

APPLICATION OF
TOWN OF ORONO MAINE and
BENNOCH ROAD ASSOCIATES

for
DEPARTMENT OF THE ARMY PERMIT
and
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
NATURAL RESOURCES PROTECTION ACT PERMIT

FOR WETLAND MITIGATION
IN THE MAINE TECHNOLOGY PARK
GODFREY DRIVE, ORONO, MAINE

NOVEMBER __, 2017

For: Town of Orono
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Project Description

1.1 Introduction

This application to the Maine Department of Environmental Protection (MDEP) for a Natural Resources Protection Act (NRPA) permit and to the U.S. Army Corps of Engineers (ACOE) for a Department of the Army permit is being filed jointly by the Town of Orono, Maine, and Bennoch Road Associates of Old Town (Stillwater), Maine, for the following purposes within the Maine Technology Park, Godfrey Drive, Orono (previously permitted as two separate business parks called “Stillwater Exchange Park”¹[SEP], and “Orono Research and Development Park” or “Maine Technology Industrial Park”²[MTP], now collectively referred to as the “Maine Technology Park”).

- (a) Mitigation of the apparent past alteration of 1.38 acres of wetland, and
- (b) Filling of 1.78 acres of wetland to facilitate the build-out of certain lots owned by the applicants in the Maine Technology Park plus two residential lots owned by Bennoch Road Associates adjacent to the park.

The Maine Technology Park is served by a single spine road, Godfrey Drive, which was built in 1986, and runs between Stillwater Avenue near Exit 193 of Interstate 95 and Bennoch Avenue.

The Town of Orono owns two undeveloped lots within the Maine Technology Park (denoted as lots 1 and 8 in the original subdivision plan for the MTP), one of which (Lot 1) would be impacted by the proposed build-out plan. Bennoch Road Associates owns seven undeveloped lots within the Maine Technology Park, four of which (denoted as lots 4, 5, 9, and 12 in the original subdivision plan for the SEP) would be impacted by the proposed build-out plan. Bennoch Road Associates also owns two lots (considered contiguous) on either side of Godfrey Drive at Godfrey Drive’s intersection with Bennoch Road that are zoned for residential use and would be impacted by the proposed build-out plan. Of the impacted lots, only two of the lots – Lot 12 in the original SEP and one of the residentially zoned lots – can be developed without affecting wetlands.

1.2 History

MDEP subdivision permits were issued for both components of the Maine Technology Park in July 1984: the 14-lot “Stillwater Exchange Park” (SEP) and the 8-lot “Orono Research and Development Park” aka “Maine Technology Industrial Park” (MTP). These are now collectively known as the Maine Technology Park. Godfrey Drive, along with public sewer and water lines, was built in 1986.

¹ DEP #L-01077-39-A-N

² DEP #L-010076-39-A-N

One lot, originally denoted as SEP Lot 13 with frontage on Stillwater Ave., already had a gas station (now Dysart's) that was built in 1972. From 1986 to 2000, structures were built on several of the approved lots (see **Exhibit 2, "Wetlands Delineation Map,"** prepared by S.W. Cole in 2002 based on 2002 aerial photography, which uses the original lot numbering system):

- An office building at 5 Godfrey Drive, SEP Lot 3
- Black Bear Inn at 4 Godfrey Drive, SEP Lots 10 and 11
- A call center facility at 2 Godfrey Drive, SEP Lots 1, 2, and 3A
- A call center/back room office building at 16 Godfrey Drive, MTP Lot 6 and part of Lot 7
- A research lab and office building at 17 Godfrey Drive, MTP Lot 3
- A business incubator building, then known as the Target Technology Center and now known as the UpStart Center for Entrepreneurship, at 20 Godfrey Drive, MTP Lot 5
- A USPS annex at 21 Godfrey Drive, MTP Lot 4

Remaining undeveloped lots include SEP Lots 4, 5, 6, 7, 8, 9, and 12; and MTP Lots 1 and 8. In addition, two contiguous, residentially zoned lots have frontage on Godfrey Drive, and both are undeveloped.

In 2003, Bennoch Road Associates and the Town of Orono prepared a concept plan for the build-out of the undeveloped lots and applied for NRPA and ACoE permits. During the preparation of that plan, consultant S.W. Cole determined that, based on retroactive interpretation of aerial photos pre- and post-development of the business parks, 1.38 acres of wetland had been altered during construction of Godfrey Drive and development of SEP Lots 1, 2, 3A and 5. That concept plan called for alteration of 4.13 additional acres of wetland. A mitigation plan was presented as part of the application.

Following reviews by Federal agencies, which called for substantially more mitigation, Bennoch Road Associates and the Town in 2004 withdrew the application. No development has occurred within the park since that time.

In 2012 the Orono Economic Development Corp. (OEDC), a volunteer, non-profit economic development group, commissioned WBRC Architects and Engineers to re-visit a concept plan that would provide for the build-out of lots owned by the Town and Bennoch Road Associates with less impact on wetlands. By this time, the Town in cooperation with the University of Maine had undertaken a townwide analysis of vernal pools. That analysis identified a cluster of vernal pools that were documented as "significant" under the Maine Natural Resources Protection Act on one of the undeveloped Town-owned lots (MEP Lot 8 on the 2002 SW Cole map; the vernal pools are shown on Exhibit 3, SP 100-Existing Conditions Map). The presence of these vernal pools was treated as a limiting factor in the concept plan.

WBRC completed the concept plan in 2013, and OEDC and WBRC representatives met with representatives of ACoE, DEP, and USFWS in February 2013. The plan, which is a clustered concept that would limit additional wetland impacts to 1.78 acres, met with generally favorable

reaction, but it became clear that the mitigation of wetland impacts had to simultaneously address the 1.38 acres that had been identified in 2003 as previously altered.

Based on mitigation formulas, it was determined that, if land conservation were to be used as the mitigation method, approximately 20 acres of suitable conservation land would be required to address the 1.38 acres. In 2013 the Town preliminarily offered to place into permanent conservation a 20-acre portion of a 40-acre Town-owned parcel that has a vernal pool, other wetland, upland, and development potential. However, in February 2014 ACoE advised that, while the parcel was suitable for mitigation, due to elapsed time since the wetland alteration, conservation of the entire 40-acre parcel would be required. The Town was unable to make the entire parcel available, and other alternatives were sought.

The Town and OEDC subsequently identified Town-owned land on Taylor Road for this purpose. Representatives of the Town and OEDC have met with ACoE and DEP on several occasions to review this alternative and the potential use of this land, which totals 112 acres, both to address the outstanding 1.38-acre matter and to mitigate future alteration of 1.78 acres, as shown in the concept plan. The applicants have been encouraged to move forward with this application.

1.3 The Concept Plan

The Concept Plan is for lots owned by the Town of Orono or Bennoch Road Associates³. Other developable land exists on lots owned by others, but these are not included in the Concept Plan.

1.3.1 Existing Conditions

Existing conditions in the Maine Technology Park, including the two adjacent residentially zoned properties at the Bennoch Road end of Godfrey Drive, are shown on **Exhibit 4, SP 100-Existing Conditions Plan**. The wetland boundaries were field checked and verified by Aleita Burman, certified wetland scientist, of Burman Land & Tree Company in 2016. Her complete report, dated December 8, 2016, is attached as **Exhibit 3, "Protected Natural Resources Report."** The wetland descriptions can be found in Section 4.0 of the report. The verified boundaries are as shown on the Existing Conditions map.

1.3.2 Site Concept

The conceptual build-out is shown on **Exhibit 5, SP 101-Site Concept Plan**. No development is proposed on lots dominated by wetlands. On lots that have substantial uplands the

³ The exception is the property occupied by Black Bear Inn (SEP Lots 10 and 11). At the time the Concept Plan was prepared, Bennoch Road Associates had part ownership of that property, but the property has since been sold to others. The Concept Plan shows potential for expansion on the Black Bear Inn property, but no wetlands are impacted on that property. Any associated wetland impacts would be on the adjacent Bennoch Road Associates property (SEP Lot 9).

development is positioned for relatively minor impacts at the edges of wetlands. None of the development in this plan is within 250 feet of vernal pools. The Concept Plan envisions capacity for just over 75,000 square feet of building footprint supported by 340 parking spaces. The uses would be types of commercial activities allowed within the Town's Economic Development zoning district: offices, light industry, research-and-development facilities, cultural facilities, hotels and conference facilities, and potentially moderate-to-high density housing that may appeal to workers in the park.

Note that this is a Concept Plan. There are no active proposals at this time for the development shown. The plan is necessary to estimate the wetland impacts that a feasible build-out program would have. Any actual future development would need to apply for applicable local, state, and federal permits.

1.4 Wetland Impacts

The wetland impacts of the Concept Plan are depicted on **Exhibit 6, SP 102-Wetland Impact Analysis Plan**. The impacts are based on the wetland boundaries verified by Ms. Burman in 2016. In sum, the Concept Plan's development would impact 77,658 sq. ft. (1.78 acres) of wetland, almost entirely affecting the wetland labeled "Wetland B." This and the other wetlands are characterized in Ms. Burman's report, section 4.1. None of the impact is within 250 feet of vernal pools; the closest edge of impacted wetland is more than 400 feet from the nearest vernal pool. The only other wetlands that would be affected are two small pockets (Wetlands Y and Z) on one of the residentially zoned lots.

1.5 Mitigation

The proposed mitigation is through permanent conservation of 112 acres of undeveloped land with frontage on Taylor Road in Orono. See **Exhibit 7, Wetland Mitigation Parcel**, prepared by Shyka, Sheppard & Garster.

This parcel is owned by the Town. It is a mix of wooded uplands, wetlands of special significance under Maine NRPA (inland water fowl and wading bird habitat), and wetlands associated with the Caribou Bog, which is a domed peat bog considered to be a unique natural area. The developable upland areas total 14.1 acres, including 10.6 acres with frontage on Taylor Road (and 8.9 acres of which contain an exemplary, mature pine stand); and another 3.5 acres that are adjacent to the Town's closed-out land fill. The parcel includes areas within 250 feet of two vernal pools on adjacent property to the west, and within 250 feet of a vernal pool to the east of the access road that leads to the closed out landfill.

The parcel is a missing piece in the center of a large conservation area, consisting of both fee lands and conservation easements owned by the Orono Land Trust and Maine Dept. of Inland Fisheries and Wildlife. This conservation area is part of a multi-town focus area known as the Caribou Bog – Penjajawoc Corridor for conservation and passive recreation. See **Exhibit 8, Caribou Bog – Penjajawoc Project**.

The parcel is adjacent to the Town's closed out/restored landfill. East of the closed out landfill is the Town's active, permitted construction debris and demolition facility. The southeastern boundary of the proposed conservation parcel is along the access road to the landfill and CDD facility (Putnam Road). The eastern boundary line of the parcel is drawn to avoid existing monitoring wells situated around the closed-out landfill.

The 112 acres, with its mix of uplands, wetlands, and other natural resources, exceeds the area required by wetlands mitigation formulas (including 40 acres for the apparent past alteration of 1.38 acres, which is double the formula; and 62 acres for the 1.78 acres of future alteration per the Concept Plan).

The Orono Land Trust will accept this 112-acre parcel from the Town in fee ownership, and the Town will provide OLT with a one-time stewardship fee of \$7,500. The deed and associated conservation easement are attached as **Exhibit 9**.

1.6 Demonstration of Need (see also Block 19 of application form)

The Maine Technology Park is the Town of Orono's only business park and only location for a range of office, research and development, and technology-oriented businesses that need the kinds of infrastructure already installed in the park. This infrastructure includes public sewer, public water, broadband (fiber) telecommunications, power, and natural gas, as well as ready access to the interstate highway system and connection to the Bangor region's airport.

Orono hosts the flagship R&D university of the University of Maine System. The site, which is located minutes away from the University of Maine campus, was selected more than 30 years ago in anticipation of demand by enterprises emerging from the University. As a University town, Orono's – and the region's – economic base relies heavily on the types of technology-based businesses that the Maine Technology Park was designed to attract. Since that time a number of UMaine startup businesses and other technology businesses have located in the park. However, the opportunities for further development are very limited without the ability to move forward in the manner illustrated in the Concept Plan – and there has been none since 2000-2001. The only alternatives available to the Town would involve the extension of infrastructure to open up new, undeveloped lands, a prospect that has been investigated by the Town in detail⁴ and found to be prohibitively expensive.

⁴ In 2011-13 the Town designed and received permits for a business park off Kelly Road at I-95 Exit 191, with 8 developable lots. However, the cost of extending infrastructure to the site would be about \$4 million, which is prohibitive, and the plan had to be deferred.