

Chapter 18

Future Land Use

Introduction

The Future Land Use Chapter summarizes information compiled during the process of gathering public input and developing chapters of this comprehensive plan.

This chapter contains the following sections:

- A review of the purpose of managing residential growth through growth management permits
- A discussion of four key planning areas — natural resources, current and proposed infrastructure, development trends, and sea level rise — that inform the where the growth, transition, and rural areas are located
- A summary of the proposed growth management areas.

Additional information about topics in this chapter can be found with the other planning topic chapters of this plan.

Overall Vision Statement

We envision Kennebunkport as a coastal Maine community that is diverse and well balanced. The town will be recognized by residents, visitors and the State of Maine for its integrity and ability to set dynamic priorities and achieve them through comprehensive accountability. Our community will work collaboratively with residents, business owners and regional partners on challenges including storm intensification and sea level rise. As we adapt, we will preserve Kennebunkport's historic integrity, protect our natural resources, maintain our unique small town character while maintaining economic vitality. Our tree-shaded streets, scenic vistas, unspoiled coastline, classic architecture and beautiful landscapes will continue to inspire visitors and residents alike.

Growth Management

Growth management permits are issued for residential development. Kennebunkport sets the number of building permits for new residential dwellings under Article II of the Land Use Ordinance (LUO). As discussed in Chapter 4 Existing Land Use, a set number of growth management permits are available annually. The permits are allocated by growth area, with more available in growth areas than transitional or rural areas.

The number of permits available is revaluated every two years. The number of permits available is based on the average number of permits issued over the previous ten years but is at least 40. The demand has not exceeded 40 permits and therefore the number available has remained at 40 permits. When setting the number of permits available, the Town does not include permits issued for affordable housing. Ten percent of the total number of permits available are available to affordable housing and not subject to the allocation requirements. However, as discussed in the Residential Development section of this chapter, the term “affordability” is not defined in the LUO.

The LUO identifies several exceptions from the growth management permit requirement. These include:

- The repair, replacement, reconstruction or alteration of any existing building or structure not resulting in additional dwelling units,
- Housing for the elderly which is constructed, operated, subsidized or funded, in whole or in part, by an agency of the state or federal government,
- The construction or alteration of a nonresidential building

- or structure,
- The construction or alteration of a new accessory apartment.

In recent years, 40 permits have been available. 50% are allocated to growth areas, 30% are allocated to transitional areas, and the remaining 20% are for rural areas.

Permits are available on a first-come-first-serve basis. In the event two or more growth management permit applications are received simultaneously, the LUO gives preference to applicants who are permanent residents of Kennebunkport and are constructing dwelling units on property for which they are the owner of record.

Table 18-1 displays the number of permits available by growth area as well as the acreage of each area. Table 18-2 shows the zoning districts that fall within or partially within each growth area.

Table 18-1 Summary of area and permits available and issued in growth management area

	Size of area Acres (Approximate % of land area)	Number of Permits Available	Average number Permits Issued (2013-2020)
Growth	2,761 (20%)	20	10.9
Rural	6,723 (50%)	8	6.9
Transition	3,527 (30%)	12	6.3

Table 18-2. Zoning districts within each growth management area

Growth Area	Transition Area	Rural Area
Village Residential	Goose Rocks	Goose Rocks
Village Residential East	Cape Porpoise	Cape Porpoise
Dock Square	East	East
Riverfront	Free Enterprise	Free Enterprise
Cape Arundel	Farm and Forest	Farm and Forest
Cape Porpoise West		
Cape Porpoise Square		
Free Enterprise		

Identifying Growth Management Areas

The growth management permit process helps direct residential growth to areas that are served by infrastructure and away from areas where maintaining rural character is desired. This helps to minimize the impact of development on water resources and natural resources.

To review and confirm the growth management areas, the Growth Planning Committee reviewed existing growth management area map (Figure 18-1). The committee reflected on and incorporated input from the public, and assessed:

- Natural resources
- Current and proposed infrastructure
- Development trends
- Sea level rise.

A discussion of these four topics and a description of the growth areas follows.

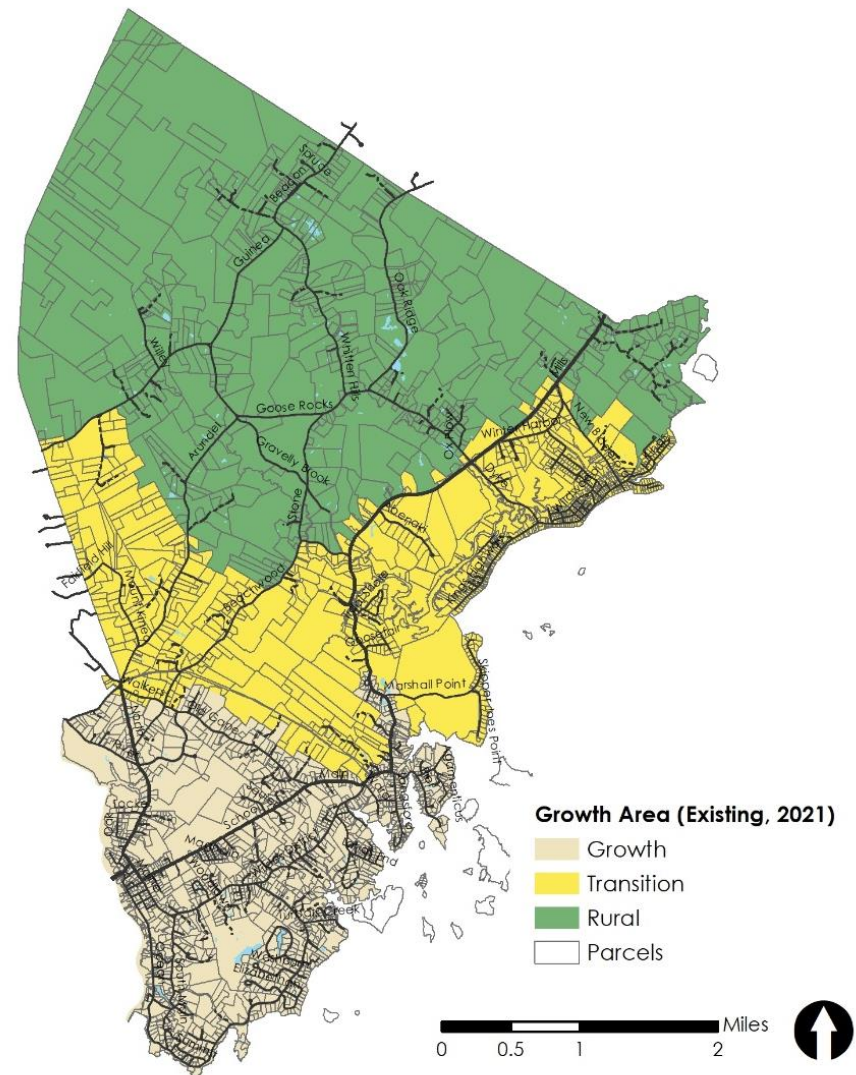


Figure 18-1. Existing growth areas designated in the 2012 Comprehensive Plan and subsequently updated

Natural Resources

Kennebunkport is rich in natural resources and has a strong stewardship ethic. Forests, coastal resources, and the species that inhabit the town's diverse ecosystems are particularly valued. The community's vision for natural resources emphasizes environmental protection and open space preservation.

The town's coastal location bestows it with unique marsh habitat, birds, and tidal rivers. The Shoreland and Resource Protection Overlay Districts are intended to minimize the impact of development on resources. As discussed in the Land Use Chapter, the abundance of wetlands and existing conservation land constrain development opportunities in town. However, these characteristics also contribute to and safeguard the community's rural character.

Critical natural resources, as defined in Chapter 208 Comprehensive Plan Review Criteria, include a variety of natural resources that warrant protection from the negative impacts of development under federal and state law. These resources, along with conserved land, are displayed in Figure 18-2.

Natural resources are present throughout the community and therefore can be found in all growth rate areas and zoning districts. Kennebunkport's Zoning Ordinance contains provisions to minimize the impact of development on resources and to prevent development within areas that are especially sensitive and noncompatible with development. As discussed in the Land

Natural resources are discussed in several chapters of this Comprehensive Plan: Chapter 4 Existing Land Use, Chapter 7 Natural Resources, Chapter 8 Water Resources, and Chapter 9 Marine Resources. Refer to these chapters for detailed information and maps.

Use Chapter, the shoreland and resource protection zones provide protection to coastal and inland water resources. The uses that are allowed by right within the Shoreland and Resource Zones are limited to uses such as management of natural areas and resources, essential services, timber management, and non-intensive and non-commercial recreation such as fishing or hiking. More invasive uses of land within these zones requires a permit from the Code Enforcement Officer or Planning Board.¹

Within the Shoreland Zones, all structures must be set back a minimum of 75 feet from the normal high water mark of bodies of water, tributary streams, and the upland edge of a wetland, except in the Dock Square and Riverfront Zones where there is more density of development and intensity of land uses present. The Town created a Shoreland General Development zone that coincides with the Dock Square and Riverfront Areas within the Shoreland Zone, which are both located within the Growth Area. A reduced setback of 25 feet is imposed in this district.² Figure 18-3 displays the extent of the Shoreland and Resource Protection Zones. Refer to the Water Resources Chapter for additional information about shoreland zones. The Transportation Chapter contains information about regulations for roads in proximity to the Shoreland and Resource Protection Zones.

Critical Natural Resources Include:

- Resource Protection District areas
- Wetlands of special significance (coastal wetlands, great ponds, wetlands that contain critically imperiled or imperiled community, wetlands that contain significant wildlife habitat, wetlands subject to flooding, location within 250 ft of coastal wetland, peatlands, at least 20,000 sf of aquatic vegetation, wetland within 25 feet of a river)
- Significant wildlife habitat
- Threatened, endangered and special concern animal species habitat
- Significant freshwater fisheries spawning habitat
- Natural communities that are critically imperiled, imperiled, or rare
- Areas containing plant species declared to be threatened or endangered
- Coastal sand dune systems
- Fragile mountain areas
- National Natural Landmark

(Chapter 208 Comprehensive Plan Review Criteria)

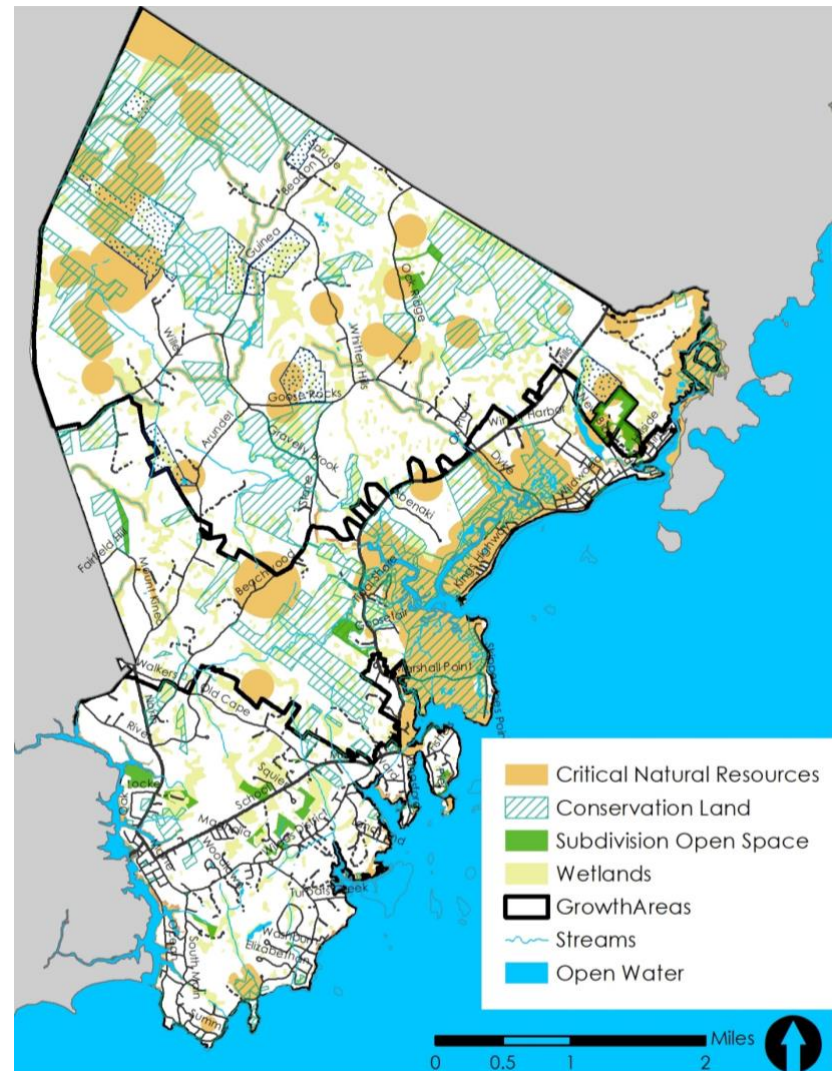


Figure 18-2. Critical natural resources and other important natural resources (Source: Town of Kennebunkport, Maine Department of Inland Fisheries and Wildlife, Kennebunkport Conservation Trust, National Wetlands Inventory)

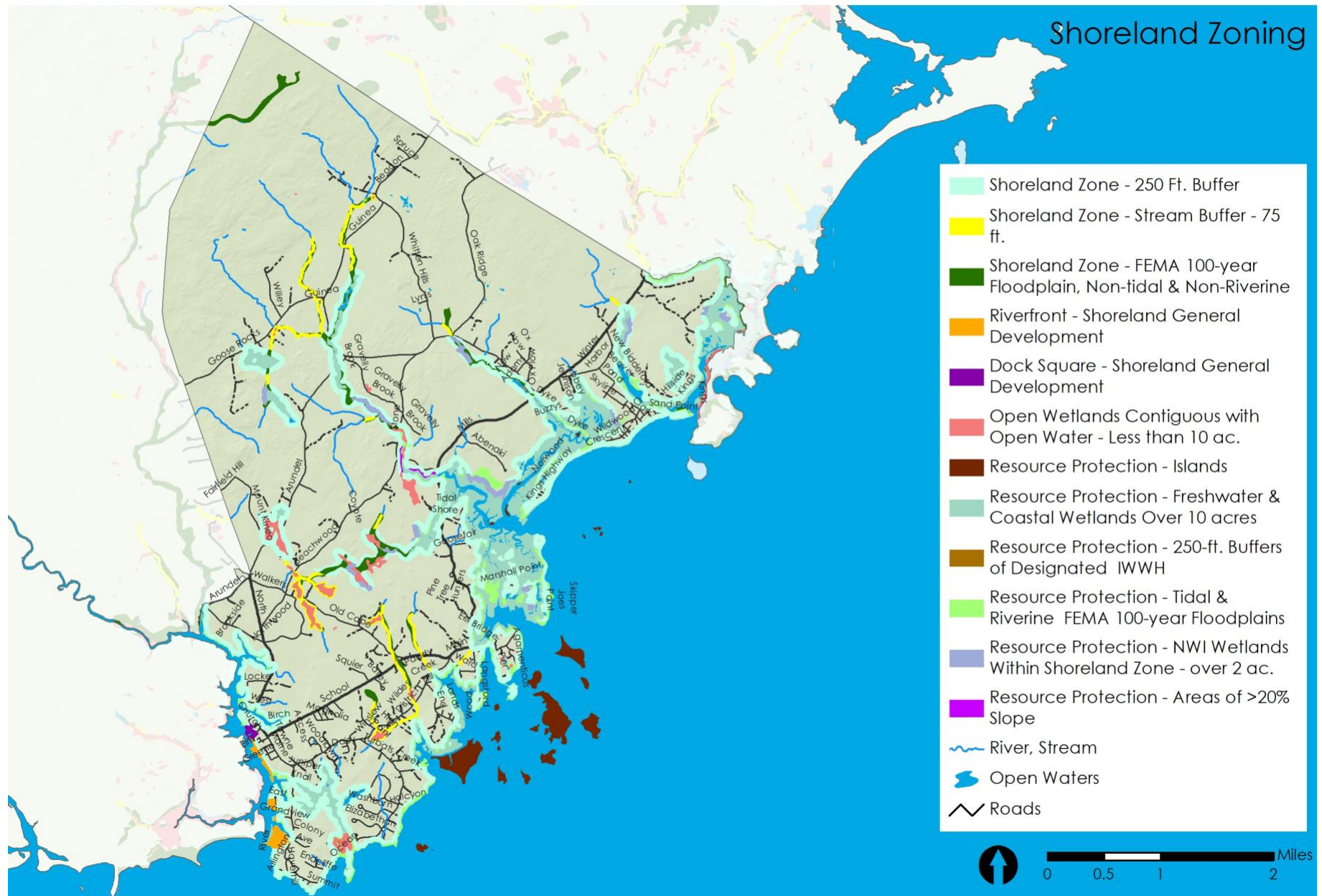


Figure 18-3 Map of the Shoreland and Resource Protection Overlay Districts (Source: Town of Kennebunkport)

Within the Growth Area, critical resources are located along the shoreline and fall within the jurisdiction of the Shoreland and Resources Protection Zones. A majority of the extensive marsh habitat is part of the Rachael Carson Wildlife Refuge. Many of the areas that are identified by the state as recent locations of state listed animals are located within existing conservation land, which provides protected habitat.

In the currently designated growth area, one area that is slated for a combination of development and open space is the Village Parcel. No designated critical natural resources were identified in the Village Parcel using datasets provided by the State's Municipal Planning Assistance Program. However, a site analysis conducted during the Village Parcel planning process identified three vernal pools.³ Figure 18-4 displays the vernal pools, streams, and wetlands located within this area as well as surrounding conservation land. The parcel is located in proximity to existing conservation land and undeveloped land that offers an opportunity to enhance the connectivity of wildlife corridors.

Other Resources

The shade trees that line Kennebunkport's streets are among its prized environmental resources. The [Shade Tree Committee](#) has logged over 1,300 shade trees into the Town's database and [web viewer](#). The committee's activities center around the renowned and still numerous elm trees. An ambitious program of immunization, replacement plantings, and pruning are the main components of the Shade Tree Committee's work. Species of particular interest are the elms, chestnuts, and several native flowering species such as dogwoods. Shade trees are generally compatible with development but must be provided sufficient growing space above and below ground and must be protected from road salt and drought in urban environments.

Limited aquifers underly the town. These are located in the northern portion of town near the Biddeford boundary. Open space is the best land use above a high yield aquifer, however limited types of development can be managed with land use standards.

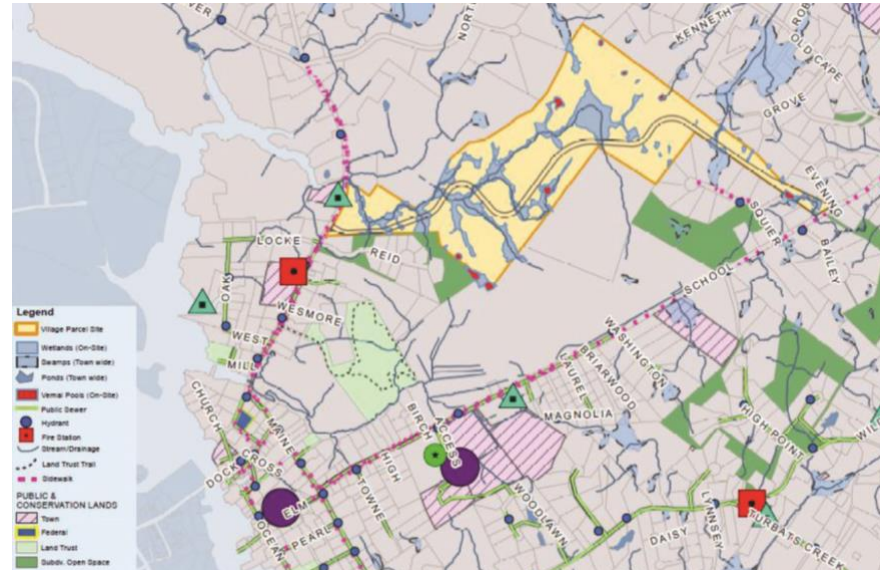


Figure 18-4. Map of Village Parcel and surrounding land (Source: A Vision for the Village Parcel)

Figure 18-5 displays other natural resources, including forestry and farmland soils, areas of undeveloped land, and parcels that participate in the Maine Tree Growth Tax Program (as of October 2021). Shorebird areas and tidal waterfowl/wading bird habitat, which are important marine resources, are also displayed.

Kennebunkport's existing growth and transitional Areas generally do not conflict with these resources. As the map in Figure 18-5 shows, much of the undeveloped areas and all of the coastal bird habitat that does lie in the transition Area is protected conservation land. There are limited areas of soils classified as 'forestry soils' and very limited area of soils classified as 'farmland soils' in Kennebunkport. These areas are located in the rural area. The preservation of farms within the community is desirable.

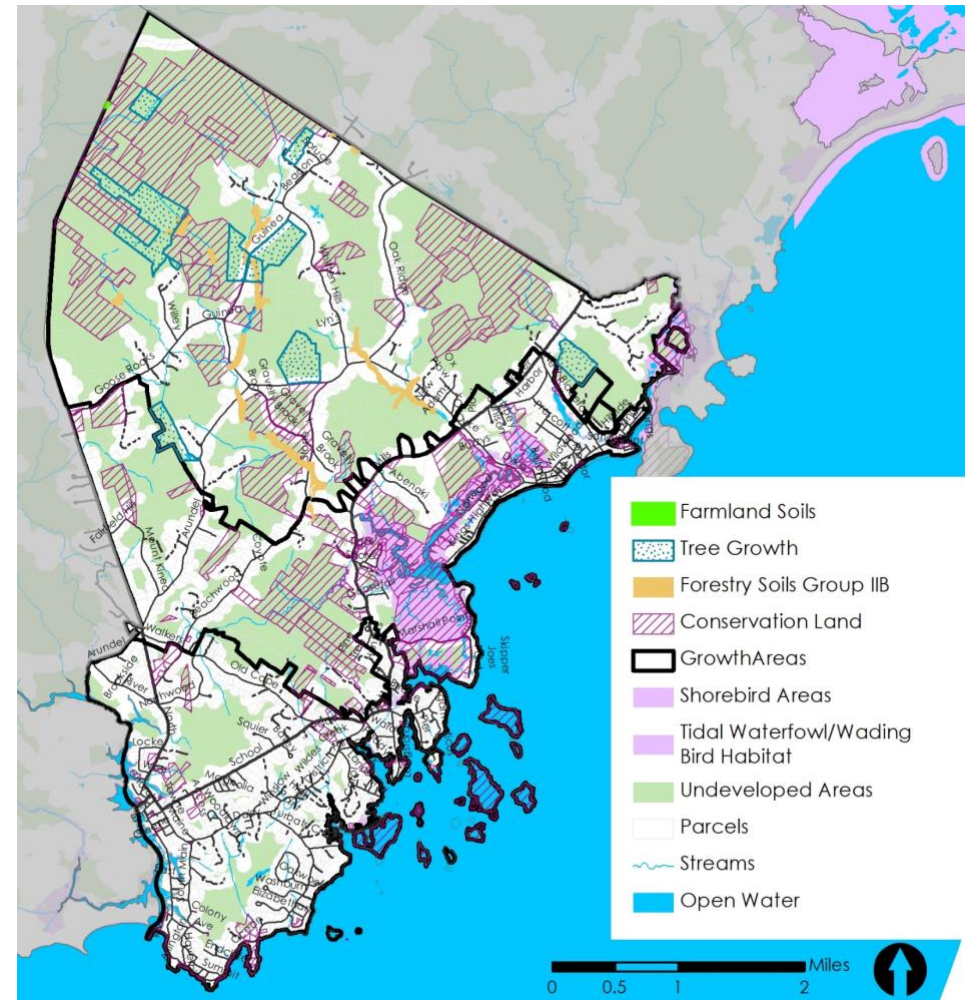


Figure 18-5 Forestry and farmland soils, parcels in ME Tree Growth program, coastal bird habitat, undeveloped land, and protected land (Source: Town of Kennebunkport, ME Department of Inland Fish and Wildlife, Kennebunkport Conservation Trust)

Current and Planned Infrastructure and Public Facilities

Roads and Sidewalks

The Town maintains over 50 miles of roads (Figure 18-6). The capital budget for road improvements and sidewalks has declined, while highway and pier funds have increased in recent years. The estimated future budget for transportation projects is not expected to change significantly in the next five years.⁴

When land is subdivided and new roads are constructed, the developer is required to maintain all improvements and remove snow on streets and sidewalks until either the municipality accepts the improvements or a lot owners' association assumes control of the street (Subdivision Regulations Section 10.1(G)). A street must be considered and accepted at town meeting to become a public way. In 2018, the Town adopted a new street acceptance policy that requires sufficient public benefit to justify perpetual maintenance in order for the street to be considered for acceptance as a public way. A street that meets or exceeds the public service need, pedestrian accommodation, and connectivity requirements is considered to provide this sufficient public benefit. When making this determination, the Selectmen classify roads that are proposed for acceptance in the following categories: a) the street leads to a public facility, b) the road connects to other streets or is a thoroughfare, and c) the street provides other public benefit(s).⁵ These regulations and policies ensure that the Town only takes on the burden of new roads upon voter approval and demonstration of public benefit.

The Town's Subdivision Regulations require sidewalks in all new subdivisions within or partially within areas that are designated as growth and transitional areas. In areas outside of growth areas, sidewalks are required to be installed and connected to the existing sidewalk network if adjacent sidewalks are present.

Town-Owned Land

As of November 2021 the Town owns a total of 70 properties (Figure 18-6). The Town owns 17 conserved parcels and two parcels that are conserved with an allowance for either fisherman's use or recreational buildings. Conserved properties total approximately 51 acres.

There are 26 small, unbuildable Town-owned lots, which account for just over 3 acres combined. Many of these lots have pumping stations. Some lots are not conserved, but do have development restrictions.

Twenty-six of the Town's properties are classified as not conserved. These lots include municipal building properties, the wharf, parking lot, public safety buildings, and the Town Dump. Some Town-owned land that is not conserved is tax acquired land. Four of these lots (128 acres) are properties known as Town Forest, which have been owned by the Town since the 1930s and 1950s. To preserve and maintain these lands as undeveloped forest land, these properties should be protected through a conservation easement or other deed restriction.

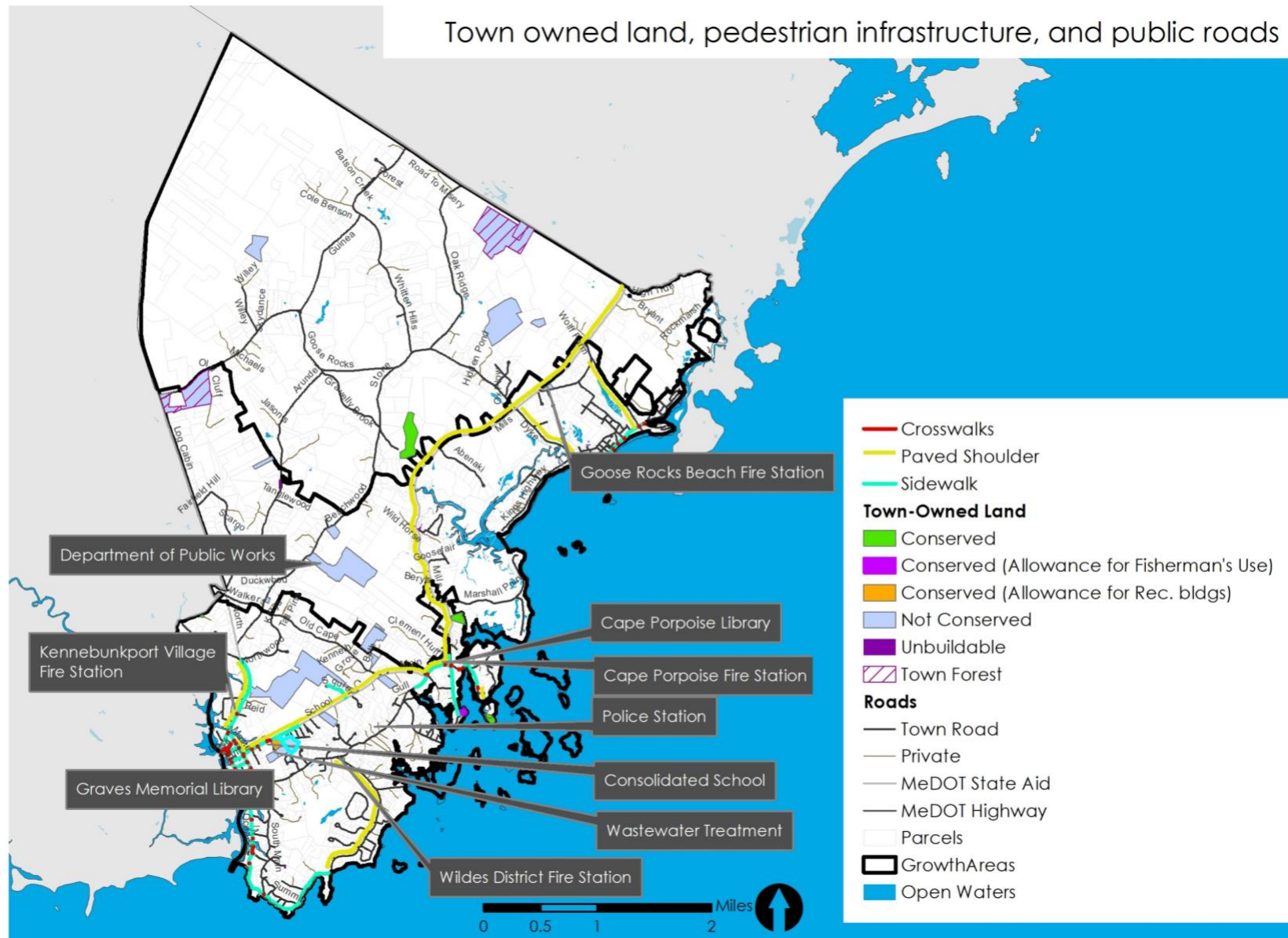


Figure 18-6 Town owned land, pedestrian infrastructure, and public roads (Source: Town of Kennebunkport)

School

The Kennebunkport Consolidated School, the town's only public school, is located in the Growth Area. Enrollment at the Consolidated School (Kindergarten through 5th grade) has trended downward in recent years. Projections indicate that the population will increase slightly to around 160 by 2024.⁶ This is well below the 200+ students who were enrolled in 2012. The challenge is therefore not how to accommodate future growth but how to attract younger families to boost enrollment.

Emergency Response

Kennebunkport's emergency management team is headed by a Director and assisted by a Deputy Director. Operations are headquartered in the Police Department building at 101 Main Street in close proximity to a communications tower.

There are currently four firehouses in Kennebunkport. The Town owns the Village and Wildes District firehouses and the Cape Porpoise and Goose Rocks companies own their own buildings and lease them to the Town. The department utilized GIS analytical tools to examine response times and concluded that if the Wildes District and Cape Porpoise stations were deactivated, overall response time would not be significantly diminished. In order to enhance efficiency and achieve cost savings, the department proposes a reduction in the number of fire stations from four to two.

The facility reduction would require an expansion at the Village Fire Station to accommodate vehicles and equipment from District 2. An expansion at the Village Fire Station would also entail the conversion of the meeting room into offices for the department and for the Emergency Medical Services, and bunks for paid staff. The meeting room conversion would have to occur after the Town secures another facility for public meetings, such as the one that would be included in a new Town Office.⁷

The police station at 101 Main Street was constructed in 1997 and subsequently expanded and modified several times to meet the needs of a growing department and the demands of policing in the 21st century.

In recent years, the reliability of the department's radio communications had deteriorated due to the widespread proliferation of Wi-Fi and other ubiquitous wireless technologies that interfere with police department communications. Communication dead spots have also been a problem due to topography. For example, the department has had difficulty establishing contact between the police station and officers in the vicinity of Dock Square. The department hired 2-Way Communications to assess the extent of the problem and to provide recommendations. The company recommended converting to a digital system, and erecting towers at the wastewater plant and the Goose Rocks Fire Station.

Sewer & Water

Town sewer is available in much of the currently designated growth area (Figure 18-7). The coastal portion of the transition area and just three parcels in the rural area are on Town sewer. There are many unsewered lots in the growth area and the inland areas of the transition area, therefore there is potential for as many as 80% of the annual growth management permits issued to be located on lots that do not have access to Town sewer.

For planning purposes, the department estimates that each sewer unit^a (e.g., a single family home, 2 hotel rooms, 10 restaurant sets, etc.) discharges approximately 175 gallons of sewerage into the system on a daily basis. Thus, it would take 1,314 dwelling units, or some combination of a lesser number of dwellings and commercial facilities to reach the plant's licensed capacity of 700,000 gallons per day.

The collection system serves approximately 3,500 customers in the most densely populated areas of the town, i.e., Dock Square, Cape Arundel, Cape Porpoise, and Goose Rocks Beach. The service area includes slightly over half of the inhabited buildings in the town.

The drinking water supply for Kennebunkport consists of private wells, 6 [public water system wells](#) (privately owned but have at least 15 connections or serve over 25 people), and surface and groundwater supplied by the Kennebunk, Kennebunkport, and Wells Water District (KKWWD). Approximately 1,410 parcels (40% of all parcels in town) are served by the KKWWD. All of the water that is provided by the KKWWD is derived from locations outside of Kennebunkport. Sources of finished and unfinished water include the Branch Brook, Biddeford & Saco Water Company, and York Water District. Since 2015, KKWWD's annual water production has been around 1,000 – 1,100 million gallons.

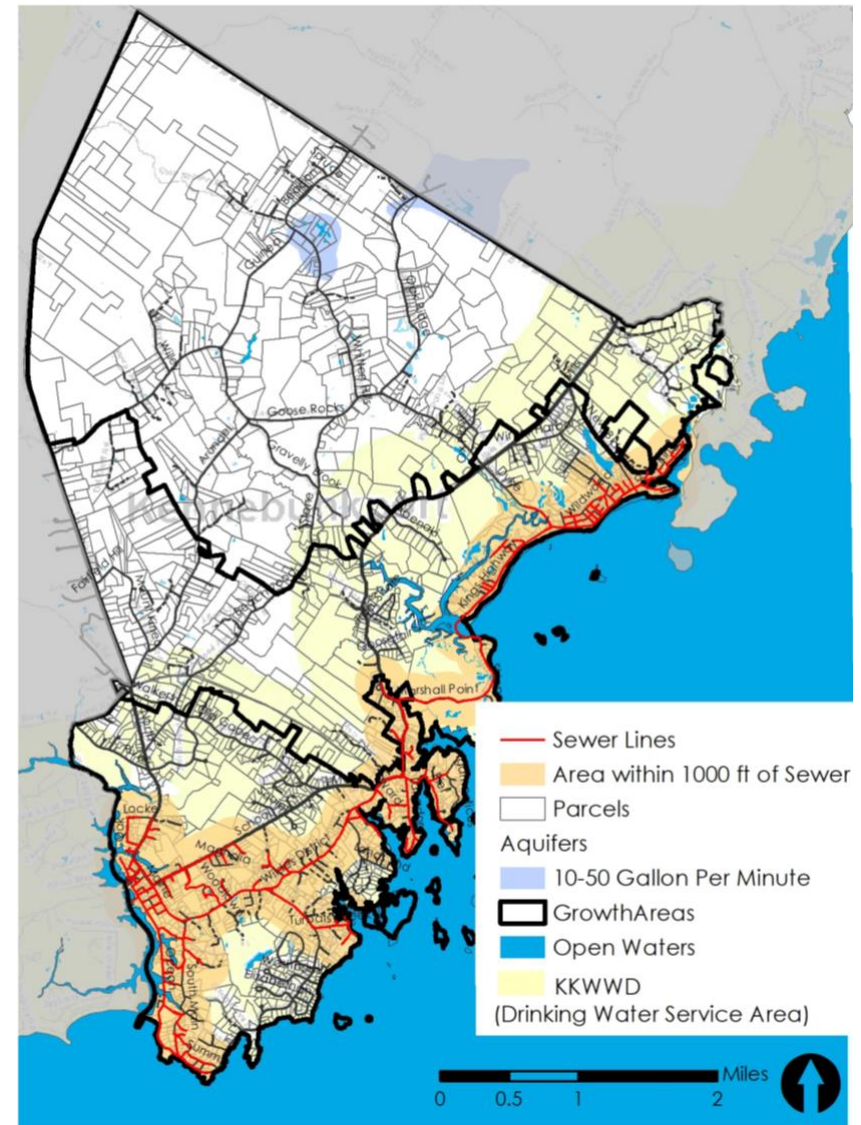


Figure 18-7 Extent of sewer and water infrastructure and location of aquifers (Source: Town of Kennebunkport, KKWWD, ME DACF)

^a See <https://www.kennebunkportme.gov/wastewater-department/faq/what-are-sewer-units> for detailed information on sewer units.

The supply to Kennebunkport hovered around 130 million gallons/year from 2015-2018, then increased by over 30% to 200 million gallons in 2019.⁸ Lots that are not served by the privately owned 'public water system' wells or KKWWD are served by private wells. Drinking water wells in Kennebunkport may be vulnerable to increased salinity and/or pollution from sea level rise induced groundwater rise, which can impact locations as much as three miles from the coast.

Much of Kennebunkport's sewer system is half a century old. The system is in a phase of its life cycle when major components need to be replaced. Additionally, the Town is focused on protecting this critical infrastructure from the impact of sea level rise. Expansion of the system will largely be deferred in the near term, as the Town's finite resources will be invested in the replacement of old components and preparing the infrastructure for climate change.

Recent Population and Development Trends

Population

According to decennial census data, the Town's year-round population declining from 3,720 to 3,374 between 2000 and 2010, and then increased to 3,629 in 2020.

The State Economist projected that the Town's population would increase by approximately 10.5% (from 3,571 to 3,946) between 2016 and 2036. The latest available projections show a population increase of 13.8% between 2018 and 2038 by approximately 500 people, or 25 people per year.⁹ The current and future demand on services like sewer, water, parking, and emergency response must account for a significantly larger population due to the estimated seasonal population of 12,000. Furthermore, the Town should anticipate a potential influx of new residents who move to Maine to escape worsening drought, wildlife, and flood hazards in other areas of the country. In addition, the COVID-19 pandemic has revealed

Population change will be impacted by factors including housing affordability, services and resources, vacant housing, developable land, local and regional job opportunities, the ability to work remotely, birth and death rates, and climate change.

In the coming years, climate change will impact some regions of the United States more severely than others. A state like Maine, with ample water supplies and a temperate climate, will likely attract migrants fleeing other parts of the US.

Concurrently, a rising sea will force some Kennebunkport residents to seek higher ground within the town and elsewhere.

the effect that remote working had on where people choose to live and the desirability of places that offer a high quality of life, like Kennebunkport, when the work commute does not have to be factored into one's decision on where to live.

Housing

In recent years, most residential development has occurred in the Goose Rocks, Free Enterprise, and Farm & Forest zoning districts (Figure 18-8). These districts are located in growth, transitional, and rural areas.

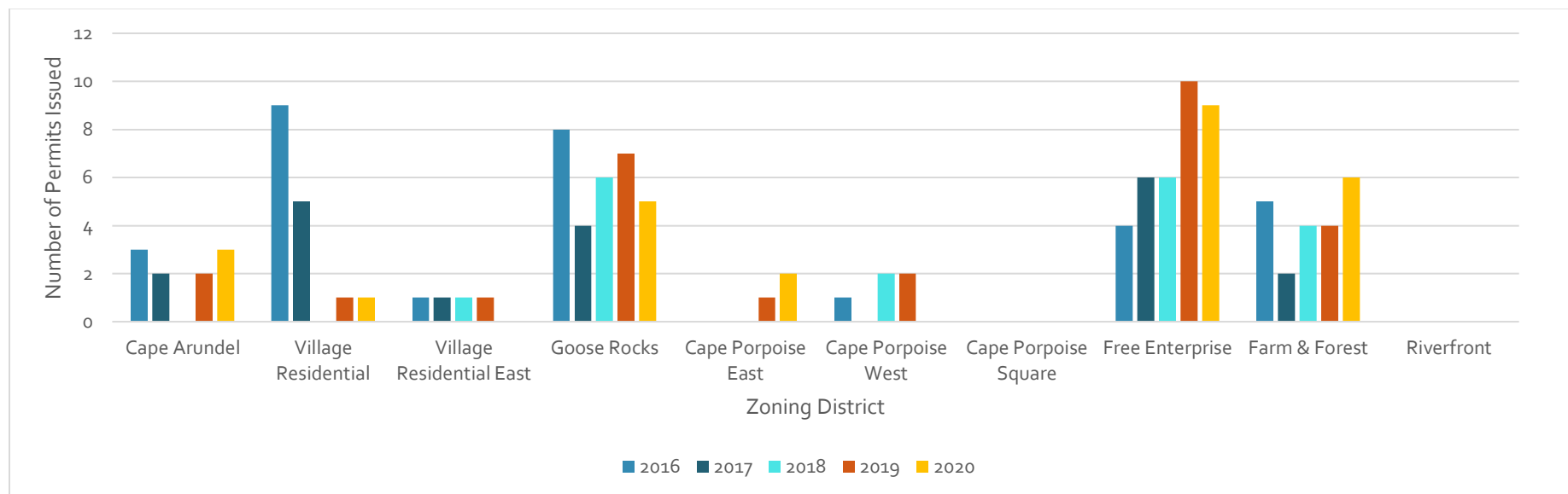


Figure 18-8. Growth management permits issued by zoning district in 2016-2020

Over 90% of the estimated 3,027 housing units in Kennebunkport are 1-unit, detached dwellings (single family homes) (Table 18-2).¹⁰ There are an estimated 105 units in duplexes and 69 units that are part of multiplexes with three or more units. The predominance of single family homes is a contributing factor to the lack of affordable options in Kennebunkport. The size of homes and lots also impacts housing affordability. According to the American Community Survey, nearly one-third of occupied housing units in Kennebunkport have 4 or more bedrooms (Figure 18-9). This data is not available for vacant housing units, of which there are many due to high number of non-year-round

homes. Approximately 10% of occupied housing units are renter-occupied.¹¹

Residents expressed concern with the lack of affordable housing, growing number of seasonal housing and rentals, and impacts of housing and development on wildlife. Residents would like to see more diverse housing options.

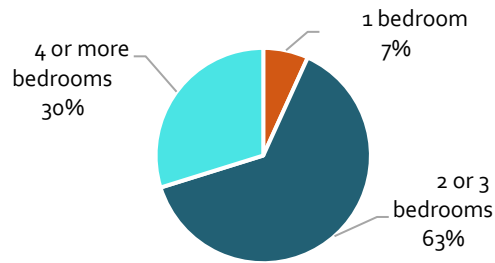


Figure 18-9 Estimated number of bedrooms in occupied housing units in Kennebunkport (ACS 2019 5-year estimates)

Workshop poll results indicate the community’s interest in diversifying the housing stock with more smaller homes, condos, apartments, and housing for seniors (Table 18-3).

Table 18-2 Number of dwelling units in residential structures in Kennebunkport (ACS 2019 5-year estimates)

Units in Structure	Number	Percent of Total
1 unit detached	2,771	91.5%
1 unit attached	71	2.3%
2 units	105	3.5%
3 or 4 units	51	1.7%
5 to 9 units	0	0.0%
10 to 19 units	18	0.6%
20+ units	0	0%
Mobile home	11	0.4%
Boat, RV, van	0	0%
TOTAL	3,027	

Table 18-3 Workshop poll results: What types of housing does Kennebunkport need more of?

Type of Housing	Number of Responses
Smaller homes (1-2 bedroom)	24
Apartments	18
Condominiums that are suitable options for downsizing from larger homes	17
Senior housing	16
Tiny homes (less than 400 square feet)	12
Rentals (long term)	11
Assisted living	4
Larger homes (3+ bedroom)	3
Other	1
Summer rentals	1
<i>Total participants=39, participants could choose all that apply</i>	

What is Affordable Housing?

The term “Affordable Housing” is not currently defined by the LUO. A definition should be added.

According to the Kennebunkport Heritage Housing Trust (KHHT), supporting affordable housing means:

- The local workforce- first responders, teachers, town employees, business owners and their staff, etc.- can afford to live in the town where they work
- Enrollment will grow at our local elementary school- the PRIDE of the 'Port
- We can balance the aging population of Kennebunkport
- Contributing to a vital, diverse, engaged and welcoming year-round community
- Building on the strong heritage of Kennebunkport and ensuring the story of our Town will continue on for years to come.

The KHHT sets income levels based on the project and household size. The first neighborhood (Heritage Woods) has income eligibility guidelines to serve families earning between 80-120% of the area median income.

MRSA Chapter 202 defines affordable housing as “decent, safe and sanitary dwellings, apartment or other living accommodations for low-income and moderate-income households” that includes, but is not limited to:

- Government-assisted housing
- Housing for low-income and moderate-income families
- Manufactured housing
- Multifamily housing, and
- Group and foster care facilities.

The Maine State Housing Authority considers housing to be affordable if the household spends no more than 30% of its income on housing related costs (mortgage or rent, utilities, taxes, insurance, and maintenance).

According to the US Department of Housing and Urban Development (HUD) is generally defined as housing on which the occupant is paying no more than 30% of gross income for housing costs, including utilities.

Camoin Associate's [Housing Needs Analysis & Assessment](#), issued in January 2018, identified a number of key findings, which are discussed in Chapter 6 Housing of this Comprehensive Plan.

The findings include:

- Housing unaffordability
- Rising cost of homeownership
- Limited supply of year-round rental options
- Impact of seasonal homes on housing price
- Impact of large lot zoning on construction of high-priced homes
- Short term vacation rental impacts on housing cost.

Implications of the housing situation include:

- Limited income diversity in Town
- Underrepresentation of younger, middle-aged population
- Declining school enrollment
- High degree of cross-commuting
- Lack of housing for Town employees and people who work in town.

The [Village Parcel Market Analysis](#), determined that the housing demand, especially for moderately priced homes, will be robust into the future. Demand is anticipated to range from 330 to 542 units by the year 2024. Forty percent of this demand is for market rate housing (\$400,000+) and 60% is from households making \$50,000-\$100,000. The demand for "affordable" homes for people under age 55 is 125-150 homes.

In 2018, the Kennebunkport Heritage Housing Trust was established to address a shortage of affordable housing in town. The non-profit's initial goal was the construction of 25 affordable homes by 2025. As of 2021, the organization is on track to meet that goal.

The housing study found that undeveloped land in Kennebunkport can accommodate over 2,800 units under current (2021) zoning. Assuming an average household size of 2.19, these units could accommodate approximately 1,280 people, substantially more than the projected population growth. However, the projected demand for between 66 and 108 units per year¹² (2019-2024) exceeds the number of permits available on an annual basis.

Where future development occurs will depend on factors including the location of undeveloped and developable land, zoning regulations, and growth permits.

Figure 18-10 displays the location of parcels that are classified as 'undeveloped residential land' in the Town's assessing database. This land is categorized as developable residential land, potentially developable residential land (due to water or an access issue), or likely undevelopable residential land, which has a low but not impossible likelihood of being developed in the future. Undeveloped residential land accounts for 18% of total land in Kennebunkport (Table 18-4).

According to the assessing data, up to 13% of the designated growth area (approximately 357 acres) is comprised of undeveloped land. A majority of this land is considered developable. The average lot size of the land categorized as developable land in the growth area is 2.7 acres.

There are 43 lots and 290 acres of land classified as undeveloped residential land in the transitional area.

In the rural area, there are nearly 1,350 acres of undeveloped land, of which about half are identified as developable and 20% are potentially developable.

This data provides general information about undeveloped parcels that could be developed as residential uses. However, it does not reveal lots with existing residential development that could be subdivided and further developed. It also does not identify where standards of the LUO would prevent development, such as lots that lack sufficient road frontage to be subdivided.

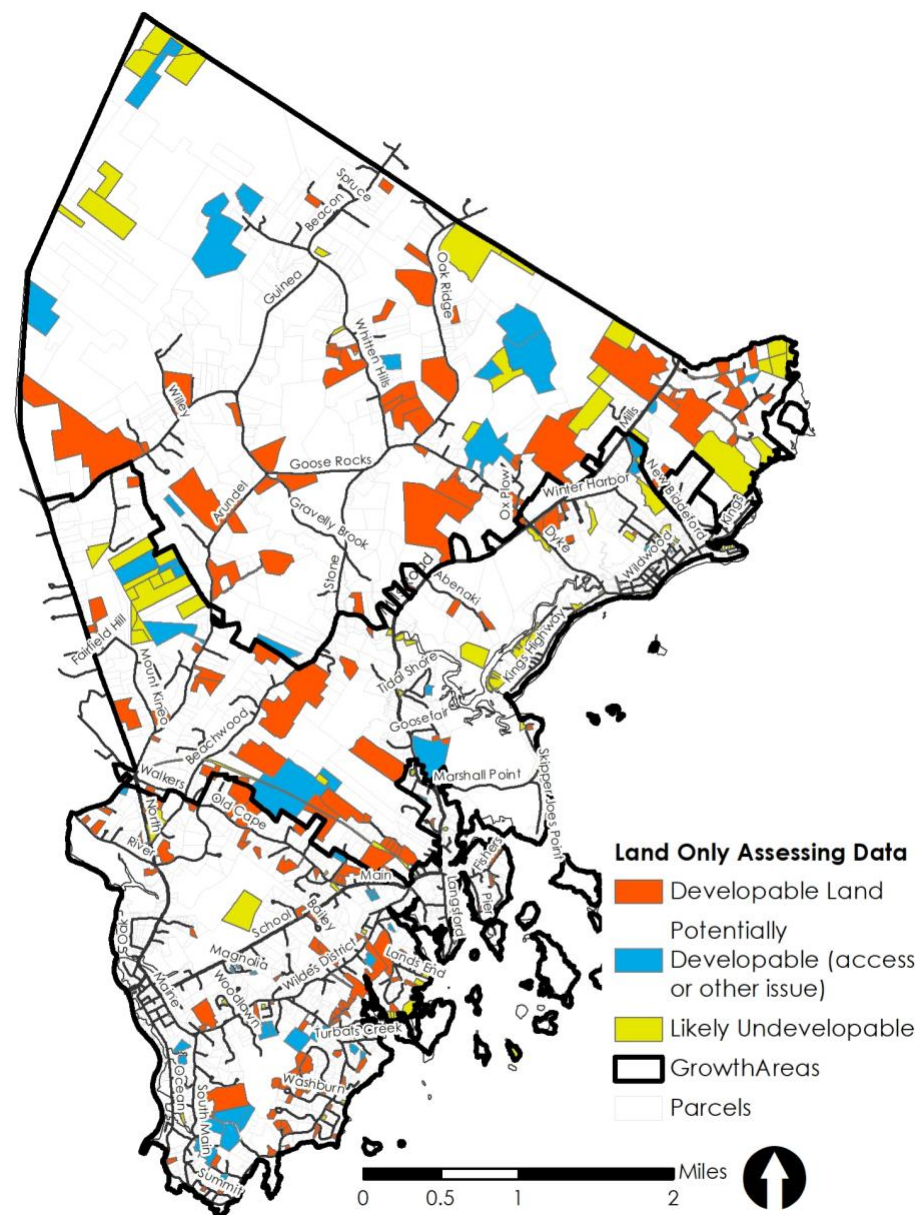


Figure 18-10 Location of undeveloped residential parcels (Source: Town of Kennebunkport Assessing Department)

Table 18-4. Undeveloped residential land by growth area (Source: Town of Kennebunkport Assessing Department)

	Growth Area		Transitional Area		Rural Area		Town-Wide	
	Number Parcels	Acres	Number Parcels	Acres	Number Parcels	Acres	Number Parcels	Acres
Developable Land	81	220.8	43	290.4	48	734.9	172	1,246.1
Potentially Developable Land	30	81.7	16	169.5	16	283.9	62	535.1
Likely Undevelopable Land	33	54.9	65	188.8	25	327.9	185	815.3
Total	144	357.4	124	648.7	89	1,346.8	357	2,352.9
Percent of Growth Area		13%		18%		20%		18%

Housing Affordability and Residential Density

An update to a municipal Comprehensive Plan provides the townspeople with an opportunity to periodically examine the Land Use Ordinance (LUO) to ensure that the regulations continue to be consistent with the community’s aspirations and goals. Public input for the current update revealed overwhelming support for the preservation of Kennebunkport’s scenic character, natural resources, and open space. Strong support was likewise expressed for removing regulatory barriers that needlessly drive up the cost of new housing. Strategic adjustments to the LUO’s density requirements could help to achieve all of these goals.

Kennebunkport adopted its first zoning ordinance in 1961. The current LUO dates to 1972 and has been subsequently amended. The LUO, like the regulations in many other communities in Maine, is rooted in antiquated provisions that were originally intended to protect residential uses from incompatible development and preserve rural character. Today, these provisions undermine the efforts of Maine municipalities that seek to preserve small town village character and large areas of

open space due to sprawling development that results from large lot zoning.

The Town has existing regulations that allow for cluster development (LUO Section 240-7.3), which requires a certain amount of open space to be set aside in perpetuity. This helps to mitigate the undesirable impacts of future residential development on natural resources and rural character while also creating walkable neighborhoods.

Zoning codes can be a drag on housing affordability. Because standard Euclidean zoning often over regulates things like density, lot sizes and setback, it ends up prohibiting small and versatile forms of missing middle housing that would actually fit very well within the fabric of a historic neighborhood.

Chuck Marohn, Strong Towns

The Town also permits accessory apartments, which help diversify the housing stock and increase rental opportunities in town and bring in rental income that offsets the cost of homeownership for the property owner. The regulations for accessory apartments could be reviewed to identify opportunities to make it more feasible to create accessory apartments. The Town could also establish an ADU incentive program as was recently done in Kittery.¹³ Provisions that limit the ability of having both an accessory apartment and a home occupation could also be reviewed to identify opportunities to use performance standards to regulate the appearance and potential impact of these uses within neighborhoods, as opposed to simply prohibiting the combination of these uses.

Adjustments to the LUO can enable the preservation of Kennebunkport's scenic character, natural resources, and open space, while achieving the goal of lessening the regulatory barriers to housing affordability. A few examples are provided below and additional recommendations are included in the Strategies Chapter of this plan.

For example, reducing the minimum dimensional requirements for lot size, frontage, and setbacks can enable more compact development. This is desirable in areas that have access to sewer and water in the growth and transition areas.

An unusual feature in the LUO dimensional requirements table is that single family homes and 2-family homes are subject to different front yard, side yard, and rear yard setbacks in some districts. The rationale for this distinction is not plainly evident. In order to render the LUO more defensible, this provision could be reviewed.

Kennebunkport's Subdivision Regulations contain performance standards that require that net residential area be determined by subtracting exclusions listed in the LUO from gross acreage when determining lot size in subdivisions. This provision could be reviewed to determine the effect it has on the viability of development and specifically on development of affordable housing.

A density bonus is another tool the community can consider to incentivize affordable housing. The incentive typically allows and increase in 10 to 20% of the allowed density of the underlying zoning district in exchange for providing affordable housing. This approach may be appropriate in multiple zoning districts.

Non-Residential Land Uses

Parcels that are classified as commercial account for approximately 3% of the area of Kennebunkport. The primary commercial centers in town are Dock Square and Cape Porpoise Square, however commercial uses are permitted in a number of zoning districts in town.

A majority of the new construction permits for commercial development issued between 2009 and 2019 were in the Free Enterprise Zone (Table 18-5). As noted in the table, a number of these permits were for condominiums, rather than businesses. This data provides information on where new development occurred but does not include redevelopment or conversion from one business to another.

Table 18-5 New commercial construction permits issued from 2009-2019 by zone (Source: Assessing Department, excludes renovations, additions, repairs)

Zone	2009	2010	2011	2012	2013	2015	2016	2018	2019	Total
Cape Porpoise West							1		1	2
Dock Square				1						1
Goose Rocks/Free Enterprise Dual Zone				16 ^a						16
Free Enterprise		1			1	2			10 ^b	14
Farm & Forest									1	1
Riverfront								1		1
Village Residential							1	1		2
Total		1		17	1	2	2	2	12	37

^a 16 2 bedroom condo development at 272 Mills Road, ^b 10 motel cottages at 356 Goose Rocks Road

modifying the LUO to permit the five most popular uses cited in this table.

Small, locally-owned businesses that are geared primarily to serve local residents” was the single most popular response. The LUO should be amended to permit such uses in the Dock Square, Cape Porpoise Square, and Free Enterprise zoning districts. Care should be taken to distinguish these enterprises from convenience store chains that hold no ties to the community.

Likewise, small specialty food stores proved popular, while residents seemed content to travel out of town when in need of a larger food store such as a supermarket. This type of use would be considered a Retail Business, which is a Conditional Use subject to site plan review under the existing LUO in the Dock Square and Cape Porpoise Square Zones and a Conditional Use Subject to Zoning Board of Appeals Review in the Free Enterprise Zone. The LUO should be amended to allow small specialty food

stores, subject to Site Plan Review, in the

Kennebunkport residents were polled on several occasions and asked if there are land uses that are either not currently present or permitted in town that would be desirable. The results of one such poll are displayed in Table 18-6. The Town should consider

Free Enterprise zoning district. The Town could consider establishing relaxed parking requirements for small specialty food stores, which could make this use more feasible in certain locations.

Table 18-6 Workshop poll results: Which of the following uses would you like to see more of in Kennebunkport?

Use	Number of Responses
Small, locally-owned businesses that are geared primarily to serve local residents	24
Farmers markets	23
Small, specialty food stores	14
Solar farms ranging in size from 5 to 10 acres (1 MW to 2 MW)	13
Mixed use buildings (residential and commercial on the same lot or same building)	11
Personal care businesses such as barbershops and beauty salons	4
Medical or health care	3
Grocery stores (like Hannaford, Shaws, Whole Foods, etc.)	2
Office space	2
Industry or manufacturing	0
<i>Total participants=39, participants could choose all that apply</i>	

Farmers markets proved popular with the public. The fire station parking lot is ideally suited because parking is plentiful, the site is in walking distance of Dock Square and the Village, and the lot is not in close proximity to residential abutters. For the same reasons, the Fire Station parking lot would also be well suited to host a modest food truck operation (one to three trucks) and done so on a rotating schedule so as to vary the menus. An amendment to permit either use should make such operations subject to a Conditional Use permit subject to site plan review.

Provisions to protect nearby residents should be a stipulation of the Planning Board review and approval.

Solar farms proved popular as well. The Town does not currently have regulations for solar arrays. Care should be taken not to remove an excessive number of trees so as to ensure that the solar facility's net impact is positive in terms of reducing greenhouse gas emissions. Several resources are available through the [Maine Department of Agriculture, Conservation, and Forestry](#) on solar development that is compatible with forest and farmland. Grow Smart Maine has [model regulations](#) to support solar energy systems in Maine. The land area covered by these ground mounted solar arrays should not exceed ten acres due to Kennebunkport's limited acreage. That said, a ten acre site could power hundreds of homes, and prove to be more reliable than distant generators. The LUO should be amended to allow such arrays in the Farm & Forest and Free Enterprise zones, subject to a Conditional Use permit.

Poll participants were also interested in mixed-use buildings, which have both residential and non-residential uses, and are often characterized by first floor commercial uses with dwellings above. Such uses are already permitted by the LUO in four zoning districts, subject to a Conditional Use permit through site plan review in the Riverfront and Cape Porpoise East and West Zones or review by the Zoning Board of Appeals in the Free Enterprise Zone. One intent of these provisions is to permit modest dwelling units in mixed use buildings. There are not many such units in Kennebunkport. A relaxation of the LUO's parking requirements might permit greater utilization of this option. The Town could also consider omitting the 60% open space requirement for residential mixed use under LUO 240-7.13 and relying solely on the minimum open space and maximum lot coverage requirements of the zoning districts rather than an added requirement for this specific type of use.

Participants in the 2021 visioning workshop favored commercial uses that are oriented towards year-round residents, as opposed to day visitors.

Interest in additional office or in industrial uses was uniformly low. A large majority favors maintaining the community's rural character and avoiding what they termed "overdevelopment."

The Town has been vigilant in protecting its commercial fishing industry. A healthy working waterfront is integral to the safety and success of the fishing industry. Loss of the working waterfront would have a significant impact on Maine's economy and way of life. Planning and development must prioritize access to the waterfront for commercial fishing and for recreational purposes. Refer to the Marine Resources Chapter for information on working waterfronts. Recreational access to water resources is discussed in the Recreation Chapter.



Village Parcel

In 2018, the Town purchased an 86.67-acre parcel of land (Tax Map 12 Lot 5-12) located in the growth area between North Street and School Street known as the Village Parcel for \$10 million dollars. The property was purchased to prevent it from being developed as a private subdivision and to help address short-term and long-term needs. The property has access to public sewer and water. A majority of the site is currently zoned Free Enterprise and a small portion of the site falls within the Village Residential Zone (Mitchell Associates et al., 2020). The property has approximately 52 acres of upland area, approximately 16 acres of forested wetlands, stream segments, and three significant vernal pools (Camoin, 2019). Surrounding land use includes residential subdivisions and large areas of undeveloped land. When the Town purchased the property in 2018, the land had been partially cleared for lots and roadway. Approximately 6,200 feet of roughed in road connects North Street and School Street.

The Board of Selectmen appointed a steering committee to guide the planning process, interact with the community, identify town needs and desires, and develop a plan with assistance from a team of consultants. [A Vision for the Village Parcel](#), prepared in July 2020, was the outcome of a 12 month process. This document identifies the following objectives (Mitchell Associates et al., 2020):

- Provide for future town essential services, including municipal facilities to enhance the Kennebunkport experience.
- Include design principles of traditional neighborhoods found in Kennebunkport's village area.
- Parcel should flow as an extension of Kennebunkport's

adjacent villages.

- Maintain Kennebunkport's small town character.
- Encourage safe vehicular traffic and pedestrian connectivity.
- Provide for future multigenerational needs.
- Establish mixed uses that complement the needs of the community and each other.
- Encourage passive recreational opportunities.

The site analysis for the Village Parcel identified several key issues (Mitchell Associates et al., 2020):

- The existing forested wetlands, associated streams and vernal pools constrain potential site development.
- Stakeholders and committee members consider the site's ecological resources to be an educational opportunity for the town and an asset to the future development plan as it relates to open space.
- The site provides a significant opportunity to connect North Street and School Street that would likely result in improved response time for public safety services to other parts of the town. This connection may also improve local traffic flow during the high tourist season when the roads in the village area are congested.
- Current zoning does not allow for the residential density of the Dock Square, Riverfront, or Cape Porpoise Square Zone. These districts allows 10,000 square feet per dwelling unit for two family and 20,000 square feet for single family dwellings. Multi-family dwellings are permitted at 10,000 square feet per dwelling unit in Dock Square. Across the river in Kennebunk's Village Residential Zone and Lower Village Business Zone, the permitted density is four times the density than is allowed in Free Enterprise and Village Residential.

During the planning process, the public expressed interest in the following uses (Mitchell Associates et al., 2020):

- Affordable housing for families and aging population, single-family and apartments
- Moderate-sized homes
- Open space and recreation areas and trails
- Community gardens and public gathering spaces
- Pedestrian-friendly, bicycle-friendly
- Limited commercial, local food
- Town office
- Fire station
- Town green.

Non-residential priorities include:

- Preservation of Open Space for Conservation and Recreation
- Reserving Land for Future Use
- Limited, Near-Term Municipal Uses

Residential priorities include:

- Address the housing needs of young families, town workers and seniors that cannot readily be accommodated in the current Kennebunkport market

A Vision For the Village Parcel recognizes that “To realize the vision of a mixed-income, multigenerational neighborhood, and to facilitate a configuration more on par with a village character, the current zoning for the Parcel would require modification. To establish a proper framework to support the desired development types, zoning amendments will need to include reduced setbacks, smaller lots sizes, greater building coverages, greater density, and perhaps the establishment of design

standards.” Amendments to zoning could take the form of a contract zone, overlay zone, or new base zone.

The most preferred type of development for the Village Parcel, as indicated by public input and committee members, is traditional neighborhood character, such as Dock Square and Cape Porpoise.

The above referenced reduced setbacks, smaller lot sizes, and greater density are illustrated in the rendering in the plan that was prepared to explore options for development on the Village Parcel (Figure 18-12).



Figure 18-12 Rendering of Traditional Neighborhood Development by Mitchell Associates et al., 2020

Street Connectivity

There are several advantages to a street network that features multiple interconnections, as compared to cul-de-sac street layouts that have been the norm for the past half century.

- They provide two or more options for evacuation during emergencies.
- Emergency responders have multiple paths to access those in need.
- Such networks are generally more pedestrian & bicycle friendly, and thus tend to strengthen the community's social bonds.
- Roadway maintenance is more efficient, and therefore less costly.

Connected neighborhoods in Kennebunkport include the Village, Dock Square, Goose Rocks Beach, and Cape Arundel. Oftentimes, such neighborhoods were developed not by chance, but rather as a consequence of a deliberate planning effort that was executed on a large scale. The 1873 layout of Cape Arundel (Figure 18-13) is a prominent example. The Boston based speculators behind that endeavor had the resources to acquire a very large tract, and then wisely decided to leave little to chance.

It is noteworthy that the Town-owned, 87-acre Village Parcel is large enough to accommodate a traditional connected neighborhood. The Town would be in a position to control all facets of such a development, including the size and mix and proximity of dwelling units. Buy-in from abutters and the public would be essential before moving forward with such a plan.

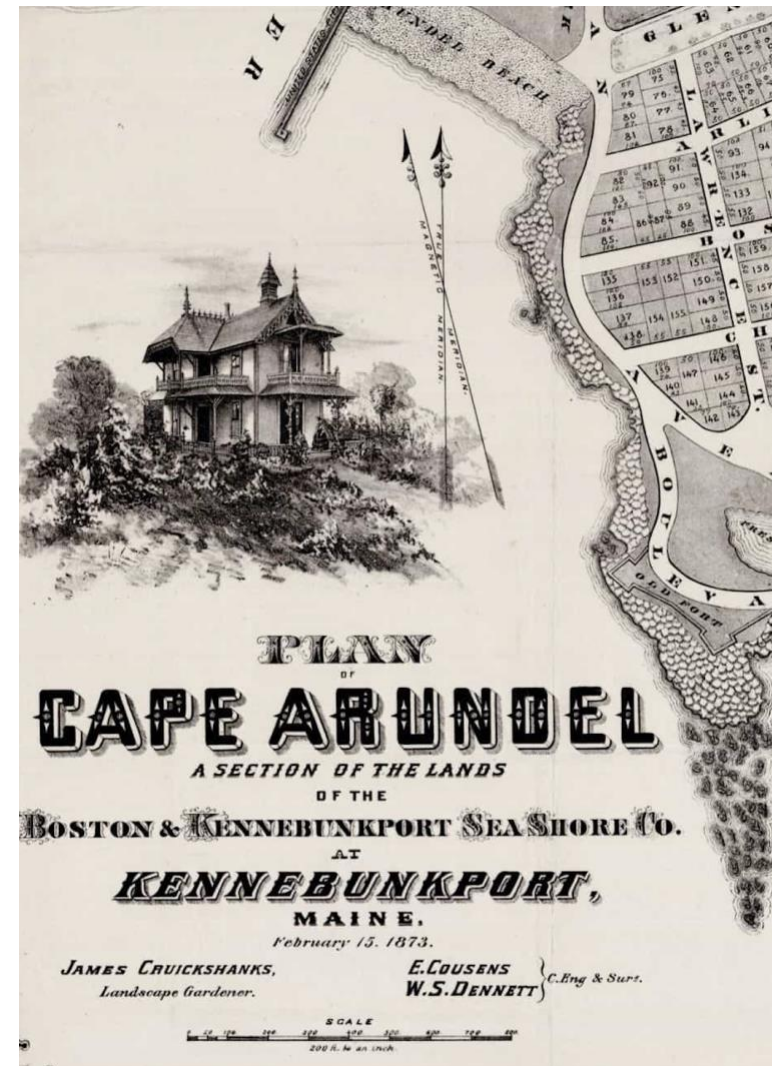


Figure 18-13 Development Plan for Cape Arundel, 1873

Sea Level Rise

The Maine Climate Council recommends committing to manage for 1.5' of relative sea-level rise by 2050 and 3.9' by 2100, as well as preparing to manage for 3' of sea level rise by 2050 and 8.8' by 2100 for critical infrastructure (Figure 18-14).¹⁴ Within Kennebunkport, it is estimated that 260 to 1,116 acres of land above the extent of the highest astronomical tide will be impacted, depending on the scenarios. Figure 18-15 displays the location and acreage of land impacted under each of the three scenarios.

Much of the land that is projected to be inundated by sea level rise in the future lies within the Shoreland Protection Overlay District 250-foot buffer. However there are areas of Town, such as near the Consolidated School, which are not located within close proximity to the coast or Kennebunk River that are anticipated to be impacted by sea level rise (Figure 18-16).

As discussed in the Transportation Chapter, a number of roadway segments will be impacted by sea level rise. Flooded roads will have widespread impacts that go beyond the inundated portions of road. Sea level rise will also cause groundwater rise. Pooling groundwater will have impacts on travel as well as the integrity of pavements.

Sea level induced groundwater rise increases the risk of water pollution as groundwater interfaces with septic systems, underground storage tanks, and other potentially hazardous substances. Saltwater intrusion in wells will also impact the drinking water supply. Hydrogeological modeling is needed to determine where groundwater rise may impact roads, structures, and wells.

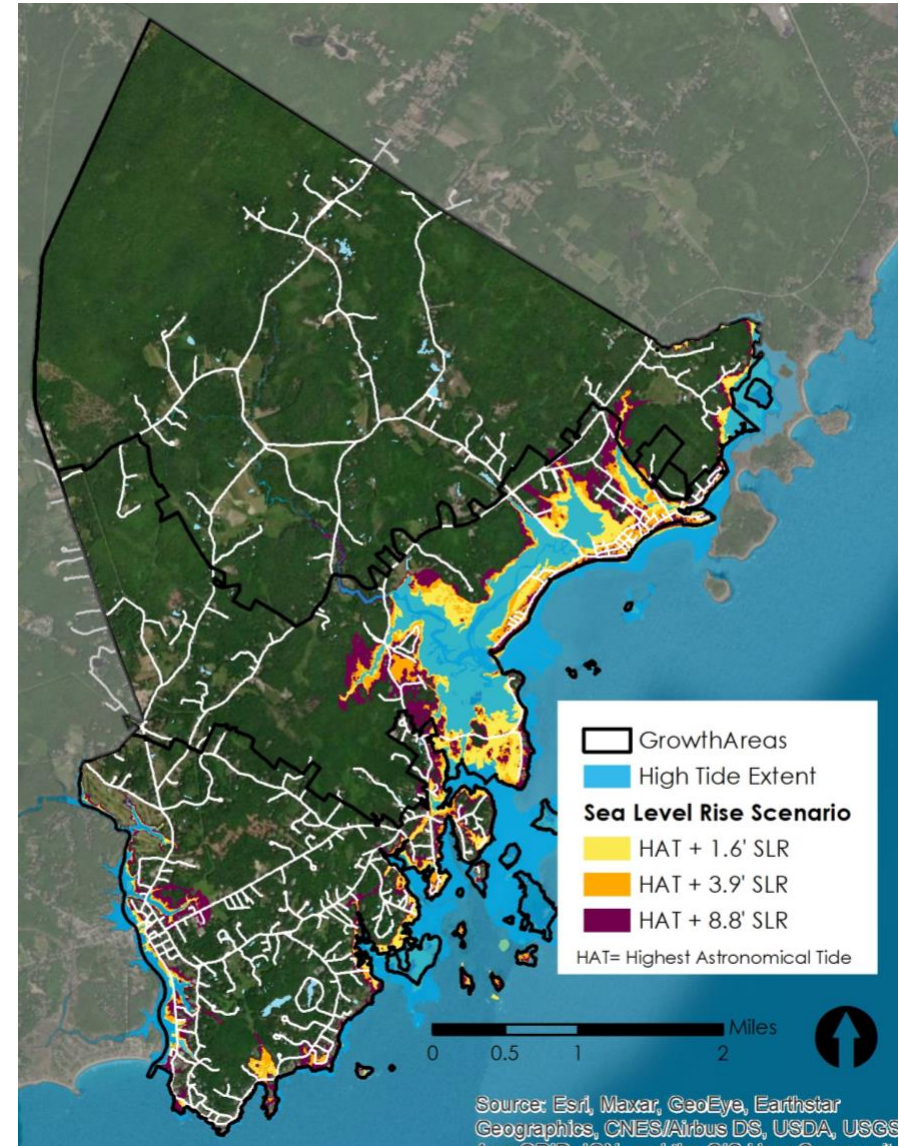


Figure 18-14 Recommended sea level rise scenarios to plan for (Maine Climate Council, ME Geological Survey)

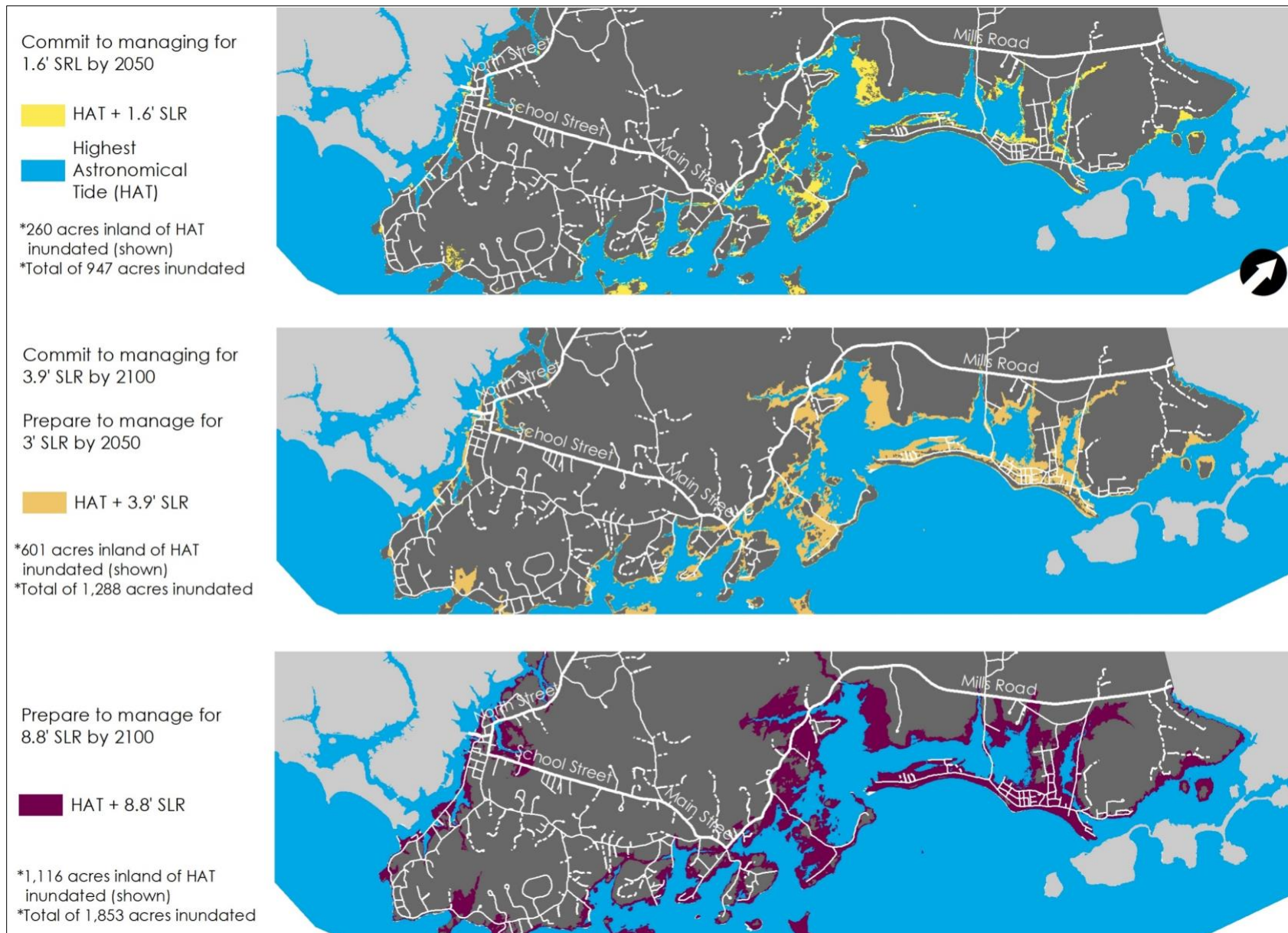


Figure 18-15 Sea level rise scenarios shown with the 250 ft Shoreland buffer (Source: ME Geological Survey, Town of Kennebunkport)

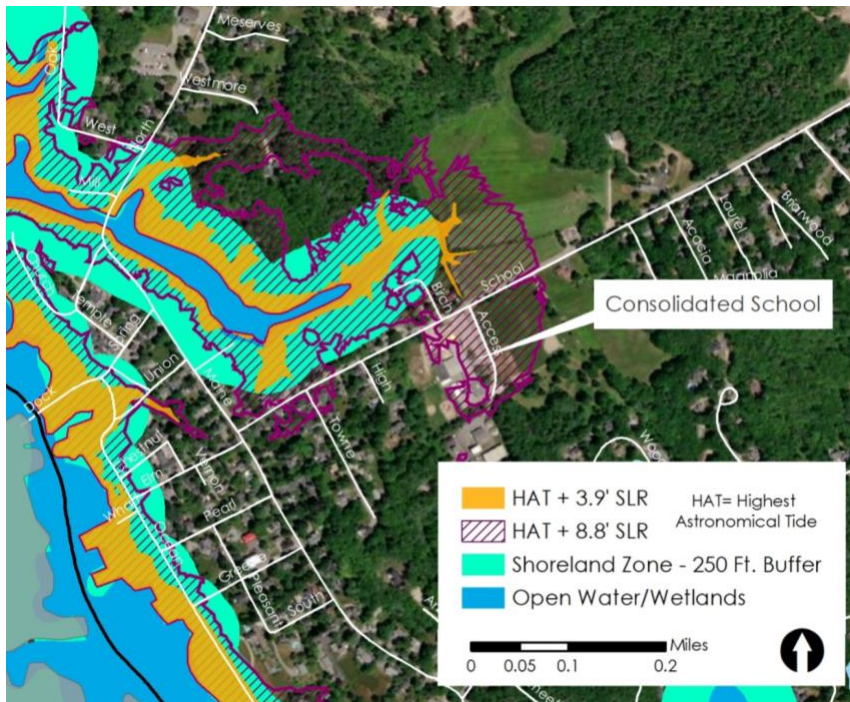


Figure 18-16 Sea level rise scenarios with 250 foot shoreland buffer in the vicinity of the Consolidated School

Sea level rise adaptation planning is an ongoing process. The Town joined a coalition of six Towns in York County as part of a Regional Sustainability and Resilience Program in 2019. In 2020, The Town adopted a set of Climate Change Goals that including measures such as increasing resilience through land use policies that protect valuable natural assets and support resiliency, educating the community about steps they can take to reduce emissions and become more resilient, diversifying the community forest for long term resilience, and integrating sustainability into capital planning ([link?](#)).

Future land use workshop participants were polled about what they thought the Town should do to reduce impacts of sea level rise and flooding. Among the top responses were using land use regulations to discourage new development in areas that are likely to be impacted by sea level rise, prohibiting Town-owned structures in locations that are vulnerable to flooding or sea level rise, and increasing stormwater design standards (Table 18-6). This input aligns well with next steps recommendations produced by the Southern Maine Planning and Development Commission in their 2020 Sustainability and [Coastal Resilience Assessment for Kennebunkport](#), which include measures like prohibiting municipal funds from being used for development in existing and future flood hazard areas and considering the creation of a coastal hazard overlay district to establish more stringent regulations in vulnerable locations.

Table 18-6 Workshop poll results: What should the Town do about sea level rise?

Options	Number of Responses
Discourage new development in areas that are likely to be impacted by sea level rise through land use regulations	24
Prohibit Town-owned structures in locations that are vulnerable to flooding and/or sea level rise (except water-dependent structures like piers)	21
Increase stormwater design standards to accommodate more precipitation	20
Initiate a vulnerability assessment and long term planning process for Dock Square	20
Assess the feasibility of elevating roadways that are in vulnerable locations	17
Conduct a study to identify areas in town that are vulnerable to groundwater rise associated with sea level rise	16
Investigate options for buyouts of vulnerable properties	8
Nothing	2
Other	1
<i>Total participants=39, participants could choose all that apply</i>	

Three overall approaches to adapt to changing sea level:

- 1) Keep water out through floodproofing measures
- 2) Live with or accommodate water such as by elevating a structure
- 3) Retreat to higher ground

Portions of the (currently designated 2021) Growth Area, including Dock Square, are vulnerable to sea level rise. Dock Square is a vibrant commercial hub that serves both residents and visitors. It is an economic and cultural asset to the town. The vulnerability of properties to flooding is anticipated to increase over this century and beyond.

Kennebunkport, along with Kennebunk, has initiated a project with the Maine Silver Jackets to provide nonstructural flood mitigation assessments of historic buildings and infrastructure in Dock Square and the Lower Village. The project will identify floodproofing measure to support floodplain management and resiliency of this area. Table 18-6 Workshop poll results: What should the Town do to reduce the impacts of sea level rise and flooding?

Proposed Growth Management Areas

After reviewing the existing growth management areas, natural resources, current and proposed infrastructure, development trends, and sea level rise, the Growth Planning Committee determined that the existing growth management areas are appropriate. No modifications to the boundaries of the growth management areas, shown in Figure 18-16, are suggested at this time. A brief summary of the growth, transition, and rural areas follows.

Growth Area

The growth area is based on the area that in 2009 was either serviced by sewer and water or located within 1,000 feet of these services. This area has development that consists of village patterns including residential and commercial development. Eight zoning districts fall within or partially within the growth area.

In order to achieve village-like development throughout the growth area, zoning amendments to reduce lot size and setbacks would be required. It may be necessary to amend the boundaries of zoning districts in order to achieve this desired development as districts like Free Enterprise extend over a large geographic area of town and intersect the growth, transition, and rural areas.

The vision for the growth area includes well connected neighborhoods, commercial centers, waterfront amenities, and trail systems. Small-scale entrepreneurial activity that is compatible with historic resources, natural resources, and residential development is desirable. A variety of affordable

Growth Management Areas

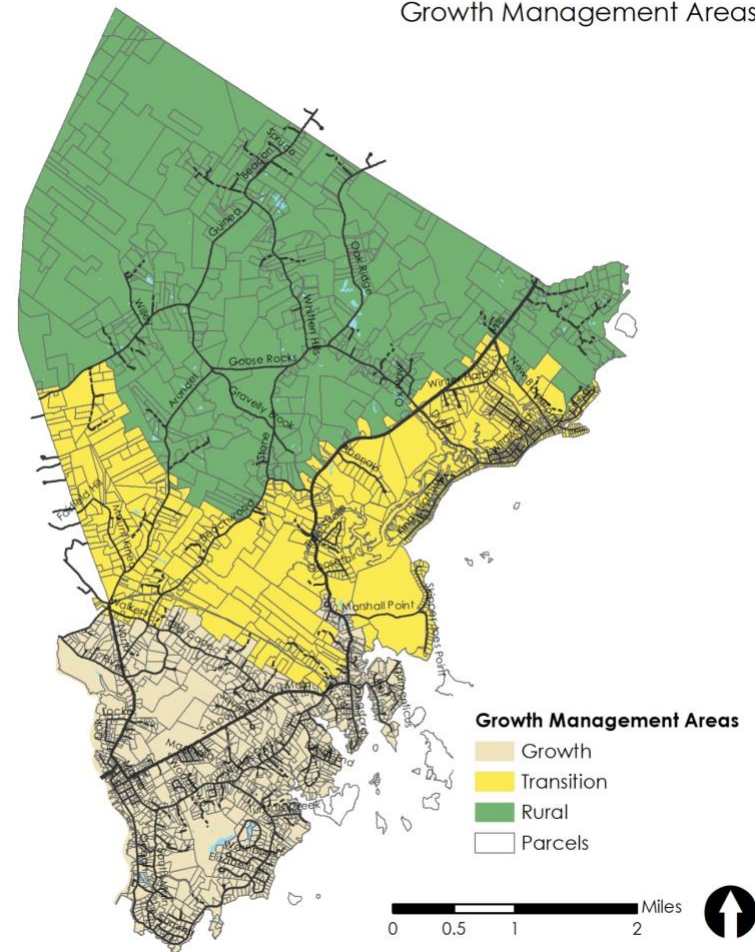


Figure 18-16 Growth management areas

housing options are desirable in the growth area including opportunities for downsizing and aging in place, mixed use, and single, two-family, and multiplex dwellings.

Residential density within the growth area varies by zoning district and ranges from 10,000 square feet (approximately ¼

acre) per dwelling unit in the Dock Square and Riverfront Zones (for two-family dwellings) to 40,000 square feet for single family homes in the Free Enterprise, Village Residential, Village Residential East, and Cape Arundel Zones.

Twenty growth management permits are available in the growth area annually.

Transition Area

The transition area is located in between the growth and rural areas. The transition area is set to capture 30% of the annual new residential dwellings, or 12 permits. Similar to the growth area, a range of residential and commercial uses are permitted in the transition area.

Four zoning districts fall within the transition area: Goose Rocks, Cape Porpoise East, Free Enterprise, and Farm and Forest. The residential density of these zones ranges from 15,000 square feet (for two-family dwellings) in the Cape Porpoise East Zone to 130,680 square feet (for single family dwellings) in the Farm and Forest Zone.

The transition area includes treasured natural assets like Goose Rocks Beach and the Rachel Carson Wildlife Refuge as well as many scenic vistas that the community seeks to preserve. Desired development patterns include:

- Residential neighborhoods served by sewer and water
- Commercial and civic uses that are compatible with and serve the existing neighborhoods
- Streetscapes that promote walkability and connectivity
- Uses that do not detrimentally impact natural resources.

Rural Area

The rural area comprises approximately 50% of the land area of Kennebunkport and accommodates 20% (8 permits) of the annual growth management permits issued. A majority of the town's conservation land and open space is located in the rural area, as described above in the discussion of natural resources. Development opportunities are curbed in part due to conserved land, as well as the presence of wetlands and the lack of municipal sewer and water. In general, rural areas also lack the pedestrian amenities that are found in the growth and transition areas, however the Town has recognized the need to accommodate pedestrians and cyclists through sidewalk requirements in its subdivision regulations and in road widening efforts, for example.

The rural area includes the same zoning districts as the transition area. The residential density ranges from 15,000 square feet (for two-family dwellings) in the Cape Porpoise East Zone to 130,680 square feet (for single family dwellings) in the Farm and Forest Zone. Most of the land in the rural area is located in the Free Enterprise and Farm and Forest Zones. A wide range of residential and commercial uses are permitted in the rural area.

Land in adjacent communities (Biddeford, Kennebunk, and Arundel) that abuts the rural area in Kennebunkport is also designated as a rural area, therefore no conflicts between land use in neighboring communities are anticipated.

¹ Town of Kennebunkport Land Use Ordinance (LUO). November 6, 2018 Revision.

² Town of Kennebunkport Land Use Ordinance (LUO). November 6, 2018 Revision.

³ Mitchell et al. 2020. Village Parcel Market Analysis. Available: https://www.kennebunkportme.gov/sites/g/files/vyhlif3306/f/uploads/2019.10.29_report_-_village_parcel_market_analysis_-_mitchell_kport.pdf

⁴ Communication with Mikel Claus, Department of Public Works, Dec. 16, 2020.

⁵ Town of Kennebunkport 2019 Annual Report. Available: https://www.kennebunkportme.gov/sites/g/files/vyhlif3306/f/uploads/2019_kennebunkport_annual_report_6-15-2020_good_one_for_website.pdf

⁶ Enrollment data and 2019 projections provided by RSU 21. Birth data provided by the Maine Department of Health & Human Services, Center for Disease Control and Prevention

⁷ Interview with Fire Chief John Everett, January 2021.

⁸ Data provided by Kennebunk, Kennebunkport and Wells Water District

⁹ Maine Department of Administrative and Financial Services. State Economist. Demographic Projections. Available:

<https://www.maine.gov/dafs/economist/demographic-projections>

¹⁰ 2019 American Community Survey 5-year Estimates

¹¹ 2019 American Community Survey 5-year Estimates

¹² Mitchell et al. 2020. Village Parcel Market Analysis. Available: https://www.kennebunkportme.gov/sites/g/files/vyhlif3306/f/uploads/2019.10.29_report_-_village_parcel_market_analysis_-_mitchell_kport.pdf

¹³ <https://www.seacoastonline.com/story/news/local/2021/11/24/kittery-accessory-dwelling-units-program-to-help-affordable-housing-crisis-adu/8722457002/>

¹⁴ Maine Climate Council. Maine Won't Wait. A four-year plan for climate action. 2020. Available:

https://www.maine.gov/future/sites/maine.gov.future/files/inline-files/MaineWontWait_December2020.pdf