

BOARD ACTION

AGENDA TOPIC 3.3

FINAL SITE PLAN PERMIT

The Board reviewed the final draft of the Conditions of Approval for this Permit at past meetings in December and found such acceptable. The Board, also provided direction on your Findings for the Site Plan Permit, however, the December 22 meeting will be your first opportunity to review the specific written language for the Findings. Thus, the Board should concentrate its attention on the Findings.

The Board, at its meeting of December 22, will need to take final action to adopt these Findings and Conditions. Following is suggested language for the motions that the Board should consider adopting.

SUGGESTED PLANNING BOARD MOTIONS FOR FINAL SITE PLAN PERMIT APPLICATION (12-22-20)

Motion # 1: Motion to adopt the draft Findings of Fact for the Final Site Plan Permit application for Nordic Aquafarms, Inc. as presented (or as amended if amendments are made) at this meeting.

Motion # 2: Motion to adopt the Conditions of Approval for the Final Site Plan Permit for Nordic Aquafarms, Inc. as such was presented (or as amended if amendments are made) at this meeting.

Motion # 3: Motion to adopt the Site Plan Permit for Nordic Aquafarms, Inc., subject to Nordic's compliance with Conditions of Approval established by the Board for this Permit.

**CITY OF BELFAST PLANNING BOARD
ADOPTED FINDINGS OF FACT
FINAL SITE PLAN PERMIT APPLICATION
APPLICANT: NORDIC AQUAFARMS, INC.
PROJECT: LAND BASED SALMON FARM
LOCATION: ROUTE ONE SOUTH (BELFAST WATER DISTRICT & ADJACENT
PROPERTIES)**

1. APPLICANT:

Owner: Nordic Aquafarms, Inc.
Attn: Ed Cotter
Belfast, ME 04915

Engineer: Ransom Consulting (lead engineer)
Attn: Elizabeth Ransom
New Gloucester, ME 04260

Legal Counsel: Joanna Tourangeau
Drummond Woodson
84 Marginal Way Suite 600
Portland, ME 04011

2. OVERALL DESCRIPTION OF PROJECT AND LOCATION.

Nordic Aquafarms, Inc. (hereinafter Nordic) submitted an application to develop a land-based salmon aquaculture facility on a 56 acre site located on the northwesterly side of Route One near the lower reservoir of the Little River. The applicant proposes to develop the project in two phases over 5 or more years. Total production capacity at build-out is estimated to be 72,732,000 pounds (33,000 metric tons) of salmon per year. Phase 1 involves the construction of about 414,450 square feet of buildings, and Phase 2 involves the construction of about 392,804 square feet of buildings; each phase involves rearing and processing a similar amount of salmon.

The facility would use a Recirculating Aquaculture System (RAS) to process water used in rearing the salmon in land-based tanks. At full build-out, the facility is projected to use up to 1,205 gallons of freshwater per minute (gpm) and about 3,925 gallons of saltwater per minute. The freshwater is proposed to be obtained from three sources: the Belfast Water District (up to 500 gpm), on-site groundwater wells (up to 455 gpm) and the extraction of surficial water from Reservoir 1 on the Little River (up to 250 gpm). Saltwater will be obtained from Belfast Bay via two new off-shore water intake pipes that extend about 6,300 feet from the High Annual Tide into the Bay. The RAS system also involves Nordic Aquafarms treating and regularly discharging the freshwater and saltwater

(wastewater/effluent) used to rear salmon back into Belfast Bay via a discharge pipe that extends offshore about 3,700 feet from the High Annual Tide.

The 56 acre site that Nordic proposes to develop includes parts of all of the following properties, as such are identified on the City of Belfast Tax Assessor maps:

- Map 29, Lot 39, located at 285 Northport Avenue that is owned by the Belfast Water District (about 29 acres):
- Map 4, Lot 104, located off of Northport Avenue that is owned by Sam Cassida (about 12.5 acres):
- Map 4, Lot 12A, located at 22 Perkins Road that is owned by Goldenrod Properties, LLC; [dba Mathews Brothers] (about 14.5 acres): and
- Map 29, Lot 36, located at 282 Northport Ave, that is owned by Richard Ekrote (easement for construction of water intake/wastewater discharge pipes).

3. OVERVIEW OF PROJECT HISTORY.

This synopsis is an overview of project activities that occurred prior to Nordic's submission of a Site Plan Permit application to the Belfast Planning Board. This overview is provided to assist persons in having a better understanding of the timeline for public actions that have occurred regarding this project.

- a) Nordic makes initial contact with Belfast representatives. Late October 2017.
- b) City Council and Water District representatives independently meet with Nordic representatives to discuss project and potential land purchase agreements. October 2017 - January 2018.
- c) Nordic Press Conference announcing project. January 30, 2018.
- d) City Council, after a series of regular Council meetings and two public hearings, adopts amendments to City Zoning and Shoreland Ordinances to allow land-based aquaculture uses, and adopts accompanying amendments to adopted Comprehensive Plan. These amendments created an opportunity for Nordic to submit permit applications to the City. April 17, 2018.
- e) Lawsuit filed that challenges the process the City used to amend Zoning and Shoreland Ordinances and its Comprehensive Plan. June 2018
- f) City, in response to the lawsuit, begins a process to reconsider Ordinance amendments and to review amendments to Comprehensive Plan. Planning Board conducts a public hearing in August 2018, discusses the Ordinances and Comprehensive Plan in both August and September, and in September, adopts and presents its recommendations to the City Council regarding proposed Ordinance amendments and revisions to the Comprehensive Plan. The City Council, in September and October, conducts public hearings, and at its meeting of October 16, 2018, adopts the amendments that were

recommended by the Planning Board to the April 17, 2018 Ordinances that were previously adopted by the Council. The October 16, 2018 Ordinance amendments adopted by the Council are now the controlling Ordinances for this project. June - Oct 2018.

- g) Nordic announces that it has acquired an additional 14.5 acres of land from Goldenrod Properties, Inc. (Matthews Brothers). This acquisition increases the size of the site to 56 acres, and helps form the project site identified in their future Site Plan application to the City.
- h) Nordic pursues a DEP Maine Pollutant Discharge Elimination System (MPDES) permit for the proposed RAS system. Permit application filed on Oct 17, 2018. Nordic subsequently chooses to withdraw the MPDES permit application and to pursue this DEP permit in conjunction with all other required DEP Permits through the Board of Environmental Protection. All required DEP permit applications were filed with the BEP in June 2019.
- i) Nordic pursues Submerged Land Lease Permit from State Dept. Agriculture, Conservation & Forestry for the location of their discharge and intake pipes. Late Oct 2018. Belfast Harbor Committee reviews permit and offers recommendations to City Council in early December 2018. Council submits comments to the Department. Nordic subsequently withdraws this permit and later files an amended permit. (Note: State granted conditional permit in ---, 2020).
- j) Bob Richards, Supt, Belfast Public Works Department, issues Conditional Road Opening Permits to Nordic for Route One (Feb 2019) and Perkins Road (March 2019).
- k) Nordic and City Code and Planning Department staff periodically discuss potential Nordic permit applications to the City. October 2018 – May 2019.
- l) Nordic submits a Preliminary Site Plan Permit application and accompanying Permit applications to the City. June 2019.
- m) Superior Court decision supports the process the City used to amend its Ordinances and Comprehensive Plan. This occurred on July 10, 2019, post the date that Nordic submitted its Permit applications to the City.

4. OVERALL DESCRIPTION OF CITY ZONING.

Most project development is located in the Route One South Business Park zoning district; a zoning district established pursuant to the amendments to the City Code of Ordinances, Chapter 102, Zoning, adopted by the City Council in October 2018. The exception is a section of the proposed water intake and effluent discharge pipes are located on the Ekrote property that is located on the easterly side of Route One. The Ekrote property is located in the Residential II zoning district.

A portion of the Nordic project is located in the Shoreland Zone. The land area that Nordic proposes to acquire from the Water District near the existing Belfast Water District offices is located in the General Development District of the Shoreland Zone. This Shoreland District, pursuant to the October 2018 Ordinance amendments adopted by the City Council, specifically allows land-based aquaculture operations. The Ekrote property is located in the Limited Residential District of the Shoreland Zone. This Shoreland District specifically allows the location of Water Intake and Water/Effluent Discharge pipes, as well as land-based aquaculture operations.

The existing Belfast Water District offices are located on the edge of the Flood Zone, Zone A. However, Nordic is not proposing any new structural development in the Flood Zone, thus, Chapter 78, Floods, has limited applicability to this project.

5. ROLE OF PLANNING BOARD FOR NORDIC SITE PLAN APPLICATION.

The Belfast City Code of Ordinances, Chapter 90, Site Plan, identifies the requirements for when an applicant must submit a Site Plan application, and the role of the Belfast Planning Board in the review of an application.

The Nordic Site Plan Permit application qualifies as a Major Development and also qualifies as a project that would have a Substantial Impact on the Environment. Thus, the Nordic application is first subject to Planning Board review as a Preliminary Site Plan, and, if the Board approves or conditionally approves the Preliminary Plan (Note: Board approved the Nordic Preliminary Site Plan application at its meeting of July 15, 2020, reference adopted Planning Board Findings of Fact for this Board action), it is subsequently subject to Board review as a Final Site Plan. The Board, in conducting the above public processes, is required to conduct at least one public hearing at each stage of the review for the purposes of providing information to the public and receiving public comment.

Preliminary Site Plan Review:

Nordic submitted its Preliminary Site Plan application to the Planning Board in June 2019. The Board initiated its review of the project permit on June 26, 2019, and conducted a number of public hearings and Board meetings associated with its review of the Preliminary Site Plan for the project between June 2019 and July 2020. Pursuant to Chapter 90, Site Plan, requirements, the Board must make the following Findings on a Preliminary Site Plan application:

- a) The application is complete for purposes of Board review. A complete application is an application that includes sufficient information to address standards and submission requirements in Chapter 90, Site Plan; particularly reference Section 90-71, Required Information and Format.
- b) The application addresses the criteria identified in Section 90-42, Criteria for Review by Planning Board.

Pursuant to Section 90-74, the Planning Board is required to take one of the following actions on a Preliminary Site Plan application, and to issue a written preliminary order:

- (1) Denying approval of the preliminary plan for the proposed development;
- (2) Granting approval of the preliminary plan for the development; or
- (3) Granting approval of the preliminary plan upon terms and conditions that the Planning Board considers advisable to comply with the provisions of this Chapter and all other applicable ordinances, codes and regulations adopted by the City.

The Planning Board, at its meeting of July 15, 2020, found that the Nordic Preliminary Site Plan application was complete, and that it satisfactorily addressed requirements in Section 90-42. The Board, at this same meeting, adopted Findings of Fact that describe its decision. In making its decision regarding compliance with Section 90-42(b) requirements, and noting that the 90-42(b)(30) required the Board to consider certain Department of Environmental Protection (DEP) requirements because the Nordic project qualified as a development that may substantially affect the environment, the Board decided that it would not be able to fully consider requirements of certain Chapter 90, Site Plan standards until the Department (Board) of Environmental Protection had acted on the Natural Resources Protection Act (NRPA), Site Location of Development Act (SLODA), Maine Pollutant Discharge Elimination System (MPDES) and Air Emissions Permits subject to its jurisdiction. The Board determined that it would need to consider these Permits and the accompanying DEP Findings during its review of the Nordic Final Site Plan Permit application.

The Board also noted that the Nordic project requires multiple permits from the City of Belfast, and that its Preliminary Site Plan Findings only addressed Site Plan requirements and are not the Board's definitive Findings on any other City Permit application.

Final Site Plan Review:

Article IV, Final Plan, identifies the City requirements for a Final Site Plan application, including submission requirements, the Board process for the review of a Final Plan, and criteria that the Board must consider in rendering a decision; the same 90-42 criteria that applies to Board review of a Preliminary Plan.

Nordic submitted its Final Site Plan application on August 26, 2020, and the Board commenced its review of that application at its meeting of September 30, 2020. The Board conducted public hearings for Parties-in-Interest on October 7 and for the general public on October 8, and post these dates, conducted its deliberations of the Nordic Final Site Plan application as well as the other four Permit applications for the Nordic project that are subject to Board jurisdiction: Shoreland Permit, Significant Groundwater Permit, Significant Water Intake and Significant Water Discharge/Outfall Pipe Permit and Zoning Use Permit. The Board specifically notes that Chapter 90, Site Plan, requires Nordic to present evidence that it can obtain other required City Permits, thus, the Board decided to concurrently review the requirements (as well as to conduct public hearings) for other City Permits in conjunction with its review of the Final Site Plan Permit.

Consistent with requirement of Section 90-105, Decision by Planning Board, the Planning Board, at its meeting of December 22, 2020, voted to approve the Final Site Plan Permit to Nordic, subject to Nordic compliance with Conditions of Approval that the Board adopted at this same meeting, and adopted Findings of Fact that describe its decision.

6. COMPLETE APPLICATION

6.1 Actions by Code Enforcement Officer

Nordic, pursuant to requirements of Sec 90-9, submitted its pre-application to the Code and Planning Department on May 28, 2019. Department staff reviewed the application and met with Nordic staff on June 3, 2019 to identify issues that Nordic must address in its application submission.

Nordic submitted its Site Plan Permit application to the City on June 11, 2019. Wayne Marshall, who was then serving as the Director, Code and Planning (serving as Project Planner from mid-September 2020 rather than Department Director) and appointed Code Enforcement Officer (temporary City appointment), issued Nordic a dated receipt. The City received 14 copies of the application as required by Chapter 90.

Wayne Marshall, in his capacity as appointed Code Enforcement Officer, issued a letter dated June 12, 2019 to Nordic indicating that he found the application complete for purposes of Planning Board review. This notification is required by Section 90-71. It is specifically noted that this finding by the Code Enforcement Officer is not binding on the Planning Board.

Mr. Marshall, in his letter dated June 12 to Nordic, verified that per Sec 90-71 requirements, he would be providing notice on June 13 to the Belfast City Clerk and the Board of Selectmen in Northport regarding the upcoming Planning Board schedule for the review of this application. Mr. Marshall, pursuant to requirements of Sec 90-71, also provided notification to the DEP of the submission of the Nordic application on June 18, 2019.

6.1 Actions of Belfast Planning Board

The Belfast Planning Board commenced its review of the Nordic application at its meeting of June 26, 2019. This meeting involved a presentation by Wayne Marshall, Director, Code and Planning, regarding the Board process for review of the Nordic applications, and a presentation by Nordic representatives regarding the application. The Board did not accept public comment at this meeting and asked few questions of the applicant.

The Board conducted several initial meetings to learn more about the project and to discuss how to conduct its review. These meetings included the above referenced June 26, 2019 meeting, a July 10, 2019 site visit, and a July 11, 2019 organizational meeting. The Board commenced its formal review of the Site Plan Permit at its meeting of August 5, 2019, and

between this date and July 15, 2020, it conducted 22 separate public hearings and 23 meetings on the project. Per its customary practice, the Board did not make a decision regarding the Preliminary Site Plan being complete until it had an opportunity to review and consider all aspects of the Permit application. The Board vote on the application being complete did not occur until the Board meeting of July 15, 2020.

7. PROCEDURAL DECISIONS OF BELFAST PLANNING BOARD, PRELIMINARY PLAN AND FINAL PLAN.

7.1 Board Members Serving on Review of Nordic Application

Steve Ryan, who was serving as Chair of the Planning Board when the Nordic project was first announced, declared in January 2018 that he had a potential conflict in interest in serving on the review of this project because of his role as the Director for the Chamber of Commerce. Steve Ryan recused himself from the review of this project and did not participate in any discussions or meetings regarding the Nordic project or permit applications after February 2018. Ryan Harnden, who was serving as an alternate member in January 2018, also announced in January that he would be recusing himself from any participation in the Nordic review due to his employment. Mr. Harnden, however, resigned his seat on the Planning Board prior to the receipt of any Nordic Permit applications, thus, he never participated in any discussions of this project after January 2018.

Declan O'Connor, Board Secretary, (per a vote of the Board) served in the role of Acting Board Chair during any and all discussions of the Nordic application. In July, the Board determined that Daisy Beal, alternate member of the Board, would serve as a voting member to replace Steve Ryan (recused). The Board specifically noted that Hugh Townsend, the other alternate member on the Board, could actively participate in all discussions of the Nordic application, however, he would not be a voting member unless one of the five voting members could no longer participate in the review of the project.

7.2 Procedural Orders of the Planning Board

The Board, during the course of its review of the Nordic application, adopted five Procedural Orders that identified specific procedures regarding its review of the project. The Procedural Orders included the following:

- First Procedural Order, dated July 11, 2019. Established process for Parties-in-Interest and the general public to submit public comment on issues related to Right, Title and Interest that the Board addressed at its meeting of August 5, 2019. Order issued during Board review of Preliminary Plan.
- Second Procedural Order, dated November 6, 2019. Established certain revised procedures that applied to Parties-in-Interest regarding the submission of testimony. Order issued during Board review of Preliminary Plan.

- Third Procedure Order, dated December 6, 2019. Established certain deadlines for Parties-in-Interest to submit written testimony. Order issued during Board review of Preliminary Plan.
- Fourth Procedural Order, dated July 17, 2020. Established certain procedures for Parties-in-Interest to submit written testimony regarding a Motion from Jeffrey Mabee/Judith Grace for the Board to Stay/Dismiss action on the Nordic Permit. This Order was issued after the Board had approved the Preliminary Site Plan Permit Findings of Fact, but prior to Nordic's submission of a Final Site Plan Permit application.
- Fifth Procedural Order, dated September 30, 2020. Established certain procedures related to the Board hearings scheduled for October 7 and 8, 2020, and the submission of public testimony, as well as these hearings representing the last opportunity for public testimony to the record. This Order was issued during Board review of the Final Site Plan Permit application.

Copies of all Procedural Orders are on file at the Code and Planning Department.

7.3 Parties-in-Interest

The Board, at its meetings of August 5 and August 19, 2019, considered who should qualify as a Party-in-Interest. A Party-in-Interest, as described to the Board by William Kelly, City Attorney, is a person who could experience a particularized injury as a result of the project. The Board determined that the following parties qualified for Party-in-Interest designation:

- Eleanor Daniels and Donna Broderick, Perkins Road property owners
- Jeffrey Mabee and Judith Grace, Northport Ave property owners
- Larry and Betty Theye, Northport Ave property owners
- Maine Lobstering Union and members David Black and Wayne Canning (Kim Ervin Tucker, Attorney)
- Upstream Watch
- Constance M. Brown, Town of Northport abutter

The Board denied applications for Party-in-Interest status from Jim Merkel, resident, Patterson Hill, and Mike Lannan, resident, Northport and Environmental Engineer.

The Board determined that Parties-in-Interest would be provided more time to present testimony to the Board at public hearings than the general public, and could potentially qualify to submit an appeal of a Planning Board decision.

7.4 Right, Title and Interest

August 5, 2020 Decision of Board.

An applicant must demonstrate that they have right, title and interest (control) to the property that they propose to develop. The Planning Board considered this issue at its meeting of August 5, 2019, including accepting written comment in accordance with

Board Procedural Order # 1; no oral comment was accepted at the August 5 public hearing. William Kelly, City Attorney, described his review of all information submitted to the Board by the Applicant and other parties, and his review of recent findings by both the Department of Environmental Protection and the Department of Agriculture, Conservation and Forestry (Submerged Land Lease Permit) on this same issue, while stating that this ultimately is a decision of the Court. Attorney Kelly noted that an applicant, at this point, must demonstrate that they have sufficient interest in a property.

The Planning Board, at its meeting of August 5, 2019 adopted a motion to find that Nordic Aquafarms had submitted sufficient information to demonstrate that they have right, title and interest to the property that they propose to develop for the purposes of Planning Board review of all Permit applications.

August 12, 2020 Decision on Attorney Tucker Motion on behalf of Mabee/Grace, Maine Lobstering Union, and Friends of Harriet Hartley Conservation Area.

The Planning Board received a Motion filed by Kim Ervin Tucker, esquire, on behalf of Jeffrey Mabee/Judith Grace, the Maine Lobstering Union (David Black and Wayne Canning), and the Friends of the Harriet Hartley Conservation Area, requesting that the Board dismiss/stay its review of the Nordic application based on a recent Maine Law Court Case, Tomasino v. Town of Casco. The original motion was filed on July 14, 2020, and an amended motion was filed with the Board on July 20, 2020. Consistent with Procedural Order 4, the Board accepted written testimony on this motion, but did not receive oral testimony. The Motion involved issues related to the Board decision on Right, Title and Interest for Nordic. The Board, at its meeting of August 12, 2020, and following its consideration of written testimony and the advice of William Kelly, City Attorney, voted unanimously to deny the Motion to Stay/Dismiss.

8. DESCRIPTION OF PERMITS REQUIRED FOR PROJECT.

The Planning Board reviewed information provided by Wayne Marshall, Director (then serving as Director), Code and Planning, and information in the permit applications submitted by Nordic, and determined that the Board is responsible for the review of the following permits for the Nordic project.

- a) Chapter 90, Site Plan. Project requires a Site Plan Permit for a project that may substantially affect the environment. This permit application is the main subject of these Findings.
- b) Chapter 102, Zoning. Project requires a Use Permit for a project that qualifies as a Site Plan. Most of project is in the Route One South Business Park zoning district and the Ekrote property easement area is in the Residential II zoning district.
- c) Chapter 102, Zoning. Project requires a permit for the location and use of Significant Groundwater Wells; reference Article VIII, Division 7.

- d) Chapter 102, Zoning. Project requires a permit for the location of Significant Water Intake and Significant Water Discharge/Outfall Pipe(s); reference Article IX, Division 2.
- e) Chapter 82, Shoreland. Shoreland Permit for construction of facilities in the Shoreland Zone, including but not limited to the proposed water intake and discharge pipes. Part of project site is in the General Development Shoreland district and the easement area on the Ekrote property is in the Limited Residential Shoreland district. There are no significant groundwater wells proposed to occur in the Shoreland Zone.

9. PLANNING BOARD DECISIONS ON PERMITTED USES.

A project must be a permitted use for the Planning Board to consider a permit application. Chapter 90, Site Plan, does not identify permitted and prohibited uses, thus, the Board reviewed standards in Chapter 102, Zoning, and Chapter 82, Shoreland, to determine if the uses proposed by Nordic Aquafarms qualify as permitted activities. The Board, at its meeting of August 19, 2019, made the following decisions regarding the uses and activities proposed by Nordic. The Board concluded that the activities proposed by Nordic are permitted uses.

- a) The Board found that the activities proposed by Nordic qualify as a land-based aquaculture use, and that land-based aquaculture is a permitted use in the Route One South Business Park zoning district. The Board relied upon the definition of land-based aquaculture in Chapter 66, General Provisions, and the list of permitted uses for the Route One South Business Park zoning district identified in Chapter 102, Zoning, Section 102-682, Subsection 3) in making its decision. Subsection 3) identifies the following as a permitted use subject to Planning Board review: *'Aquaculture, land based, including uses that are accessory to the aquaculture operation, such as but not limited to: fish processing, byproducts, research laboratory, office, 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.'*
- b) The Board found that certain groundwater well extraction activities proposed by Nordic Aquafarms qualify as a permitted use in the Route One South Business Park zoning district. The Board relied upon the definition of a Significant Groundwater Well in Chapter 66, General Provisions, and the list of permitted uses for the Route One South Business Park district identified in Chapter 102, Zoning, Section 102-682, Subsection 9) in making its decision. Subsection 9) identifies the following as a permitted use subject to Planning Board review: *'Significant Groundwater Well'*.
- c) The Board found that the water intake and water (effluent) discharge pipes proposed by Nordic qualify as a permitted use in the Route One South Business Park district, and in the Residential II zoning district. The Board relied upon the following Ordinance provisions in making its decision: the definition of a significant water intake/discharge pipe in Chapter 66, General Provisions; the list of permitted uses for the Route One South Business Park zoning district identified in Chapter 102, Zoning, Section 102-682, Subsection 10); and the list of permitted uses identified in Chapter 102, Zoning, Section

102-422, Subsection (12) for the Residential II zoning district. Subsections 10) and 12) identify the following as a permitted use subject to Planning Board review: *'Significant water intake or significant water discharge/outfall pipe.'*

- d) The Board found that land-based aquaculture is a permitted use in the General Development District of the Shoreland Zone. The Board relied upon the Table of Uses identified in Chapter 82, Shoreland, reference Section 82-135, and the definition of land-based aquaculture identified in Section 82-1 in making this decision. The Table of Uses specifically identifies aquaculture, land-based, as a permitted use in the General Development District; reference (14)c.
- e) The Board found that significant groundwater wells are a permitted use in the General Development Shoreland District. The Board relied upon the Table of Uses identified in Chapter 82, Shoreland, Section 82-135, Subsection (38) and the definition of a significant groundwater well found in Section 82-1 in making this decision.
- f) The Board found that a land-based aquaculture facility is a permitted use in the Limited Residential Shoreland District. The Board, in making this decision, relied on information in Chapter 82, Shoreland, Section 82-135, Table of Uses, Subsection (14) and the definition of land-based aquaculture in Section 82-1. The Table of Uses specifically identifies aquaculture, land-based, as a permitted use in the General Development District; reference (14)c.
- g) The Board found that significant water intake and discharge pipes are a permitted use in the Limited Residential Shoreland District. The Board, in making its decision, relied on information in Chapter 82, Shoreland, Section 82-135, Subsection (39) and the definition for a significant water intake/discharge pipe found in Section 82-1.

10. PLANNING BOARD PUBLIC MEETINGS AND PUBLIC HEARINGS ON PRELIMINARY SITE PLAN APPLICATION.

Nordic submitted its Preliminary Site Plan application to the Planning Board on June 12, 2019. The Planning Board initiated its review of the Preliminary Site Plan application on June 26, 2019, and at its meeting of July 15, 2020, voted to approve the Preliminary Site Plan application and to adopt Findings of Fact that describe its decision. The Board, over the course of the 13 months during which it reviewed the application, conducted a total of 22 public hearings and 23 public meetings on the Preliminary Site Plan Permit.

The meetings and public hearings the Board conducted on the application provided the Board an opportunity to immerse itself in the review of the project and to do the following:

- to hear directly from Nordic Aquafarms representatives, including the professional consultants who prepared specific components of the application;
- to hear testimony from Parties-in-Interest approved by the Planning Board, including testimony from their experts;
- to hear testimony from the general public;

- to hear and consider testimony from professional consultants engaged by the City to assist the Board, as well as from City Code and Planning Department staff; and
- to review and deliberate on all components of the Permit application.

The following chronological synopsis identifies the meetings and hearings that the Board conducted on the Preliminary Site Plan application. The majority of the public hearings focused on specific elements of the Permit application, and at the last set of hearings in January 2020, the Board accepted comment on all elements of the application. The Board also accepted written and email comment through-out the Board process associated with its review of the application, including comments submitted after the last scheduled public hearing and through May 2020.

- June 26, 2019. Planning Board meeting. Presentation by Wayne Marshall, Director Code & Planning (Mr. Marshall served as the Dept Director through-out the Board's review of the Preliminary Site Plan application) on Nordic application, Ordinance requirements, and Board responsibilities. Initial presentation from Nordic representatives to the Board on the overall Site Plan Permit application. Public is present, but there is no public hearing or public comment accepted.
- July 10, 2019. Planning Board Site Visit. Board walks the site with Nordic representatives. Public was present on the site walk, but could not ask questions to the Board or the applicant.
- July 11, 2019. Organizational meeting of the Board to discuss process for the review of permit applications. Board adopts Procedural Order # 1 regarding how to accept public comment on the issue of Right, Title and Interest.
- August 5, 2019. Board determines the following: Daisy Beal, alternate member, will vote on the Permit application in lieu of Steve Ryan, regular member (recused); selected the individuals/organizations who are granted status as a Party-in-Interest; and that Nordic has sufficient Right, Title and Interest to proceed (Public Hearing limited to written comment only pursuant to Procedural Order #1). Nordic makes presentation on Financial Capacity (Attachment 9), and the Board conducts a public hearing on this issue, as well as conducting initial deliberations on the issue.
- August 19, 2019. After accepting public comment at a public hearing, the Board determines that the Nordic project qualifies as a permitted use in the respective Zoning and Shoreland Districts. The Board considers the issue of technical ability (Attachment 29), including presentation from Nordic, conducting a public hearing, and conducting initial Board deliberations.
- September 5, 2019. Board hears presentation from Nordic representatives, conducts targeted public hearings, and conducts initial deliberations on each of the following issues: Visual Assessment, Attachment 27; Buffers and Bufferyards, Attachment 28, Historic and Archeological Sites, Attachment 32, and Access to Sunlight, Attachment 33.

- September 23, 2019. Board hears presentation from Nordic representatives, conducts public hearings, and conducts initial deliberations of Attachment 23, hydrogeologic assessment, and Attachment 24, Water District capacity.
- October 9, 2019. Board hears presentation from Nordic representatives, conducts public hearings and conducts initial deliberations on the following issues: Attachment # 30, Noise; Attachment # 35, Odors; Attachment # 21, Solid Wastes; and Attachment # 18, Exterior Lighting.
- October 16, 2019. Board hears presentation from Nordic representatives, conducts public hearings and conducts initial deliberations on the following issues: Attachment #11, Natural Resources; Attachment # 35, Wetlands and Streams; and Attachment # 19, Flooding.
- December 4, 2019. Board discussion of Nordic application and review schedule. No public hearing or public comment accepted.
- December 18, 2019. Presentation by Nordic to the Board on Air Emissions, Attachment #31, public hearing on this issue, and initial Board deliberations. Board accepts additional comment from Parties-in-Interest regarding issues discussed at public hearings on October 9. Presentation by Nordic on an updated Visual Assessment, public hearing on the updated Assessment and initial Board deliberations on such.
- January 8, 2020. Board conducts public hearing to accept public comment from Parties-in-Interest and the general public on all components of the Site Plan application.
- January 15, 2020. Board continues public hearing from January 8 meeting to accept public comment from Parties-in-Interest and the general public on all elements of the Site Plan application. Board hears presentation from Nordic on Traffic, Attachment 17, conducts public hearing on this issue, and conducts initial deliberations. Board engages in initial discussion of overall Site Plan application.
- January 22, 2020. Board conducts public hearing to accept additional public comment from Parties-in-Interest. Board conducts deliberations on Traffic and other project concerns.
- January 29, 2020. Board conducts deliberations on project application. No public hearings at this meeting.
- February 5, 2020. Board conducts deliberations on the project application. No public hearings at this meeting.
- May 6, 2020. (ZOOM Meeting). Board conducts deliberations on project application. No public hearings at this meeting. (Note: All Board meetings that were conducted on

and after May 6, 2020 were conducted via ZOOM because of threats to public health associated with the COVID pandemic.)

- May 13, 2020. (ZOOM Meeting). Board conducts deliberations on project application. No public hearings at this meeting.
- May 14, 2020. (ZOOM Meeting). Board conducts deliberations on project application. No public hearings at this meeting.
- May 27, 2020. (ZOOM Meeting). Board conducts deliberations on project application, with focus on proposed use of Groundwater from the site, Surface Water from the Little River, and public water from the Water District. No public hearings at this meeting.
- June 17, 2020. (ZOOM Meeting). Board initiates review of draft Findings of Fact for Preliminary Site Plan Permit prepared by the Director of Code & Planning. No public hearings at this meeting.
- July 8, 2020 (ZOOM Meeting). Board continues review of draft Findings of Fact for Preliminary Site Plan Permit prepared by the Director of Code and Planning, including updated information prepared to address Planning Board comments from Board meeting of June 17. No public hearings at this meeting.
- July 15, 2020 (ZOOM Meeting). Board continues review of draft Findings of Fact for Preliminary Site Plan Permit prepared by the Director of Code and Planning, including changes made to the July 8 draft to address comments from the Board at the July 8 meetings. The Board, following its review, votes to find that the Site Plan Permit is complete for purposes of Board review, and to approve the Findings of Fact for the Preliminary Site Plan, as such were amended at the July 15 meeting. Board action on the Preliminary Site Plan Permit enables Nordic to submit a Final Site Plan Permit application. The Board did not conduct any public hearings at this meeting. The Board also approved Procedural Order #4 that identifies the process the Board will use to consider a motion from Attorney Tucker that requests the Board to stay/dismiss its review of the Nordic application.

11. PLANNING BOARD REVIEW OF FINAL SITE PLAN PERMIT APPLICATION.

Nordic submitted its Final Site Plan application on August 26, 2020. Nordic's submissions addressed the requests for additional information identified by the Planning Board during its review and approval of the Preliminary Site Plan application.

The Planning Board also conducted two meetings regarding the Nordic project prior to its receipt of Nordic's Final Site Plan Permit application, and post its decision to approve the Nordic Preliminary Site Plan application. These two meetings considered the following concerns regarding the Nordic project and accompanying permits.

- August 5, 2020. (ZOOM Meeting) Board meets to discuss the issue of groundwater. This is an interactive discussion with both Matt Reynolds, Drumlin Environmental and Mandy Olver, Olver Associates, (City experts), as well as City Attorney and Code and Planning Department staff, and involves Nordic representatives. An additional goal of the meeting was for the Board to obtain a better understanding of how the DEP is considering the issue of groundwater extraction.
- August 12, 2020. (ZOOM Meeting). Board reviews the Motion filed by Kim Ervin Tucker, legal counsel, on behalf of Jeffrey Mabee and Judith Grace, the Maine Lobstering Union (David Black and Wayne Canning), and the Friends of the Harriet Hartley Conservation Area. Motion requests the Board dismiss/stay its review of the Nordic application. The Board accepts testimony in writing from Parties-in-Interest, but does not accept oral testimony. Attorney Kelly provides his perspective on this Motion to the Board. The Board unanimously votes not to grant the Motion to Dismiss/Stay.

The Planning Board initiated its review of the Nordic Final Site Plan application at its meeting of September 30, 2020. The Board, during this same process, continued its review of the 4 other City Permits that Nordic must obtain, including: a Significant Groundwater Permit, a Significant Water Intake/Discharge Pipe Permit, a Shoreland Permit, and a Zoning Use Permit. The Board conducted its review of the Final Site Plan Permit and other City Permits over the course of 14 meetings between September 30 and December 22, 2020, including conducting public hearings on all permit applications at its meetings of October 7 and 8, 2020.

The Planning Board's review of the Site Plan Permit culminated with the Board, at its meeting of December 22, 2020, voting to adopt the Final Site Plan Permit, subject to Nordic compliance with Conditions of Approval established by the Board. The Board also adopted the accompanying Findings of Fact for the Site Plan Permit at this same meeting. Following is a chronological synopsis of the meetings and hearings that the Board conducted between September 30, and December 22, 2020 that are associated with the Nordic Final Site Plan Permit and associated other City Permits.

- September 30, 2020. (ZOOM Meeting) Board adopts Procedural Order #5 regarding the upcoming October 7 and 8 public hearings. Board hears a presentation from Nordic representatives regarding information in their Final Site Plan submissions, and offers comment to Nordic. Board initiates its review of draft orders from the DEP regarding the MPDES, Air Emissions, SLODA and NRPA Permits that the DEP must issue. This review is associated with Sec 90-42(b)(30) criteria, and permits that the Board must consider.
- October 7, 2020. (ZOOM Meeting) Board conducts a duly noticed public hearing for Parties-in-Interest to submit testimony on the Nordic Site Plan Permit. This hearing also is for the purposes of accepting public comment on the other 4 City Permit applications. Board has additional discussion regarding the Nordic application.

- October 8, 2020. (ZOOM Meeting) Board conducts a duly noticed public hearing for the general public to submit testimony on the Nordic Site Plan Permit and on the other 4 City Permit applications for the Nordic project. The Board conducts overall deliberations on the Nordic project, including its request for additional technical assistance to the Board, and discusses several components of the application.
- October 14, 2020. (ZOOM Meeting) Board reviews information in the DEP MPDES Permit Findings, including a review of the draft Findings prepared by Mandy Olver, Olver Associates. Board conducts initial review of Shoreland Permit requirements for Nordic and provides direction on potential Conditions of Approval.
- October 21, 2020. (ZOOM Meeting). Board reviews information in the DEP SLODA/NRPA Permit Findings, including a review of these draft DEP Findings prepared by Mandy Olver, Olver Associates. Board also considers a list of 'Unanswered Board Questions' that was prepared and submitted by Upstream Watch, and identifies issues that it asks Nordic and Code and Planning Department staff to address. Board continues its review of the City Shoreland Permit requirements, and discusses requirements for a City Significant Groundwater Well Permit.
- October 28, 2020. (ZOOM Meeting). Board reviews information provided by Nordic and Code and Planning Department staff in response to the Upstream Watch lists of 'Unanswered Questions'. The Board considers its Findings and potential Conditions of Approval for a Significant Groundwater Permit, reviews and offers direction on potential Conditions that would apply to the Lower Reservoir Dam and Nordic's use of the Water District offices as a Visitors Center with respect to public safety concerns associated with the Upper Reservoir dam, and reviews potential Conditions of Approval that would apply to a City Shoreland Permit.
- November 4, 2020. (ZOOM Meeting). Board considers potential Findings of Fact and Conditions of Approval for the following City Permits: Significant Groundwater Wells, Significant Water Intake and Significant Water Discharge Pipes, and Shoreland. All three of these permits are directly related to the Board's consideration and issuance of a Site Plan Permit.
- November 12, 2020 (ZOOM Meeting). Board reviews potential Findings of Fact and Conditions of Approval for both a Significant Groundwater Permit and a Zoning Use Permit.
- November 19, 2020 (ZOOM Meeting). Board considers potential Conditions of Approval and Findings of Fact for a Significant Groundwater Permit, and reviews draft Conditions of Approval for a Site Plan Permit.
- December 3, 2020 (ZOOM Meeting). The focus of this meeting is the Board's review of potential Conditions of Approval for a Site Plan Permit.

- December 9, 2020 (ZOOM Meeting). The focus of this meeting is the Board's review of potential Conditions of Approval for a Site Plan Permit. The Board also addressed a concern submitted by Upstream Watch regarding Nordic's electrical requirements and how such could impact the local and regional power grid.
- December 16, 2020. (ZOOM Meeting). The Board reviewed draft Findings of Fact and Conditions of Approval prepared by the Code and Planning Department regarding the Significant Groundwater Permit. Nordic raised objections to the proposed Conditions for the Groundwater Permit, most of which involved the Water Resource Monitoring Program that Nordic is to submit to the DEP, and how the City Permit Conditions interface with this Permit. The Board directed Code and Planning Department staff to prepare revised Conditions of Approval for its consideration for this Permit.
- December 17, 2020 (ZOOM Meeting). The Board reviewed concerns expressed by Nordic regarding the Board condition that required Nordic to use a Class V Operator for the Wastewater Treatment Plant and decided to retain this Condition. The Board reviewed updated/revised Conditions of Approval for the Significant Groundwater Permit and found the proposed changes acceptable. The Board also stated its support for the draft Findings of Fact. The Board reviewed and adopted the draft Findings of Fact and Conditions of Approval presented by the Code and Planning Department for the Shoreland Permit, and approved its issuance of a Shoreland Permit. The Board reviewed and stated that it is comfortable with the draft language presented for Conditions of Approval for the Significant Water Intake and Significant Water Discharge Pipe Permit.
- December 22, 2020 (ZOOM Meeting). The Board took the following specific actions at its meeting of December 22:
 - a) Approved the Findings of Fact, Conditions of Approval and Permit for a City Significant Groundwater Permit.
 - b) Approved the Findings of Fact, Conditions of Approval, and Permit for a City Significant Water Intake and Significant Water Discharge Pipe Permit.
 - c) Approved the Findings of Fact, Conditions of Approval, and Permit for a City Site Plan Permit.
 - d) Approved the Findings of Fact, Conditions of Approval, and Permit for a Zoning Use Permit.

CHAPTER 90, SECTION 90-42
FINAL SITE PLAN REVIEW CRITERIA

Chapter 90, Site Plan, requires the Board to prepare specific Findings regarding criteria identified in Section 90-42 regarding its decision to approve, approve with conditions, or to deny both a Preliminary Site Plan application and a Final Site Plan application. Section 90-42(b) identifies 30 criteria/standards that the Board must address.

The Planning Board, at its meeting of July 15, 2020, approved the Preliminary Site Plan application submitted by Nordic and adopted Findings of Fact to reflect its decision. The Board's Findings of Fact are on file at the City Code and Planning Department offices and are posted on the City website. While the Board's Findings on the Preliminary Site Plan identified overall conditions that it intends to establish on the Nordic project, they do not identify specific language for any of the proposed conditions. The Board stated that it would identify specific language for any Conditions of Approval during its review of Nordic's Final Site Plan Permit. The Board, in its Preliminary Findings, also noted that it needed to review DEP's Findings and Conditions for the DEP SLODA, NRPA, Air Emissions and MPDES Permits to better determine Nordic's compliance with certain City Site Plan criteria, and that DEP's Findings and Conditions were not available to the Board when it acted upon Nordic's Preliminary Site Plan application to the City, and that said Findings and Conditions should be available during the Board's review of the Final Site Plan.

The Planning Board, at its meeting of December 22, 2020, voted to approve these Findings of Fact for Nordic's Final Site Plan Permit application, and to approve the award of a Site Plan Permit to Nordic. The Findings describe the Board's decision to find that Nordic has satisfied all criteria identified in the Section 90-42(b) criteria; reference Board Findings on the individual criteria that are presented below. The Board's decision to award a Site Plan Permit is subject to Nordic's compliance with the Conditions of Approval established by the Board; said Conditions are attached to these Findings. The Board, during its review of the Final Site Plan Permit, devoted significant attention to preparing enforceable Conditions that Nordic must satisfy to address requirements identified in the Section 90-42(b) criteria. The Board also notes that it reviewed the draft and final language for the following DEP Permits in rendering its Findings and decision: NRPA, SLODA, MPDES and Minor Air Emissions.

The City Site Plan process involves two distinct steps, Preliminary Plan and Final Plan. That said, the Board considers information obtained through-out the review process in making its decision and Findings on a Final Site Plan application, Conditions of Approval that should apply to a project, and the award of a Site Plan Permit. The Board specifically notes that it conducted 38 public meetings, including 24 public hearings on the Nordic application. The Planning Board, in making its overall Findings on the Nordic project, considered information presented to the public record through the following sources:

- a) Information in the initial Nordic application to the Board, as such information was supplemented during the Board review process, and in Nordic's Final Site Plan submissions.
- b) Information presented to the Board by Nordic representatives at the public meetings and public hearings on this project.
- c) Information presented by Parties-in-Interest and their experts during the Board's review of the Site Plan Permit and other City Permits; information from oral testimony and written submittals, particularly at scheduled public hearings.
- d) Information presented by the general public during the Board's review of the Site Plan Permit and other City Permits; information from oral testimony and written submittals, particularly at the scheduled public hearings. .
- e) Board review and consideration of requirements in the draft and final Orders for the following Department of Environmental Protection Permits: Natural Resources Protection Act (NRPA), Site Location of Development Act (SLODA), Maine Pollutant Discharge

Elimination System (MPDES), and Minor Air Emissions. This review included information presented to the Board by City technical experts on the requirements and conditions in said permits, as well as comments from Parties-in-Interest and Nordic.

- f) Board consideration of information presented to the Board by City experts/third party reviewers, including: Matt Reynolds, Drumlin Environmental, Mandy Olver, Olver Associates, and William Kelly, City Attorney.
- g) Board consideration of information presented to the Board by Wayne Marshall, Code and Planning Department. Mr. Marshall was serving as the Department Director from June 2019 through mid-September 2020, and between mid-September 2020 through December 2020, served as Project Planner for the Department.
- h) The comment of Board members during its deliberations on the Nordic Permit applications.

The Board made the following specific Findings in its review of the Final Site Plan application for the Section 90-42(b) criteria:

Sec 90-42(b)(1)Pollution. The proposed development will not result in undue water or air pollution. In making this determination, consideration shall be given to:

- a. The elevation of the land above sea level and its relation to the floodplain (compliance with chapter 78, article II).***
- b. The nature of soils and subsoils and their ability to adequately support waste disposal.***
- c. The slope of the land and its effect on effluents.***
- d. The availability of streams for disposal of effluents.***
- e. The applicable state and local health and water resource rules, regulations and codes.***

The Board found that this standard is quite specific in the factors the Board is to consider in determining if a proposed development will result in undue water or air pollution. The Board reviewed the five criteria identified in Sec. 90-42(1) and made the following findings.

- a. The elevation of the land above sea level and its relation to the floodplain (compliance with chapter 78, article II).***

The Board determined that the elevation of the land and its relation to the floodplain would not have an undue adverse impact on water or air pollution. The Board found that only a very limited amount of the site that is proposed to be developed is within the identified flood zone. The only structure that may be located in the flood zone (Zone A) is a limited portion of the existing Belfast Water District offices that Nordic proposes to convert to a Visitors Center, and this building may be located outside of the flood zone. The Board made this Finding based on its review of information in the Nordic application and its review of City Flood Maps.

- b. The nature of soils and subsoils and their ability to adequately support waste disposal.***

The Board determined that the nature of on-site soils and subsoils will not have an adverse impact on water or air pollution with respect to the disposal of wastes. The Board noted that

Nordic is using the City sewer system for the disposal of sanitary wastes, and that the effluent discharge from the RAS system will be discharged to Belfast Bay. The Board made this Finding based on its review of information in the Nordic application, its consideration of testimony offered at public hearings, its consideration of Findings and Conditions in the DEP MPDES Permit and the review of this Permit information by Mandy Olver, Olver Associates, and its deliberations on this issue and the application as a whole. The Board also recognized that the State DEP and U.S. ACOE have the jurisdictional authority to regulate activities with the discharge of effluents (wastewater) to Belfast Bay, and that the City's authority pursuant to Chapter 82, Shoreland, generally is limited to the inter-tidal zone.

c. The slope of the land and its effect on effluents.

The Board found that the slope of the land will have minimal impact on managing effluents generated by project activities, and any resultant impact on air or water pollution. The main effluent from Nordic's operations will be discharged directly to Belfast Bay after being treated at the Nordic wastewater treatment facility. These discharges are associated with activities that occur within the confines of Nordic's fish rearing and processing facilities/buildings.

Stormwater is not specifically an effluent, however, stormwater is often associated with the transport of source and non-source pollutants. The Board noted that Nordic is installing on-site facilities and is using approaches to manage water quality associated with stormwater flows. The Board found these approaches appropriate, and determined that Nordic's use of said approaches should address potential water pollution concerns associated with stormwater flows.

d. The availability of streams for disposal of effluents.

The Board found that Nordic is proposing to alter several intermittent streams and that it also proposes to implement measures to mitigate/restore existing conditions for an on-site stream. The Board determined that Nordic will direct stormwater to several existing streams, and ultimately to the Little River and Belfast Bay, but will do so after it has treated the stormwater by various means of managing and treating the quality of on-site stormwater flows. The Board found that Nordic is employing appropriate measures to manage stormwater, and that no other 'effluents' will be directed to any stream.

e. The applicable state and local health and water resource rules, regulations and codes.

The DEP, on November 19, 2020, issued a MPDES and Waste Discharge License to Nordic. The DEP, in its Findings for this Permit, described why it determined that Nordic can use and manage water, including the discharge of wastewater, in accordance with State requirements. The Board reviewed the DEP MPDES Permit and accompanying Findings, including a review of this Permit by Mandy Olver, Olver Associates, and determined that the State has established appropriate conditions on Nordic's operations to manage water resources associated with the discharge of waters to Belfast Bay. The Board specifically noted that it

conditioned the issuance of the City Site Plan Permit on Nordic's compliance with requirements of the MPDES Permit.

The DEP, on November 19, also issued a Minor Air Emissions license to Nordic for its proposed on-site generation of emergency and 'peak-shaving' power. The Planning Board noted that the City lacks specific regulations to manage power generation facilities and that the DEP has the jurisdictional authority to regulate air emissions associated with such activities and facilities. The Board determined that the DEP's issuance of a Minor Air Emissions license demonstrates that Nordic is in compliance with State requirements.

The Nordic project also requires a Significant Groundwater Permit from the City. The Planning Board issued this Permit to Nordic on December 22, 2020, finding that it satisfied City requirements regarding the protection of water quality and quantity standards for private wells in the area, subject to Nordic's compliance with Conditions of Approval established by the Board.

The Board also noted that it established a Condition of Approval that requires Nordic to comply with terms of all ACOE Permits that may be issued to Nordic.

The Board noted that it considered the following in making the above findings: information in the Nordic application and supplemental information submitted by Nordic representatives; information presented at Board meetings by Nordic staff and its representatives; information presented to the Board by City consultants (Mandy Olver, Olver Associates, Matthew Reynolds, Drumlin Engineering, and William Kelly, City Attorney), information presented by City staff (Wayne Marshall, Director, Code and Planning, and Jon Carmen, Supt, Wastewater Treatment Plant); information presented by the Belfast Water District, particularly Keith Pooler, its Superintendent; public testimony offered by several Parties-in-Interest and numerous members of the general public at public hearings conducted by the Board; and information gleaned from its own deliberations on this permit application.

Sec. 90-42(b)(2) Sufficient water. The proposed development has sufficient water available for the reasonable foreseeable needs of the development and will not unreasonably affect other existing local drinking water resources.

Nordic representatives identified how they propose to use the three sources of freshwater, 1,205 gpm, as well as about 3,925 gpm of saltwater to support their operations. The freshwater sources would be used as follows: up to 455 gpm of groundwater would mostly be used for fish rearing and production; up to 500 gpm of freshwater would mostly be used for processing fish for market and for sanitary needs; and up to 250 gpm of water from the Little River impoundment would principally be used as a reserve water supply. Freshwater, typically groundwater, would be mixed with saltwater from Belfast Bay to support the rearing of salmon.

The Planning Board found that Nordic has identified that they have access to the 1205 gpm of water they need to operate their facilities, both Phase 1 and Phase 2, and that their use of the

identified water supplies should not unreasonably affect other existing local drinking water resources, both the municipal water supply provided by the Belfast Water District from wells in the Goose River aquifer, and from individual water wells used by private property owners in the surrounding area to the Nordic site. Also, while the lower reservoir of the Little River is no longer used as a public water supply, the Board found that Nordic provided an assessment of the amount of water that could regularly and safely be extracted from the Little River and the existing impoundment, and not adversely impact the amount of water flow in the River, noting that the DEP reviewed and approved their proposal to extract this amount of water from the Little River.

The Planning Board, at its meeting of December 22, 2020, issued both a Site Plan Permit and a Significant Groundwater Well Permit to Nordic. The Site Plan Permit establishes limits on the maximum amount of water that Nordic can use from multiple sources to support its operations, and the Groundwater Permit further establishes that the amount of groundwater use is limited to 455 gpm (based on daily usage levels). The Board, in its Preliminary Site Plan Permit Findings, outlined conditions that Nordic would need to satisfy to address their use of local waters. The Board, through its action to approve this Final Site Plan Permit and a Significant Groundwater Well Permit, has determined that it addressed guidelines issued in its Preliminary Site Plan Findings. The Board references the following Conditions that its established regarding water use in the above permits:

- a) Specific Conditions in the Site Plan Permit include: Condition 3, Compliance with City Planning Board Permits, Condition 8, Compliance with State and Federal Permits, Condition 27, Nordic Water Use, and Condition 28, Nordic Use of Lower Reservoir Dam.
- b) All Conditions established in the Significant Groundwater Permit, particularly those associated with the groundwater quality monitoring program, are associated with protecting the quality and quantity of local groundwater supplies.

Nordic presented information in their Site Plan application (Attachments 23 and 24) and presented information at the Board meetings at which water use was discussed, including: the September 23, 2019 public hearings on groundwater and freshwater use; the Board's February 23, 2020 meeting with Keith Pooler, Superintendent, Belfast Water District; the Board's May 6, 14 and 27, June 17 and July 8 meetings at which Nordic representatives were present; the August 5, 2020 meeting which focused on groundwater and water use, and numerous meetings which the Board conducted during its review of the Final Site Plan application. The Board engaged in deliberations on this issue at all of the above meetings.

The Board regularly received testimony from Matt Reynolds, Drumlin Environmental, the firm it engaged to review Nordic's groundwater assessment. Mr. Reynolds played a key role at the Board's September 23, 2019 public hearing on groundwater use, the Board's May 27 and August 5, 2020 meetings on water use, and many of the Board meetings held in October - December 2020 regarding the Board's review and approval of this Site Plan Permit and the Significant Groundwater Well Permit. The Conditions of Approval that the Board adopted for the Significant Groundwater Well Permit reflect Mr. Reynolds recommendations to the Board.

The Board received and considered public testimony regarding water use concerns offered by both Parties-in-Interest and the general public at the public hearings it conducted.

Sec. 90-42(b)(3) Municipal water supply. The proposed development will not cause an unreasonable burden on an existing municipal water supply, if one is to be used.

The Belfast Planning Board found that the Belfast Water District has sufficient water capacity to provide Nordic the maximum amount of water identified in the Nordic application, up to 500 gpm.

Keith Pooler, Superintendent, Belfast Water District, and engineering consultants to the District, met with the Board on both September 23, 2019 and on February 26, 2020, to describe the District's operations and respond to questions from the Board regarding how the District can provide Nordic the identified amount of water from their existing two wells combined with installation of the new Talbot well located in the Goose River aquifer. A.E. Hodson, consulting engineers to the District, in a report dated February 27, 2018, identified the District's estimated sustainable pumping capacity, and how the amount of water the District regularly pumped in the 1960's and 1970's when the chicken processing plants were in full production was nearly equal to the amount of water that would now be needed to serve both Nordic and all other District customers. Further, the A.E. Hodson report identified that there would still be excess capacity that would enable the District to serve new customers if needed. Continuing, the District indicated that if there was an unanticipated shortage of water, that industrial operations, such as those proposed by Nordic, would be a low priority for service compared to residential customers and essential services. In addition, Superintendent Pooler indicated that the revenues the District receives from the water sold to Nordic would enable the District to address currently unmet capital project needs without needing to raise current water usage fees.

The Board, in conducting its review, noted that the District had to obtain the approval of the Maine Public Utilities Commission (PUC) to sell their current property to Nordic and that the terms of the water usage agreement is a component of the land sale. The PUC approved the sale of the District property to Nordic pursuant to terms in the negotiated sales agreement, which identified their support of information in the A.E. Hodson report.

Nordic representatives, in their application and in several presentations to the Board, identified that they intend to use the water from the Water District to process fish and to address sanitary needs at the facility. Nordic representatives also described measures they could institute to address a short-term reduction in the amount of water available from the District, such as using surface water from the lower reservoir.

The Board received public comment at the September 23, 2019 public hearing from both Parties-in-Interest and the general public. Some of the concerns raised included the amount of revenues that would be raised from the sale of water, the potential adverse impacts to the community's water supply from the amount of water that would be provided to Nordic, particularly with the uncertainties of climate change and potential drought conditions, long-term impacts to the Goose River watershed associated with the extraction of the volume of the water needed for Nordic's operations, and the District's capacity to provide good quality water to all current customers and future customers that may have a need for a greater volume of water. The Board determined

that the representatives from the District provided good responses to concerns raised in public testimony and to questions asked by the Board. For example, Keith Pooler cited information in the A.E. Hodson report regarding the amount of water that was available in past drought conditions, and how the current amount of water use is less than 35% of the amount of water used from the existing wells in the late 1970's.

During the later stages of the Board's review of Final Site Plan application, Upstream Watch submitted a Motion to the Planning Board requesting that the Board open the record to accept testimony regarding the proximity of the Talbot Well to the former Town of Swanville landfill (closed in 1994/1995), and how the Water District's use of the Talbot Well to provide adequate water for Nordic's operations could compromise water quality for all Belfast and Northport residents. The Board considered information provided by Olver Associates, City Attorney Kelly, and Wayne Marshall, Project Planner, and decided not to reopen the record to further examine the issue requested by Upstream Watch.

The Board, in adopting its Findings, noted that the DEP, through its NRPA/SLODA Permit, is requiring Nordic to work with the Water District to institute a program to monitor water levels in the Goose River aquifer. The Board determined that this effort would help ensure the availability of 500 gpm of water to serve the District's and Nordic's needs.

Sec. 90-42(b)(4) Soil erosion and sediment control. The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results. The criteria in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, prepared by Cumberland County SWCD and the state department of environmental protection, 1991, shall be followed.

The Board made a finding that Nordic, in its Site Plan applications, has identified that they will use appropriate and effective approaches to manage soil erosion and control sediments during project construction. The Board, in this Site Plan Permit, as well as in its Zoning Use Permit, Shoreland Permit and Significant Water Intake/Discharge Pipe Permit, established Conditions of Approval that require Nordic to implement the soil and erosion control measures identified in their Site Plan application. In this Site Plan Permit, Board Condition 21 specifically addresses Soil and Erosion Control requirements.

The Board based its findings on its review of the Site Plan application submitted by Nordic, its consideration of information presented to the Board by Nordic representatives at the Board meeting of September 4, 2019, the review of the Nordic application by Mandy Olver, Olver Associates (City Engineer), and its consideration of comment offered by Parties-in-Interest and the general public at the Board's September 4, 2019 public hearing. A particular concern raised at the public hearing were impacts associated with the depth of construction activities and the removal of a significant amount of soils. The Board acknowledged this concern, but found that Nordic's approach to managing construction was an effective way to control erosion and sedimentation.

The Board also noted its consideration of issues related to the potential dispersal of mercury located in the bottom sediments of Belfast Bay during construction of the intake/discharge pipes, and the measures that Nordic must implement to manage sedimentation and the potential dispersal of mercury.

Sec. 90-42(b)(5) Highway or public road congestion. The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed, and, furthermore, the developer has made adequate provision for traffic movement of all types into, out of or within the development area. The board shall consider traffic movement both on-site and off-site. Before issuing a permit, the board shall find that any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development. A traffic study may be required.

The Board found that the proposed Nordic development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads. The amount and type of traffic associated with Nordic's operations of a land-based salmon farm will have little impact on overall traffic volumes on any adjacent road, particularly Route 1, and there are no existing intersections near the site that will experience a decrease in their current traffic rating. Nordic intends to use the current access road to the Belfast Water District to access its site from Route 1, and will construct a new internal service road to access most of its on-site facilities. Nordic is not proposing any other points of road access to the site.

With most development projects, the Board focuses solely on long-term traffic impacts associated with a project. The Board, as identified its Preliminary Site Plan Findings, also found it appropriate to consider traffic impacts associated with construction of the Nordic project because of the length of construction, activities (construction could occur for 4 or 5 years), and because Nordic has requested a road opening permit from the City to construct a temporary by-pass road on Route 1 to support installation of the water intake and discharge pipes within the Route 1 right-of-way. The Board, in Condition of Approval 23 it adopted for the Final Site Plan Permit, and a similar Condition in its Zoning Use Permit, established requirements for Nordic to address concerns related to temporary construction traffic impacts. These conditions require Nordic to manage when and how trucks could enter/exit the site during construction to minimize traffic volumes at off-site intersections during high volume traffic times. The Board also noted that the City will use the road opening permit that is required from the City Public Works Department to manage the lay-out, construction and removal of the temporary by-pass road.

The Board concurred with a recommendation in the traffic study dated June 3, 2019 prepared by Diane Morabito, Nordic traffic consultant, that the speed limit on Route 1 southbound of the current entrance to the Water District property should be reduced by 10 mph so that the traffic speed is consistent with the speed limit northbound of the entrance, and that the applicant and the City should both request that MDOT approve a reduction in speed limit. The Board also recognized her recommendation that Nordic regularly mow vegetation near the entrance to maintain sight distance.

Continuing, Nordic, in its Final Site Plan application, as requested by the Board, examined potential adjustments in the lay-out of the entrance to the site to enhance truck traffic movements entering and exiting the site and visibility from the entrance. Based on information presented by Nordic, the Board determined that only minimal changes to the regrading of the bank on the southerly side of the entrance would be needed at the main site entrance.

The Board based its findings on its review of the Site Plan application submitted by Nordic (reference Attachment 17), particularly the Traffic Study prepared by Diane Morabito, its consideration of information presented to the Board by Nordic representatives at the Board meeting of January 15, 2020, and its consideration of public comment on traffic concerns from both Parties-in-Interest and the general public at the public hearing it conducted at its meeting of January 15, 2020. Further, the Board reviewed and discussed traffic issues at meetings it conducted post the January 15 public hearing, including during review of the Final Site Plan application, and considered information presented by Wayne Marshall, Director, Code and Planning, in making this finding.

Sec. 90-42(b)(6) Sewage waste disposal. The proposed development will provide adequate sewage waste disposal in compliance with federal, state and local laws, rules, ordinances and regulations.

Nordic, in its application, stated that at full production (Phase 1 and Phase 2), the Nordic project involves the intake and recirculation of about 3,925 gallons of saltwater per minute and the recirculation, the use of about 800 – 1200 gallons of freshwater per minute, and the subsequent discharge of said waters to Belfast Bay, a total of about 7,700,000 gallons per day. This discharge will occur in off-shore waters (beyond the inter-tidal zone) that are subject to Department of Environmental Protection (DEP) and Army Corps of Engineers (ACOE) permitting authority. The Board specifically noted that the City does not have jurisdictional authority through Chapter 82, Shoreland, to regulate activities that are not in the intertidal zone.

The Board of Environmental Protection (BEP) considered the Nordic permits for a MPDES and Wastewater Discharge License through the DEP. The BEP conducted a public participatory process regarding this Permit application. On November 19, 2020, the BEP unanimously voted to issue the required MPDES Permit to Nordic. The Belfast Planning Board, during its review of the Nordic Final Site Plan application, reviewed the BEP Findings and Conditions for the MPDES Permit, and requested that Mandy Olver, Olver Associates, review this information on behalf of the Board. The Board, based on Ms. Olver's comments and its review of the DEP Permits, found that DEP will institute appropriate measures to regulate Nordic's disposal of wastewater to offshore waters. The City, in this Site Plan Permit, established Condition of Approval 8 that requires Nordic to comply with all terms of all State and Federal Permits to perform activities under the City Site Plan Permit.

The Board also noted that the ACOE has yet to act on Nordic Permits for required federal permits associated with the construction of the proposed intake/discharge pipes. As noted above

(Condition 8), Nordic must obtain and comply with terms of all federal Permits to perform activities under the City Site Plan Permit.

The Board, as described in its Findings regarding Site Plan Standard 90-42(7), Municipal Sewage Waste Disposal, found that the Nordic project can provide adequate sewage waste disposal with respect to sewage that will be delivered for treatment at the City Wastewater Treatment Plant.

The Board, found that the Nordic project can provide adequate sewage waste disposal in compliance with federal, state and local laws, rules, ordinances and regulations. In making this finding, the Board considered information in the Nordic application and information presented to the Board by Nordic representatives, and comments submitted by Parties-in-Interest and the general public at several public hearings conducted by the Board.

Sec. 90-42(b)(7) Municipal solid waste and sewage waste disposal. *The proposed development will not cause an unreasonable burden on the city's ability to dispose of solid waste and sewage. If municipal services are to be utilized, a letter from the city indicating current capacity and availability of municipal sewer shall be submitted for the record.*

The Planning Board found that the Nordic project will not cause an unreasonable burden on the City's ability to dispose of solid waste and sewage.

With respect to solid wastes, Nordic will not be utilizing the City transfer station for the disposal of any solid wastes or any construction debris. Nordic, in its application (Attachment 21) and in supplemental information submitted to the Board, identified how it will collect and store wastes on the site, the contractors/firms it will use to dispose of solid wastes, and licensed off-site facilities that will be used for the long-term disposal of wastes. The Board found this information sufficient. The Board, in recognition of the requirements of this standard, established several Conditions of Approval for this Site Plan Permit that address how Nordic will manage solid wastes, including: Condition 14, On-Site Dumpsters; Condition 15, Fish Waste and Wastes Associated with Operation of a Wastewater Treatment Plant; Condition 16, Odor Management; Condition 17, Hazardous Wastes and Management of Hazardous or Special Materials, and Condition 18, Emergency Response Plan.

Nordic, in submitting its application to the City, worked with City officials, including but not limited to the City Wastewater Treatment Plant, Olver Associates (City Engineer), the Public Works Department and the Code and Planning Department to identify the type of wastes from their operations that could be properly treated at the City Wastewater Treatment Facility. The City determined that the only wastes the City would accept are sanitary wastes. Nordic intends to construct a private sewer line that would connect to the existing City system at the intersection of Perkins Road and Route One to deliver its sanitary wastes to the City system. The amount of sanitary wastes is quite low, and the Wastewater Treatment Plant has identified that it has the capacity to accept the identified volume of sanitary wastes. The Public Works Department also has issued a Conditional Road Opening Permit to allow the construction of a portion of the Nordic sewer line in Perkins Road. Nordic will be responsible for the construction and long-

term operation and maintenance of its connection to the City sewer system. Planning Board Condition of Approval 10, Public Sewer, specifically addresses concerns related to wastewater that Nordic can send to the City Wastewater Treatment Plant.

The Planning Board conducted a public hearing on the solid waste issue at its meeting of October 9, 2019, and accepted comment from both Parties-in-Interest and the general public.

Sec. 90-42(b)(8) Aesthetic, cultural and natural values. The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat identified by the state department of inland fisheries and wildlife or the city as rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

The Board found that the Nordic project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or archeological sites. The Board, in making this finding, considered information in the application submitted by Nordic (reference Attachments 27 and 32), presentations by Nordic representatives at the Board meetings of August 26, 2019 and December 18, 2019, comments offered by Parties-in-Interest and the general public at public hearings that the Board conducted at its meetings of August 26, 2019 and December 18, 2019, and its deliberations on the requirements of this standard. The Board specifically noted that the adopted City Comprehensive Plan identified the view of the Little River dam (Reservoir 1) from Route One as an important scenic resource for the City. Nordic, in its initial application submitted to the Board and supplemental information provided for the Board meeting of December 18, 2019, presented an assessment of this scenic corridor conducted by its consultant, SMRT.

The Board, in deliberating on this issue, took particular note of language in the standard; ‘will the proposed development have an undue adverse impact’. As stated by many persons who offered comment to the Board, the project will result in the development of 30 plus acres of land that is now either forested or open fields. The Board, however, noted that land-based aquaculture is identified as a permitted use in the zoning district (Route One South Business Park), and that the City recognized that in allowing this type of activity in this area that there would be significant changes to the existing environment and landscape. Further, the Board recognized that the City has taken proactive steps to provide long-term protection of critical land areas by its intent to purchase about 40 acres of upland located within 250 feet of the lower reservoir; reference the land purchase agreement between the Belfast Water District, Nordic Aquafarms and City of Belfast Agreement, as such has been amended and extended, and Condition of Approval 30, City Purchase of Water District Property Adjacent to the Lower Reservoir in this Permit. The City's purchase will protect most areas located within the Shoreland Zone near the development, about 24 acres in Belfast, and another 16 acres in Northport.

Continuing, the Comprehensive Plan identified the importance of the scenic view of the lower reservoir dam and current Water District offices. Nordic’s application does not propose any changes to the dam and they intend to retain the Water District offices and convert such to a

visitors center. The Board found that the location of Nordic's rearing and production facilities on the site respects this view. The Board also noted that the archaeological assessment performed by Northeast Archaeology Research Center, Inc. dated October 4, 2018 for Nordic did not identify any significant archaeological resources on the site that warranted protection.

This standard also requires that the Board determine if a project will have an undue adverse impact on significant wildlife habitat as determined by the State Department of Inland Fisheries and Wildlife (IF&W). The Board reviewed information in the Nordic application and the significant wildlife habitat maps prepared by IF&W. It also considered comment offered at both an October 16, 2019 and January 8, 2020 public hearings by Parties-in-Interest and the general public, including specific comment offered by Upstream Watch. In its review of the IF&W maps, the Board found that said maps did not identify any significant wildlife habitat areas on the site that Nordic intends to develop. The Board noted that the shoreland area located adjacent to Belfast Bay and the Lower Reservoir, like most of Belfast's coastline, is identified as significant habitat for waterfowl. In considering such, the Board determined that the extent of Nordic's construction activities on the coastline of Belfast Bay would be limited. The Board made an overall finding that the Nordic project would not have an undue adverse impact on significant wildlife habitat as such has been identified by IF&W.

Continuing, this standard requires the Board to make a finding that the Nordic project will not have an undue adverse impact on rare and irreplaceable natural areas as identified by the City, or any public rights for physical and visual access to the shoreline. The City, in its adopted Comprehensive Plan, did not identify the area proposed to be developed by Nordic as a rare and irreplaceable natural area. The Board, during many of the hearings it conducted, received comment from both Parties-in-Interest and the general public regarding the importance of the natural values of the area that Nordic proposes to develop, with numerous references to the area as being 'old-growth' forest. The Board, similar to its Findings with respect to the aesthetics and natural beauty of the area, found that the project will not have an undue adverse impact with respect to these criteria. The Board noted that this area is not identified as a rare and irreplaceable natural area.

The Board again made note of the City's intent to purchase about 40 acres of land adjacent to the lower Reservoir. This area includes part of the Little River Trail, thus the Board found that the City is taking proactive steps to preserve both physical and visual access by the public to the shoreline of the Lower Reservoir. The Board also found that the Nordic project will not have an undue adverse impact on any physical public access rights to the coastline of Belfast Bay that may exist and will have no undue adverse impacts on any visual points of access to the coastline of the Bay.

Sec. 90-42(b)(9) Conformity with city ordinances and plans. The proposed development conforms with the floodplain regulations (chapter 78, article II), the comprehensive plan, the zoning regulations (chapter 102), the shoreland zoning regulations (chapter 82), the subdivision ordinance, and the technical standards (chapter 98).

The Board, at its meeting of August 19, 2019, and as noted in Section 9 of these Findings, determined that the uses proposed by Nordic are permitted uses in the two applicable zoning districts, Route One South Business Park and Residential II, and that the uses similarly are allowed in the General Development and Limited Residential districts of the Shoreland Zone. The Board, in the Zoning Use Permit that it issued on December 22, 2020, and the Shoreland Permit that it issued on December 17, 2020, confirmed the above Findings identified in this Site Plan Permit.

The Board, as part of its review of the Site Plan Permit, determined that the project complies with applicable Chapter 98, Technical Standards requirements. These standards mostly address standards associated with the construction of stormwater facilities, roads, parking and similar improvements. This project is not a subdivision, thus the Subdivision Ordinance does not apply.

The Board noted that the City Council, in April 2018, amended the City Comprehensive Plan to identify that the preferred land use designation for this area was Route One South Business Park. The Route One South Business Park land use area identifies land-based aquaculture as a desired type of use. The Board also noted that the Comprehensive Plan identifies the Little River dam and accompanying reservoir as a significant view corridor in the City. The Planning Board finds that this project will preserve much of this view corridor. Nordic plans to retain the existing Belfast Water District offices and to use the dam impoundment to provide up to 250 gpm of water for their operations. The City will be purchasing and preserving a 250 foot naturally vegetated buffer area adjacent to the Little River (about 24 acres), an approach that will preserve public access to the Little River Trail. The Board also noted that the City will be purchasing 14+ acres on the Northport side of the lower reservoir. The Board, in making this finding, referenced the view assessment prepared by SMRT provided in the Nordic application, as such was amended and presented to the Board. The Planning Board concluded that the Nordic application is consistent with the City Comprehensive Plan.

With respect to the Lower Reservoir Dam, the Board also noted that Nordic has not committed to purchasing the dam when its current option expires in 2 years after its purchase of the Water District properties. The Board determined that any proposal by Nordic to remove the current dam would constitute an amendment to this Site Plan Permit and that such would require the review and approval of the Belfast Planning Board. Board Condition of Approval 28 also addresses potential concerns associated with removal of the lower dam, particularly as such are related to Nordic's use of surface water from the Little River.

Sec. 90-42(b)(10) Financial and technical capacity. The developer has adequate financial and technical ability to develop the project in a manner consistent with state and local performance, environmental and technical standards.

The Planning Board found that Nordic has demonstrated that they have adequate financial ability to develop the project in a manner consistent with state and local performance, environmental and technical standards, subject to Nordic's compliance with Conditions of Approval established by the Planning Board for this Permit and other City Permits. Nordic has estimated that the development of both Phase 1 and Phase 2 will require an investment of about \$500 million.

Nordic has stated their intent to use several methods of financing for project construction, including but not necessarily limited to, raising private equity through shares issued through the parent company, debt/borrowing, and revenues generated from the project (Phase 1 revenues to benefit Phase 2). While Nordic does not currently have specific financing in place for the project, in its application (Attachment 9) Nordic identified how it would raise needed capital and their ability to raise such capital. Nordic representatives also described their approach to project financing and responded to Board questions at the Board meeting of August 5, 2019 and February 5, 2020, the latter of which was attended by Brenda Chandler, Chief Financial Officer, Nordic. The Board conducted a specific public hearing on this issue at its meeting of August 5, 2019 and received comment from both Parties-in-Interest and the general public, and also conducted subsequent hearings at which concerns could be raised regarding Nordic's financial ability.

The Board, in its deliberations regarding financial ability, decided there were two key issues. One, how can the Board ensure that Nordic has sufficient financing prior to the start of any project construction, and two, what is an appropriate performance guarantee for the project. The Board determined that the best approach to address these concerns was to establish specific conditions of approval. Condition of Approval 35, Evidence of Financial Capacity, establishes certain requirements that Nordic must satisfy to provide evidence that they have the financial ability to first construct Phase 1, and secondly to construct Phase 2. This Condition also requires Nordic to pay City costs associated with obtaining contractual services to review Nordic's proposed method to finance the project.

Condition 36, Performance Guarantee for Project Development, in the Site Plan Permit, requires Nordic to provide an Irrevocable Letter of Credit to ensure that the City has adequate funds to complete the construction of certain infrastructure proposed by Nordic, or to restore the area in which the infrastructure is proposed to be constructed, if Nordic fails to complete construction. Condition 36 also establishes a requirement that Nordic establish a performance bond payable to the City regarding the restoration of the area impacted by construction of the intake/discharge pipes if Nordic initiates construction, but ultimately does not secure the land rights to allow installation of the referenced pipes. The Board also notes that it established an additional Performance Guarantee in the City Significant Groundwater Well Permit that requires Nordic to provide funds to the City to help make a property owner whose private well is damaged 'whole' if Nordic fails to follow-through on its obligations to do so.

The Board found that the Conditions of Approval the Board established in this Site Plan Permit provide reasonable and effective safeguards to ensure that Nordic has the financial ability to construct this project, and for the City to use funds provided by Nordic through several City required performance guarantees if Nordic is unable to complete project construction, or if problems arise from the improvements that are constructed.

The Board, considered Nordic's technical ability to construct and operate the proposed project through-out its review of the Nordic project. The Board expressed interest in engaging the services of an independent expert to consider Nordic's technical ability and issues related to the use of RAS technology, but ultimately concluded that Nordic had provided sufficient evidence of their ability to construct and operate the proposed project. Nordic, presented information in its

application (Attachment 29), regarding its Technical Ability, and Nordic representatives described such at an August 19, 2019 Board meeting. Nordic noted its three current RAS system operations and the background and quality of its staff and project/engineering consultants. The Planning Board conducted a public hearing on this issue at its meeting of August 19, 2019. The Board received comment from both Parties-in-Interest and the general public, with one of the most common concerns being the proposed size of the Belfast facility in comparison to other facilities that Nordic operates.

The Board determined that a critical issue regarding technical ability that applies to both project construction and operation will be Nordic's ongoing ability to demonstrate compliance with all regulatory conditions of approval established by state and federal agencies and the City. To address this issue, the Board established provisions in several of its Site Plan Conditions of Approval that require Nordic to pay City costs associated with engaging third-party inspectors to monitor project construction; for example, Condition 12, Electrical Service, Condition 20, Stormwater Management, and Condition 21, Soil and Erosion Control. The Board also established Conditions of Approval in this Site Plan Permit, as well as the Significant Groundwater Permit, to require regular reporting on project operations, including but not necessarily limited to monitoring of groundwater wells, effluent discharge, and the disposal of certain solid wastes. The Board noted that the DEP has established similar provisions in its permits to require Nordic to demonstrate financial ability and to regularly monitor and report on certain construction activities and project operations.

Sec. 90-42(b)(11) Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in 38 M.R.S.A. chapter 3, subchapter I, article 2-B, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

The Board found that the impounded waters at the lower reservoir (reservoir # 1) do not qualify as a great pond (reference City Code of Ordinances, Chapter 66, General Provisions) and that there are no outstanding river segments in Belfast. The Board, however, found that the project site is located entirely within the watershed of the Little River, and that there are several intermittent and perennial streams on the site, as well as wetland areas, most of which are associated with the streams that flow either to the Little River or to Belfast Bay.

The Board found that the proposed development will not adversely affect the quality of the Little River, or unreasonably affect the shoreline of the Little River. Further, the Board found that while Nordic will disturb several on-site streams and permanently alter about 4.6 acres of wetland, the DEP has established Conditions in its NRPA/SLODA Permits to require Nordic to provide both on-site mitigation and financial compensation for the amount of wetland disturbance.

The Board, in making its findings, specifically noted that the City of Belfast has a purchase and sale agreement to acquire about 24 acres of upland in Belfast located within 250 feet of the

reservoir number 1, or nearly all of the shoreline located westerly of the existing Belfast Water District offices. Further, per setback requirements for the Route One South Business Park District, Nordic must retain an additional 50 foot wide buffer zone adjacent to the land that the City will purchase. Thus, this area will be a minimum of 300 feet in depth, and it will remain naturally forested and assist in mitigating the intensity of project construction and maintaining existing surface water quality. In addition, Nordic is installing stormwater management facilities that will assist in maintaining the quantity of existing flows through several streams that are impacted, as well as the quality of the surface water run-off, and is constructing extensive mitigation/restoration improvements on stream 9 that has been adversely impacted by past development activities. The improvements to stream number 9 will benefit water quality in Belfast Bay (stream does not flow to the Little River). The City also is purchasing about 16 acres of land in the Town of Northport adjacent to the Lower Reservoir, however, Nordic is not proposing any construction activities in Northport.

The Board, in making its Findings, noted that none of the on-site wetlands that are proposed to be disturbed on the main Nordic site are located in the Shoreland Zone, and that the DEP and ACOE have greater regulatory authority than the City regarding such wetland impacts. There is a small amount of coastal wetlands in the Ekrote easement area, less than 2,800 square feet, that will incur temporary impacts related to project construction, however, these wetland areas should recover post construction activities. As noted above, the DEP has established Conditions related to the amount of wetland disturbance proposed by Nordic, and determined that the amount of disturbance is acceptable, provided Nordic makes the payment in lieu wetland fee (about \$760,000) and implements restoration/mitigation efforts to on-site streams, as well as adhering to other construction requirements in the DEP Site Plan Permit.

The Planning Board, based on the measures that the City is taking to preserve 40 acres of land adjacent to the Lower Reservoir, and measures that the DEP is taking to restore on-site wetlands and receive funds to assist in the restoration of other wetlands in the greater Midcoast area, found that the amount of wetland impact is acceptable for this project.

The Board conducted a public hearing on wetland impacts at its meeting of October 16, 2019. The Board considered information in the Nordic application, Attachments 34, Wetland and Stream Surveys, and Attachment 15, Stormwater Management, to assist in its review of this issue and in making its Findings.

Sec. 90-42(b)(12) Groundwater. The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater or any public or private water source.

The Planning Board found that the Nordic project will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater or any public or private water source, provided Nordic conducts project operations as proposed, and provided Nordic complies with all conditions of approval established by the DEP and the City of Belfast. The Board

specifically referenced the Conditions of Approval the Board established for the Significant Groundwater Well Permit that the Board issued for the Nordic project on December 22, 2020.

The Planning Board, in making its finding, considered the following information:

- The Nordic application (Attachment 23);
- Presentations by Nordic representatives at the Board meetings of September 23, 2019 and May 27, 2020, and Nordic's responses to Board discussions at the above meetings, as well as the Board meeting of August 5, 2020, and Board discussions during the review of the Final Site Plan Permit and Significant Groundwater Permit that occurred in October - December 2020;
- A review of the Nordic application, DEP/BEP information, and City Ordinance requirements conducted by Matt Reynolds, P.E., Drumlin Environmental, consultant engaged by the City on behalf of the Planning Board, and presentations that he made to the Board at the Board meetings of September 23, 2019, May 27, 2020, August 5, 2020, and a series of discussions with the Board during its review of the Final Site Plan application for both this Site Plan Permit and the Groundwater Permit in October - December 2020
- A review of the Nordic proposal conducted for the BEP by Dr. John Hopeck, Division of Environmental Assessment, DEP;
- A DEP staff memorandum to the BEP dated May 13, 2020; and
- Comments offered by Parties-in-Interest and the general public at the Board hearing of September 23, 2019, including comments offered by Mike Lannan, Environmental Tech, on behalf of Upstream Watch.

The Board noted that Nordic proposes to use up to 455 gpm of groundwater from 3 on-site production wells that will be installed by Nordic. Nordic plans to use the groundwater wells to provide the main source of freshwater in the rearing of salmon. Nordic also may use up to 250 gpm of surface water from the Little River. The Board noted that the DEP has determined that this level of water use is within the sustainable level of withdrawals from the River. As such, there does not appear to be a strong likelihood that this level of surface water use would adversely affect groundwater levels in the area.

The Board, in conducting its review, noted that the Belfast Water District does not use or rely upon any groundwater or surface water supplies in the area as a public water source, and that many of the surrounding properties on Route 1 and on Perkins Road are served by public water. An area near the site that is served by private wells is Herrick Road.

The main potential concern identified by the Planning Board is that Nordic's extraction of groundwater could have an adverse impact on the quality and/or quantity of groundwater on adjacent private wells. The Board, in the Significant Groundwater Well Permit it adopted on December 22, 2020, established specific conditions of approval that apply to Nordic's of on-site groundwater wells. These conditions address concerns such as but not limited to:

- a) requiring Nordic to conduct an ongoing monitoring program of its groundwater use and its impact on adjacent wells (including active monitoring of off-site wells) and regularly making such monitoring information available to the City and the property owners who participate in the monitoring program;

- b) requiring that Nordic make any property owner whose private well has been adversely impacted by Nordic's use of groundwater 'whole' by measures such as but not necessarily limited to connecting the property to public water, the installation of a water quality treatment system, or the drilling of a new well; and
- c) requiring Nordic to provide a performance guarantee in the initial amount of \$250,000 which the City could use to make a property owner whose well has been adversely impacted 'whole' if Nordic fails to make required improvements.

The Board also considered the issue of saltwater intrusion of a private well. While the Nordic hydrogeologic assessment identified saltwater intrusion as a potential concern in a limited area near Route One, the Board noted that properties in this area are connected to public water, thus, there is limited concern with potential adverse impacts to a private well from saltwater intrusion.

Sec. 90-42(b)(13) Flood areas. If the development or any part of it is located in a floodprone area, based on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps and information presented by the applicant, then the developer shall determine the 100-year flood elevation and flood hazard boundaries within the development. All structures in the proposed development must be constructed with their lowest floor, including the basement, at least two feet above the 100-year elevation.

The Planning Board found that Nordic is not proposing to construct any new structures in an area that is identified on the FEMA maps. The existing Belfast Water District offices that Nordic will purchase and use for a future visitors center are located on the edge of the flood zone, Zone A. The Board based its Findings on a review of information in the Nordic application (Attachment 19) and a review of the FEMA maps. There was no public testimony offered at the October 16, 2019 public hearing that the Board conducted on flooding.

The Board, in its Shoreland Permit issued to Nordic on December 17, 2020, established a Condition of Approval that requires Nordic to comply with any and all flood zone requirements (reference Chapter 78, Floods) that may be associated with the renovation or potential expansion of the Belfast Water District offices, and the proposal to convert such offices to a Visitor's Center. The Board, in this Site Plan Permit, reference Condition of Approval 29, established requirements associated with Nordic's use of the Water District offices as a Visitors Center, and potential public safety concerns associated with a failure of the existing dam on the Upper Reservoir of the Little River.

Sec 90-42(b)(14) Freshwater wetlands. All mapped freshwater wetlands within the proposed development shall be identified on plans submitted as part of the application.

The Board found that Nordic, in its application, identified the location of on-site wetlands; reference Attachment 34. The Board, in its review of the Nordic application, is aware that Nordic intends to disturb more than 4.5 acres of freshwater wetlands and a limited amount of coastal wetlands. The DEP considered this amount of impact in the NRPA/SLODA Permit it

issued, and established Conditions of Approval that Nordic must satisfy to address this amount of wetland impact. Further, the Planning Board established Condition of Approval 22, Wetland Alteration and Mitigation, that stipulates that Nordic must demonstrate to the Code and Planning Department that Nordic has obtained DEP authority to make any changes to the NRPA/SLODA Permit it was issued regarding the amount of wetland impact.

Sec. 90-42(b)15) Rivers or streams. Any river or stream within or abutting the proposed development shall be identified on maps submitted as part of the application. For purposes of this section, the terms "river" and "stream" are defined as provided in section 90-1.

The Board found that Nordic, in its application, identified the location of all on-site perennial and intermittent streams; reference Attachment 34.

Sec. 90-42(b)16) Stormwater. The proposed development will provide for adequate stormwater management.

The Board found that the Nordic project will provide for adequate stormwater management. The Board considered the requirements of the Chapter 98, Technical Standards, in its review of this criteria; the Technical Standards identify the regulatory standards for how an applicant must address stormwater concerns. The Board found that Nordic's proposal satisfies the City requirement to have no greater off-site post development increase in stormwater compared to pre-development levels, and that their approach addresses DEP standards regarding maintaining water quality; reference the NRPA/SLODA Permit issued by the DEP.

The Board, in Condition of Approval 20, Stormwater Management, for this Site Plan Permit, established a requirement for third-party inspection during construction of all stormwater improvements, and to require regular monitoring of all stormwater improvements post construction, with all monitoring reports provided to the City.

The Board based its findings on the following: information in the Nordic application (Attachments 15 and 16); presentations by Ransom Consulting (Nordic consultant) to the Board at its meeting of September 4, 2019; and a review of the Nordic application by the City consultant, Mandy Olver, Olver Associates. Ms. Olver also reviewed all stormwater information submitted to the DEP. The Board specifically noted that no public comment was made at the public hearing on stormwater that the Board conducted at its meeting of September 4, 2019, and that no comment was offered at subsequent overall project hearings conducted by the Board.

Sec. 90-42(b)17). Access to direct sunlight for abutting property owner for solar energy system. The Planning Board may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development. The developer shall, on request of

the Planning Board or code enforcement officer, submit development plans which include either one or a combination of the following:

- a. Restrictive covenants.***
- b. Height restrictions.***
- c. Increased setback requirements.***

The Planning Board found that the Nordic project will not have an adverse impact on any abutting property owner's access to direct sunlight. The Board based its finding on its review information in the Nordic application (Attachment 33). The Board noted that the no building on the Nordic site will be located within 100 feet of any building on an abutting property and that most buildings on adjacent properties are located 250 feet or more from where Nordic will be constructing its facilities. Further, the height of the Nordic buildings are not so great as to block access to sunlight. The Board noted that no public comment was offered at the public hearing on this issue that the Board conducted at its meeting of September 26, 2019.

Sec. 90-42(b)(18) Solid waste management. The proposed development will provide for adequate disposal of solid wastes. All solid waste will be disposed of at a licensed disposal facility having adequate capacity to accept the project's waste.

The Planning Board found that Nordic can successfully manage all types of solid wastes generated by their proposed operation, and that Nordic can maintain safe and healthful conditions. The Board conducted a public hearing on the management of solid wastes at its meeting of October 9, 2019, and deliberated on this issue at its meetings in May 2020, and during Board review of Nordic's Final Site Plan application that occurred in October - December 2020. The Board, in conducting its deliberations, particularly made note of public concerns raised regarding the collection and disposal of fish wastes. Nordic Aquafarms presented information to the Board (information in addition to that included in Attachment 21 of their application) to demonstrate that it can secure contractual services from experienced companies to safely and effectively dispose of solid wastes generated on the site, as well as potential wastes associated with typical fish die-offs and a catastrophic fish die-off.

The Board recognized that the Nordic project will routinely generate a significant amount of waste that requires off-site disposal, and that Nordic's operations could result in a significant event, such as a fish die-off that results in specific one-time waste disposal concerns. The Board determined that the best way to address waste generation and disposal activities was to establish specific Conditions of Approval that Nordic must satisfy. The Board established the following specific Conditions in its Site Plan Permit:

- a) Condition 14. On-Site Dumpsters. Regulates the location of on-site dumpsters, how such must be screened, and the type of wastes that can be collected in such dumpsters.
- b) Condition 15. Fish Waste and Wastes Associated with Operation of a Wastewater Treatment Plant. Identifies standards for the collection and disposal of these wastes.
- c) Condition 16. Odor Management. Establishes standards regarding the regulation/management of odors, some of which may be associated with the management of waste materials.

- d) Condition 17. Hazardous Wastes and Management of Hazardous of Special Materials. Identifies standards for the handling of Special Wastes.
- e) Condition 18. Emergency Response Plan. Identifies the requirement for Nordic to prepare an emergency response plan for catastrophic events such as fish die-offs, a requirement to implement the plan if an event occurs, and to report to the Code and Planning Department regarding how Nordic managed the event.

The Board found that the Conditions of Approval it established should ensure Nordic compliance with requirements of Section 90-42(b)(18).

Sec. 90-42(b)(19) Exterior lighting. The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours if such use is contemplated. All exterior lighting will be designed and shielded to avoid undue glare and adverse impact on neighboring properties and rights-of-way.

The Belfast Planning Board found that the exterior lighting that will be installed on the Nordic site is adequate for their use of the site and that said lighting will not cause undue glare and adverse impact on neighboring properties or any rights-of-way. The Board based its finding on its review of information in the Nordic application (Attachment 18). The Board noted that all light poles will be in the range of 16 feet to 20 feet in height, and that Nordic will use a system to manage (dim) the amount of light output at appropriate hours of the day. The Board also noted that there are only 7 residential houses located within 300 feet (and only 1 that is within 150 feet) of any building that will be constructed on the Nordic property, and that only one building on the Nordic property, the Wastewater Treatment facility, will be located within 150 feet of any public right-of-way.

The Planning Board, in this Site Plan Permit, established Condition of Approval 25 that requires Nordic to comply with the site lighting plan identified in its application, and measures that Nordic should implement to manage the amount of light on adjacent properties, roads, and the surrounding night sky. There was no public comment offered to the Board regarding site lighting issues.

Sec. 90-42(b)(20) Buffering of adjacent uses. The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.

The Board found that the initial Preliminary Plan application and supplemental information submitted by Nordic during the Board's review of that application substantially provide for the buffering of adjacent uses where the Nordic project will abut several residential uses on Perkins Road and near the Nordic Water Treatment facility that is adjacent to Route One.

The Board, in its May 2020 review and deliberations on the Nordic application, requested that Nordic submit additional information in its Final Plan application regarding the amount, type, and size of tree species and understory plantings that would be planted along the lot lines that it shares with several residences on Perkins Road, and more definitively identify when replanting will occur during the construction process. Nordic submitted this information in its Final Site Plan application and the Board considered such during its review of the Final application, and found this updated information acceptable.

The Board also requested that Nordic, in its Final Plan application, better identify the species of replacement trees that will be planted near the new Wastewater Treatment building and Route One to satisfy planting requirements for that buffer yard. The main issue is the number of existing trees that will be removed during construction of the temporary bypass road and the need for replacement plantings to restore the existing tree-line in this area. The Board reviewed the updated plans submitted by Nordic for its Final Site Plan application and found such acceptable.

The Board determined the best way to ensure Nordic complies with buffering requirements is to establish specific conditions in the Nordic Site Plan Permit. Condition of Approval 26 identifies specific standards that Nordic must satisfy regarding the size of the bufferyard, plantings that must occur in specific bufferyard areas, and that requests Nordic consider working with several private property owners on Perkins Road, if requested, to plant additional plantings on their private properties in an effort to increase the amount of buffering/screening.

The Board, in its review of the Nordic application, found that Nordic is complying with City requirements regarding the minimum amount of bufferyard, reference Sec. 102-684c)(1) and all structure setbacks from lot lines, reference Sec. 102-684(b)(2) established for the Route One South Business Park zoning district. The Board noted that most of the Nordic lot line that directly abuts several residential properties on Perkins Road now consists of open fields and intermittent trees, and that Nordic, in its application, is proposing to plant new trees to create a buffer as required in City Ordinances.

In its overall assessment of the amount of bufferyard, the Board noted that the City of Belfast has an Agreement to purchase a 250 foot wide forested strip of land, nearly 24 acres, that will serve as a buffer between the Nordic development and the Lower Reservoir, an area that includes the Little River Trail. The Board also determined that the Nordic application complies with buffering/landscaping standards identified in the Chapter 98 Technical Standards regarding the screening of parking areas; reference 98-249(1).

The Board based its Findings on the following: information in the Nordic application (Attachment 28) and supplemental information submitted by Nordic; presentations by Nordic representatives at the Board meetings of August 26, 2019, December 18, 2019 and September 30, 2020; the review of the Nordic plans by Wayne Marshall, Director of Code and Planning and his assessment of City standards; and comment provided by Parties-in-Interest and the general public at the public hearing conducted by the Board at its meeting of August 26, 2019, and at the Final Site Plan Public Hearing on October 7, 2020. The two main issues raised at the public

hearing were the amount of bufferyard plantings adjacent to residential properties on Perkins Road and the amount of bufferyard plantings on Route One.

Sec. 90-42(b)(21) Noise. The development will control noise levels such that it will not create unreasonable interference with use and enjoyment of neighboring properties.

The Board found that Nordic has demonstrated the ability to successfully manage noise levels associated with the operation of the Nordic facility. The Board specifically noted that no regular operations are projected to exceed noise levels identified in the Chapter 102, Zoning, Article IX, Division 2, Environmental Standards that govern noise levels associated with any activities in the Route One South Business Park zoning district. The Board also noted that noise is an activity that is subject to DEP regulation, and that DEP noise regulations generally are stricter than the City noise standards.

The Planning Board conducted a public hearing on this issue at its meeting of October 9, 2012. An issue that was raised at the hearing was the amount of noise associated with project construction. The City typically applies its Noise standard to operational concerns for a project, and not to construction activities. The Board also made note that the City Code of Ordinances, Chapter 34, Noise and Public Conduct Ordinance, identifies that construction activities are generally exempt from the amount of noise generated between the hours of 5:00 am and 10:00 pm. Further, the Noise and Public Conduct Ordinance identifies City 'police powers', and is not a standard that is enforced through the Zoning Ordinance.

The Planning Board, based on issues identified during its review of the Nordic Preliminary Site Plan application, decided to impose Condition of Approval 19, Noise, in the Final Site Plan Permit. This Condition generally establishes stricter requirements to manage the amount of noise associated with project construction activities than are allowed pursuant to Chapter 34, City Noise and Public Conduct Ordinance. The Planning Board opted to implement standard DEP noise requirements regarding project construction and project operations. Condition 19 also identifies some exemptions to this standard. The Board Condition also allows certain construction activities that occur wholly within an enclosed building to occur outside these construction windows.

Sec. 90-42(b)(22) Storage of materials.

a. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening, such as a stockade fence or a dense evergreen hedge, to provide a visual buffer sufficient to screen the proposed use from abutting residential uses and users of public streets.

- b. All dumpsters or similar large collection receptacles for trash or other waste shall be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it shall be screened by fencing or landscaping.***
- c. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition.***

The Board found that the Nordic project complies with City requirements regarding the outside storage of materials and containers such as dumpsters. The Board specifically noted that all dumpsters will be located in areas that are not visible from neighboring properties and that Nordic will provide screening if the Code Enforcement Officer deems that screening is required to comply with Chapter 98 and Chapter 102 requirements; reference Condition of Approval 14. The Board also noted that this is an industrial site and that outside storage at industrial sites is not prohibited.

The Board based its findings on the following: information in the Nordic application (Attachment 20, Project Drawings); information provided by Nordic representatives to the Board; and information provided by Wayne Marshall, Director, Code and Planning, regarding City requirements. The Board did not conduct a specific hearing on the overall issue of outside storage, however, it did conduct a public hearing on solid waste management at its meeting of October 9, 2019, and conducted public hearings on January 8 and 15, 2020 on the overall project application, as well as on the Final Site Plan application on October 7 and 8, 2020.

Sec. 90-42(b)(23) Landscaping. The development plan will provide for landscaping that breaks up parking areas, softens the appearance of the development and protects abutting properties from any significant adverse impacts of the development. (See chapter 98 for standards for landscaping parking lots.)

The Board found that the Preliminary Plans and supplemental information submitted by Nordic in the Final Site Plan application provide appropriate amounts of landscaping where the Nordic project will abut several residential uses on Perkins Road and near the Nordic Water Treatment facility that is adjacent to Route One (Also reference Board Finding on 90-42(b)(20). The landscaping provided also serves to ‘break-up’ and screen the parking areas on the site.

The Board, in its review of the Nordic application, found that Nordic is complying with City requirements regarding the minimum amount of bufferyard, reference Sec. 102-684c)(1) and all structure setbacks from lot lines, reference Sec. 102-684(b)(2) established for the Route One South Business Park zoning district. Specific findings include:

- a) The Board noted that most of the Nordic lot line that directly abuts several residential properties on Perkins Road now consists of open fields and intermittent trees, and that Nordic, in its application, is proposing to plant new trees to create a buffer as required in City Ordinances.

- b) The Board determined that Nordic is retaining or planting an adequate number of trees between the new Wastewater Treatment building and Route One to satisfy planting requirements for that buffer yard. Nordic also is planting landscaping on the site to soften the overall appearance of the buildings and to enhance the aesthetics of the property
- c) The Board determined that the Nordic application complies with landscaping standards in the Chapter 98 Technical Standards regarding the screening of parking areas; reference 98-249(1).
- d) The Board noted that the City of Belfast has an Agreement to purchase a 250 foot wide forested strip of land, nearly 24 acres, that will serve as a buffer between the Nordic development and the Lower Reservoir, an area that includes the Little River Trail. This buffer area will help screen development on the property from public view.

The Board established Condition of Approval 26 in this Site Plan Permit that identifies the Board's requirements regarding landscaping.

The Board based its Findings on the following: information in the Nordic application (Attachment 28) and supplemental information submitted by Nordic; presentations by Nordic representatives at the Board meetings of August 26 and December 18, 2019 and in its Final Site Plan application that the Board considered at its meeting of September 30, 2020; the review of the Nordic plans by Wayne Marshall, Director, Code and Planning and his assessment of City standards; and comment provided by Parties-in-Interest and the general public at the public hearing conducted by the Board on August 26, 2019, and at the Final Site Plan hearing on October 7, 2020. The two main issues raised at the August 26 public hearing were the amount of bufferyard plantings/landscaping adjacent to residential properties on Perkins Road and the amount of bufferyard plantings/landscaping on Route One; issues that Nordic addressed in its Final Site Plan submissions to the Board.

Sec. 90-42(b)(24) Buffering of residential uses.

- a. Any lot within the urban compact line as now existing or as from time to time modified of the community that is used for nonresidential or multifamily residential purposes shall have a landscaped buffer on any property line that abuts a residential use or residentially zoned lot. The width of the buffer may vary depending on the treatment of the area. A buffer with dense planting, fencing, or changes in grade may be as little as five feet in width. A buffer with moderate levels of planting should be ten feet to 15 feet in width.***
- b. In all residential settings, the width of the vegetated buffer should be increased to a minimum of 25 feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, or a combination thereof.***

The Board found that the Nordic application complies with this requirement. All of the Nordic site is within the Urban Compact line; the Belfast/Northport town boundary is the urban compact line. The Board specifically noted that this standard, (b), speaks to a vegetated buffer that is a minimum of 25 feet in width. The Route One South Business Park zoning district requires a

minimum structure setback of 50 feet from all lines, and requires that a minimum of 80% of this setback area be a vegetated bufferyard. In short, the Board found that Chapter 102, Zoning standards require a greater setback than identified in Chapter 90, Site Plan, Sec 90-42(b)(24).

The Board, in Condition of Approval 26 in this Final Site Plan Permit, stipulated that Nordic must provide bufferyards that equal that minimum requirements identified above.

The Board based its Findings on the Site Drawings included in the Nordic application and its review of standards in Chapter 90, Site Plan and Chapter 102, Zoning.

Sec. 90-42(b)(25) Location of off-street parking. See chapter 98.

The Planning Board found that Nordic is providing an adequate number of parking spaces for project operations, including handicap spaces, and to satisfy requirements of the Nordic/Water District/City Agreement regarding the sale of Water District property to both Nordic and to the City. This Agreement requires Nordic to provide parking for persons who will use the Little River Trail system. The Board noted that the proposed location of parking spaces were well distributed on the site, that the spaces generally were located in areas with good quality screening, and that the dimensions for the spaces and drive aisles satisfied standards in the Chapter 98 Technical Standards.

The Board established Condition of Approval 24 in the Final Site Plan Permit to address parking requirements that Nordic must satisfy.

Sec. 90-42(b)(26) Hazardous waste. The applicant shall demonstrate compliance with federal and state laws and regulations when hazardous waste is generated or stored on-site.

The Board found that Nordic has submitted adequate information to demonstrate that its operations will be in compliance with federal and state laws and regulations regarding the generation and storage of hazardous waste. The Board noted that Nordic's operations will not result in the generation of hazardous wastes, and that it will properly store any cleaning supplies that could be considered a 'dangerous' (although not hazardous) product.

The Board based its Findings on discussions it conducted with Nordic representatives at public meetings. The Board also adopted Condition of Approval 17, Hazardous Wastes and Management of Hazardous or Special Wastes, in this Site Plan Permit that establishes certain requirements Nordic must comply with regarding the management of any material that could be considered hazardous.

Sec. 90-42(b)(27) Prevention or control of air pollution. No use shall be allowed which creates a substantial risk of air pollution, whether by dust, chemicals, odor or otherwise, which would pose a significant risk of harm to local populations within the city or injury to

wildlife, vegetation or to property, or harm to use and enjoyment or surrounding property. It is not the intent of this provision to merely require compliance with state or federal air quality standards, but rather to enforce a standard which may be more encompassing and strict than those state and federal standards as presently constituted.

The Planning Board noted that the City does not have specific standards to regulate air emissions. Nordic is proposing to operate on-site power generation facilities to provide both emergency power and 'peak-shaving' power. This Nordic proposal required Nordic to obtain a Minor Air Emissions Permit from the DEP, a Permit that the DEP issued on November 19, 2020.

The DEP in its Findings and accompanying Conditions on the Minor Air Emissions Permit identified why it determined that the Nordic project complies with applicable State requirements for a Minor Air Emissions Permit and the specific Conditions that Nordic's operations must satisfy. The Permit established strict limits on the amount of fuel that Nordic could use to operate its on-site generators to qualify as a Minor Emissions Permit. The Planning Board, during its review of the Nordic Final Site Plan application, reviewed and considered requirements in both the DEP draft and final Orders for the Air Emissions Permit. The Board, finding that the DEP had the regulatory authority regarding air emissions, determined that the Nordic application was consistent with requirements of Section 90-42(b)(27). The Board, in making this decision, adopted Condition of Approval 12, Electrical Service, that requires Nordic to comply with standards in the DEP Minor Air Emissions Permit, and to obtain the review and approval of the Belfast Planning Board if Nordic proposes to emit more emissions or generate more power than is permitted in the DEP Permit.

The Board, in Condition of Approval 12, also adopted a provision that requires Nordic to obtain further Board review and approval of its Site Plan Permit if Nordic proposes to construct chimneys that are greater than 70 feet in height.

The Board, in making this Finding, determined that Nordic, in its application, submitted information to address Air Emissions concerns (Attachment 31). Nordic representatives presented information to the Board on air emissions at the Board meeting of December 18, 2019, and the Board conducted a public hearing on this issue at this same meeting. The Board received public comment from Parties-in-Interest and from the general public. Mike Lannan, Environmental Tech, provided specific testimony on behalf of Upstream Watch. Public concerns raised to the Board include but are not necessarily limited to: the height of the chimneys at the Nordic plants that will disburse emissions from the regular and emergency operation of several large generators at the Nordic facility, and the adverse impacts such emissions could have on surrounding properties and the general public.

Sec. 90-42(b)(28) Protection of public health and safety. The proposed development shall provide for safe and healthful conditions. No proposed use may be approved which creates a substantial risk of causing damage to the public health or welfare.

The Planning Board determined that the Nordic project shall provide for safe and healthful conditions and that it will not create a substantial risk of causing damage to the public health or welfare. The Board specifically noted that the Board has either limited authority or no specific regulations to address two of the public health and safety concerns identified by the general public.

One issue cited at the public hearings is potential adverse impacts to the waters of Belfast Bay and thus to area residents and recreational boaters and commercial fishermen who use the Bay regarding the effluent discharge from Nordic's operations to the Bay. As described elsewhere in these Findings, the waters in which effluent will be disbursed is located outside the intertidal zone subject to City Shoreland regulation, and is subject to regulation mostly by the Maine DEP or the ACOE. The Planning Board reviewed the DEP MPDES Permit Findings and Conditions issued by DEP on November 19, 2020 when it approved the MPDES Permit, and found that Nordic's activities would operate within regulatory limits established by the State. The Board also considered the review of the MPDES Permit performed by Mandy Olver, Olver Associates in making this finding.

A second major issue cited at the public hearings were concerns regarding air emissions. As noted in Section 90-42(b)(27) above, the City does not have any specific standards regarding air emissions, and determined that it would be best to use the DEP Minor Emissions Permit awarded to Nordic on November 19, 2020 to regulate air emissions.

Continuing, other public health and safety concerns identified by the Board and or public involved issues such as but not necessarily limited to: Nordic groundwater use, Nordic water use from the Belfast Water District, dam safety, construction traffic, earth removals from the site, and management of solid wastes. The Planning Board, as described in these Findings, and as regulated through the Conditions of Approval the Board has established for the Final Site Plan Permit, has determined that the City has established appropriate conditions/requirements to manage Nordic's construction and operation activities, and that the overall public health and safety will be protected through the enforcement of the above Permit conditions, as well as the enforcement of Conditions in the other Nordic Permits issued by the Planning Board; Shoreland, Significant Groundwater Well, Significant Water Intake/Discharge Pipes, and Zoning Use Permit. The Board referenced the numerous Performance Guarantees that Nordic must satisfy to obtain City Permits, as well as the monitoring and reporting requirements for project construction and operation.

Sec. 90-42(b)(29) Adequacy of waste disposal. The applicant shall clearly demonstrate to the Planning Board that all quantities and types of waste generated by the proposed use can be dealt with and disposed of while maintaining safe and healthful conditions.

The Board considered issues related to the management of all solid wastes and the management of wastewater in its review of this standard. The Board found that Nordic, subject to Permit requirements established by this Board, and/or Permit requirements established by the DEP, has demonstrated that it can manage all types of waste generated by the proposed development and

maintain safe and healthful conditions. The Board, in making this Finding, specifically referenced the numerous Conditions of Approval it has established for this Site Plan Permit and/or other City Planning Board Permits associated with Waste Management. The Board also references its Findings pursuant to Section 90-42(b)(7) and (18).

As identified in the Board response to 90-42(b)(18), although the Nordic project will routinely generate a significant amount of waste that requires off-site disposal, and Nordic's operations could result in a significant problematic event, such as a fish die-off that results in specific one-time waste disposal concerns, the Board has identified specific Conditions of Approval to address these concerns. Conditions in the Site Plan Permit include:

- a) Condition 14. On-Site Dumpsters. Regulates the location of on-site dumpsters, how such must be screened, and the type of wastes that can be collected in such dumpsters.
- b) Condition 15. Fish Waste and Wastes Associated with Operation of a Wastewater Treatment Plant. Identifies standards for the collection and disposal of these wastes.
- c) Condition 16. Odor Management. Establishes standards regarding the regulation and management of odors, some of which may be associated with the management of waste materials.
- d) Condition 17. Hazardous Wastes and Management of Hazardous or Special Materials. Identifies standards for the handling of Special Wastes.
- e) Condition 18. Emergency Response Plan. Identifies the requirement for Nordic to prepare an emergency response plan for catastrophic events such as fish die-offs, a requirement to implement the plan if an event occurs, and to report to the Code and Planning Department regarding how Nordic managed the event.

The Board also notes that the DEP, in its SLODA/NRPA Permit and its MPDES Permit, has often identified similar conditions regarding waste management.

With respect to the management of effluent discharge to Belfast Bay, the Board has found that the DEP MPDES Permit establishes appropriate conditions for the regulation of said activities. And, the Board, pursuant to Condition 10, Public Sewer, of this Site Plan Permit, has established standards to manage sanitary wastes that Nordic will deliver to the City Wastewater Treatment facility.

The Board conducted a public hearing on the management of solid wastes at its meeting of October 9, 2020, and conducted deliberations on this issue at its meetings in May 2020, and during its review of the Nordic Final Site Plan application. The Board, in conducting its deliberations, particularly made note of public concerns raised regarding the collection and disposal of fish wastes. The Board found that it has established Conditions of Approval that address this issue.

Sec. 90-42(b)(30) Additional standards for development that may substantially affect the environment. Additionally, if the proposed development meets the definition of development that may substantially affect the environment, as defined in 38 M.R.S.A. § 481 et seq., then section 484, Standards for Development, chapter 371, Definition of Terms used in the Site Location of Development Law and Regulations, chapter 372, Policies and procedures, chapter 373, Financial Capacity Standard, chapter 374, Traffic Movement Standard, chapter 375, No

Adverse Environmental Effect Standard, chapter 376, Soil Types Standard, and chapter 377, Review of Roads and/or Major Development, and the provisions of section 90-17 shall apply.

The Board noted that certain State standards have changed since this provision was adopted in 1995 by the City in Chapter 90, Site Plan. Specifically, the above referenced State standards no longer consider Traffic Movement (Chapter 374) or Roads and/or Major Developments (Chapter 377). Thus, the Board confined its review to the other State standards referenced in 90-42(b)(30).

With respect to Chapter 373, Financial Capacity, the Board noted that it has adopted a Condition of Approval (reference Condition 35. Evidence of Financial Capacity), that establishes nearly the same provisions identified in Permits issued by the DEP on November 19, 2020 for the Nordic Project. The Board finds that the City has adequately considered issues related to Financial Capacity.

With respect to Chapter 376, Soil Type Standards, the Board notes that the DEP, in its SLODA/NRPA Permit, found that the Nordic project will be constructed on adequate soils. The Planning Board has made a similar finding, and has established Conditions regarding issues related to Soil Erosion and Sedimentation. The Board finds that it has adequately considered issues related to Soils Standards.

With respect to the No Adverse Effect Provisions, Chapter 375, the Board notes that the Nordic project that the DEP/BEP reviewed and approved is identical to the project now before the Belfast Planning Board. The BEP found that the Nordic project would not result in undue adverse effects, subject to Nordic compliance with Conditions established by the DEP. The Planning Board has conditioned its Site Plan Permit (Condition 8) on Nordic compliance with all State and Federal Permit requirements. Thus, the Board has found that if Nordic complies with said Permit requirements, neither the State or Federal government is prepared to make a finding regarding unacceptable adverse effects associated with the Nordic project. The Belfast Planning Board acknowledges the Finding of the BEP, and concludes that the Nordic project will have no unacceptable adverse effects as defined by State regulation, as such has been interpreted by the DEP/BEP.

Lastly, with respect to compliance to Chapter 372, Policies and Procedures, Nordic has obtained all Permits required from the DEP, reference the November 19, 2020 Permits issued to Nordic. Nordic and the DEP complied with State regulatory procedures to obtain the required permits, and Nordic similarly has complied with all City requirements, including Chapter 90, Site Plan requirements, that were initially presented to the City for adoption by the DEP (1995).

The Board, in making its overall Findings on this Section, specifically referenced the numerous Conditions of Approval it has established for this Site Plan Permit and other City Planning Board Permits; Shoreland, Significant Groundwater Well, Significant Water Intake/Discharge Pipe, and Zoning Use. Also, as described through-out these Findings, the Board's Conditions regulate the amount of certain activities that can occur, where, when and how such activities can occur, identify monitoring and reporting requirements with which Nordic must comply, and establish specific performance guarantees that the City can use to address issues associated with

noncompliance. The Board, believes it has fully considered the requirements of all local Ordinances, as well as how said Ordinances interface with State DEP requirements in its consideration and issuance of a City Site Plan Permit.

DECISIONS OF BELFAST PLANNING BOARD

The City of Belfast Planning Board, at its meeting of December 22, 2020 made the following findings and took the following specific actions on the Nordic Final Site Plan Permit application and the overall Nordic Site Plan Permit:

Finding # 1: The Planning Board found that the Board approved Nordic's Preliminary Site Plan application and the accompanying Planning Board Findings of Fact that describe this Board action at its meeting of July 15, 2020. The Board's Findings of Fact are available in the Code and Planning Department offices and on the City website.

Finding # 2: Nordic submitted its Final Site Plan application on August 26, 2020, and the Board initiated its review of the Plan at its meeting of September 30, 2020. The Board was satisfied that Nordic's submissions were consistent with requirements in Section 90-101 and 90-102 of Chapter 90, Site Plan.

Finding # 3: The Board, consistent with requirements of Section 90-45, conducted a duly noticed public hearing on the Final Site Plan application. The Board conducted a public hearing for Parties-in-Interest at its meeting of October 7, 2020, and for the general public at its meeting of October 8, 2020. The public hearings were conducted in accordance with procedures identified in Planning Board Procedural Order 5, an Order that the Board adopted on September 30, 2020.

Board Action # 1: The Board, at its meeting of December 22, 2020, adopted a Motion by a vote of ----- to adopt the Findings of Fact for the Final Site Plan Permit application for Nordic Aquafarms, Inc, that were presented at the Board meeting of December 22, as such were amended at the meeting. Motion by ---- and second by -----.

Board Action # 2: The Board, at its meeting of December 22, 2020, adopted a Motion by a vote of ----- to adopt the Conditions of Approval for the Final Site Plan Permit application for Nordic Aquafarms, Inc, that were presented at the Board meeting of December 22, 2020, as such were amended at the meeting. Motion by ----- and second by -----

Board Action # 3: The Planning Board, consistent with requirements of Section 90-105, at its meeting of December 22, 2020, adopted a motion by a vote of ----- to approve the Final Site Plan Permit application of Nordic Aquafarms, Inc, subject to Nordic's compliance with the Planning Board's adopted Conditions of Approval. Motion by ----- and second by -----.

Board Action # 4: The Board, authorized its Acting Chair on the Nordic application, Declan O'Connor, to sign the Board's Findings of Fact and Conditions of Approval on its behalf.

This action of the Board awards a Site Plan Permit to Nordic Aquafarms.

On behalf of the Belfast Planning Board

Richard (Declan) O'Connor
Acting Chair on Nordic Application

This decision of the Planning Board is subject to an administrative appeal to the City of Belfast Zoning Board of Appeals pursuant to standards identified in the City Code of Ordinances, Chapter 102, Zoning, Article II, Administration, Division 4, Appeals and Variances.

**CITY OF BELFAST PLANNING BOARD
ADOPTED CONDITIONS OF APPROVAL
NORDIC SITE PLAN PERMIT
ADOPTED DECEMBER 22, 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 22, 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 December 22, 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 1 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 Ekrote. 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 Ekrote. 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 Ekrote) 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 Ekrote 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 Ekrote 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 Ekrote 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 Ekrote 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 Ekrote 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.

47. Class V Operator Required.

Nordic shall engage the services of a Class V Operator (as such is identified by the State of Maine) to operate and manage the on-site Water Treatment facility.