

## Proposed Revisions for Town Council Final Draft Zoning Ordinance

Page Numbers and Sections are based on 7/10/17 Town Council Adoption Public Hearing Draft Ordinance. **Bolded text denotes recommended revisions within document.**

<b>ZORC Recommendations based on Town Council Input and Staff-Based Revisions Since 3/14/17</b>				
<b>Page #</b>	<b>Section</b>	<b>Title</b>	<b>Comment</b>	<b>Recommendation</b>
1-8	1.6.3.C.	Nonconforming Use Expansions	Do not allow nonconforming use expansions	<i>ZORC recommends leaving this subsection as is, allowing for no more than 1,000 square feet of expansion over a five-year period.</i>
<b>1-18 &amp; 1-30</b>	<b>1.7.2</b>	<b>Definitions</b>	<b>Revise “College” and “School” definitions to clearly include outdoor accessory uses for both primary uses.</b>	<b><i>Revised definitions to consider each as an institution, not a building an included outdoor-based facilities as part of each definition as has been the Town’s interpretation of current definitions.</i></b>
1-30	1.7.2	Definitions	Delete “salt meadow” definition since not used in zoning ordinance. Don’t need multiple terms for a “Salt Marsh,” also defined.	<i>Staff recommends keeping both definitions pending the post adoption SPO review. Both terms are presently used in ordinance. Leave as is.</i>

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Page #	Section	Title	Comment	Recommendation
Various	See listing of revised subsections	Shoreland Protection Overlay (SPO) District	DEP Review	<p><i>DEP informal review comments/suggested revisions in separate document. Substantive revisions are within the following Subsections:</i></p> <p><i>1.6.2.A (Definition of a Single Nonconforming Lot)</i></p> <p><i>1.6.2.E (1), (2) and (4) (Development and Use of Contiguous Nonconforming Lots in Common Ownership)</i></p> <p><i>1.6.2.F (1) and (2) (Development and Use of Contiguous Lots in Common Ownership, Only One Lot Nonconforming)</i></p> <p><i>1.6.3 (Nonconforming Uses)</i></p> <p><i>1.6.4 (Nonconforming Structures)</i></p> <p><i>1.7 (Definitions – Driveway; Native; Recreational Vehicle; Road; Shore Frontage; Structure, Increase in Nonconformity; Trails;)</i></p> <p><i>2.3.3C(1),(2),(8),(9),(11),(12),(14),(16), (17),(27) (Additional Requirements for the SPO District)</i></p> <p><i>Table 5.2.9.B (Development Review Threshold Criteria): Deleted Forest Management Activities as handled through State; Added clarifications for principal and accessory structures, and residential conversions within SPO; Added thresholds for Trails, Essential Services and Private Sewage Disposal Systems.</i></p>
2-19	2.3.3.C(7)	Shoreland Protection Overlay (SPO) District	Beach construction is highly unlikely to happen in Brunswick. Would require significant ACOE and MDEP permitting. Do we really need this in ordinance?	<i>Removed provision.</i>
2-29	2.3.3.C(15)d	Shoreland Protection Overlay (SPO) District	Adverse effects on fisheries – this standard should have to be reviewed/approved by Marine Resource Officer.	<i>Revised as follows: “The structure or activity shall be located so as to minimize adverse effects on fisheries <u>as determined by the Marine Resource Officer or designee.</u>”</i>

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2-34	2.3.3.C(23)	SPO – Archaeological Sites	Reference information provided to the Town by MHPC regarding areas of interest as referenced in 4.3.9.	<i>Revised to begin subsection: “<u>In accordance with Subsection 4.3.9 (Historic and Archeological Resources), ...”</u></i>												
2-46	2.3.5.C(1)b.v	Wildlife Protection Overlay – Applicability and Exempt Activities	Clarify exemption of permanent clearings to be one per project.	<i>Since this exemption only refers to wildlife corridors, ZORC recommends no change.</i>												
2-56	2.3.8.D(11)	Telecommunications Overlay (TCO) District-Lighting	Design lighting to minimize bird impacts	<i>Recommendation: Include comment as part of post adoption lighting revision (Section 4.10).</i>												
3-2 & 3-5	Tables 3.2 & 3.3	Permitted Uses in Growth and Rural Districts	Treat Religious Institutions same as Clubs/Lodges, Community Centers	<i>Reviewed all Districts. No revisions necessary within Table 3.2. Revised Table 3.3 as follows:</i>												
				<table border="1"> <thead> <tr> <th>Zoning District</th> <th>Clubs/Lodges</th> <th>Community Centers</th> <th>Religious Institutions</th> </tr> </thead> <tbody> <tr> <td>RP1</td> <td><del>PC</del></td> <td>X</td> <td>C</td> </tr> <tr> <td>RM</td> <td>P</td> <td>P</td> <td><del>CP</del></td> </tr> </tbody> </table>	Zoning District	Clubs/Lodges	Community Centers	Religious Institutions	RP1	<del>PC</del>	X	C	RM	P	P	<del>CP</del>
				Zoning District	Clubs/Lodges	Community Centers	Religious Institutions									
RP1	<del>PC</del>	X	C													
RM	P	P	<del>CP</del>													
3-4 & 3-7	Tables 3.2 & 3.3	Permitted Temporary Uses in Growth and Rural Districts	Delete Special Events as a temporary use	<i>November 5, 2014 ZORC minutes indicate that Committee did decide to remove Special Events as a use in the draft zoning ordinance. Staff will continue to work with Town Clerks Department to establish separate standards and licensing procedure for Special Events for Council consideration after ordinance adoption. Recommendation: Deleted Special Events as a Temporary Use.</i>												
3-2:3-4	Table 3.2	Permitted Uses in Growth Area	Leave existing CU2 as a separate district due to uses permitted within close proximity to adjacent neighborhoods.	<i>ZORC maintains its recommendation for CU2 to remain combined with CU1 as all developmental restrictions contained in current ordinance are included in draft ordinance. In addition, the extensive no-cut setback of 80-125 feet along neighborhood boundaries was determined to be adequate buffering. Additional comparisons were provided separately.</i>												

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3-2	Table 3.2	Permitted Uses in Growth Area	Allow Small-Scale Telecommunications Towers in GC4 (now CU/TC) and GA (Airport)	<i>Table revised to permit as a conditional use within both districts (radar installations already located in both districts)</i>
3-2	Table 3.2	Permitted Uses in Growth Area	Limit primary use in all GR districts to one and two family homes in preserve neighborhood character. Allow multi-family dwellings by Special Permit in all GR districts.	<i>ZORC is strongly opposed to requiring Special Permits for multi-family dwellings. Such a requirement is inconsistent with growth area policies established by the 2008 Comprehensive Plan. ZORC recommends leaving as is (permitting multi-family dwellings in all GR districts excepting GR2, 3 and 10).</i>
3-3	Table 3.2	Permitted Uses in Growth Districts	Allow offices in the GR7 (Federal Street) District	<i>Currently not permitted and, according to Town Assessor records, only one office is located within GR7. Recommendation: No Change</i>
1-24, 3-3 & 3-10	Table 3.2; 3.4.1.I(2); 1.7.2	Permitted Uses in Growth Districts	Hotel Use not appropriate for GR6 (Northwest Brunswick) District (now TR1)	<i>Currently hotels are a use permitted by Special Permit within the Northwest Brunswick neighborhood (TR1 District) and ZORC proposed to maintain the use as a Conditional Use for smaller-scale lodging establishments. Based on further discussions with neighborhood representatives at the 5/16 ZORC meeting, the following revisions are recommended: a) Allow for "hotels" as a conditional use with a supplemental use standard Subsection 3.4.1.I(2) added requiring such use to be located within an existing VRZ-identified contributing resource allowing up to a 20% structural expansion so long as all dimensional and other ordinance standards are met. b) Revised Section 1.7.2 definition of "hotel" as follows: "A facility that provides sleeping accommodations <u>for compensation by transient guests</u>, with or without a dining room or restaurant, including a Motel, but excluding a Bed and Breakfast, Boarding House and Residence Hall facilities.</i>
3-4	Table 3.2	Permitted Uses in Growth Districts	Include Warehousing/Storage as an Accessory Use in GM6 (Town Center) District	<i>Allow for Warehousing/Storage as an Accessory Use in the GM6 District.</i>

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3-4	Table 3.2	Permitted Uses in Growth Area	Do not allow Warehousing and Storage Use in GC1	<i>Discussion during ZORC meeting with abutting neighbor. Issue was raised concerning a nonconforming structure located within the 125' no-cut setback near Berry and Whittier, now used sporadically for Bowdoin "Lobster Bake" preparation. Included restrictions prohibiting a change of use or expansion for the structure in Subsection 1.6.4.A and B (Nonconforming Structures).</i>
3-4	Table 3.2	Permitted Accessory Uses in Growth Districts	Allow Bed and Breakfast as a permitted accessory use in the GR7 (Federal Street) District	<i>Currently listed as a conditional use which is consistent with similarly residential districts. Recommendation: No Change</i>
3-4	Table 3.2	Permitted Accessory Uses in Growth Districts	Accessory Day Care Uses	<i>Redundant as uses are similarly allowed as Principal Uses. Deleted as accessory uses.</i>
3-5	Table 3.3	Permitted Uses in Rural Districts	Allow Clubs/Lodges only as Conditional Uses in Rural Protection Districts	<i>Presently allowed as a Permitted Use. Recommendation: Allowing Clubs/Lodges only as Conditional Use (see change above).</i>
3-6	Table 3.3	Permitted Uses in Rural Districts	Allow Industry, Artisan Use in Rural Districts	<i>Revised to permit as a Conditional Use in RR, RF, RP1 and 2. Already a Permitted Use in RM District.</i>
3-4, 3-7, 4-38 & 5-31	Tables 3.2 and 3.3, 4.9, Table 4.9.1.A, Table 5.2.9.B	Supplementary Use Standards	Neighborhood impacts for a nonmedical office to a medical office	<i>Included new footnote [2] in Tables 3.2 and 3.3 regarding need for change of use; included development review threshold (Table 5.2.9.B) applicable to a change from a nonmedical to medical office. Parking standards specific to medical offices are included in Section 4.9, Table 4.9.1.A.</i>
3-8	3.4.1.C(3)	Supplementary Use Standards	Residence Hall – density clarification	<i>Revised Subsection to correct omission of current ordinance density calculation standard for "Brunswick Apartments" part of GC2 District.</i>
3-17	3.4.1.U (2)a.iii (D)	Ground Mounted Solar Energy Systems Buffering	Include waiver provisions for buffering requirement for large-scale solar farms	<i>For consistency in applicability of buffer requirements, replaced subsection with reference to Subsection 4.6.4 (Landscaping Buffers).</i>

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<b>Page #</b>	<b>Section</b>	<b>Title</b>	<b>Comment</b>	<b>Recommendation</b>
4-2, 4-3, 4-59 & 4-60	Table 4.2.3; 4.17	Side Yard Setbacks	Consider less restrictive side yard setbacks for "intown" districts	<p><i>The commenter indicated that proposed side yard setbacks should be revised downward to allow for structural renovations on smaller lots. Draft Ordinance already provides for Administrative Adjustments to Dimensional Standards (Section 4.17), with consideration given to specific criteria, by either Staff Review Committee or Planning Board.</i></p> <p><i>ZORC had further discussions at their 5/16 meeting regarding the use of a sliding scale approach to reduce side yard setbacks based on lot width as well as another setback technique based on a ratio of distance from the property line and structure height. After careful consideration, ZORC recommended leaving side and rear yard setbacks as is so as not to reduce yards any further in established neighborhoods other than by approved Administrative Adjustments or Variance requests. Recommendation: No Change</i></p>
Zoning Map; 4-4	RP2 Zoning along New Meadows "Lake" area; Table 4.2.4 (Rural Area Dimensional and Density Standards)	Zoning District boundary and impervious coverage standard	Keep RP2 District along "Lake" area with the utilization of more restrictive RP1 impervious coverage standard.	<b><u>Added new footnote [6] to Table 4.2.4. [6] RP1 impervious coverage standard shall apply for those areas along the New Meadows zoned RP2.</u></b>
4-4 & 4-5	4.2.5.A	Net Site Area Calculation	Include Rare and Endangered Natural Communities. May not need to include sea bird nesting areas.	<p><b><u>a) Included new (6) as follows: "Rare and Endangered Natural Communities as listed and mapped by the Maine Natural Areas Program, including critically imperiled (S1), imperiled (S2), and rare plant communities (S3)."</u></b></p> <p><b><u>b) Renumbered (6) to (7).</u></b></p> <p><b><u>c) Delete inclusion of "seabird nesting islands" (current (6)d).</u></b></p>

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4-8	4.2.5.B (4)f	Accessory Structure Setbacks	Allow lesser setbacks for lower buildings	<i>With the exception of Growth Residential Districts, this subsection allows for reduced rear setbacks for accessory structures less than 15' in height and not occupying more than 10% of the rear setback. Within Growth Residential Districts, accessory structures not exceeding one story may be located up to 3' from a rear or side yard. Principal structures are required to meet district setback requirements. Recommendation: No Change</i>
<b>Zoning Map; 4-10</b>	<b>RP2 Zoning along New Meadows "Lake" area</b>	<b>Zoning District boundary and lot size exception</b>	<b>Keep more restrictive RP1 Zoning District along all of the New Meadows shoreline</b>	<p><i>ZORC recommends leaving as is (RP2 along "Lake" and RP1 south of Route 1), continue to monitor activity and make zoning adjustments as needed. As proposed, the RP2 Zoning District substantially increases lot area per unit requirements (3.5 acres/unit) from current Farm and Forest 3 (2.0 acres/unit).</i></p> <p><b><i>Added the following language to Subsection 4.2.5.B (10) b: Not withstanding applicable dimensional and density standards, any lot in existence on November 6, 2001, located within the Rural Protection (RP2) District, and having an area of at least three and one-half (3.5) acres but less than seven (7) acres, may be divided into two (2) lots provided neither lot has an area of less than 20,000 square feet. For lots previously zoned Farm and Forest 3, this standard shall apply to those lots in existence as of the effective date of this Ordinance.</i></b></p>

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4-11	4.2.5.C(4)a.iii	Open Space Development-Protected Conservation Land	Use of “ecosystem” not appropriate at project scale. Replace with Rare Natural Community.	Term used in current ordinance. Staff agrees to revision. <b><i>Replaced subsection as follows: “<u>Important habitat, including areas consisting of Endangered or Threatened plants officially listed by the Maine Natural Areas Program; critically imperiled, imperiled, or rare plant communities (S1, S2, or S3) as ranked by the Maine Natural Areas Program; habitat for Endangered or Threatened inland fish and wildlife under Maine’s Endangered Species Act (MESA) or the U.S. Endangered Species Act (ESA); or Endangered and Threatened marine species under Maine’s Marine Endangered Species Act (ESA).</u>”</i></b>
4-11	4.2.5.C(4)	Open Space Development-Protected Conservation Land	Add provision that open space acceptable if buffering important natural features on adjacent properties.	<i>Already addressed by subsection 4.2.5.C(4)a.vii, stating “Areas adjacent to land already protected under one or more of the above categories.”</i>
4-20	4.3.1.B(3)	Mapping of Natural and Historic Areas Requirement	All wetlands under federal, state and local jurisdiction. All should be mapped and shown on plans.	<b><i>Revised subsection as follows: “All <del>freshwater</del> wetlands, regardless of size, and <del>forested wetlands over two acres in size</del> shall be mapped in accordance with the U.S. Army Corps of Engineers Wetland Delineation Manual, and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0). Such maps may be done with the help of the Cumberland County Soil and Water Conservation District.</i></b>
4-20	4.3.2.B(2)d	Pollution	Encouraging the use of streams for effluent disposal?	<b><i>Deleted provision from subsection.</i></b>
4-25	4.5.1.C(5)	Sewage Disposal	HAT = “Highest Annual Tide” not highest average tide. Also, any system within 1 foot elevation above HAT will have problems. Given projections of 3 foot rise in 50 years (conservative) this should be bumped up to at least 1 meter.	<b><i>Deleted “average” and replaced with “annual”. Replaced one foot or more rise in sea level to three feet.</i></b>  <b><i>Staff also recommends engaging in a public stakeholder process after ordinance adoption to consider predicted sea level rise including: maximum warming, thermal expansion, predicted ice sheet loss, and storm surge.</i></b>

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Page #	Section	Title	Comment	Recommendation
4-27	4.5.4.B (8)	Stormwater Management Standards Applicability	Staff recommended clarification	<i>Deleted reference to <u>“off-street parking”</u> and replace with <u>“any additional off-street parking facilities”</u> to clarify applicability intent to review only proposed changes to existing conditions when redeveloping/altering an existing development.</i>
4-33	4.8.1	Street Standards	Shouldn't dead end limits be reflected here?	<i>Standards for Public Streets are referenced to the Brunswick Street Acceptance and Standards Ordinance. Private Street standards are contained in Appendix B. A reference to Appendix B is included in this subsection.</i>
4-37	Table 4.9.1.A	Off-Street Parking	Required parking excessive for marina/boat storage facilities. Recommend .5/boat slip. Check other municipalities.	<i>Replaced with 0.5 spaces per slip instead of .75/boat slip.</i>
4-47 & 4-38	4.12	Neighborhood Protection Standards	Include a compatibility standard relative to traffic	<i>No change at this time recommended.</i>
5-4, 5-8 & 5-52	5.1.3.B (1); 5.2.2.A (2); 5.2.10.B(2)c	Application Notice Provided	Increase abutter notification area from 200' to 300' for Conditional Use and Special Permits	<i>Conditional Uses and Special Permits require review of existing conditions within 300' of affected property. In reviewing this request, staff also noted a different abutter notification area, direct abutters, for minor modifications.  <i>Revised subsection to include a clarifying statement in Subsection 5.1.3.B(1) to reference any varying abutter notifications requirements contained within the specific application section; revise Subsection 5.2.2.A(2), Conditional Use Permit, to provide for 300' abutter notification. No change needed for Minor Modification Subsection 5.2.10.B(2)c as it already addresses abutter notification separately.</i></i>
5-8	5.2.1.B (1)	Change of Use Defined	Keep multi-tenant structures flexibility as stated in current zoning ordinance	<i>Added following sentence at end of paragraph. <u>“For multi-tenant structures, a change in use of any unit to a permitted use or an approved conditional use that is currently located within the structure shall not be considered a Change of Use.”</u></i>

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5-9	5.2.2.B	Conditional Use Criteria	Criteria still subjective. Be more specific.	<i>Revised introductory paragraph as follows, "The following Criteria shall be applied, <del>where applicable,</del> by the Planning Board when considering an application for a Conditional Use permit. The burden of proof of compliance with these standards rests with the applicant.</i>
5-9	5.2.2.B	Conditional Use Criteria	Require consistency with Planning Area goals	<i>Added new criteria (5) as follows, "The application shall further the planning goals of the adopted Town of Brunswick 2008 Comprehensive Plan, as amended, including but not limited to the planning goals for the Planning Area (Appendix A - Planning Areas) in which the property is located."</i>
5-9	5.2.3	Special Permits	Introductory clarification for Subsection	<i>Revised opening paragraph to read: "As permitted within Subsections 5.2.3 and 5.2.4, a use by Special Permit may be permitted by the Planning Board in accordance with the following review process and approval criteria:"</i>
5-44 & 5-45	Table 5.2.9.1	Development Review Time and Processing Requirements	Revise to reflect all notification requirements	<i>Revised to reference Subsection 5.1.3.B, Notification Requirements.</i>
B-1	B.1	Appendix B- Street Standards – Public Dedication of Road Standards	Link with Complete Streets Policy (Appendix G)	<i>Revised Section B.1 as follows: "All streets proposed for public dedication shall be designed and constructed in accordance with Article VI of the Brunswick Code of Ordinances, Street Acceptance and Standards Ordinance, as amended, and the Brunswick Complete Streets Policy, as amended, contained in Appendix G.</i>
F-1	Appendix F	US Navy Land Use Controls/ Map	Include reference to Land Use Controls Implementation Plan and related mapping	<i>Referenced the adopted LUCIP and will have available with zoning ordinance documents on the Department's webpage. Mapping is under revision by the US Navy.</i>
Zoning Map	GC3 District northern boundary	Zoning District boundary	Revise GC3 boundary to reflect Town's newly tax-acquired lands along northern district boundary	<i>ZORC recommends no change. Proposed district boundary follows Bowdoin property lines and is unaffected by new Town holding.</i>
Zoning Map	NW Federal Street	Zoning District boundary	Should revert back to same zoning as rest of Federal Street (from GM6 [Town Center] to GR7 [Federal Street]).	<i>TC1 (now GM6) District boundary was amended to include NW Federal Street by Town Council in 2013. Recommendation: No Change</i>

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Zoning Map	Airport Approach Zones	Runway Protection and Airport Approach Zones	New flight patterns now over Middle Bay residential area	<i>FAA determines airport approach and runway protection zones for type of airport. The airport changed from a military airport to a general aviation airport. Consequently, differences in flight paths and approach/runway protection zones were established by the FAA. Those revised zones/regulations are reflected as overlays on the proposed zoning map and ordinance text. Recommendation: No Change</i>
N/A	N/A	Form-Based Zoning	Add in Form-Based Zoning approaches where appropriate	<i>The "purist" form-based zoning approach was rejected early on with consultant recommendation. ZORC/consultant felt that the outcome of such an approach was achievable through a more innovative approach to traditional zoning and design standards incorporated throughout the ordinance, in particular the downtown area, Cook's Corner and for non-residential structures over 10,000 square feet. Recommendation: No Change</i>
Zoning Map	GM5 District (outer Pleasant Street corridor northern boundary at River Road)	Zoning District boundary	Revise GM5 boundary to include an existing office use located on the west side of River Road (see attached map)	<b>ZORC recommends requested change.</b>
Zoning Map	GI District along Bath Road	Zoning District boundary	Expand GI District boundary westerly north of Bath Road (see attached map)	<b>ZORC recommends requested change.</b>

*Revisions Based Upon Legal Review*

Page #	Section	Title	Comment	Recommendation
1-3	1.6.1.B & C	Nonconformities – General	Clarify whether only applies to Shoreland Protection Overlay (SPO) District	<i>Applies to all properties. Deleted all limitations to SPO District.</i>
1-3 & 1-4	1.6.2.A	Nonconforming Lots Definition	Revise effective date used for lots located in Shoreland Protection Overlay District	<i>Changed effective date from date of Ordinance adoption to June 6, 1994.</i>
1-5	1.6.2.E (1)	Development/ Use of Undeveloped Contiguous Nonconforming Lots in Common Ownership	Revise to address state minimum standards. Add word “undeveloped” in first line.	<i>Revised first sentence of paragraph (1) as follows, “If two (2) or more contiguous <u>undeveloped</u> lots are in common ownership of record at the time of adoption of this Ordinance, if any of these lots do not individually meet the dimensional standards of this Ordinance, <del>and if one (1) or more of the lots is vacant or contains no principal structure,</del> the lots shall be combined to the extent necessary to meet the applicable dimensional standards of this Ordinance.” Revised formatting for consistency.</i>
1-5 & 1-6	1.6.2.E. (3)	Development/ Use of Developed Contiguous Nonconforming Lots in Common Ownership	Revise to address state minimum standards; drop last part of sentence and add “is met.”	<i>Revised paragraph (3) as follows, “If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the effective date of adoption of this Ordinance, if all or part of the lots do not meet the dimensional and density requirements of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the <u>lots are served by public sewer or the State Minimum Lot Size Law (12 M.R.S. Sections 4807-A through 4807-D, as amended) is met.</u> <del>and, if the property is not served by public sewer, that the lot can accommodate a subsurface wastewater sewage disposal system in conformance with the State of Maine Subsurface Wastewater Rules.”</del></i>

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1-7	1.6.2.F (2)	Nonconforming Developed Lot with a Conforming Lot Undeveloped in Common Ownership	<p>Add “may be sold separately” to paragraph.</p> <p>*Please note DEP review stated the need to prohibit sale of lots separately. Revision reflects this comment.</p>	<p><i>Revised paragraph (2) as follows, “A single, developed, nonconforming lot which does not individually meet the dimensional requirements of this Ordinance on which a principal use or structure exists and is contiguous with an undeveloped conforming lot held in common ownership on the effective date of adoption of the Ordinance and is recorded separately in the Cumberland County Registry of Deeds, may continue to be used as if it were a conforming lot, and may not be sold separately, provided that any change or expansion of the existing use or structure shall comply with all applicable dimensional and density standards of the base or overlay district, except lot width or area.”</i></p>
1-8	1.6.3.A	Nonconforming Uses - Continuance	<ol style="list-style-type: none"> <li>1. Revert to current ordinance timing to establish discontinuance of use.</li> <li>2. Address intent to abandon use in standard.</li> </ol>	<p><i>Revised paragraph A. as follows, “A nonconforming use may be continued even though it does not conform to the use standards for the base zoning district (and any overlay district) in which it is located. A nonconforming use that is discontinued, whether or not there was <u>an intent to abandon, for either 12 consecutive months in the last 36 consecutive months or more outside the APO, SPO, FPO, and WPO Districts, or for <del>three (3) consecutive months in the last</del> 12 consecutive months or more within the APO, SPO, FPO, or WPO Districts, may not be re-established except in compliance with the current standards of this Ordinance.”</u></i></p>

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<b>Page #</b>	<b>Section</b>	<b>Title</b>	<b>Comment</b>	<b>Recommendation</b>
1-8	1.6.3.C	Expansion of Nonconforming Uses	Distinguish between inside and outside SPO; revise reference to Special Permit requirement for any nonconforming use expansion if over 1,000 square feet within 5 years.	<i>Revised Subsection C. as follows, “(1) <u>Outside of SPO - A nonconforming use may be expanded throughout the existing structure housing the use. A nonconforming use may also be expanded throughout any expansion of the existing structure allowed by this Ordinance. Any additional expansion of area occupied by the use, whether from expansion of the structure or extension of the use to additional land area, shall be limited to 1,000 square feet over a five-year period; provided that further Additional expansion of a nonconforming use may be allowed through approval of a Special Permit in accordance with Subsection 5.2.3.C (Review of Expansions of Legally Nonconforming <del>Unclassified or Omitted</del> Uses. (2) within SPO – Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the Code Enforcement Officer, be expanded within existing residential structures or within expansions of such structures as allowed in Subsection 1.6.4.B(2).”</u></i>
1-8	1.6.3.D.	Nonconforming Use – Structure Reconstruction	Add “removal.” Be consistent with Subsection 1.6.3.A (Continuance) time frames	<i>Revised paragraph D. as follows, “If a structure housing a nonconforming use is <u>destroyed, removed or damaged</u> by any cause, the nonconforming use may be re-established in the structure if it is restored or reconstructed provided that a Building Permit for the restoration or reconstruction is obtained within <del>five (5)</del> <u>three (3)</u> years after the date of destruction, <u>removal or damage</u>, if the property is located outside the APO, SPO, FPO, and WPO Districts; or within one (1) year of the date of destruction, <u>removal or damage</u>, if the property is located within the APO, SPO, FPO, and WPO districts.”</i>

*Revisions Based Upon Legal Review*

Page #	Section	Title	Comment	Recommendation
1-11	1.6.4.C (1)	Nonconforming Structures – Restoration, Reconstruction or Replacement, Outside SPO	Same comments as above for Subsection 1.6.3.D	<i>Revised paragraph (1) similarly to that which is stated for 1.6.3.D above.</i>
1-17	1.7.2	Definitions	Clarify exclusion of “Boarding Houses” within “Assisted/Congregated Living Facility” definition	<i>Added exclusion in “Assisted/Congregate Living Facilities” definition.</i>
1-18	1.7.2	Definitions	Clarify definition of “Clubs/Lodges” to address physical features	<i>Replaced existing definition with <u>“An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational or athletic purposes.”</u></i>
1-22	1.7.2	Definitions	Clarify measurement standard within “Floor Area” definition	<i>Replaced “exterior” with “interior” when measuring floor area as is currently practiced.</i>
1-24	1.7.2	Definitions	Apply Historic Structure definition to apply Town-wide, not just in Floodplain Protection Overlay.	<i>Deleted first phrase of sentence, <u>“For floodplain management purposes only,”</u></i>
1-26	1.7.2	Definitions	Revise “Lot Width” definition to better address irregular lot lines; include SPO version.	<i>Revised definition as follows, <u>“The horizontal distance between side lot lines measured along <del>a line that is parallel to</del> the front lot line (lot frontage along a road). For Shoreland Protection Overlay (SPO) District purposes, lot width is the closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the SPO area, both lot lines shall be considered to be side lot lines.”</u></i>
1-27	1.7.2	Definitions	Question exclusion of boat and small engine repairs within “Motor Vehicle Service or Repair.”	<i>Reverted back to current ordinance inclusion in definition.</i>
1-29	1.7.2	Definitions	Define “Review Authority”	<i>Included the following definition, <u>“Review Authority: The individual or official town body as identified within Subsection 5.2.1 as having the responsibility and authority to review and approve or deny applications.”</u></i>

**Revisions Based Upon Legal Review**

<b>Page #</b>	<b>Section</b>	<b>Title</b>	<b>Comment</b>	<b>Recommendation</b>
2-5 & 2-6	2.1.2.F	District Purposes – GM6	State why only bank drive-throughs are allowed.	<i>Revised to include new third sentence. <u>“Drive-through services are traditionally limited to financial institutions so as not to create a more suburban feel to the downtown area.”</u></i>
2-53	2.3.8	Telecommunications Overlay (TCO) District – District Delineations	Reference zoning amendment process for new facilities	<i>Revised Subsection 2.3.8.B(3) as follows, <u>“TCO District boundaries for existing facility locations are delineated on the Brunswick Zoning Map. Additional TCO Districts may be established for new telecommunication facility locations as an amendment to the Zoning Ordinance/Map, in accordance with Subsection 5.2.11 (Ordinance Text or Map Amendment).”</u></i>
4-59 & 4-60	4.17.1	Administrative Adjustments	Only permit through a public process	<i>Revised Subsection 4.17.1 to allow Administrative Adjustments only as part of a publicly noticed development review process by Planning Board or Staff Review Committee.</i>
5-4, 5-16 & 5-24	5.1.3.B (1); 5.2.7.A (2)(b); 5.2.8.B (5) (b)	Public Notifications	Include “disclaimer.”	<i>Revised each Subsection where applicable to include the following, <u>“Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Review Authority.”</u></i>
5-9: 5-11	5.2.3	Special Permits for Unclassified and Omitted Uses	Only add uses through the zoning ordinance amendment process; allow appeals of Planning Board denials	<i>Revised entire Section to only address Special Permits for Nonconforming Use and Building Footprint Expansions; allow appeals of Planning Board denials to Zoning Board of Appeals.</i>

**Revisions Based Upon Legal Review**

Page #	Section	Title	Comment	Recommendation
5-47	5.2.9.M	Development Review – Waiver Provisions	Add in substantive review criteria	<p><b><u>Replaced Subsection 5.2.9.M (Waiver Provisions) with the following:</u></b></p> <p><b><u>“M. Waiver Provisions</u></b></p> <p><b><u>Unless otherwise prohibited by this ordinance, state or federal law, the Reviewing Authority may modify or waive any of the applicable application submission requirements, as outlined in Appendix D – Summary of Application Requirements, when it is determined either that the scale of the project is of such limited size or that the project is of such a nature as to make the information unnecessary and makes the following additional findings, as applicable, in writing. Should the Planning Board determine any of the following as not applicable, their reasoning for such a decision shall be included in the findings.</u></b></p> <p><b><u>(1) The need for a waiver or modification is based on unique circumstances relating to the specific site and development application and that these conditions would not be expected to be encountered elsewhere.</u></b></p> <p><b><u>(2) The application of the standards is not requisite to public health, safety, and general welfare.</u></b></p> <p><b><u>(3) The granting of the waiver or modification would not adversely affect properties in the locality.</u></b></p> <p><b><u>(4) The granting of the waiver or modification would not alter the essential character of the locality.</u></b></p> <p><b><u>(5) The granting of the waiver or modification in other situations would not have the effect of amending the ordinance requirements.</u></b></p>

**Preti-Flaherty Limited Review of Proposed Zoning Ordinance (6/9/17) with ZORC Member Responses/Revisions**

*Page Numbers and Sections are based on 7/10/17 Town Council Adoption Public Hearing Draft Ordinance. Bolded text denotes recommended revisions within document.*

<b>Page #</b>	<b>Section</b>	<b>Title</b>	<b>P-F Comment</b>	<b>ZORC Member Recommendations</b>
<b>1-3:1-7</b>	<b>1.6.2</b>	<b>Nonconforming Lots</b>	<b>Why only require merger of abutting nonconforming lots only if they were in common ownership as of the date of ordinance enactment? If the purpose of the ordinance is to eliminate nonconformities, nonconforming lots should be merged even if the lots end up in the same ownership in the future.</b>	<i>Revised subsections to require merging of lots in common ownership whether ownership occurs before or after the effective date of the Ordinance.</i>
1-4	1.6.2.B(1)a	Development and Use of Single Nonconforming Lots Outside of Subdivisions-Undeveloped	Why is Section 1.6.3 (nonconforming uses) referenced in relation to nonconforming lots? The two concepts should not be blended because the use of a lot does not necessarily relate to whether the lot meets applicable dimensional requirements.	<i>Only a reference to subsection 1.6.3. Recommend no change.</i>
<b>1-8</b>	<b>1.6.3.B</b>	<b>Nonconforming Uses – Change in Use</b>	<b>Planning Board usually makes these more subjective/impact-based decisions. Here, the Director is to do so. Further, the Zoning Board of Appeals does not have authority to review decisions by the Director, meaning that there is no way to challenge his determinations other than through court appeal.</b>	<i>Removed determination by Planning Director and replaced with Staff Review Committee (also public entity with decisions appealable to Planning Board and, ultimately to the Zoning Board of Appeals. Also included in Table 5.2.9.B – Review Thresholds, p 5-31.</i>

Page #	Section	Title	P-F Comment	ZORC Member Recommendations
3-19	3.4.2.C	Accessory and Temporary Uses – Home Occupations	Consider whether to limit home occupations only to those uses otherwise allowed in the particular zone.	<p>ZORC members agree such a change would be too restrictive. Performance standards in place will manage neighborhood impacts. No change recommended.</p> <p><b>A typo was noted by staff during review. Section 3.4.2.C(5)b is corrected to read: “There shall be <u>no retail sales with the exception of internet-based sales.</u>”</b></p>
4-1	4.1.1	Applicability of Property Development Standards – Generally	Suggest revision: “All developments shall comply with the standards set forth in this Chapter <u>unless the standards of an overlay zone apply and are more restrictive, in which case those standards shall control.</u> ”	<p><b>Already stated in Subsection 2.3.1 (p. 2-9). Instead of repeating, referenced Subsection 2.3.1 to minimize future conflicting language should one of the 2 subsections change in content.</b></p>
4-16	4.2.5.D(4)	Affordable Housing – Modification of Dimensional Standards	Concerned about the reviewing authority’s broad ability to alter dimensional requirements for affordable housing; it may be seen as too vague and also does not require a determination of reasonableness for the modification sought. (E.g. if minimum lot size must be reduced to .1 acres in order to ensure economic viability, the current language would seem to authorize a modification to that significant extent).	<p>ZORC members agree that the current language allows flexibility for the developer and is not a change from the existing ordinance standards. Only allow for dimensional modifications, not an increase in density. In addition, minimum lot size has been eliminated for residential uses within the growth area. No change recommended.</p>
4-36	4.8.4	Access for Persons with Disabilities (ADA)	Suggest incorporating (though not necessarily in this location) standards and procedures to request reasonable accommodation of ordinance standards to accommodate a disability. Alternatively, a separate ordinance or policy may be enacted if there is not one already.	<p>ZORC members to not recommend any change in ADA requirements. No change from existing standards.</p>

Page #	Section	Title	P-F Comment	ZORC Member Recommendations
4-45	4.10.1.A	Outdoor Lighting – General Standard	Consider incorporating a reasonableness standard to requirement that lighting not cause an adverse impact on abutting properties – or remove this general standard altogether as the specific standards are intended to reduce these adverse impacts.	<i>Leave as is until post-adoption revision of entire Section 4.10.</i>
4-54	4.13.4.B	Temporary Signs Allowed and not Subject to Permitting – Freestanding Yard signs – Political Signs	<b>The term “political campaign sign” is defined, but the term “political sign” is used in the body of the ordinance. In fact, the term “political sign” should not be used at all because the regulations specific to them in Section 4.13.4 are content-based and probably would not withstand the holding in Reed v. Gilbert. Any special provision for political signs should be omitted. One option is to completely exclude signs on private property (outside of the right of way) from any time limitation.</b>	<b><i>Removed “campaign” from definition (Section 1.7, p. 1-31). ZORC discussed the political signs being treated separately in light of the Reed v. Gilbert U.S. Supreme Court decision. Since Maine State Law treats political signs differently, allowing for political signs to be placed on private property year-round, ZORC, in consultation with the ordinance review attorney, recommended no change to the proposed language at this time.</i></b>
4-58	4.15.1	Site Feature Maintenance – General Standard	Should be revised to remove “The Planning Board shall <u>require.</u> ”	<i>Already states, “The Planning Board shall <u>advise....</u>”</i>
5-1	5.1.1.A(2)	Reviewers and Decision-Makers – Town Council Powers and Duties	As worded, suggests that the Planning Board must actually recommend a change to the ordinance if the Council is to put it forward. Council might consider this as unduly limiting.	<b><i>No change from current practice. Either Town Council request Planning Board to develop a specific amendment or Planning Board may put an amendment forward for Council consideration. To further clarify, Subsection 5.1.1.A(2)a is revised as follows: “The Town Council shall review and <del>approve</del> <u>take action on all Zoning Ordinance amendments,</u> upon <u>written</u> recommendation by the Planning Board.</i></b>

Page #	Section	Title	P-F Comment	ZORC Member Recommendations
5-1; 5-46	5.1.1.C(2); 5.3.2.A	Reviewers and Decision-Makers – Zoning Board of Appeals Powers and Duties	Suggest expressly eliminating the ability to appeal enforcement actions by the Code Enforcement Officer.	<i>Revised powers and duties of the Zoning Board of Appeals.</i>  <i>Inserted the following in Subsection 5.3.2.A (Enforcement) (p. 5-53) as new (4) <u>Any enforcement action taken by the Codes Enforcement Officer cannot be appealed to the Zoning Board of Appeals.</u></i>
5-9	5.2.7.A(3)	Appeals of Administrative Decisions and Variances - Hearings	All references to CEO decisions should be removed from subsections (a) and (b) since there is a new special provision for CEO decisions in (c).	<i>Removed all references.</i>
5-10	5.2.7.A(4)a	Appeals of Administrative Decisions and Variances – Decisions of the Zoning Board of Appeals	Consider that the change allowing for decision of majority of members present and voting can result in – it appears – just two members rendering a decision on appeal. Quorum of a five-member board is three and a majority of that number is two.	<i>Per Article VIII, Section 803(g) of the Brunswick Code of Ordinances, a quorum of 5 members is required for the Zoning Board of Appeals, with the majority being 3 members. Revised Subsection to include quorum number.</i>



# Addition to GM5 (Pleasant Street Corridor Zoning)

Brunswick, ME

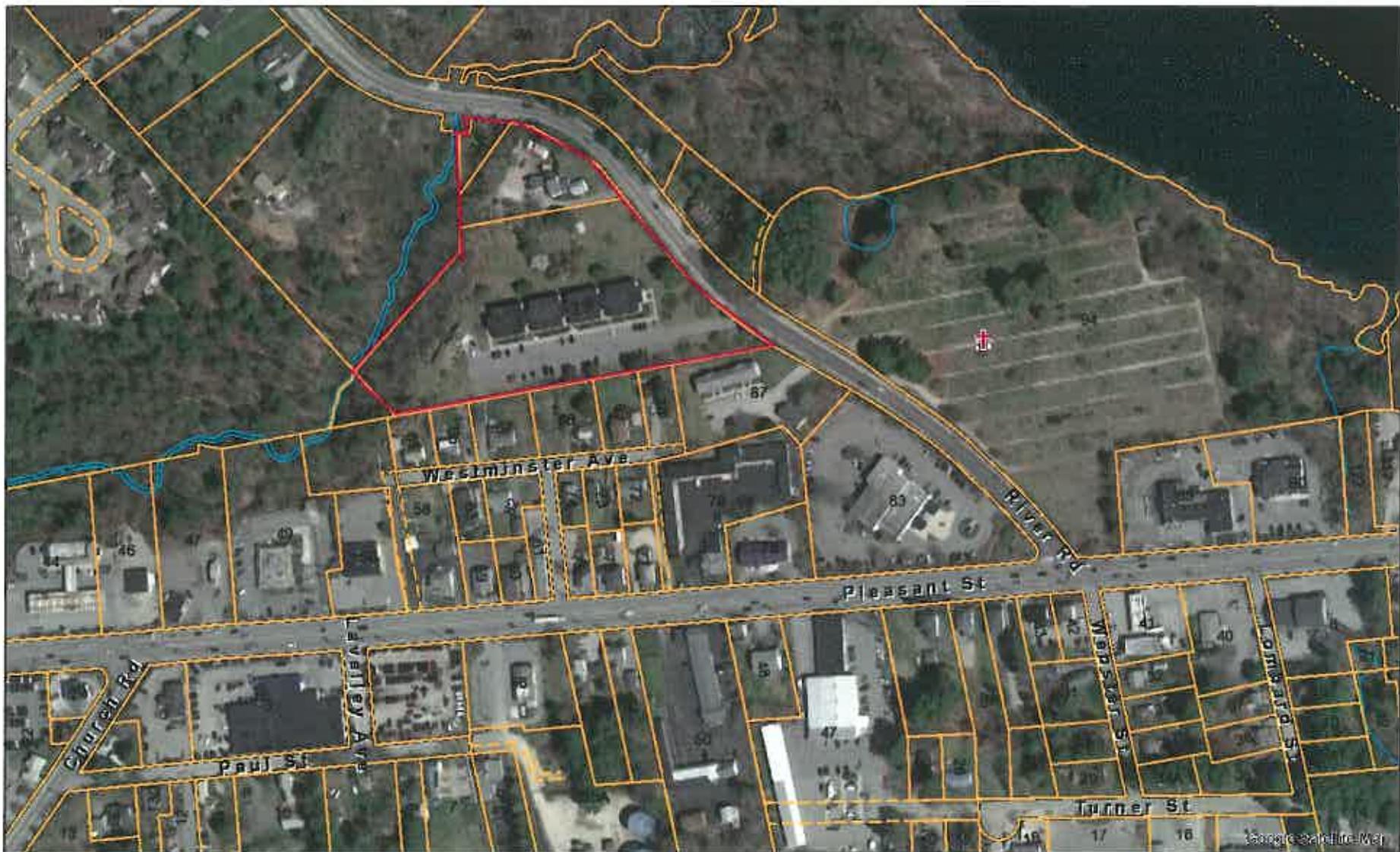


May 19, 2017

1 inch = 268 Feet

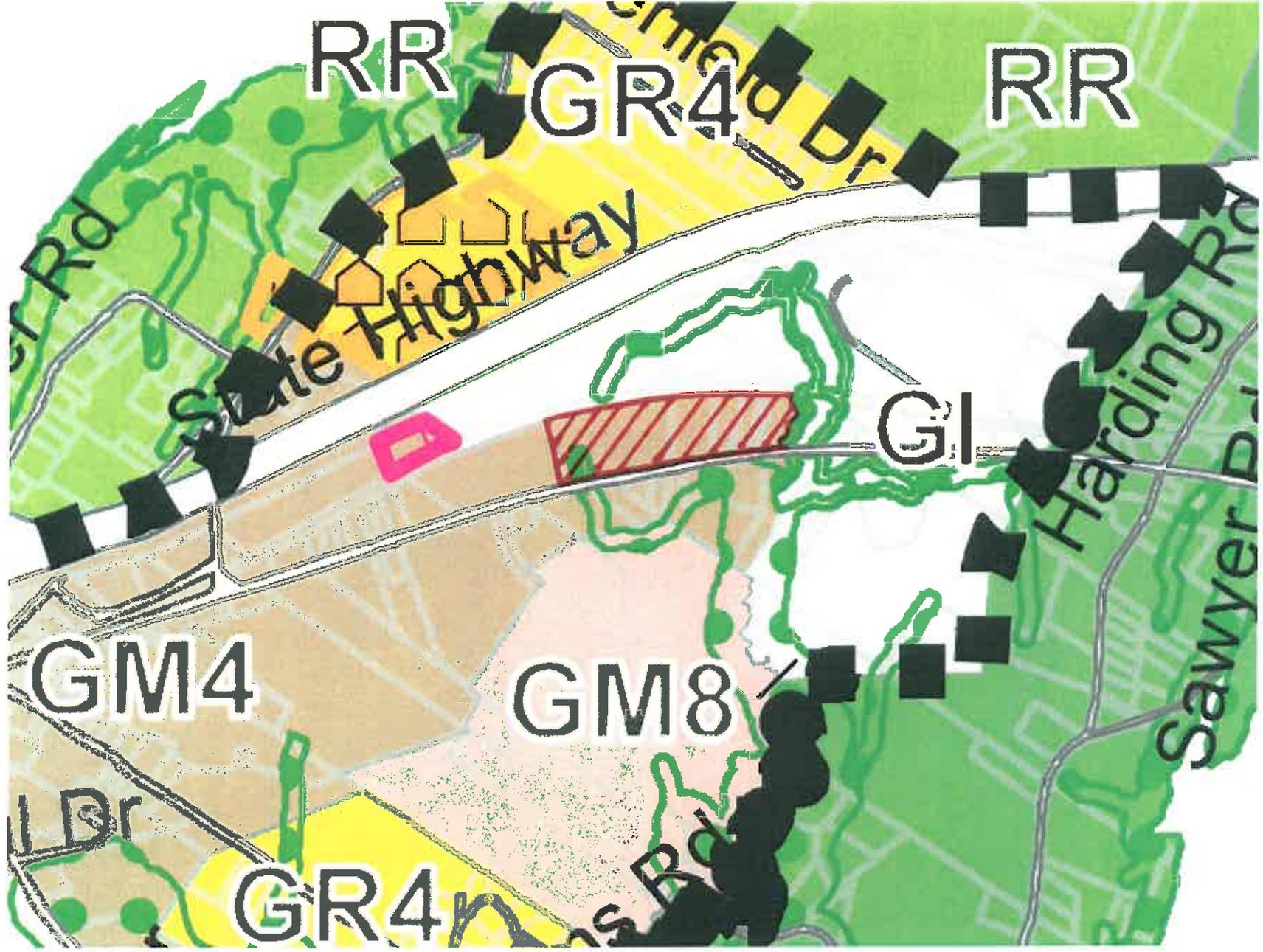


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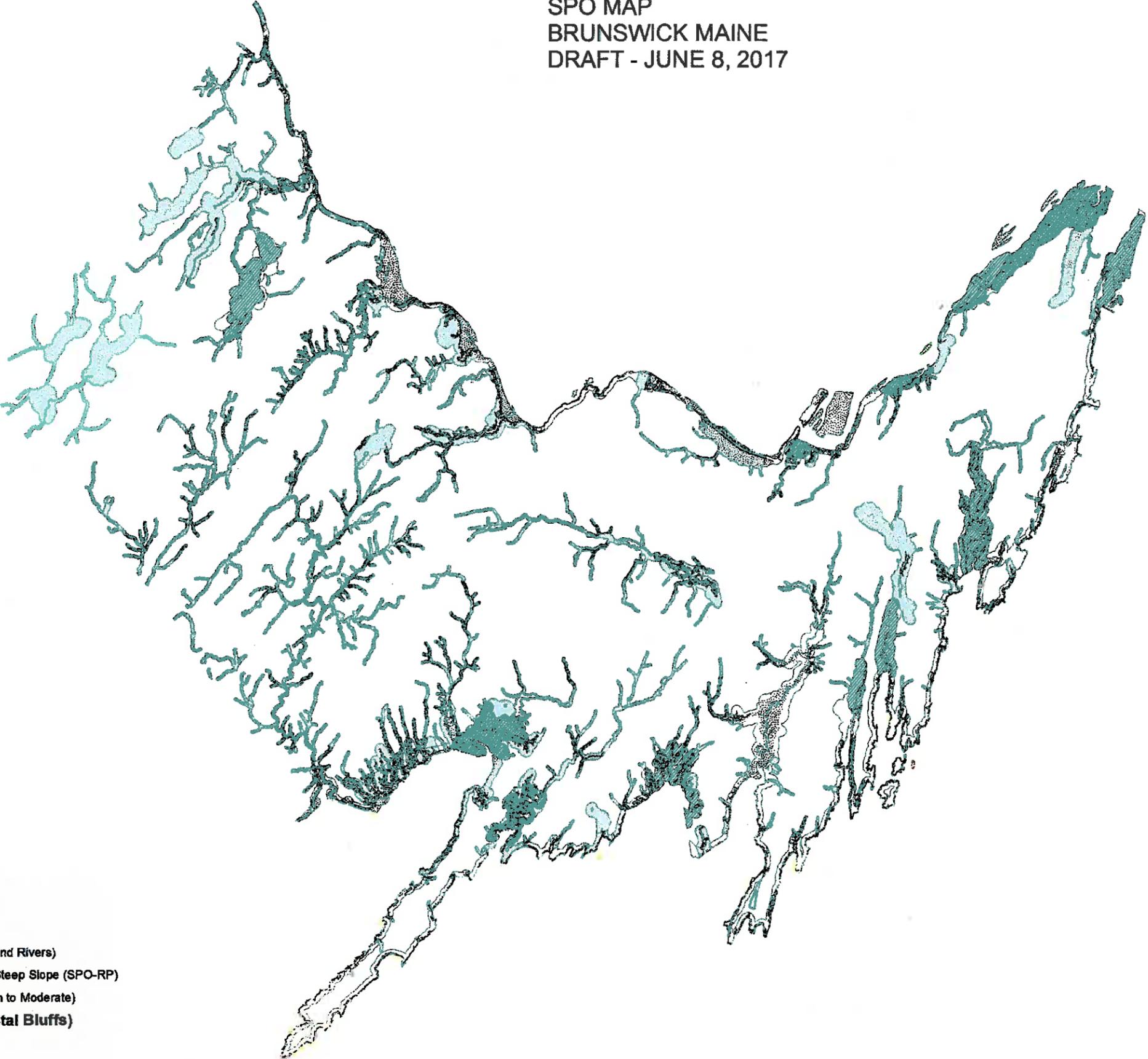
 = REQUESTED ADDITION TO G1







SPO MAP  
BRUNSWICK MAINE  
DRAFT - JUNE 8, 2017



**Legend**

-  SPO
-  SPO-SP
-  SPO-RP (FEMA Tides and Rivers)
-  SPO-RP (2 Acre, 20% Steep Slope (SPO-RP))
-  SPO-RP (Wetlands High to Moderate)
- SPO-RP (Mapped Coastal Bluffs)**
-  Highly Unstable
-  Unstable

