxygen. Nordic shall conduct all storage operations in compliance with all state and

federal requirements. The amount of on-site storage and location of all on-site storage facilities shall occur in accordance with information identified on the Nordic Site Plan. A proposal to change the location of any storage facility or to increase its storage capacity by more than 10% shall require the review and approval of the Belfast Planning Board. The Planning Board authorizes the Code Enforcement Officer to review and approve a request to increase the capacity of any storage facility by less than 10%.

32. Building Appearance.

Architectural Plan Sheets 68-01AE200, 70-02AE200, 72-03AE200, 75-04AE200, 77-07AE200, 79-08A200, 80-09AE100, and 82-10A200 submitted as elements of Nordic's Site Plan application provide overall information regarding the architectural appearance of the buildings proposed on the site. Nordic also presented information in its power point presentations to the Board during the Board's review of the Preliminary Site Plan application that identified its intended approach regarding the exterior appearance of most buildings. The Board requires the Nordic project to use exterior building materials that are appropriate for the respective buildings, that complement the project site, and that are consistent with the architectural plans included in the Site Plan application and the overall renderings presented to the Planning Board. That said, the Board also provides Nordic flexibility in the final design and appearance of the buildings. If there are significant changes proposed to the designs identified in the Architectural Drawings, said changes shall require the review and approval of the Belfast Planning Board.

33. Project Signage.

The City has not yet established specific sign standards in Chapter 86, Signs, for the Route One Business Park zoning district. In the absence of specific standards, the Planning Board stipulates that Nordic must comply with the following standards:

- a) **Permanent Signage.** Nordic, prior to erecting any permanent on-site, on-ground or on-building informational and directional signage for the project's operating facilities, shall submit a comprehensive sign management plan for the review and approval of the Belfast Planning Board as an amendment to this Site Plan Permit. The Board requests that the plan submitted by Nordic include adequate on-site signage to direct persons to the respective on-site facilities, however the overall approach should reflect using no more signage than is necessary. Further none of the signage shall be internally lighted or digital signage, and the amount of externally lighted signage should again, be no more than necessary to allow efficient and safe operations for a facility that will operate 24 hours per day for each day of the year.

Nordic shall be permitted a maximum of one sign at the main site entrance. This sign shall generally be consistent with the size and style of sign that the Belfast Water District has installed. Further, it shall not be internally

illuminated, and any external lighting of the sign shall be designed to be down-directed so as to minimize the amount of glare on the road and on the surrounding sky.

The Belfast Code Enforcement Officer shall use the sign management program approved by the Belfast Planning Board to issue sign permits and to regulate the amount, size, location and type of signs allowed on the property. Nordic shall obtain a sign permit for all non-directional signs that it proposes, as such were approved by the Planning Board.

- b) **Temporary Construction Signs.** The Code Enforcement Officer shall have the authority to approve the number, size, type, and location of temporary construction signs on the Nordic site. The Code Enforcement Officer shall use public safety as the main criteria in making a decision regarding a request to install any requested temporary construction sign.

34. Snow Storage and Removal.

Nordic shall regularly remove snow from all internal access roads and parking areas to enhance the safe use of said areas. On-site snow storage shall not adversely affect use of any private road or parking area, any stormwater management facility, or on-site plantings, particularly in a bufferyard area.

35. Evidence of Financial Capacity.

35.1 Phase I Development and Financing. Prior to the start of construction on Phase I of the development, including any site alterations, Nordic shall submit evidence of sufficient funds solely designated for this project or that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State or evidence of any other form of financial assurance including, but not limited to a letter from a financial institution, governmental agency, or other funding entity indicating a commitment, or intent to commit, to provide Nordic a specified amount of funds and the uses for which the funds may be utilized, in a form acceptable to the City Code and Planning Department and City Attorney, which form shall not be unreasonably denied. Such evidence must, at a minimum, include an updated time schedule for the development, updated cost estimates for the project, a cost-loaded schedule for all construction, and the identification of all costs necessary to comply with all terms and conditions of all permit approvals from the City of Belfast related to the proposed development, and any updated costs necessary to comply with said permit approvals. Nordic must provide evidence of any updates to its corporate structure and demonstrate that the proposed financing is either clearly linked from the financing institution to Nordic or that sufficient funds have been set aside and specifically dedicated for and to the proposed development.

Upon the completion of Phase I development, Nordic shall provide a report to the Code and Planning Department and City Attorney that documents the financing that was used to complete Phase I development and that certifies that Nordic had sufficient funds available to complete all development. This report shall be provided to the City prior to the start of any Phase II development, and issuance of a Permit from the Code Enforcement Officer for said work.

35.2 Phase II Development and Financing. Prior to the start of construction on Phase II of the development, including any site alterations, Nordic shall submit evidence of sufficient funds solely designated for this project or that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State or evidence of any other form of financial assurance including, but not limited to a letter from a financial institution, governmental agency, or other funding entity indicating a commitment, or intent to commit, to provide Nordic a specified amount of funds and the uses for which the funds may be utilized, in a form acceptable to the City Code and Planning Department and City Attorney, which form shall not be unreasonably denied. Such evidence must, at a minimum, include an updated time schedule for the development, updated cost estimates for the project, a cost-loaded schedule for all construction, and the identification of all costs necessary to comply with all terms and conditions of all permit approvals from the City of Belfast related to the proposed development, and any updated costs necessary to comply with said permit approvals. Nordic must provide evidence of any updates to its corporate structure and demonstrate that the proposed financing is either clearly linked from the financing institution to Nordic or that sufficient funds have been set aside and specifically dedicated for and to the proposed development. Additionally, if Nordic proposes to use cash flow generated from Phase I operations, to in-part fund the development of Phase II, as part of the evidence of sufficient funds analysis to be conducted by the Code and Planning Department and City Attorney, Nordic shall submit to the City of Belfast all information it is required to submit to the State of Maine as required in the Combined Order, which shall include the most recent annual corporate report, financial statements, bank statements, or other evidence indicating that such funds have been, and will continue to be, set aside for the Phase II development.

35.3. Technical Assistance to the City. In evaluating the existence of sufficient evidence of funds for development for Phase I and Phase II as described in Conditions 35.1 and 35.2 above, the City may, in its discretion, obtain advice from a professional consulting firm skilled in the analysis of the funding package chosen by Nordic for both Phase I and Phase II. Nordic shall, in advance of each phase of the development, pay for the reasonable fees of such professional consulting firm engaged by the City.

36. Performance Guarantee for Project Development.

36.1 Irrevocable Letter of Credit for Project Construction. Nordic shall provide a performance guarantee as required in section 90-13 for all “required improvements”, which the Planning Board has historically interpreted to be those improvements required to meet the Site Plan approvals involving all site related improvements, construction and infrastructure that have the potential of impacting public land and infrastructure and offsite private lands, including, but not necessarily limited to, erosion control and surface drainage; wetland, stream, and groundwater mitigation; construction costs associated with the Route 1 crossing and repair, and the accompanying construction and subsequent removal of the temporary by-pass road on Route 1; construction of the private sewer line in the Perkins Road right-of-way, the planting of landscaping and vegetative buffers; the construction of on-site roads, driveways and parking areas; and the installation of the inflow and discharge pipes into Penobscot Bay, as described on Schedule 1 that will be prepared by the Code and Planning Department prior to issuance of a Site Plan Permit attached to these Conditions of Approval. Schedule 1 shall set forth the scope of required improvements, the estimated stage in overall development when said required improvements are anticipated to be constructed, and the reasonable estimate of construction costs of each category of required improvements.

Prior to commencing work on each category of required improvements as listed in Schedule 1, Nordic and the City shall establish a performance guarantee in the form of an irrevocable letter of credit as required by Section 90-13(a)(3). Said irrevocable letter of credit shall be issued by an institutional Lender acceptable to the City, against which the City may demand a site draw for construction of any required improvement that the City deems is inadequate or incomplete. The amount of the letter of credit shall be sufficient to cover the associated costs of the required improvements, which are listed in Schedule 1. Prior to demanding a site draw from said Lender under the irrevocable letter of credit, the Code and Planning Department shall issue a written demand for cure of the inadequate or incomplete construction, and provide Nordic with a reasonable opportunity to commence an immediate and continuing good faith effort to cure any such failure. Upon a failure of Nordic to substantially cure a written demand for inadequate or incomplete construction pursuant to a Chapter 90-13(c), which said cure period shall not exceed 30 days from the date of the notice to cure, the City shall demand a site draw on the irrevocable letter of credit in the amount associated with the correction or completion of a required improvement, and the City may thereafter use the site draw funds to cure the required inadequate and/or incomplete construction. Provided, however, the cure period for demanded corrections or completions of required improvements that involve damage to environmentally sensitive, drainage, erosion, and/or protection of wildlife

habitat areas may be shortened as necessary to require best practices remediation in a time-sensitive manner as necessary to effectively remediate such a failure.

Any funds received from Nordic through the Lender by the City which are not necessary for implementation of the cure of inadequate or incomplete construction shall be timely returned to the Lender, as provided in 90-13(b). Further, certain elements of the Performance Guarantee, such as but not limited to crossing of Route One and the removal of the temporary by-pass road and the repairs to Perkins Road associated with installation of Nordic's private sewer line, shall remain in effect for a period of twelve months post the completion of the work to ensure that the improvements are performing as intended.

36.2 Performance Bond for Intake/Discharge Pipes. While the Planning Board has established other permit conditions, reference 36.1 above, that require Nordic to provide an irrevocable letter of credit to complete infrastructure the City has deemed subject to Chapter 90, Section 90-13(a)(3) performance guarantee requirements, the Planning Board finds that additional consideration must be made to fund the potential removal or modification of the significant water intake and discharge pipes proposed to be installed within the intertidal area, in the event that Nordic elects to commence construction after a favorable Superior Court decision is issued, but in advance of a final decision regarding any potential appeal to the Maine Law Court. In such circumstances, and prior to Nordic commencing any construction in the intertidal zone, Nordic shall provide a Performance Bond to the sole benefit of the City, in an amount sufficient to fund the potential removal or modification of said intake and discharge piping that Nordic has chosen to construct within the intertidal area, and restoration of the area to its pre-construction condition (subject to such limitations, modifications and/or requirements as may be imposed by any State or Federal licensing, permitting or enforcement agency). Said Performance Bond (Guarantee) funds may be used solely by the City in the event that a Maine Law Court decision substantively determines that neither Ekrote nor Nordic have sufficient right, title or interest to engage in the uses permitted in the intertidal zone, and said Performance Bond (Guarantee) fund may be used by the City, in its sole discretion, to remove or modify said intake and discharge pipes, provided that Nordic is first provided an opportunity to remove or modify the pipes at its own costs, but refuses or is unable to do so in an expeditious manner. Said Performance Bond (Guarantee) requirement shall terminate at such time as the Maine Law Court determines that sufficient right, title or interest is vested in Ekrote and/or Nordic, such that Nordic may proceed with the uses permitted by the City regarding construction and use of said intake and discharge pipes in the intertidal area claimed by Ekrote and/or Nordic.

37. Right, Title and Interest.

Chapter 90, Site Plan, Section 90-42(10) of the Belfast Code of Ordinances provides that an applicant must demonstrate right title or interest, which is interpreted by the Planning Board as requiring a legally cognizable expectation to use the properties for the intended uses. The Application dated June 11, 2019 contains in Attachment 8, a number of Options to Purchase or Lease real property rights from multiple owners of real property, including the Belfast Water District, Samuel E. Cassida, Goldenrod Properties, LLC, and Richard and Janet Eckrote. Several Parties-in-Interest have submitted Motions and multiple requests for the Planning Board to adjudicate disputed claims relating to the right to cross and use the upland and intertidal lands of Richard and Janet Eckrote. The Planning Board has found the evidence of title and the “Easement Purchase And Sale Agreement” (Attachment 8, Exhibit 1, as clarified by a letter dated March 3, 2019 from Nordic and signed by the Eckrotes) to be sufficient to process this administrative application. The Planning Board is also mindful that a suit to determine the ownership of the intertidal lands, and application of private deed covenants, regarding the Eckrote property. (See, Mabee Grace *et al* v. NAF, Waldo County Superior Court, Docket No. RE 2019-18).

37.1 Requirement to Fully Demonstrate Right, Title and Interest. No permit issued by the Belfast Planning Board, and no construction activity thereby permitted, shall be valid or commence until such time as Nordic has obtained and recorded, in the Waldo County Registry of Deeds, the deeds, easements and lease interests for which it has the options to purchase, as described in Attachment 8, and which are required for the permitted uses to be conducted. Nordic shall provide the Belfast Code and Planning Department and City Attorney with copies of the recorded instruments reflecting the fee, easement and lease rights conveyed to Nordic, as soon as the recording information is available.

Being mindful of the pending dispute over real property rights relating to Nordic's use of the Eckrote property, in the event that a final judgment is issued by a Court of competent jurisdiction which effectively terminates all or a part of Nordic's executory or perfected/vested legal rights necessary to use the Eckrote property, then in that event Nordic shall cease all work, construction, and/or uses hereby permitted relating to uses on, over or under the upland and/or intertidal areas of the Eckrote property. All permits issued by the Planning Board shall thereby be immediately suspended relating to permitted uses on each and all of the properties described in Attachment 8, until such time as the Planning Board has acted on a subsequent amendment or application to re-issue or issue appropriate use permits.

In the event that Nordic's work, construction, and/or uses are terminated in part or in whole by said final Court Order, then in that event, Nordic shall immediately stabilize any ongoing construction and uses related to the

“required improvements” described in Condition 36.1 of the Financial Conditions. In the event that Nordic does not immediately stabilize the construction of required improvements, based on the best practices and permitted construction methods, the Belfast Code and Planning Department may immediately and unilaterally use the “required improvement” and performance guarantee funds described in Condition 36.1 to stabilize and complete construction of required improvements.

37.2 Additional Requirements Regarding Ekrote Easement Area and Construction of Intake/Discharge Pipes. No work on the intake or discharge pipes that Nordic proposes to locate within the intertidal area adjacent to the Ekrote property shall commence until a final judgment issued by the Waldo County Superior Court, Docket No. ~~----~~, effectively determines that Ekrote and/or Nordic have sufficient legal right, title or interest in and to the intertidal area that is sufficient for Nordic to engage in the uses approved in the City permits. Additionally, prior to the commencement of construction, Nordic shall record a deed in the Waldo County Registry of Deeds which grants and conveys sufficient right, title or interest from Ekrote to Nordic that entitles Nordic to use the Ekrote property (upland and intertidal) for the uses approved in the City permits.

The City, in its approval of permits issued to Nordic, does not hereby grant any permission or right to Nordic and/or the Eckrotes to impair or encumber any real property rights of any abutter, person or entity. Rather, the Planning Board has determined that Nordic has sufficiently met City review criteria stipulated in the respective City Ordinances to warrant issuance of the permits, including this Site Plan Permit, requested by Nordic, subject to certain conditions of approval imposed by the Board. The Planning Board, in its record, noted that Nordic is involved in pending litigation in the Waldo County Superior Court (**Docket No. ~~----~~**) to determine right, title and interest of the intertidal area adjacent to the Ekrote property. Therefore, if Nordic chooses to proceed to exercise the rights obtained through the City permits prior to a final judgment from the Maine Law court, should an appeal be taken from any final Superior Court Judgment, Nordic shall indemnify and hold harmless the City of Belfast, the Planning Board and the Zoning Board of Appeals (collectively “City”) from any suit or action naming the City as a party, in which said suit or action a party seeks damages, fees and/or costs from the City, its agents, experts, employees, officers and/or officials relating to the permits issued by the City.

38. Construction Schedule.

Nordic, a minimum of 60 days prior to the start of all on-site construction activities for both Phase I and Phase II, shall provide the City Code Enforcement Officer an updated and current construction schedule for all anticipated construction activities, and shall regularly update this schedule to

ensure that the Code Enforcement Officer and the City have an accurate understanding of anticipated construction activities.

39. Site Maintenance During Project Construction.

Nordic shall comply with the following standards during project construction to assist in minimizing public nuisances associated with project construction and to maintain the project site in reasonable condition:

- a) Nordic shall be responsible for removing at the end of each construction day any dirt that accumulates at the intersection of Route One and the entrance to the Nordic facility.
- b) Nordic shall ensure that dust created from construction activities shall be controlled and kept to a minimum. Nordic shall accomplish such by using techniques such as but not necessarily limited to the following: watering surface materials, minimizing surface wind speed using windbreaks or source enclosures, placing mulch on disturbed areas as soon as practical, covering trucks while hauling materials, early paving of access roads when practicable, early seeding and loaming of disturbed areas when practicable, and placing limitations on the time and location of idling heavy equipment.
- c) Nordic shall obtain a City Demolition Permit for the removal of any existing structures on the property that are proposed to be demolished and shall properly dispose of all materials from any demolition and those associated with preparation of the existing site for construction, including stumps, and shall provide the City information regarding where such materials will be disposed.
- d) Nordic shall properly dispose of construction debris at an authorized disposal site, and shall provide the City Code Enforcement Officer verification of the disposal site.

40. Blasting.

Prior to the start of construction for each phase of construction, Nordic shall submit a final site-specific blasting plan, blast assessment and pre-blast survey to the Code and Planning Department for review and approval by the Code Enforcement Officer. In its submissions, Nordic must also include an assessment of vibration and overpressure in multiple directions from the project site and an assessment of vibration predictions at the Upper Reservoir Dam and the Lower Reservoir Dam, as a result of blasting. Nordic also shall routinely inform area residents of its blasting schedule in advance of blasting activities that are planned for the upcoming week of construction.

41. Preconstruction Meetings.

Condition of Approval 25 in the Natural Resources Protection Act/Site Location of Development Act Permit issued by the Department of Environmental Protection, identifies State requirements for Nordic to conduct a pre-construction meeting prior to each phase of the project to discuss, among other topics, the construction

schedule, erosion and sedimentation control, and adherence to the conditions of the DEP Order (Permit). The DEP stipulated that this meeting must be attended by the applicant's representative, (DEP) Department staff, the ESC and stormwater design engineers, the contractor(s), and the third-party inspectors for that phase of the project. Nordic shall be responsible for informing the City Code and Planning Department of the dates of any and all preconstruction meetings so that Department staff and City representatives can attend and participate.

Further, Nordic shall regularly engage with appropriate City staff to schedule a monthly construction meeting to discuss upcoming construction activities, particularly those relevant to compliance with City permit requirements. The City Code Enforcement Officer may request more frequent meetings if the CEO deems such meetings appropriate.

42. Nordic Website Regarding Permit Requirements and Construction Activities.

Nordic shall maintain a company managed website to benefit the dissemination of information regarding project construction, development and operations. The website, at a minimum, shall include information on the following: plans that depict the facilities that will be constructed on the site and an overall schedule for the construction of said facilities; current and updated information on upcoming construction activities that will be of interest to the public, such as but not limited to when blasting activities and the construction of the Route One Bypass will occur; and links to state, federal and City websites that an individual can access to find current information on project permits issued to Nordic, and construction and similar reports that have been submitted by Nordic to comply with permit conditions.

43. As-Builts.

Nordic, within 90 days of the completion of all Phase I construction activities, and similarly within 90 days of the completion of all Phase II construction activities, shall provide the Code and Planning Department both electronic and printed copies of as-builts for all site improvements. The electronic copies shall be provided in both CAD and PDF formats.

44. Severability of Permit Requirements.

The invalidity or unenforceability of any provision, or part thereof, of this Permit shall not affect the remainder of the provision or any other provisions in Permits issued by the Planning Board. This Permit shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

45. Board Consideration of Information in Issuance of Permit.

In granting this permit approval, the Planning Board has relied upon the oral and written representations of Nordic, its agents, experts and officers, including representations on the record and as part of the application process, such as clarifying emails and communications to the Code and Planning Department. Material deviations or violations of the filings and representations may cause the approval to be subject to review by the Planning Board regarding compliance with its findings of fact, conclusions of law and conditions of approval.

46. City Enforcement of Permit Conditions

Failure to comply with any Condition of Approval identified in this Permit may result in any or all of the following actions:

- a. Issuance of a Stop Work Order;
- b. Denial or revocation of any Building Permit;
- c. Review, modification or revocation, after hearing, of any permit or approval issued to this project by the Planning Board or Code Enforcement Officer;
- d. A requirement that the Applicant conform with all performance standards and review criteria of all ordinances within the Belfast Code of Ordinances within a definite time period; and/or
- e. Referral to the Belfast Code Enforcement officer, or any State of Maine or Federal permitting agency or enforcement authority.