Town of Belgrade
Planning Board

Nov. 4, 2021 / 6 p.m.

Belgrade Town Office
990 Augusta Road
Belgrade, ME 04917

This meeting will be conducted in person.
The public may also view the meeting and participate online at
https://us02web.zoom.us/j/83033101494

A G E N D A

Call to order

1. **NEW BUSINESS**
   A. Public discussion of **proposed subdivision ordinance rewrite**.
   B. Discussion of Commercial Development Review Ordinance amendments addressing **decommissioning solar, wind and telecommunications infrastructure.**
   C. Pre-application meeting for a **potential multi-family dwelling application**.
   D. Town Manager's report.
2. **OLD BUSINESS**
   A. Consideration of Oct. 21, 2021, Planning Board **minutes**.
3. **ADJOURN**

To: Anthony Wilson (Belgrade Town Manager), Peter Rushton (Belgrade Planning Board Chair), the Select Board of Belgrade (Melanie Jewell, Ernst Merckens, Barbara Allen, Rick Damren, Dan Newman)

CC: Gary Fuller (Belgrade Code Enforcement Officer), Joel Greenwood (KVCOG Planning Director)

From: Charles Tetelman (KVCOG Community Planner)

Date: July 28, 2021

Subject: Belgrade Subdivision Ordinance Update – Summary of Changes

This memo provides a summary to accompany the Final Draft of the Belgrade Subdivision Ordinance rewrite that the Planning Board has undergone alongside Kennebec Valley Council of Governments. In November 2020, Charles provided the Planning Board with a draft of a new Subdivision Ordinance based off the '*Model Subdivision Regulations for Use by Maine Planning Boards'*. This model ordinance, written by the Southern Maine Regional Planning Commission with assistance from the Department of Agriculture, Conservation, and Forestry's Municipal Planning Assistance Program, was created in 2006 to supplement the changes to Title 30-A M.R.S.A. Subchapter 4: Subdivisions.

Currently, the existing Belgrade Subdivision Ordinance separates Subdivisions into two categories: Major and Minor. Minor subdivisions are currently defined as "any subdivision containing not more than six (6) lots, dwelling units, or other Subdivision units, and in which no street is proposed to be constructed". Major Subdivisions are currently defined as "any subdivision containing more than six (6) lots, dwelling units or other Subdivision units, or any Subdivision containing a proposed street". The Planning Board wanted to maintain the distinction between the two subdivisions in order to lower the burden on small developments. However, the proposed Subdivision Ordinance changes the definition of Minor Subdivisions. As written, Minor Subdivisions will be limited to "Residential subdivisions only; no more than three additional lots or dwelling units (leading to a total of

4 lots); no new roads; total area of subdivided lots no larger than 200,000 sq. ft.". Major subdivisions, as proposed, will include all proposals not considered a minor subdivision.

As for the application process, the proposed Subdivision Ordinance maintains separate application processes for minor and major subdivisions. However, all proposals will have the same Sketch Plan Meeting and On-Site Inspection, Final Approval and Filings, and Revisions to Approved Plans standards. The designation of Minor or Major will be decided at the Sketch Plan Meeting allowing applicants to prepare for the respective Preliminary Plans. For the most part, the application requirements for both Minor and Major have remained the same. The Planning Board may require additional submissions Minor Subdivision Applicants because the requirements aren't as burdensome therefore some proposals may need additional information. Conversely, Major Subdivision applicants may request a waiver for certain proposals because Major Subdivisions are subject to all requirements.

Article XIII: Performance and Design Standards is the bulk of the proposed Subdivision Ordinance. The existing 'Article X: General Standards' lays out a minimum list of standard requirements based in old standards and resources. Article XIII of the proposed Subdivision Ordinance enhances the Performance and Design Standards in Belgrade and brings them back in line with state statute. The proposed section includes updated references to State and Federal resources for guidelines and requirements. Article XIII also includes a series of tables outlining the requirements for road design standards.

Finally, the proposed Subdivision Ordinance includes an updated appeals section taken almost entirely from the existing Belgrade Appeals Board Ordinance which has been viewed and approved by the Appeals Board.

Unfortunately, KVCOG drafted the proposed Subdivision Ordinance as a new document so there is no way to track every specific change. The changes noted above are the most noticeable and important and reflect the critical conversations between KVCOG and the Planning Board. This process has been collaborative at every step, and we've reached a final document that reflects the values of Belgrade while following the requirements from the State.

Please feel free to reach out to KVCOG Community Planner Charles Tetelman at (207) 453-4258 ext. 222 or ctetelman@kvcog.org if you have any questions.

Memo

To: Planning Board

From: Anthony Wilson, Town Manager

Date: Nov. 4, 2021

Re: Subdivision ordinance timeline

Attached is an executive summary of the subdivision ordinance rewrite, authored by the Kennebec Valley Council of Governments planner who assisted in that effort.

At the Planning Board's Oct. 21 meeting, the board agreed to the following timeline for presenting a proposed rewrite of the subdivision ordinance to voters at the March 19 town meeting:

- **Nov. 4** – host an informational meeting to respond to questions and gather input from stakeholders and other members of the public. I will have printed copies of the current and proposed ordinances at the Nov. 4 meeting.
- **Nov. 18** – consider incorporating input from the informational meeting in the proposed ordinance. The Nov. 4 meeting participants would be welcome to participate in this meeting.
- **Dec. 2** – consider final approval of the ordinance. The Nov. 4 meeting participants would be welcome to participate in this meeting. If approved, the document would be recommended to the Selectboard.
- **Dec. 7** – Selectboard consideration of the proposed ordinance. The Nov. 4 meeting participants would be welcome to participate in this meeting. If approved, the document would be provided to the Town's attorney for a legal review.
- **Jan. 1** – the proposed ordinance would be provided to the Town's attorney. He has assured he can complete the review in the timeframe necessary.
- **Jan. 18** – Selectboard consideration of any changes recommended by the Town's attorney.
- **Jan. 19** – deadline for referendum items for the March 19 town meeting.

A public hearing on the proposed ordinance, along with all other secret-ballot items, would be conducted no later than Feb. 17. Absentee ballots would be available beginning Feb. 18.

Memo

To: Planning Board

From: Anthony Wilson, Town Manager

Date: Nov. 4, 2021

Re: CDRO decommissioning amendment

Attached is a document with the decommissioning language from the model ordinances provided to us by the Kennebec Valley Council of Governments, ordinances from Chelsea and Readfield, and the Maine Audubon template.

I've noted where you might consider the change you discussed Oct. 21 of when the infrastructure is no longer commercially viable and should be decommissioned. The highlights consist of:

- When an infrastructure should be decommissioned.
- How much in the way of financial resources should be set aside to cover that expense (the range is 100% to 150% of the cost of decommissioning), and when that financing must be in place.
- What the decommissioning work will consist of.
- Re-vegetating the site.

I noted Readfield's ordinance is based largely on the KVCOG template, with changes/additions, possibly from other sources, to meet its needs. A similar approach might be most efficient for us. That is, we work off the KVCOG template, pulling details from other ordinances we believe would serve us well.

One way you might consider incorporating the decommissioning amendment into the Commercial Development Review Ordinance would be to add paragraph G to "Article 2: Purpose" on page 4 with language akin to, "To ensure the timely removal of solar, wind and telecommunications infrastructure according to a decommissioning plan that provides for the financial resources to do so." An Article 9 titled "Decommissioning" could then be added.

KVCOG Planning Director Joel Greenwood has agreed to join us for these discussions.

From the KVCOG solar template:

An application for a Utility Scale Solar Facility (USSF) permit must include a decommissioning plan, including:

i. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is ~~generated~~ sold for a continuous period of 12 months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation and sale of electricity, that although the project has not ~~generated~~ sold electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.

ii. A description of the work required to physically remove all solar panels, associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing.

[Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Solar Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.]

iii. An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization. This cost estimate must be updated every three (3) years.

iv. Demonstration in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the USSF the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the USSF. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the USSF is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board.

Commented [AW1]: Per the Planning Board's Oct. 21 discussion

Commented [AW2]: Make this an irrevocable letter of credit?

Transfer of ownership. Upon a transfer of ownership of a solar energy development subject to a decommissioning plan approved under this ordinance, a person that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Planning Board approves transfer of the decommissioning plan to the new owner or operator.

From the KVCOG cell tower template:

Bond for Removal

At the time of approval of a permit application, and prior to initiating construction of any personal wireless service facility within the Town of Belgrade, the applicant must post a bond to cover costs for the removal of the personal wireless service facility, including site reclamation. The amount of the bond shall be based on the removal and reclamation costs plus fifteen (15) percent, provided by the applicant and certified by a professional civil engineer licensed in Maine. The owner of the facility shall provide the Planning Board with a revised removal and reclamation cost estimate prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase.

Abandonment or Discontinuation of Use/Removal

a. A personal wireless service facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Town shall notify the owner of an abandoned facility in writing, certified mail, return receipt requested, ordering the removal of the facility within 180 days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Town that the facility has not been abandoned.

b. If the owner fails to show that the facility is not abandoned, the owner shall have one hundred fifty (150) days to remove the facility. If the facility is not removed within that time period, the Town shall remove the facility at the owner's expense and the Town may draw upon the bond required in Section **XX** above to defray the costs of removal of the facility. Removal shall include, but not be limited to, antennas, mounts, equipment shelters and security barriers. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of any vegetation.

From the KVCOG wind energy template (very similar to the solar template)

Decommissioning Plan

Pursuant to section 14.12, the Applicant shall provide a plan for decommissioning a Type 2 or Type 3 Wind Energy Facility. The decommissioning plan shall include, but shall not be limited to the following:

1. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for

Commented [AW3]: Sold?

a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.

2. A description of the work required to physically remove all Wind Turbines, associated foundations to a depth of 24 inches, buildings, cabling, electrical components, and any other Associated Facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing.

   [Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Wind Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Code Enforcement Officer.]

3. An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization.

4. Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the Belgrade Planning Board that upon the end of the useful life of the Wind Energy Facility the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the Wind Energy Facility.

Town of Chelsea (this is the most detailed plan)

Section 5. Guarantee For Removal

At the time of approval of a proposed array, and prior to initiating construction of any array within the Town of Chelsea, the applicant must guarantee the costs for the removal of the facility.

1. The amount of the guarantee shall be equal to 125% of the estimated removal cost, provided by the applicant and certified by a professional civil engineer licensed in Maine or a professional array construction company.

2. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine

or a professional array construction company every five (5) years from the date of the Planning Board's approval of the Solar Array Complex plan.

3. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase. The applicant may also request adjustments in the guarantee.

4. Types and Contents of Guarantee - One of the following performance guarantees chosen by the applicant shall be provided on approval of the application,

a. Interest-Bearing Escrow Account - A cash contribution equal to 125% of the estimated removal cost for the establishment of an escrow account shall be made by either a certified check made out to the Town, direct deposit into a savings account, or purchase of a certificate of deposit.

i. For any account opened by the applicant, the Town shall be named as owner or co-owner, and consent of the Town shall be required for withdrawal.

ii. Any interest earned on the escrow account shall be returned to the applicant unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required work.

b. Performance Bond - A performance bond shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town, and the procedures for collection by the municipality. The bond documents shall specifically reference the array facility for which approval is sought.

c. Irrevocable Letter of Credit - An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the removal of the array facility and may not be used for any other project or loan. The letter of credit shall detail the procedures for collection by the municipality. The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Town Selectmen, and/or Town Attorney, expenses paid for by the applicant.

Section 6. Decommissioning and Abandonment

1. The owner or operator of the facility, or the owner of the parcel if there is no separate owner or operator of the facility or if the owner/operator fails to do so, shall do the following as a minimum to decommission the project:

a. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least four feet below grade.

b. Submit the results of 4 soil samples per acre to compare to the original soil samples taken at the time of application. If there is any contamination or pollution in the soils it shall be the responsibility of the operator of the facility to restore the soils to its original state.

c. Revegetate any cleared areas with appropriate plantings that are native to the region according to an approved Solar Array Complex plan, unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting or other development subject to the Planning Board's approval.

d. Fill in all holes, depressions or divots resulting from the construction of the array.

2. All said removal and decommissioning shall occur within 12 months of the facility ceasing to operate.

3. Abandonment will occur as a result of any of the following conditions unless the lessee or owner of the facility or of the parcel notifies the Code Enforcement Officer of the intent to maintain and reinstate the operation of the facility within 30 days of the following events:

a. The land lease (if applicable) ends; or

b. The system does not function for 12 months; or

c. The system is damaged and will not be repaired or replaced.

4. A notice submitted to the Code Enforcement Officer of the intent to maintain and reinstate the operation of the facility shall be updated every six months with a statement of the progress made toward that goal.

5. If the facility has not returned to operational condition within one year from the date of the first notice of the intent to maintain and reinstate the operation of the facility, the Code Enforcement Officer shall find the facility has been abandoned unless there is documentable evidence that the process has had significant progress and in the Code Enforcement Officer's opinion is likely to be completed in a timely manner.

6. Upon determination of abandonment based on the foregoing, the Code Enforcement Officer shall notify the party (or parties) responsible by certified mail or by hand delivery with signed receipt that they must remove the facility and fully restore the site in accordance with section 6 subsection (1) of this ordinance within three hundred and sixty (360) days of notice by the Code Enforcement Officer. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Board of Selectmen.

a. In the event the lessee of the facility fails to decommission the facility as outlined above, the landowner shall decommission the facility within 90 days of notice by the Code Enforcement Officer.

b. In the event the landowner fails to remove the facility as stated above, the Town of Chelsea shall have the facility removed and shall reimburse the Town’s costs by accessing any performance guarantee provided.

c. Any unpaid costs associated with the removal after one year of removal shall be enforced as a special tax to be assessed against the real estate of the array site.

Town of Readfield ordinance (this has many elements of the KVCOG template)

A decommissioning plan, including:

a) A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if 10% or less permitted capacity of electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.

b) A description of the work required to physically remove all Solar Energy System and Solar Related Components, including associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing and subject to Planning Board approval.

> i) At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Solar Energy System. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.

c) An estimate of the total cost of decommissioning value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization.

d) Demonstration in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the Solar Energy System the Applicant will have the necessary financial assurance in place for 150% of the estimated total cost of decommissioning, subject to a review of such cost by the Code Enforcement Officer. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the facility is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board. For a Medium Scaled SES, the Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the Solar Energy System.

> i) Note the applicant may apply to the Code Enforcement Officer for release of the guarantee at such time that it or its assignees remove the system and associated

abandoned structures, and such completed removal is found to be satisfactory by the Planning Board

From the Maine Audubon template (this is the least detailed of the options)

Removal: Solar energy systems that have reached the end of their useful life or that has been abandoned consistent with this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 365 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(i) Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
(ii) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(iii) Stabilization or re-vegetation of the site as necessary to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.

Abandonment:

(i) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year.
(ii) If the owner or operator of the solar energy system fails to remove the installation within 365 days of abandonment or the proposed date of decommissioning, the [Town] retains the right to use all available means to cause an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system to be removed.

Memo

To: Planning Board

From: Anthony Wilson, Town Manager

Date: Nov. 4, 2021

Re: Multi-family dwelling question

The Town's multi-family dwelling ordinance, adopted in 1978, requires applicants or their agents to meet with the Planning Board. A.E. Hodson is assisting a client who wants to convert an old barn-type structure into a three-unit living space. Among Hodson's questions is whether an existing building must adhere to the ordinance's limitations that buildings be no higher than 35 feet and no closer than 100 feet from other structures.

Hodson engineer Ben Murray will bring project plans to the meeting for your inspection.