

Meeting called to order at 6:08 p.m.

Board Members Present: Tom Emerson, Karen Kalmar, Bob Melanson, Mark Alesse

Members absent: Deborah Driscoll Davis, Susan Tuveson, Ann Grinnell

Staff: Gerry Mylroie, Planner; Chris DiMatteo, Assistant Planner

Chairman Emerson opened the meeting and noted there is a quorum, but four like votes will be needed for approval.

Pledge of Allegiance

Minutes:

Mr. Melanson moved to approve the minutes of January 23, 2014 as amended

Ms. Kalmar seconded

Motion carried unanimously.

Public Comment: There was no public comment.

**ITEM 1 – Rt. 236 Commercial Lot Development— Paolucci Realty –Site/Subdivision Preliminary Plan Review.** Owner and applicant Peter J. Paul Trustee of Paolucci Realty, is requesting consideration of plans to divide an existing commercial lot located at 93 Route 236, thereby creating a second division within 5 years and requiring subdivision review. The 4.1 acre parcel is located on a portion of Tax Map 28, Lot 14, in the Commercial C-2 Zone. Agent is Tom Harmon, Civil Consultants.

Tom Harmon introduced Jay Stevens, Civil Consultants and Peter Paolucci. He explained the owner wished to use the property for wholesale and retail firewood sales in the meantime, prior to further development. They wished to clear and grade the site for this use, and wish to receive preliminary and final plan approval. Mr. Mylroie stated the plan is ready for final approval with conditions if the Board so agrees. Mr. DiMatteo stated both the adjacent residential property will be on the final plan for this project, and vice-versa. Plan review notes were discussed regarding buffers, easements, no-disturb areas, and notes and conditions of approval that will be included on the final plan. Snow storage locations and a note to preserve large trees on the site will be included on the final plan. There are no waiver requests. All changes and conditions recommended in the February 13 plan notes must be included in the final plan.

Mr. Melanson moved to accept the preliminary plan and read the Findings of Fact with conditions as noted for final approval

Mr. Alesse seconded

Motion carried unanimously by all members present

**WHEREAS: Peter J. Paul Trustee of Paolucci Realty Trust, owner and applicant of Route 236 Commercial Lot Subdivision,** proposes to divide an existing commercial lot located at 93 Route 236, thereby creating a second division within 5 years and requiring subdivision review. The 4.1 acre parcel is located on a portion of Tax Map 28, Lot 14, in the Commercial C-2 Zone. Agent is Tom Harmon, Civil Consultants.

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted; and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following (Hereinafter the “Plan”), prepared by Civil Consultant, Inc (or as noted):

1. Application and associated submittal information  
*Town of Kittery Preliminary Subdivision Application for Peter J. Paul Trustee...* Date: 4/18/2013
2. Subdivision Plan Set entitled:  
*Subdivision of Land of Peter J. Paul, Route 236, Kittery, Maine* Date: 4/18/2013
3. Wetland Alteration Application:  
*Memorandum to Kittery Planning Board* Date: 4/29/2013
4. Submitted supplemental information:  
*Subdivision Plan* REV Date: 1/22/2014  
*Site Plan* REV Date: 1/22/2014

NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section 16.10.8.3.4. and as recorded below:

FINDINGS OF FACT

**RED TEXT DENOTES COMMENTS BY CMA**

Action by the board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:
<b>A. Development Conforms to Local Ordinances.</b> <i>The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.</i>
Title 16.3.2.11.D.2 Standards has not been adequately addressed as it pertains to side yards in the Commercial Zones that abut residential use/zone. The Applicant does provide the required 40-foot wide yard (setback), however, the plan shows removal of existing vegetation that would provide a screen/buffer that is likely anticipated by the standard. With revised grading more existing vegetation can be maintained thereby creating a more effective separation between uses. The Board may want to consider applying a no-cut/no disturb buffer to the rear and side yards, with the exception of drainage requirements, since there is proposed a residential use in the residential zone abutting the commercial lots. At a minimum the plan must identify that the side and rear yards are to be maintained as buffers per Town Code Title 16.3.2.11.D.2 Standards for the Commercial Zone and 16.2 Definition of Buffer and <i>No specific uses are defined at this time, and therefore cannot be evaluated with the Zoning, including parking and building, landscaping and other requirements. The lot is in the C-2 Zone and a wide variety of commercial uses are allowable. Maximum allowable building envelopes are defined.</i>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>B. Freshwater Wetlands Identified.</b> <i>All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.</i>
<i>Wetland delineation has been shown on the plan. No wetland filling proposed.</i>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>C. River, Stream or Brook Identified.</b> <i>Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B, Subsection 9.</i>
The standard appears to have been met. <i>Adjacent stream to the property has been identified on the plan.</i>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>D. Water Supply Sufficient.</b> <i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i>

The standard appears to have been met. <b>There is public water in the street.</b>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>E. Municipal Water Supply Available.</b> <i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i>
The standard appears to have been met. <b>There is public water in the street. The Applicant has confirmation from the Water District that there is sufficient capacity to serve both domestic and fire protection purposes.</b>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>F. Sewage Disposal Adequate.</b> <i>The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.</i>
The standard appears to have been met. <b>Individual sewage disposal systems proposed. Applicant has obtained high-intensity soil mapping that indicates soils conducive for moderate sewage use.</b>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>G. Municipal Solid Waste Disposal Available.</b> <i>The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.</i>
The standard appears to have been met. <b>Applicant has stated there are no plans to use municipal solid waste services.</b>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>H. Water Body Quality and Shoreline Protected.</b> <i>Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.</i>
The standard appears to have been met. <b>No wetland filling proposed.</b>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>I. Groundwater Protected.</b> <i>The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.</i>
The standard appears to have been met. <b>Based on that the fact that only clearing and grading of the site is proposed. There is, however, no specific use and development proposed for this plan review, without such detail it is difficult to determine if future commercial development is unlikely to have an adverse effect the quality of groundwater.</b>
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>J. Flood Areas Identified and Development Conditioned.</b> <i>All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.</i>
The standard appears to have been met. The subject property does not lie within the floodplain.
<b>Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</b>
<b>K. Stormwater Managed.</b> <i>Stormwater Managed. The proposed development will provide for adequate stormwater management</i>

<p>The standard appears to have been met. The applicant has submitted information to the Town of Kittery demonstrating compliance with the applicable sections of Kittery’s LUDC. The proposed stormwater management system uses a combination of a swale, level spreaders and a stormwater treatment buffer to treat stormwater on site. The approach appears reasonable and adequate to manage stormwater from the current proposed clearing and grading of the site, however when future commercial development occurs additional measures will need to be undertaken for stormwater management.</p>
<p style="text-align: right;">Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p><b>L. Erosion Controlled.</b> <i>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.</i></p>
<p>The standard appears to have been met. The plan indicates an outline of erosion control practices. A full erosion control plan should be developed in conjunction with a stormwater management plan submitted to the Town for final review.</p>
<p style="text-align: right;">Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p><b>M. Traffic Managed.</b> <i>The proposed development will:</i></p> <ol style="list-style-type: none"><li><i>1. 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</i></li><li><i>2. Provide adequate traffic circulation, both on-site and off-site.</i></li></ol>
<p>Standard appears to be not applicable since there has not been a specific development submitted and the approval will not include a specific use at this time.</p> <ol style="list-style-type: none"><li>The applicant has obtained a driveway permit from Maine DOT.</li><li>Without a specific use(s) proposed for the lots it is difficult to determine if traffic has been managed appropriately.</li><li>The Applicant has provided a letter that describes the anticipated traffic impact associated to the clearing and re-grading of the lots, not the ultimate use.</li><li>The Applicant has accommodated an easement for shared access to the site from Route 236 to the proposed commercial lots.</li><li>The applicant has indicated large sight distances north and south on Rte. 236</li></ol>
<p style="text-align: right;">Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p><b>N. Water and Air Pollution Minimized.</b> <i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i></p> <ol style="list-style-type: none"><li><i>1. Elevation of the land above sea level and its relation to the floodplains;</i></li><li><i>2. Nature of soils and sub-soils and their ability to adequately support waste disposal;</i></li><li><i>3. Slope of the land and its effect on effluents;</i></li><li><i>4. Availability of streams for disposal of effluents;</i></li><li><i>5. Applicable state and local health and water resource rules and regulations; and</i></li><li><i>6. Safe transportation, disposal and storage of hazardous materials.</i></li></ol>
<p>The standard appears to be met.</p> <ol style="list-style-type: none"><li>It does not appear that filling or development is proposed within a 100 year floodplain;</li><li>The Applicant has provided wetland soils information prepared by a soil scientist and Applicant’s agent indicates that the site can support subsurface wastewater disposal systems.</li><li>There are several sloped areas on site outside of the wetlands.</li><li>There is a stream located on site, north of proposed Lot #1. It is not clear from the information submitted that this stream is protected from potential effluent.</li><li>There are no other permits or licenses required. The Applicant is applying for a wetlands alteration with the Town of Kittery.</li><li>Not applicable. The Applicant has stated there are no plans for hazardous materials.</li></ol>
<p style="text-align: right;">Vote of <u>4</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p><b>O. Aesthetic, Cultural and Natural Values Protected.</b></p>

*The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*

Though the site contains a mature stand of trees and understory, there are no identified areas of scenic or natural beauty, historic sites, and significant habitat that would be adversely effected by the proposed commercial development. In lieu of clearing the entire lots for grading, the revised plan limits the disturbance to only the building envelope, thereby allowing for the preservation of more mature trees on site.

**Vote of 4 in favor 0 against 0 abstaining**

**P. Developer Financially and Technically Capable.**

*Developer is financially and technically capable to meet the standards of this section.*

*16.10.8.2.3.A. Before the Planning Board grants approval of a final plan, the applicant must, in an amount and form acceptable to the Town manager, file with the municipal treasurer an instrument to cover the full cost of the required improvements.*

**Vote of 4 in favor 0 against 0 abstaining**

Waivers: None

Conditions: (All conditions must be included on the final plan prior to signature by the Planning Board Chairman)

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan...(Title 16.10.9.1.2)
2. Maine DEP *Best Management Practices* notes for all work associated with site and building renovations to ensure adequate erosion control and slope stabilization shall be included on the plan prior to signature and recording.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer (CEO) determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed. Town Planning Staff will review with the Owner's representative those trees to be removed along the setback line and identify any trees due to their proximity may warrant a change to the proposed site grading.
4. The front yard of Lots 1 and 2 is subject to a public easement to the Town of Kittery for the construction of a paved walkway and associated street trees, furnished and installed by the owner and/or the developer.
5. Any and all development of the lots is prohibited prior to the approval of the Planning Board, with the exception of that development which has already been approved on February 20, 2014. Before operation commences all new businesses are required to submit a Business Use Application for review and approval by the Code Enforcement Officer and Town Planner.
6. Any proposed development other than what is depicted on the plan must receive prior planning board approval.
7. Plan Review Staff comments #1-4 dated February 13, 2014 (as noted in Instructions/Notice to Applicant, #7 in Findings of Fact, February 20, 2014).

The Planning Board authorizes the Planning Board Chairman to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval and notices to applicant.

**NOW THEREFORE** the Kittery Planning Board adopts each of the foregoing Findings, including any waivers granted or conditions as noted.

**Vote of 4 in favor 0 against 0 abstaining**

DATE: February 20, 2014

Instructions/Notice to Applicant:

1. One (1) mylar copy and two (2) paper copies of the recorded Plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. The date of Planning Board approval must be included in the signature block on the final plan.
2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification, and wetland mitigation.
3. Performance Guaranty Conditions. Prior to soil disturbance, the Developer must submit to the Planning Department a Performance Guarantee and/or an escrow account to pay for any required field inspections or improvements. See Title 16.10.8.2.2.
4. State law requires all subdivision plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
5. An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered. See Title 16.6.2.A.
6. This approval by the Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Planning Board Findings of Fact, any Conditions of Approval, and any requirements as set forth in Title 16, Land Use and Development Code of Ordinances.

**ITEM 2 – Estes Bulk Propane Storage/U.S. Route 1 –Preliminary Site Plan Review**

Owner M&T Realty, Applicant Estes Oil & Propane Company, propose a 60,000 gallon bulk propane storage facility at their property south of 506 U.S. Route 1, Tax Map 67, Lot 4, Mixed Use, Residential Rural and Shoreland Overlay zones. Agent is Edward Brake, ATTAR Engineering.

Ed Brake noted this is the fourth review by the Board, and two site walks have been cancelled due to weather conditions, and asked the site walk be waived until final plan review. Mr. Emerson stated the site walk could be conducted prior to final plan approval. Earledean Wells noted concerns of the Conservation Commission:

1. Conflict of interest with Ken Woods as applicant's engineer and as a wetland specialist, and request a Maine Certified Specialist conduct a survey of the entire parcel, specifically for a brook and vernal pool.
2. No snow storage removal plan proposed.
3. Approval will set precedent for other businesses or industries not allowed in this zone.
4. General concern about environmental issues in the area and on the property.

Mr. Brake stated a vernal pool survey was conducted on May 9, 2013 by Mr. Woods and none were found. The ordinance does not require a third party survey be conducted, and Mr. Woods is certified in NH, where Maine does not require certification. Mr. Cuomo conducted the wetlands survey. Snow storage will be included on the final plan. Discussion followed regarding areas of wetland survey and when conducted. Mr. Emerson noted an abutter submitted a letter outlining concerns (Attachment 1).

Ms. Kalmar asked about roadway standards. Mr. DiMatteo explained this is not a street but a driveway accessing the use, though should be built to standards applicable to the proposed use.

Discussion followed regarding identification of the resource protection zone boundaries on the plan; abutters notices; resolution of vernal pool identification on site and potential vernal pools off site. The

Board agreed an independent vernal pool survey must be conducted in April. The Board will decide who must pay for this survey. (Mr. Brake stated, for the record, that he does not feel the applicant should have to pay for another wetland and vernal pool survey) Consideration of mitigating non-protected areas for wetland mitigation; roadway landscaping and vegetation screening and maintenance of existing features; identification of septic test pits on the preliminary plan, and sewer and water lines for future use; final Fire Department and Fire Marshall approval as a condition;

Ms. Kalmar moved to include Mr. Williams' letter into the record

Mr. Alesse seconded

Motion carried unanimously

Mr. Emerson stated this use is a special exception use, *a use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.* He asked the applicant to be prepared to address how the proposed facility meets this definition. He is concerned, and has heard concerns, about the impact on an established business utilized by families and children should there be an accident on the site with the proposed use. A site walk will be scheduled after April 15, during vernal pool season.

Mr. Melanson moved to continue review of the application subject to input the applicant received, the scheduling of a site walk, and an independent study to be considered for the vernal pool.

Ms. Kalmar seconded

Motion carried unanimously

Break

### **ITEM 3 –Town Code Amendment - Title 16.10.9.1.4. Approved Plan Expiration.**

Discuss proposed amendment and make a recommendation to Town Council. Proposed amendment reduces the period of time in which extensions can be granted and modifies the process for extension requests.

Mr. Mylroie summarized the Council's questions and requested changes to the proposed amendments to Title 16. Mr. Emerson requested this be placed before the full Board for a final decision. The definition of 'substantially complete' needs to be reviewed.

Mr. Melanson moved this item continue to the February 27 meeting.

Ms. Kalmar seconded

Motion carried unanimously

### **ITEM 4 –Board Member Items / Discussion**

A. Comprehensive Plan Update - Deferred

B. Quality Improvement Plan for Kittery Shore and Harbors

Board representation is needed at the various Quality Improvement meetings.

Mr. Melanson summarized the status of the QIP for Kittery Shore and Harbors and stated a final draft version should be completed soon. Mr. Mylroie stated once completed the Board would review and make recommendations or acceptance to the Council.

### **ITEM 5 – Town Planner Items:**

Wallingford Square - Minor Plan Change: Parking is impacted due to the change from retail to restaurant use. One additional parking space is needed and is available at the library parking area. If no objection, this can be approved. Michael Landgarten, owner, explained there are 5 unused spaces and one of those spaces will be leased for the time the restaurant will be in existence.

Ms. Kalmar moved to allow the Planner and Code Enforcement Officer review and approve this minor plan change.

Mr. Alesse seconded

Motion carried unanimously

Mr. Melanson and Mr. Emerson suggested these kinds of administrative details should be left with the staff to handle, with the Board dealing with the parking issues in the Foreside on a planning level.

A. Quality Improvement Overlay Zone; Not discussed.

B. Sign Standards and Compliance;

Mr. Mylroie summarized the issues behind revising sign standards and compliance with sign ordinance.

Mr. Emerson stated this issue began several years ago via a former Town Manager and Council. When and how does the Board get involved in developing these standards that are part of the code?

C. Other - Review Board priorities.

Ms. Kalmar moved to adjourn

Mr. Alesse seconded

Motion carried by all members present

The Kittery Planning Board meeting of February 20, 2014 adjourned at 8:20 p.m.

Submitted by Jan Fisk, Recorder, March 3, 2014

ATTACHMENT 1



February 10, 2014

To: Tom Emerson, Chairman, Kittery Planning Board  
Kittery Planning Board Members

Cc: Nancy Colbert Puff, Town Manager  
Gerry Mylroie, Town Planner  
Chris De Matteo, Asst. Town Planner  
Earldean Wells, Chair Conservation Committee

From: Charlie Williams, Owner  
Take Flight Aerial Adventure Park  
506 Route US Rte. 1  
Kittery, Maine 03904

Re: Proposed Estes Bulk Storage/Rte. 1

Dear Mr. Chairman and members of the Planning Board;

I respectfully requested that this letter be read aloud by a member of the Planning Board during the 2/13/14 Planning Board Meeting so that it may be entered into public record.

Upon hearing of the proposed plan to install two 30,000 gallon liquid propane tanks in back of my property my first reaction was that this will be a significant burden and negative impact to my existing business. After meeting with Mr. Estes on my property to discuss his plan a year ago and researching his proposal(s) I have concluded that it will not only be a burden and negative impact on my business but also to the town of Kittery. As an abutter, I am asking that this project be denied. I have outlined specific points into three separate categories.

**Impact on the Town of Kittery:**

- 1) This will be close to if not the largest wet land fill in the Towns' history according to the Chair of the Conservation Committee.
- 2) This proposal creates no new jobs for the town as far as the project has shown.

506 Route 1  
Kittery, Maine 03904  
(207) 429-8838  
[www.takeflightadv.com](http://www.takeflightadv.com)



3) It should be known that other fuel companies are waiting and preparing to open similar businesses in Kittery. They are waiting the approval so they can start their process.

4) Public Works has noted little impact with the number of vehicles entering/exiting the proposed site. However, this number has changed and is still unclear. Public Works should review the proposal with new concrete numbers.

5) Having an established business there since 8/4/12 I must express a concern over what this will do to an already congested section of road. AM and PM rush hour can be very difficult to enter or exit into. Couple with the afternoon sun that blinds drivers headed south during the colder months.

6) There is no plan for a traffic light or turning lane to allow these trucks to safely navigate traffic.

7) There will be an increased potential for a serious motor vehicle accident involving either a small gas truck or a large, 18 wheel, gas truck.

8) To the best of my knowledge there are currently no large liquid propane storage tanks in the town of Kittery. What, if any additional costs will be required by the town to help prepare the town if and when there is a serious accident. Will additional fire department training or certifications be required through Maine FEMA, NFPA. *See attached article A.*

**Impact on my existing business:** Take Flight is an outdoor adventure recreation center that caters to school groups, camps, colleges, church groups, recreation departments, tourists and many other groups. We promote healthy outdoor physical fitness with a deep appreciation and acknowledgement of the surrounding natural environment.

1) If this proposal is approved the amount of dust and dirt during construction will impact the air quality and deter guests from wanting to visit our business.

2) The amount of dust will settle on my climbing structures and platforms will need to be cleaned periodically and be costly. Will Estes' Oil be responsible for paying for this cleaning?



- 3) The aesthetic appeal of the surrounding woods and wetlands will be replaced by a paved road.
- 4) The aesthetic appeal of the surrounding wildlife will be replaced by the sounds and sites of diesel driven trucks going by.
- 5) The proposed development of the rest of the property, as shared with me by Mr. Estes during our meeting last year, will increase the traffic, noise, and reduce the overall aesthetics of the area. *See attached B*
- 6) The impact of any signage placed on property may impact the visual aesthetics of my property. What will the signage if any look like?
- 7) The Kittery Fire Chief noted during his attendance at the Planning Boards public hearing regarding the propane trucks that these trucks crash all the time and because of this they are outfitted with many safety features. He later noted that the propane truck drivers are some of the best. I'm not sure I fully understand why they crash all the time if they have the best drivers. However, being said I will now need to develop a response plan in our operations manual, and train my staff, to address what to do when one of these trucks crashes near my property and we have guests on an activity 35 feet in the air.

\* It should also be noted that as a land owner on record I have yet to be notified in writing via mail by the town of any site walk or public hearing regarding this proposed project.

**General concerns with the project:** It is clear that the Planning Board has raised many questions regarding this project. Some of the questions below may be duplicated with that of the Planning Board.

- 1) Access across the proposed wet land has been attempted twice before by a previous land owner. In my opinion the reasons for denial should be at least reviewed by the Planning Board.
- 2) The company hired to perform the wet land and vernal pools delineation is the same company contracted for the development of the property. Given the amount of restrictions this area has along with sensitive nature of the property I believe it would be prudent if a third



party conducted the wet land and vernal pools assessments and delineations. It appears to be a conflict of interest to have one company do everything.

3) The number of trucks entering and exiting keeps changing. Public works should re-asses with the correct numbers.

4) In the 1/10/14 letter from Kenneth Wood to the Assistant Town Planner it was concluded that on Mr. Woods' observation of the wetlands, no vernal pools were found and no egg masses were found.

a) What methodology was used? Was the Maine State Vernal Pool Assessment Form used? *See attached C*

b) Photos are strongly encouraged during this assessment. Can we view these photos?

c) No egg masses were observed during the May 9<sup>th</sup> visit. Since May 9<sup>th</sup> is just a day prior to the end of the usual time period given to accurately assess vernal pools in this region it would likely be assumed that the eggs had hatched. The assessment period for wood frogs is April 10 through April 25<sup>th</sup>. Salamanders April 20<sup>th</sup> – May 10<sup>th</sup> *see attached D*

d) If the rest of the property was evaluated (beyond the wetlands) can these documents be made public along with the methodology and photos.

e) The difference between wood and tree frogs is somewhat explained by Mr. Wood in the same letter dated 1/10/14. Besides having different Latin names they also have different sounds. Mr. Woods isn't saying we didn't hear one or the other or both but rather they are different. Having him explain this on the site walk in April would have been helpful/educational.

5) There is no information regarding the required sidewalk that needs to be installed. Per 16.3.2.13 section 7 under Traffic and Circulation Standards and Table 1- Chapter 16.6. Article IV There needs to be a sidewalk installed on the site plan that would about the same sidewalk I had to put on my site plan before any approval was given. Given the current revisions of Section 16.8 it appears that this sidewalk needs to be installed also. *see attached E*



6) The Planning Board should verify that all necessary natural features are noted on the site maps for this project. This includes woodland vernal pools near the site (on the property) and a natural spring located approximately 200' from the last bend in the proposed road before the gas tanks. *See attached F (photos).*

7) The current site plans have been modified as noted in the letter from Attar Engineering dated 1/22/14. This plan change would, under the conditions of the Maine Department of Environmental Protection render the current permit invalid until the new changes have been reviewed and approved by the MDEP.

8) Based on the confusion/inconsistency around the numbers given over the last 10 months of how much wetland is being filled in, how long the road is, what is paved and not paved it would seem prudent for the town to request CMA Engineers to actually assess how much is being filled in and does it coincide with the current site maps and application sent in to the MDEP by the applicant.

9) Noted in a previous meeting the Kittery Fire Chief said he had no concern over the current plans for this project. He noted that the tanks are equipped with warning alarms if something goes wrong. Given the proximity of these tanks on the property can the alarm system be explained? Having contacted other towns that currently have large storage tanks it was reported that they do not have any alarm type system but rather Maine FEMA requires an extra strong odor be added to the propane and that smell is then reported. This is a concern given the location of the tanks.

10) There are numerous other concerns outlined in the supplemental packed that I assume the Planning Board will address.

Respectfully,

A handwritten signature in black ink, appearing to read "Charlie Williams".

Charlie Williams, Owner  
Take Flight Aerial Adventure Course

# GAS PAINS on I-293

12/19/13  
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A propane tanker jackknifed and slid off Interstate 293 north Wednesday morning, shutting down the highway for the rest of the day while crews unloaded the tank and removed the damaged truck. The entire highway reopened just after 8 p.m.

THOMAS ROY/UNION LEADER

## Jackknifed propane tanker closes I-293 to traffic for hours in aftermath

By PAUL FEELY  
and PAT GROSSMITH  
New Hampshire Union Leader

MANCHESTER — A tanker transporting 9,000 gallons of propane overturned on Interstate 293 North early Wednesday morning, forcing the closure of both sides of the busy highway for almost five hours and the evacuation of buildings near the accident scene.

Crews from 15 state and local agencies were involved in getting the tanker back on its wheels and removing the propane.

"This was a very complicated process, involving many different agencies and departments," said District Fire Chief Michael Gamache. "But the vehicle was uprighted, the propane transferred, no injuries were reported and residents are back home."



Traffic on I-293 is backed up shortly after the accident. Later, the road was shut down in both directions and traffic rerouted; nearby residents on Front Street were told to leave their residences as a precaution.

THOMAS ROY/UNION LEADER

► See Propane, Page A3

From Page One

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## Propane

Continued from Page A1

The tanker tipped over and became stuck in a snow bank just before 6 a.m. Wednesday north of Exit 7 near the Amoskeag traffic circle, city Police Lt. Maureen Tessier said.

State police said the driver of the truck lost control, hit a passenger vehicle and jackknifed. Gamache said he was unaware of any injuries.

Initially, one southbound lane of travel was shut down as workers prepared to remove the propane from the truck. Bill Boynton, public information officer for the state Department of Transportation, said the stretch of highway from Exit 7, after the Amoskeag traffic circle, to the split with Interstate 93 was closed at 11:30 a.m.

Southbound lanes of I-293 were opened to traffic just be-

fore 5 p.m. Wednesday, while the left lane on the northbound side between exits 6 and 7 opened around 6:30 p.m., though the right lane remained closed.

While the tanker was intact and no leaks were detected, fire officials requested an emergency evacuation of the nearby Stonyview Way Condominium complex at 1760 Front Street, as well as two homes north of the accident scene, due to the explosive nature of the cargo.

"The evacuation was ordered as a precautionary measure as officials assessed the situation to determine the best course of action in removing the disabled tanker safely from the area," Tessier said.

Gamache said fire officials found that a wider evacuation of buildings within a half mile

radius of the accident wasn't necessary.

The William B. Cashin Senior Activity Center at 151 Douglas Street in Manchester was designated as a shelter, though at 2 p.m. Wednesday a receptionist at the front counter of the center said they had not seen any evacuees arrive, and had received a call from fire officials telling them not to expect anyone the rest of the day.

"We determined around mid-afternoon it was safe to let the residents back into their homes," said Gamache. "The danger wasn't completely gone, or we would have opened the highway, but the situation was under control enough to allow them to return."

The propane tanker was righted using wrecker cranes, and placed on a

flatbed truck. Officials then began the process of draining the propane gas, which lasted a little over two hours.

Message boards along the state's highways were used to alert motorists to closures and detours. Route 3A was closed during the operation due to its proximity to the crash. Front Street remained open to traffic.

A second accident involving an overturned propane truck happened about 1 p.m. Wednesday in Bow. No injuries were reported, but the truck brought down live electrical wires on White Rock Hill Road. The cause of the rollover had yet to be determined as of Wednesday evening, but police said slippery road conditions were likely a factor.

*pfeely@newstote.com*  
*pgrossmith@newstote.com*





### Maine State Vernal Pool Assessment Form



**INSTRUCTIONS:** Complete all 3 pages of form as thoroughly as possible. Most fields are required for pool registration.

Observer's Pool ID: \_\_\_\_\_ MDIFW Pool ID: \_\_\_\_\_

#### 1. PRIMARY OBSERVER INFORMATION

- a. Observer name: \_\_\_\_\_
- b. Contact and credentials previously provided?  No (submit Addendum 1)  Yes

#### 2. PROJECT CONTACT INFORMATION

- a. Contact name:  same as observer  other \_\_\_\_\_
- b. Contact and credentials previously provided?  No (submit Addendum 1)  Yes
- c. Project Name: \_\_\_\_\_

**NOTE:** Clear photographs or digital images of a) the pool and b) the indicators (one example of each species egg mass) are required for nonprofessional observers and encouraged for all observers.

#### 3. LANDOWNER CONTACT INFORMATION

- a. Are you the landowner?  Yes  No If no, was landowner permission obtained for survey?  Yes  No
- b. Landowner's contact information (required)  
Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
- c.  Large Projects: check if separate project landowner data file submitted

#### 4. VERNAL POOL LOCATION INFORMATION

a. **Location** Township: \_\_\_\_\_

Brief site directions to the pool (using mapped landmarks):

b. **Mapping Requirements:** At least 2 of the 3 must be submitted (check those submitted):

- USGS topographic map with pool clearly marked.
- Large scale aerial photograph with pool clearly marked.
- GPS data (complete section below).

##### GPS location of vernal pool

Longitude/Easting: \_\_\_\_\_ Latitude/Northing: \_\_\_\_\_

Check Datum:  NAD27  NAD83 / WGS84 Coordinate system: \_\_\_\_\_

Check one:  GIS shapefile

- send to Jason.Czapiga@maine.gov; observer has reviewed shape accuracy (best)

The pool perimeter is delineated by multiple GPS points. (excellent)  
- Include map or spreadsheet with coordinates.

The above GPS point is at the center of the pool. (good)

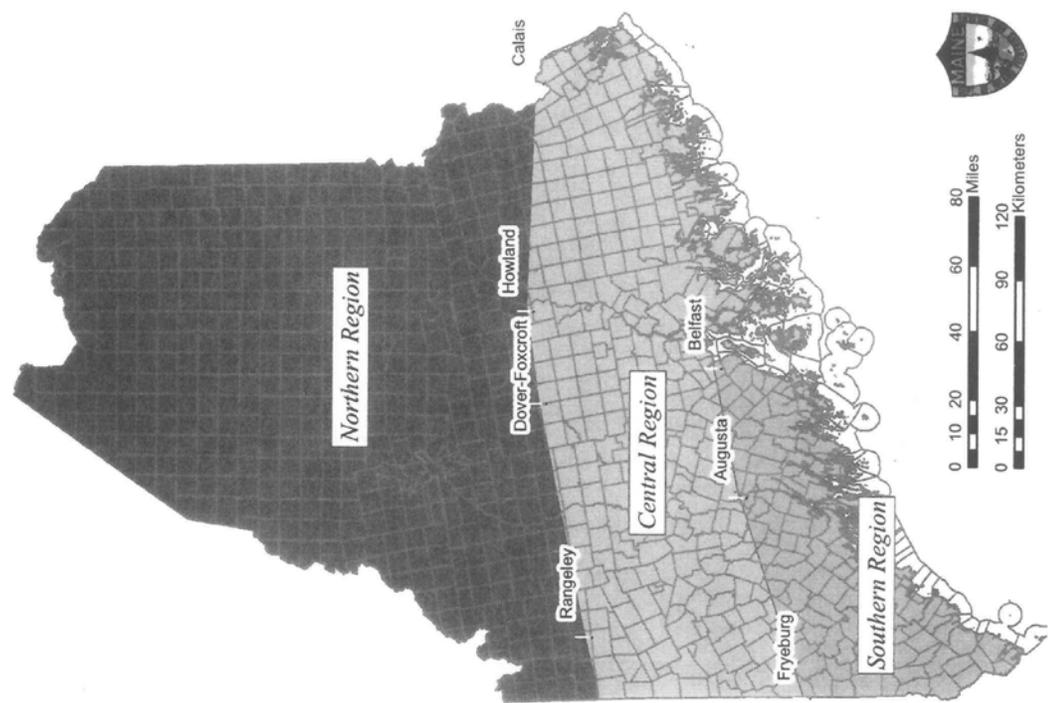
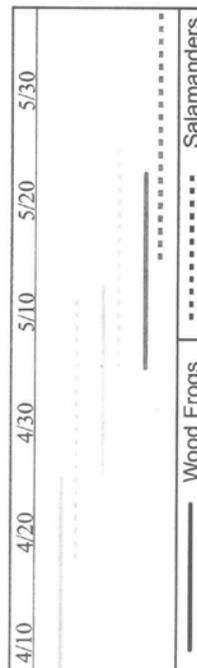
The center of the pool is approximately \_\_\_\_\_ m  /ft  in the compass direction of \_\_\_\_\_ degrees from the above GPS point. (acceptable)

A)

## Recommended Periods for Vernal Pool Egg Mass Survey by Geographic Region

Optimal times for counting egg masses of pool-breeding amphibians vary according to geography, elevation and weather. Egg mass counts are generally best conducted just past the peak breeding period. For wood frogs, this occurs approximately 1 to 2 weeks after full chorus. Salamanders have a more extended breeding period and their eggs do not hatch as quickly as wood frogs. Therefore, surveys to count salamander eggs should be conducted slightly later in the breeding season, generally 2-3 weeks following wood frog egg counts. **These recommendations are only guidelines and conditions may vary annually and locally thus requiring best professional judgment for the optimal timing of egg mass surveys.**

Region	Wood Frogs	Salamanders
■	April 10 - April 25	April 20 - May 10
■	April 25 - May 10	May 5 - May 25
■	May 5 - May 20	May 15 - June 5



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**RECODIFICATION - ORDAINMENT – 07/26/2010**  
(With amendments Ordained 9/26/11; 1/23/12; 5/30/12; 9/24/12; and 3/25/13)

Table 1 - Chapter 16.8, Article IV  
**DESIGN AND CONSTRUCTION STANDARDS FOR STREETS AND PEDESTRIAN WAYS**

Page ONE	PUBLIC STREETS					PRIVATE STREETS			
	Arterial Highways	Secondary Highways	Commercial Light Industrial Mixed Use Developments	Primary Collectors	Secondary Collectors	Minor Streets	Class III	Class II	Class I
Design and Construction Standards	9,001 or more	3,001 to 9,000	ADT and Peak	801 to 3,000	201 to 800	35 to 200	72 to 800	35 to 71	12 to 35
Average Daily Trips (ADT)									
Street Width Design:									
a. Right-of-way				60'	60'	60'		40'	40'
b. Travel Pavement				22'	22'	20'		20'	18' gravel
c. Sidewalk/Pedestrian way				6'	6'	5'		5'	5'
d. Paved Shoulder				2' walk side 8' opp. Side	2' walk side 8' opp. Side	2' walk side 8' opp. Side	Same standards as public streets (Primary collectors, secondary collectors, and minor streets) based on average daily trips count (ADT) calculated from the latest edition of the ITE Codes.	N/A	N/A
e. Gravel Shoulder				2' opp. Side	2' opp. Side	2' opp. Side		both sides	N/A
f. Enclosed Drainage				sidewalk side	sidewalk side	not required		N/A	N/A
g. Parking				one side	emergency	emergency		emergency	No
Street Gradients:									
a. Longitudinal (Min. to Max)				.05% to 6%	.05% to 7%	.05% to 8%		.05% to 9%	1.0% to 10%
b. Slide Slope (horiz. to vert.)				3 to 1	3 to 1	3 to 1		2 to 1	2 to 1
c. Road Crown				1/4" per ft	1/4" per ft	1/4" per ft		1/4" to 1/2" per ft	1/4" to 1/2" per ft
Cut-de-sac:									
a. Street Length to Radius				N/A	1,500'	1,200'		600'	400'
b. Boundary Radius				N/A	65'	60'		50'	50' or 40' X 40' turn tee
c. Paved Radius				N/A	50'	50'		40'	gravel 40' or 18' X 18'
d. Second Access				Yes	Yes: can be emergency only	Not desirable		Not Allowed	Not Allowed





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