



## KITTERY TOWN PLANNING BOARD MEETING

Council Chambers – Kittery Town Hall 200 Rogers Road, Kittery, Maine 03904

Phone: 207-475-1323 - Fax: 207-439-6806 - [www.kittery.org](http://www.kittery.org)

### AGENDA for Thursday, September 25, 2014

6:00 P.M. to 10:00 P.M.

**CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE – APPROVAL OF MINUTES – 9/11/2014**

**PUBLIC COMMENTS** - Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate. Those providing comment must state clearly their name and address and record it in writing at the podium.

**PUBLIC INFORMATIONAL MEETING** {Town Council and Planning Board presiding jointly}

**ITEM 1 – (60 min.)– Sarah Mildred Long Bridge Action: Hold a public meeting, review and comment.**

Maine Department of Transportation representatives will describe the latest plan for the bridge design and associated site improvements in Kittery.

#### OLD BUSINESS

**ITEM 2– (20 minutes) – Town Code Amendment - Title 16.8.10.2.C Signs – General Requirements. Action: review amendment and schedule a public hearing.** Proposed amendment re-defines Light-emitting diode (LED) lighting.

**ITEM 3 – (30 min) – Town Code Amendment – Title 16.8.7 Sewer System and Septic Disposal, 16.9.1.4 Soil Suitability, 16.8.16 Lots and 16.2.1 Definitions. Action: review and discuss in advance of 10/6 joint workshop with Town Council.** Amendments to the Town Code to address soil suitability as it pertains to septic disposal systems and other development standards. Amendments also address regulations for sewer, subsurface wastewater disposal systems and holding tanks, and changes in form, format and language to address clarity.

**ITEM 4 – (15 minutes) - Board Member Items / Discussion**

- |                                                                                               |                                                                                  |
|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| A. Action List                                                                                | D. Quality Improvement Overlay Zone (Kittery Crossing and Coastal Route 1 Malls) |
| B.. Town Council & Planning Board Joint Workshop –<br>October 6 at 6pm – Town Code Amendments | E. TPB Kittery Foreside Committee per Title 16                                   |
| C. Route 1 – BP District Quality Improvement Plan TPB<br>Advisory Committee                   | F. Committee Updates                                                             |

**ITEM 5 – (10 minutes) - Town Planner Items:**

A Memorial Circle Improvement Plan; B. Kittery Foreside Committee; C. KACTS Grant for Route One By-Pass locale; D. Public Works Town related projects; and E. Other.

**ADJOURNMENT - (by 10:00 PM unless extended by motion and vote)**

NOTE: ACTION LISTED IN ABOVE AGENDA ITEMS IS FOR REFERENCE ONLY AND THE BOARD MAY DETERMINE A DIFFERENT ACTION. DISCLAIMER: ALL AGENDAS ARE SUBJECT TO REVISION ONE WEEK PRIOR TO THE SCHEDULED TOWN PLANNING BOARD MEETING. TO REQUEST A REASONABLE ACCOMMODATION FOR THIS MEETING CONTACT STAFF AT (207) 475-1323 OR (207) 475-1307.

1 TOWN OF KITTERY, MAINE  
2 PLANNING BOARD MEETING  
3 Council Chambers  
4

UNAPPROVED  
September 11, 2014

5 Meeting called to order at 6:01 p.m.

6 Board Members Present: Tom Emerson (6:26), Karen Kalmar, Susan Tuveson, Mark Alesse, Deborah  
7 Driscoll Davis, Bob Melanson

8 Members absent:

9 Staff: Chris DiMatteo, Assistant Planner

10  
11 Pledge of Allegiance  
12

13 Minutes: August 28, 2014

14 Ms. Kalmar moved to accept the minutes of August 28, 2014 as corrected

15 Ms. Davis seconded

16 4 in favor; 0 against; 1 abstention (Tuveson)  
17

18 PUBLIC COMMENT

19 Ken Lemont: Requested the Board address the proposed sign ordinance amendment affecting gas  
20 pricing signage using LED lights, as this affects only 6 businesses in community. He asked the  
21 board give urgent consideration to the amendment as gas signs are no longer made without LED  
22 lights. Also, changing gas prices on signs is a safety issue.  
23

24 No further public comment.  
25

26 ITEM 1 – Shepard’s Cove Subdivision – Modification to an Approved Plan – Final Plan Review.

27 Action: Hold a public hearing, approve or deny final plan.

28 Owner and applicant DLJ Corp., is requesting consideration of their plans to amend the previously  
29 approved 2004 subdivision plan, replacing a proposed 24 unit building with detached 4 single-unit  
30 buildings at their Elderly Housing Facility located off Rogers Road, Tax Map 22, Lot 21, Residential-  
31 Urban Zone and Shoreland Overlay Zone. Agent is Lewis Chamberlain, P.E., Attar Engineering, Inc.  
32

33 Lew Chamberlain: The proposed modification is to replace an originally approved 24-unit building with  
34 four single units, reduced from five following archaeological findings at the Pettegrew site. With the  
35 finding of a cellar hole, the Pettegrew site will be protected with a chain link fence during construction;  
36 the area will not be seeded, but left in its natural state.

- 37 • New units will be part of the Homeowners Association;
- 38 • No amended areas are within the resource protection or shoreland zones;
- 39 • Capacity has been confirmed by the sewer and water districts;
- 40 • Addressed CMA's comments regarding level spreaders;
- 41 • Wetland identification on the previously approved plan have been supported by a wetland scientist;
- 42 • No light poles will be added, only building mounted lights;
- 43 • Landscaping will match the existing site landscaping, with no new street trees on the site;
- 44 • A prior approval condition requiring nine trees be planted along Rogers Road appears to have been  
45 met.  
46

47 Ms. Davis: Site plan note 38 on Sheet C-1, needs to be amended to read units S7-S10. Will the  
48 Pettegrew site be clearly marked following construction, and if any additional site remnants are found,  
49 would construction be stopped?

50 Mr. Chamberlain: The owners could somehow mark the Pettegrew site area. It is the archaeologist's  
51 opinion the site area has been identified, but if something is found, it would be reviewed.

52 Ms. Grinnell: Has Mr. Moffat's ROW questions been resolved?  
53 Mr. Chamberlain: The Board's packets contain communication from Attorney Carleton regarding the  
54 ROW maintenance and Mr. Moffat's claim regarding utilities.  
55 Board members concurred they were satisfied with the information provided by Attorney Carleton.  
56 Ms. Kalmar: Will the condominium documents reflect the preservation of the Pettegrew site, and have  
57 they been reviewed by the Town Attorney?  
58 Mr. DiMatteo: If the Board requests review, it can be done.  
59 Earledean Wells, Conservation Commission: Association Documents should reflect no tree cutting on the  
60 site, as had happened before; include restriction to archaeological site;  
61 John Convery, President, Homeowners Association: The tree cutting happened at the beginning of the  
62 project; the MDEP required remediation which was done to their satisfaction;  
63 Mr. Chamberlain: There will be no trees removed around the Pettegrew site.  
64  
65 The Public Hearing opened and closed at 6:19 p.m. with no public testimony  
66  
67 Ms. Kalmar: The current applicant did not build the previous units at this development.  
68 Discussion followed regarding the Pettegrew Site. The Board agreed to leave to the developers discretion  
69 regarding further findings at the site.  
70 Ms. Grinnell: The site needs to be identified after construction, for protection.  
71 Geffory Jellison, DLJ Corp: The developer will develop something to mark the archaeological site.  
72 Mr. Jellison: The appearance of the new buildings will be same as single units at entry of development.  
73 Ms. Davis: The road is identified as Road A and Road 1; can this be changed  
74 Mr. Chamberlain: This identification is on recorded plans and deeds and would be difficult to change.  
75 The DEP Site Location of Development permit is expected to be received at any time.  
76  
77 Mr. Melanson moved to approve the final plan for Shepard's Cove subdivision, to reduce the approved  
78 24-unit building to 4 single detached units, and read the Findings of Fact.  
79 Ms. Grinnell seconded  
80 Motion carried unanimously by all members in attendance  
81  
82 [Mr. Emerson arrived at 6:26 p.m.]  
83

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84  
85 Findings of Fact for Shepard's Cove, Amendment to an Approved Subdivision:  
86

87 **WHEREAS:** Owner and applicant DLJ Corp., is requesting consideration of their plans to amend the previously  
88 approved 2004 amended subdivision plan, replacing a proposed 24 unit building with detached 4 single-unit  
89 buildings at their Elderly Housing Facility located off Rogers Road, Tax Map 22, Lot 21, Residential-Urban Zone  
90 and Shoreland Overlay Zone. Hereinafter the "Development".  
91

92 **NOW THEREFORE,** based on the entire record before the Planning Board and pursuant to the applicable  
93 standards in the Land Use and Development Code, the Planning Board makes the following factual findings:  
94

Action by the board is based upon the following Findings of Fact (referenced in Plan Review Notes – Shepard’s Cove Amendment – September 11, 2014) which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

A. Development Conforms to Local Ordinances.
----------------------------------------------

Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
--------------------------------------------------------------------------

96

B. Freshwater Wetlands Identified.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
C. River, Stream or Brook Identified.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
D. Water Supply Sufficient.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
E. Municipal Water Supply Available.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
F. Sewage Disposal Adequate.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
G. Municipal Solid Waste Disposal Available.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
H. Water Body Quality and Shoreline Protected.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
I. Groundwater Protected.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
J. Flood Areas Identified and Development Conditioned.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
K. Stormwater Managed.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
L. <i>Erosion Controlled.</i>	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
M. Traffic Managed.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
N. Water and Air Pollution Minimized.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
O. Aesthetic, Cultural and Natural Values Protected.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)
P. Developer Financially and Technically Capable.	Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining (Emerson)

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Now therefore, the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants Preliminary and Final Approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers: none

106 Conditions: (All conditions must be included on the final plan prior to signature by the Planning Board Chairman)  
107

- 108 1. Receipt of all applicable State and Federal permitting/approvals.  
109 2. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan,  
110 the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the  
111 Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that  
112 are, per Planning Board approval, to remain undisturbed.  
113 3. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. See  
114 Title 16.10.9.1.2.  
115 4. Instructions/Notice to Applicant per September 11, 2014 Findings of Fact  
116

117 The Planning Board authorizes the Planning Board Chairman to sign the Final Plan and the Findings of Fact  
118 upon confirmation of compliance with any conditions of approval.  
119

120 Vote of 6 in favor 0 against 1 abstaining (Emerson)  
121

122 An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County  
123 Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from  
124 the date the decision by the Planning Board was rendered. See Title 16.6.2.A.  
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126  
127 Mr. Emerson assumed Chair (6:34 p.m.)  
128

129 OLD BUSINESS  
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131 ITEM 2– Pine Tree Plaza Site Plan – Modification to an Approved Plan. Action: Continue Plan  
132 Application.

133 Kenneth Lemont, owner and applicant (for Harrison E. Lemont Management Co., Inc.), requests approval  
134 to amend a previously approved Site Plan in order to replace an existing building (Curtis House) and  
135 attached ell with a new 2,450 sf building and increase the existing garage (by 364 sf). The property is  
136 located at 435 US Route 1 in the Mixed Use zone, Tax Map 50, Lot 8.

137 Ken Lemont: Requests extension to resolve issues including designing of a rain garden and stormwater  
138 plans.  
139

140 Ms. Kalmar moved to grant a continuance not to exceed 90 days

141 Ms. Grinnell seconded

142 Motion carried unanimously  
143  
144

145 ITEM 3 – Board Member Items / Discussion:

146 A. Debrief on Joint TC/PB 9/8 workshop;

147 Mr. DiMatteo: Preparing a GIS identifying properties and build-out.

148 • Ms. Kalmar: The Board needs to develop a pro/con list for the ordinance amendment for Council  
149 workshop on October 6; list is due to staff by 9/18.

150 • Ms. Tuveson: This is a serious policy change with this proposed amendment, and may be outside  
151 of the Board's charge; if the Board wishes to control development in particular part of town it needs  
152 to be made clear; requests Council direction for such stringent policy change;

153 • Ms. Kalmar: This is not intended to limit growth, but to direct growth to areas of town with  
154 utilities;

155 • Mr. Melanson: The responsibility of the Board is to plan, with Council guidance and consideration;  
156 believes the value of property will decrease with this proposed amendment;

- 157 • Mr. Alesse: The proposed amendment reflects a lot of effort and is in conformance with the  
158 comprehensive plan; no property owner has a guaranteed right to develop their property that  
159 diminishes the value of other property owners; protect those who already live in Kittery, and  
160 maintain its charm; large scale development changes the town and cannot be absorbed; it is the  
161 Board's right and responsibility to control growth; this amendment won't hurt small landowners  
162 wishing to share their land with their children; it will slow the growth and impact of large-scale,  
163 out-of-town developers who only wish to make a profit.
- 164 • Mr. Melanson: Rural Residential zoning is 1 acre, not 3, per the Comp Plan. The Council did not  
165 accept the 3 acre minimum.
- 166 • Ms. Davis: Individuals who own large tracts of land should be aware of what the Comp Plan  
167 recommends.
- 168 • Mr. Emerson: Concerned about the impact on the Cluster Ordinance's intent to preserve open  
169 space; adamantly against increasing to 3 acre zoning, creating sprawl.
- 170 • Ms. Kalmar: If acreage increases, only the Net Residential Density would change. The intent of  
171 the amendment is intensity of development in areas without services; this affords time to consider  
172 other avenues, while honoring the intent of the Comp Plan.
- 173 • Discussion followed regarding whether the Cluster Ordinance is working for the Town;  
174 preservation of open space; modifications allowed within the Cluster ordinance; historical density  
175 in Kittery; forwarding amendment to Council to begin debate; growth/building caps.
- 176 • Ms. Kalmar: The Board needs to focus on the two amendments before the Council, net residential  
177 acreage and sewage disposal, and not attempt to bring in the Cluster ordinance.
- 178 • Mr. DiMatteo: In addition to the pro/con list, consider a sunset clause; does the Board intend the  
179 amendment to allow a minor subdivision, 4 lots, or limit it to three units, which creates a  
180 subdivision. This will be on the next agenda.
- 181 • Ms. Grinnell: Can the Board have a public hearing on the LED issue at the October meeting?
- 182 • Mr. Emerson: This should be on the next agenda.
- 183 • Ms. Kalmar: There are some other amendments approved by the Board that ready to go to the  
184 Council workshop on October 6.
- 185
- 186 B. Town Code Quality Improvement Overlay Zone;  
187 Mr. Emerson spoke about developing a model that could revitalize/retrofit a particular outlet mall  
188 area, the demise of covered malls, the increase of outlet malls and on-line shopping. The model  
189 would help the property maintain its value to the community by including residential units, decrease  
190 impervious surface and protect the adjacent natural resources. This would be a proactive planning  
191 process.
- 192 Ms. Tuveson: This area, the old Dansk outlet, could become a center for residences and residential  
193 use, such as a gym.
- 194 Mr. DiMatteo: The Board may want to revisit their action list to insure this is included and  
195 prioritized.
- 196
- 197 C. Town Code Sign Workshop  
198 Mr. DiMatteo: The LED inclusion for signage will be included on the September 25 meeting  
199 agenda.
- 200 Mr. Emerson: Additionally the Board needs to set a workshop to address the overall sign  
201 ordinance.
- 202
- 203 D. Town Code Outdoor Seating; amendment 10/23  
204 Mr. Emerson: This needs to be addressed prior to the new year, moving from Title 5 to Title 16.  
205 Mr. DiMatteo: This amendment only deals specifically with the public right of way and could stay  
206 in Title 5.
- 207 Mr. Emerson: This can be reviewed and a determination made at the October 23 meeting.

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E. Other:

- Mr. Emerson:
  - Acknowledged and thanked former Planner Gerry Mylroie for his years of service to the Town.
  - Spoke of perceived or potential conflict of a Planner also assuming the role of Economic Development.
- Mr. Melanson: Gerry Mylroie was an officer of the Kittery Maine Improvement Foundation, a C corporation. This should be followed up on.
- Ms. Grinnell: Is it possible for the Board to meet with the Town Manager to discuss the position of Planner and the Board's expectations? Mr. DiMatteo will look into this.
- Mr. Melanson: The KPA received significant professional help from the Town in filling the position of Harbormaster, and the Board should have some involvement in the process of filling the position of Town Planner.
- Mr. Emerson: Is more interested in understanding the roles and responsibilities of the Planner and the Board.
- Ms. Grinnell: She and Ms. Davis met with the Town Manager regarding the Shore and Harbor Plan and it was suggested the plan be 'shelved' for the time being.
- Mr. Emerson: Retain on the Board's action list, but with a low priority.
- Ms. Kalmar: Asked that the Council re-form the Foreside Committee, as it is part of the Code.
- Mr. Emerson: The responsibilities of this Committee should be addressed.
- Ms. Davis: Foreside residents should contact the Town Manager if they want to serve on this committee.
- Ms. Grinnell: A Foreside Forum is scheduled for September 29 at 7:00 p.m. at the Kittery Community Center.
- Mr. Melanson: Provided the KPA Annual Report to Board members. Pending reference checks, the new Harbormaster is Derek Jacobs, with a start date of September 29.

ITEM 4 – Town Planner Items:

Mr. DiMatteo: Wished Gerry Mylroie best of luck in future endeavors.

A. Memorial Circle Plan Status:

Meeting was held on September 8; working on budget and will bring to the Board for comment.

B. SML Bridge Plan Review:

- MDOT open house on September 18 from 3-6 at the Kittery Community Center
- Joint Council and Planning Board informational meeting on September 25.

C. Quality Improvement Plan for Kittery Foreside;

- Mr. Melanson: This is a TIF District initiated by Mr. Mylroie, in addition to discussions regarding redevelopment of the Water District site.

D. Quality Improvement Plan for Route 1 By Pass District;

- \$20,000 grant from KACTS (Kittery Area Comprehensive Transportation System) was previously approved, but is now under discussion due to scope changes.

Mr. Emerson: Understands there are also funds available for improvements at the intersection of Walker and the Navy gate. Are these Planning or Public Works projects? Need to discuss.

258 Ms. Grinnell: Public Works should be notifying the Board regarding town projects. This needs to  
259 be on the list for discussion with the Town Manager.

260 Mr. DiMatteo: Will speak with Norm Albertson about providing a list of DPW projects and, if  
261 warranted, a presentation.

262

263 E. Other

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266 Ms. Tuveson moved to adjourn

267 Mr. Melanson seconded

268 Motion carried unanimously

269

270 The Kittery Planning Board meeting of September 11, 2014 adjourned at 7:52 p.m.

271 Submitted by Jan Fisk, Recorder, September 16, 2014

272

100% PLANS (7-3-2014)

Date: 7/31/2014

Username: wjohnson

Division: BRIDGE

Filename: ...g\_DRAWINGS\001\_Title\_Sheet.dgn

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION



KITTERY, ME - PORTSMOUTH, NH  
YORK COUNTY - ROCKINGHAM COUNTY  
US ROUTE 1A (BYPASS)

OVER  
PISCATAQUA RIVER

PROJECT NO. BH-1671(000)

PROJECT LENGTH 0.81 mi

BRIDGE REPLACEMENT

BRIDGE NO. 3641 (MAINE)

BRIDGE NO. 251 / 110 (NEW HAMPSHIRE)

SUMMARY OF DRAWINGS

G1-G54	GENERAL PLANS
B1-B151	APPROACH BRIDGE PLANS
F1-F2	FENDER PLANS
T1-T71	TOWER PLANS
V1-V15	TOWER ACCESS PLANS
S1-S20	LIFT SPAN PLANS
A1-A21	ARCHITECTURAL PLANS
M1-M19	MACHINERY PLANS
E1-E60	ELECTRICAL PLANS
R1-R104	ROADWAY PLANS

**TRAFFIC DATA**

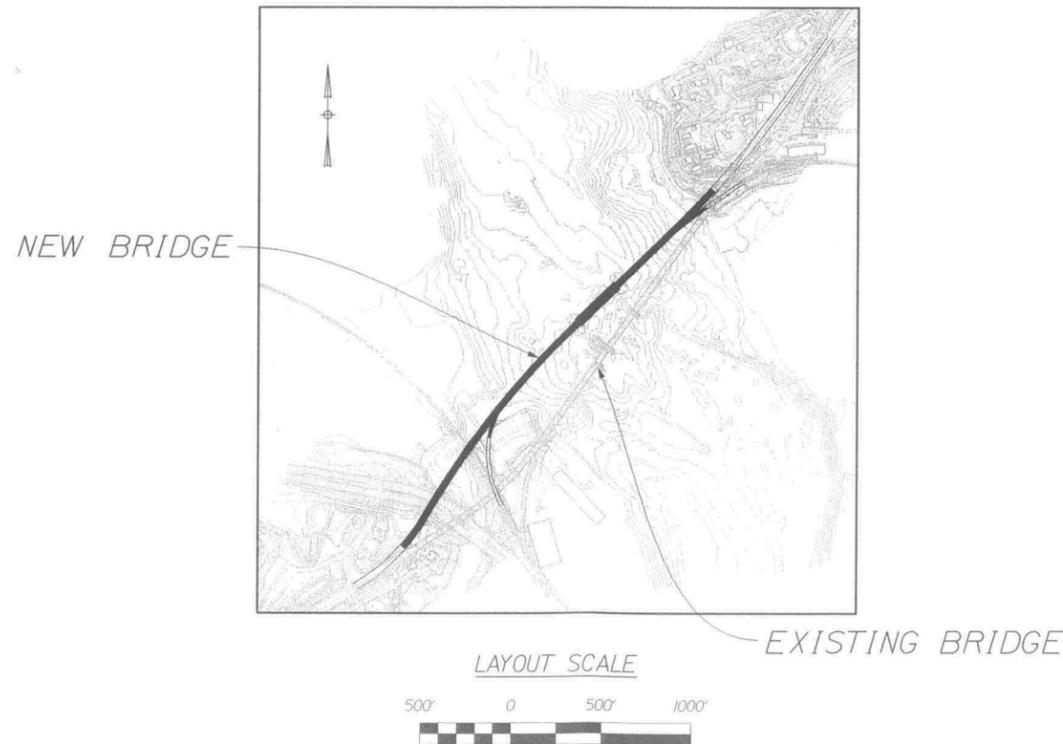
Current (2015) AADT .....	14040
Future (2035) AADT .....	16100
DHV - % of AADT .....	10%
Design Hour Volume .....	1610
Heavy Trucks (% of AADT) .....	8%
Heavy Trucks (% of DHV) .....	8%
Directional Distribution (% of DHV) .....	51%
18 Kip Equivalent P 2.0 .....	677
18 Kip Equivalent P2.5 .....	645
Design Speed .....	40 mph

**UTILITIES**

- Central Maine Power
- Fairpoint Communications
- Kittery Water
- Kittery Sewer
- Public Service of New Hampshire (PSNH)
- City of Portsmouth (Sewer)
- Railroads

**MAINTENANCE OF TRAFFIC**

Maintain two (2) twelve foot (12') minimum lanes of traffic, one (1) lane in each direction on the existing bridge and approaches during construction of the new bridge until tie-ins at each end are scheduled to occur.

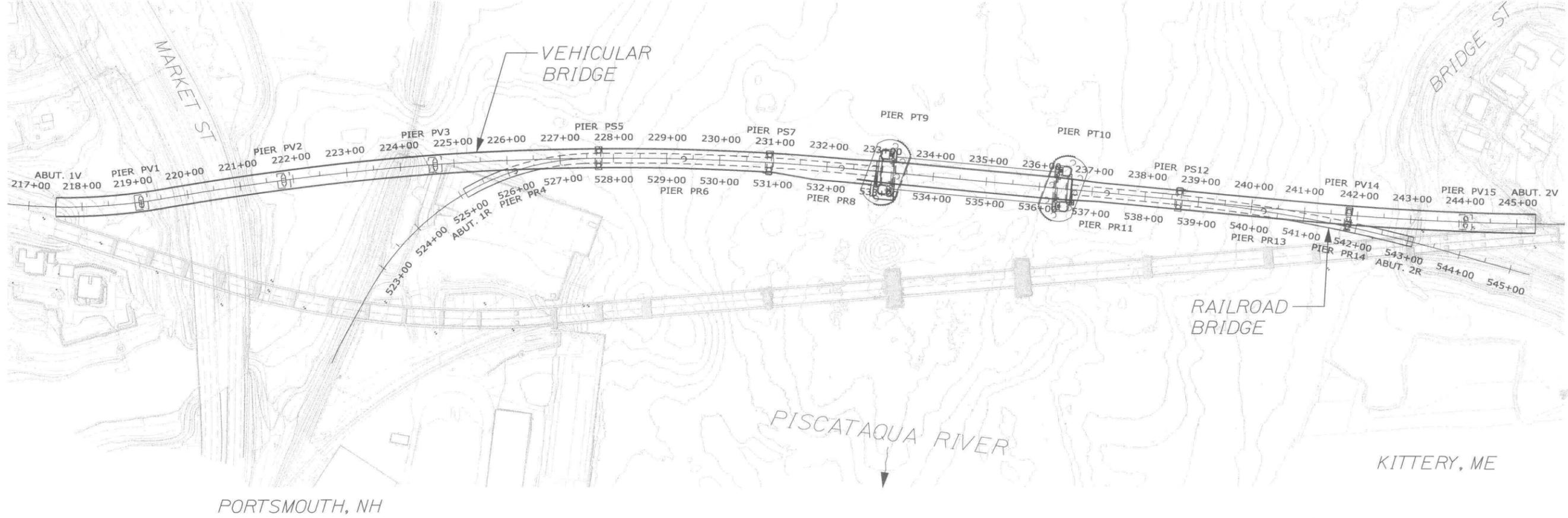


ITEM 1

STATE OF MAINE DEPARTMENT OF TRANSPORTATION	16710.00 PIN ME 3641 NH 251/108 16710.00	BRIDGE PLANS
SIGNATURE	P.E. NUMBER	DATE
PRELIMINARY - NOT FOR CONSTRUCTION SARAH MILDRED LONG BRIDGE PISCATAQUA RIVER KITTERY, ME      PORTSMOUTH, NH <b>TITLE SHEET</b>		
SHEET NUMBER		OF G54

PREPARED BY:  
**FIGG** Hardesty & Hanover  
Joint Venture

# 100% PLANS (7-3-2014)



PRELIMINARY - NOT FOR CONSTRUCTION

SARAH MILDRED LONG BRIDGE  
PISCATAQUA RIVER  
PORTSMOUTH, NH  
KITTERY, ME

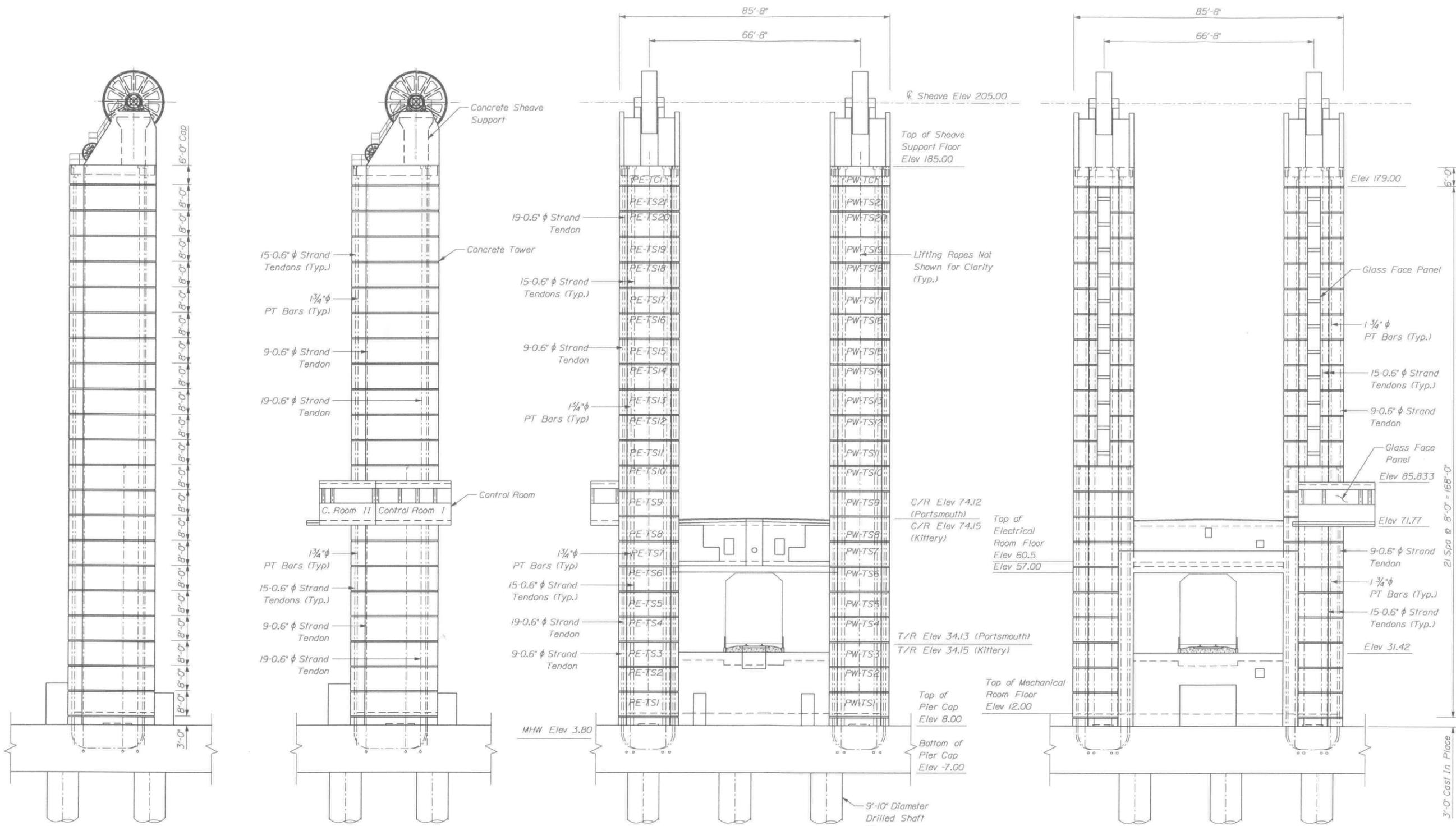
SHEET NUMBER

G11  
OF G54

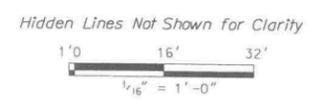


STATE OF MAINE	DEPARTMENT OF TRANSPORTATION	16710.00
ME 3641	NH 251/108	16710.00
		BRIDGE PLANS

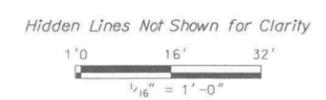
PROJ. MANAGER	W. J. JOHNSON	DATE	8-30-14
DESIGN-DETAILED	W. JOHNSON	BY	B. B. FARD
CHECKED-REVIEWED			
REVISIONS 1		SIGNATURE	
REVISIONS 2		P.E. NUMBER	
REVISIONS 3		DATE	
REVISIONS 4			
REVISIONS 5			
REVISIONS 6			
REVISIONS 7			
REVISIONS 8			



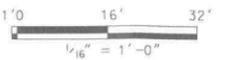
DOWNSTREAM ELEVATION



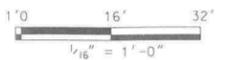
DOWNSTREAM ELEVATION



FRONT OF TOWER ELEVATION



REAR OF TOWER ELEVATION



CONCRETE TOWER ELEVATIONS (PORTSMOUTH TOWER SHOWN)

**LEGEND:**

PW-TS1

Segment Number  
Segment Type  
TS Denotes Tower Shaft  
TC Denotes Tower Cap

Structure Designation  
Tower Designation

**Notes:**

1. For Bridge General Layout, See Sheet T1.
2. For Tower Plan View, See Sheets T12 & T17.
3. Shading for Tower Face Not Shown for Clarity.

STATE OF MAINE	BRIDGE PLANS
DEPARTMENT OF TRANSPORTATION	PIN 16710.00
16710.00	ME 3641 NH 251/108
	16710.00

DESIGN-DETAILED	BY	DATE
CHECKED-REVIEWED		
REVISIONS 1	SIGNATURE	
REVISIONS 2	P.E. NUMBER	
REVISIONS 3	DATE	
REVISIONS 4		
REVISIONS 5		
REVISIONS 6		
REVISIONS 7		
REVISIONS 8		

SARAH MILDRED LONG BRIDGE  
PISCATAQUA RIVER  
PORTSMOUTH, NH  
KITTERY, ME

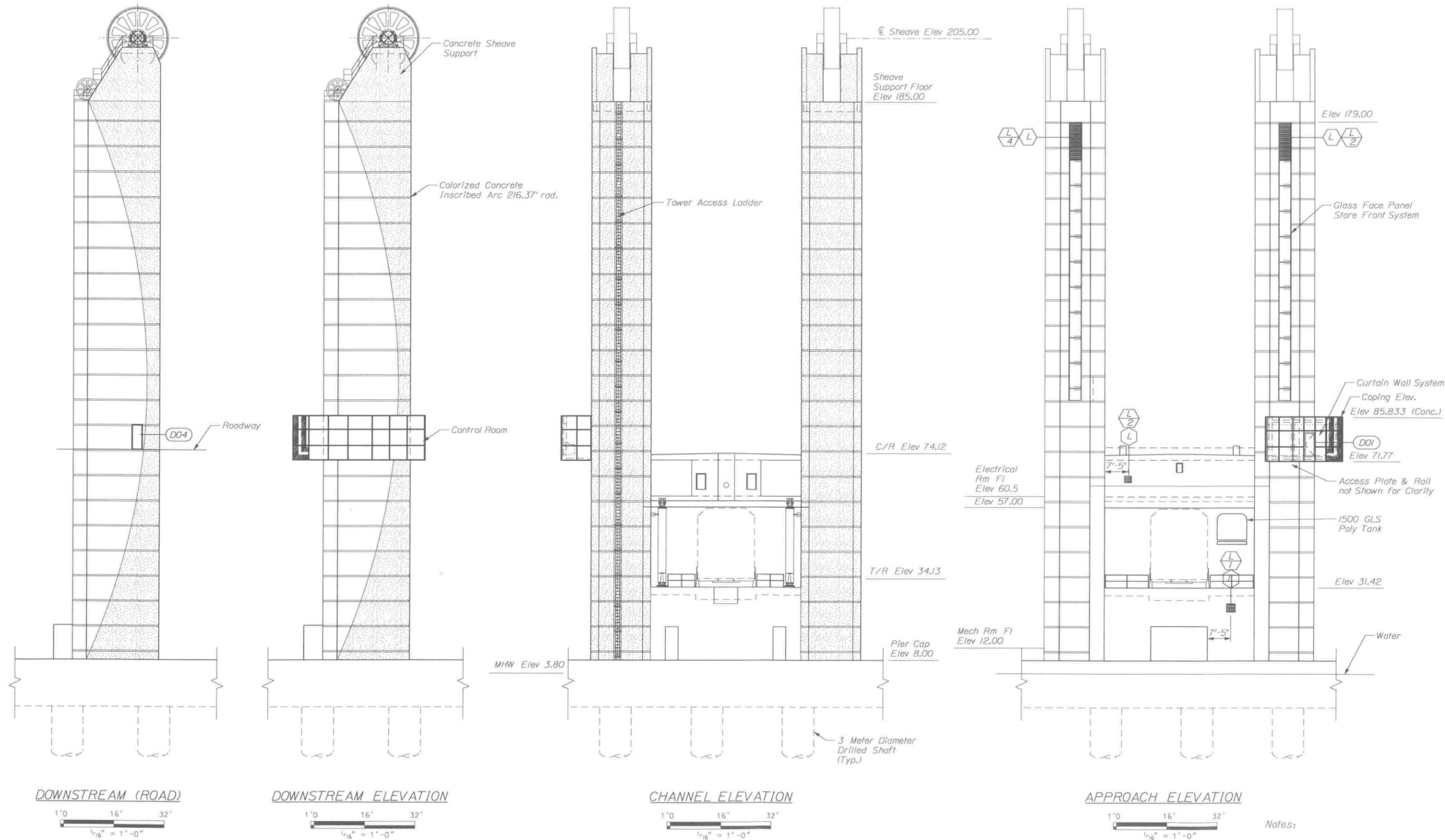
PRECAST TOWER  
ELEVATION - I

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T10  
OF T71



# 100% PLANS (7-3-2014)



TOWER ELEVATIONS (PORTSMOUTH)

- Notes:
1. For Bridge General Layout, See Sheet FI.
  2. For Tower Plan View, See Sheets T14 & T19.
  3. For Tower Section Views, See Sheet T16, T17, T22, T23.

STATE OF MAINE		DEPARTMENT OF TRANSPORTATION		16710.00		PIN 16710.00	
PROJECT MANAGER: JEFF FOLSON		BY: DATE		SIGNATURE		P.E. NUMBER	
DESIGN-DETAILED		CHECKED-REVIEWED		REVISIONS 1		REVISIONS 2	
REVISIONS 3		REVISIONS 4		REVISIONS 5		REVISIONS 6	
REVISIONS 7		REVISIONS 8		DATE		BRIDGE PLANS	
SARAH MILDRED LONG BRIDGE PISCATAQUA RIVER PORTSMOUTH, NH				ARCHITECTURAL TREATMENT KEY ELEVATIONS I			
KITTEERY, ME				SHEET NUMBER			
				A6			
				OF A21			





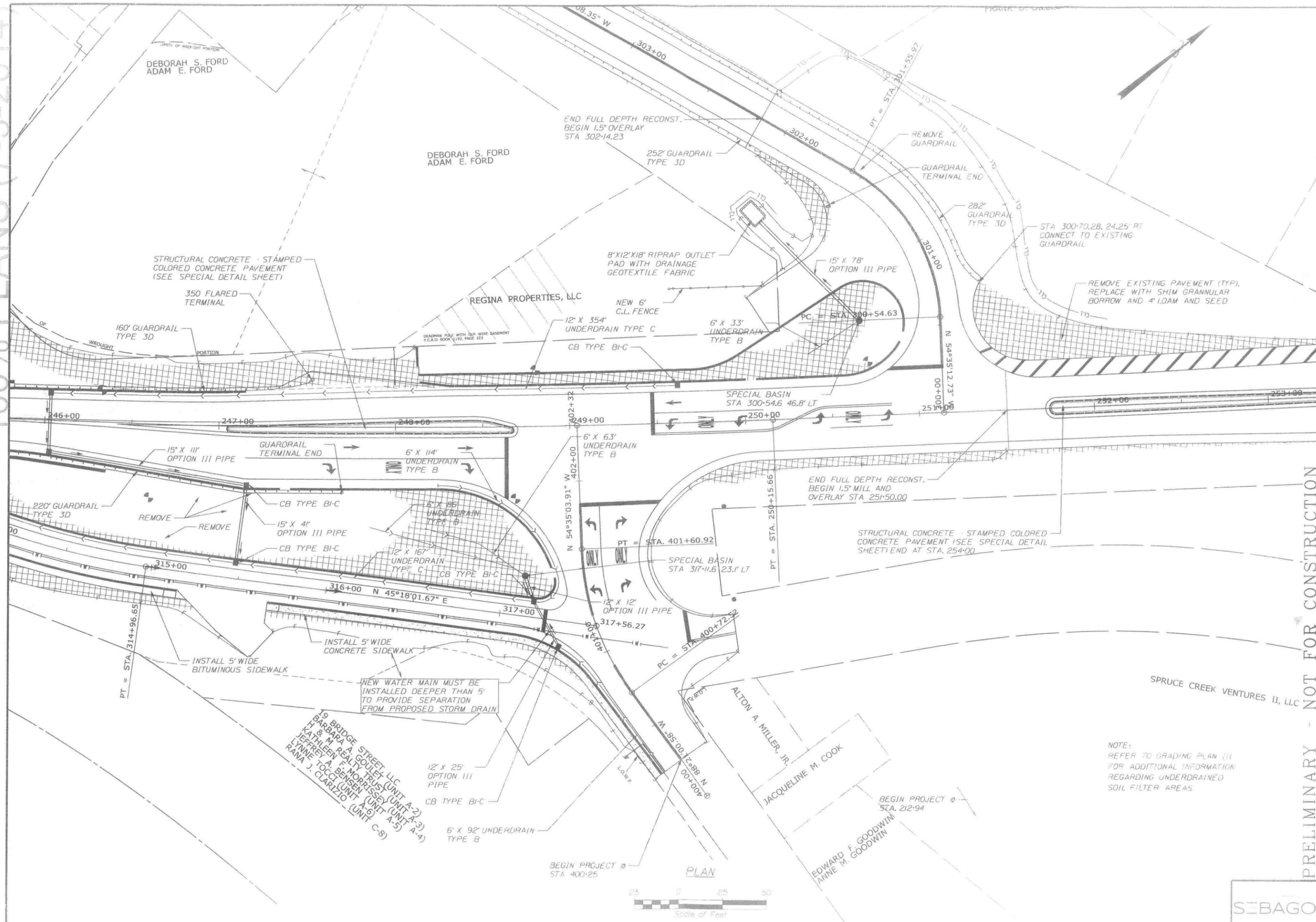
Date: 6/30/2014

Username: blyon

Division: HIGHWAY

Filename: ... \Sheet Files\013\_HDPlan6.dgn

100% PLANS (7-3-2014)



NOTE:  
 REFER TO GRADING PLAN III  
 FOR ADDITIONAL INFORMATION  
 REGARDING UNDERDRAINED  
 SOIL FILTER AREAS



PRELIMINARY - NOT FOR CONSTRUCTION

STATE OF MAINE DEPARTMENT OF TRANSPORTATION		16710.00	
SARAH MILDRED LONG BRIDGE PISCATAQUA RIVER KITTEERY, ME		GENERAL PLAN VI	
SHEET NUMBER		R13	
OF R104		PIN 16710.00 NH 261108 ME 3641	
DATE	SIGNATURE	P.L. NUMBER	DATE
06-30-14	B. LYON		
06-30-14	S. SAWYER		
REVISIONS 1			
REVISIONS 2			
REVISIONS 3			
REVISIONS 4			
REVISIONS 5			
REVISIONS 6			
REVISIONS 7			
REVISIONS 8			



Date: 6/30/2014

Username: byon

Division: HIGHWAY

Filename: ... \Sheet Files \014\_HDPlan7.dgn

100% PLANS (7-3-2014)



STATE OF MAINE		DEPARTMENT OF TRANSPORTATION		16710.00	
PIN		ME 3641 NH 251106		16710.00	
ROADWAY PLANS		SIGNATURE		P.E. NUMBER	
DATE		DATE		DATE	
PROJ. MANAGER	W.J. ROLAND	DATE	06-30-14		
DESIGN-DETAILED	B. LYON	BY	B. LYON		
CHECKED-REVIEWED	S. SAWYER	DATE	06-30-14		
REVISIONS 1					
REVISIONS 2					
REVISIONS 3					
REVISIONS 4					
REVISIONS 5					
REVISIONS 6					
REVISIONS 7					
REVISIONS 8					
REVISIONS 9					
REVISIONS 10					

PRELIMINARY - NOT FOR CONSTRUCTION

SARAH MILDRED LONG BRIDGE  
PISCATAQUA RIVER  
PORTSMOUTH, NH

KITTERY, ME  
GENERAL PLAN VII

SHEET NUMBER  
**R14**  
OF R104



MARTA E. RICHARD  
MARIA I.

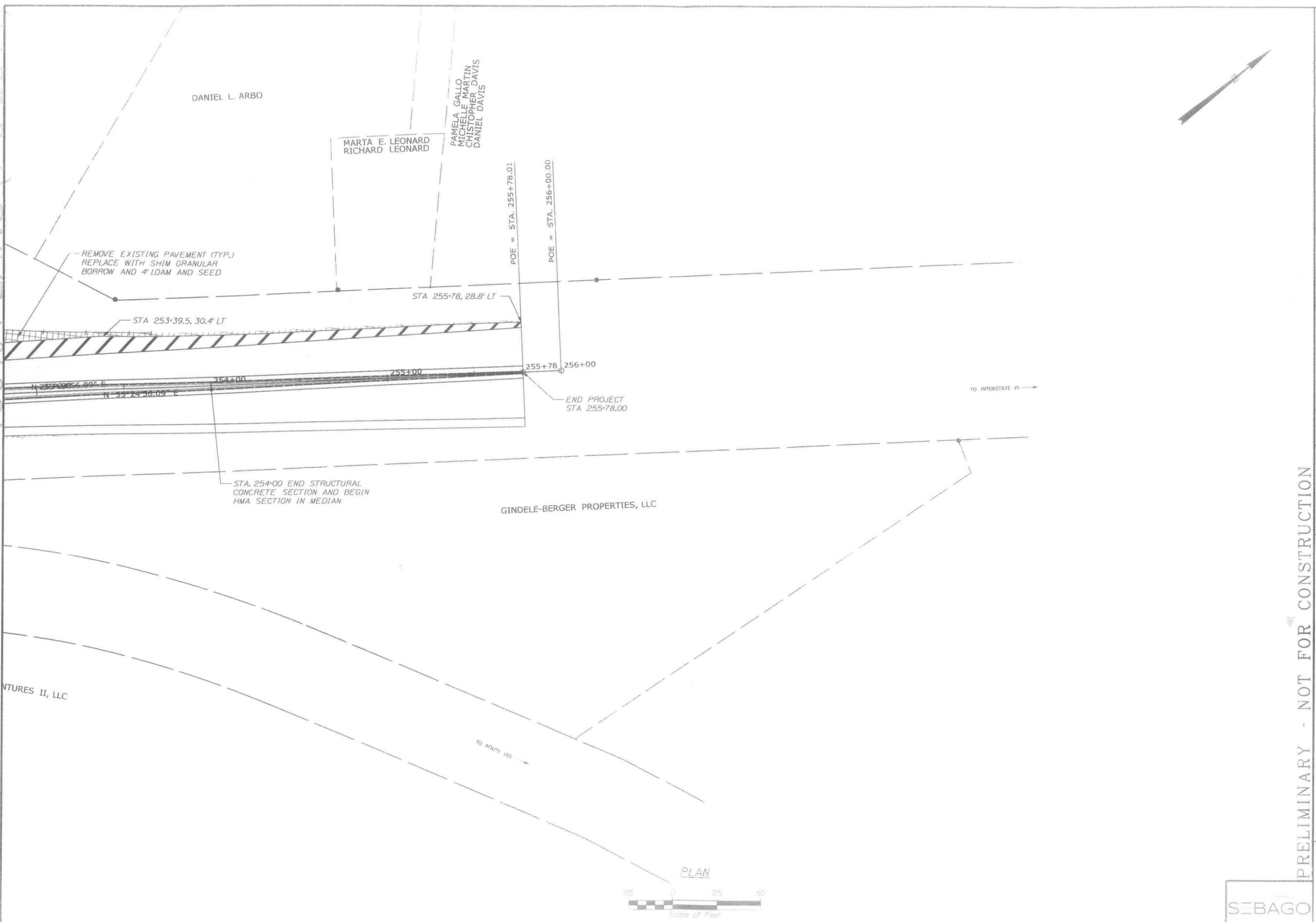
100% PLANS (7-3-2014)

Date: 6/30/2014

Username: blyon

Division: HIGHWAY

Filename: ... \Sheet Files \015\_hdPlan8.dgn



PRELIMINARY - NOT FOR CONSTRUCTION

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16710.00  
PIN 16710.00  
ME 364-1 NH 251/108 ROADWAY PLANS

PROJ. MANAGER	BY	DATE
DESIGN-DETAILED	B. LYON	06-30-14
CHECKED-REVIEWED	S. SAWYER	06-30-14
REVISIONS 1		
REVISIONS 2		
REVISIONS 3		
REVISIONS 4		
REVISIONS 5		
REVISIONS 6		
REVISIONS 7		
REVISIONS 8		

SIGNATURE	P.E. NUMBER	DATE

SARAH MILDRED LONG BRIDGE  
PISCATAQUA RIVER  
KITTEERY, ME  
PORTSMOUTH, NH  
GENERAL PLAN VIII

SHEET NUMBER  
**R15**  
OF R104



**Town of Kittery Maine  
Town Planning Board Meeting  
September 25, 2014**

**Town Code Amendment - Title 16.8.10.2.C Signs – General Requirements.**

Action: review amendment and schedule a public hearing. Proposed amendment allows for the limited use of Light-emitting diode (LED) lights in signage.

**PROJECT TRACKING**

REQ'D	ACTION	COMMENTS	STATUS
YES	Discussion	6/26/2014 – 8/11/2014	
YES	Schedule Public Hearing		PENDING
YES	Public Hearing		PENDING
	Town Council/Planning Board Joint Workshop		PENDING
YES	Review/Recommendation to Town Council		PENDING

**Background**

Town Code amendments in 2010 included language prohibiting the signs to contain LED lighting. When considered in the context of the entire provision 16.8.10.2.C it appears the intent was to eliminate flashing or “intermittent” lighting that is associated with digital message board signs.

With the modernization and increased use of LED lights, the prohibition of this type of light is a burden on applicants in pursuit of permitting signage where sign manufacturers provide no other alternative to LED lighting.

**Review**

The proposed amendment removes the reference to LED lighting and returns to the language adopted as part of the May 24, 2010 Title 16 Code (an excerpt is attached) . This would allow the use of LED lights in illumination of signs subject to the Article X Signs.

**Recommendation**

Schedule a public hearing

1 **16.8.10.2 General Requirements.**  
2

3 A. No sign may be erected, posted, enlarged, or substantially changed without a permit issued by the  
4 Code Enforcement Officer (CEO) and also approved by the Town Planner, except where Section  
5 16.8.10.9 provides otherwise.  
6 (Ordained 9/26/11; effective 10/27/11)  
7

8 B. No exterior sign may be artificially illuminated except where hooded or shielded or otherwise  
9 designed to prevent direct light spilling onto traveled ways or neighboring property.  
10

11 C. No sign may contain a moving message board, ~~LED lighting~~ or intermittent illumination, except where  
12 necessary in time/temperature/date signs.  
13

14 D. Any sign that interferes with or closely imitates any official traffic sign, signal or device is prohibited.  
15

16 E. No sign designed to be transported by means of wheels is allowed, unless said vehicle is used in the  
17 normal day-to-day transportation operations of the business. All trailer signs are prohibited.  
18

19 F. Any changeable message signs must be integrated into a permanently-mounted sign. Such a  
20 changeable message Board is to be mounted a minimum of three and one-half feet above ground level.  
21

22 G. All signs must be maintained in a safe and sound structural condition.  
23

24 H. Advertising. No advertising or signage is permitted on wireless communication services facilities.  
25

26 I. Any sign not expressly permitted herein is prohibited.  
27

## Article X. Signs

### 16.8.10.1 Purpose.

The purpose of this section is to balance the need for adequate identification and advertising for land uses to promote the economic well-being of the Town with the need to protect the public safety and maintain and enhance the physical appearance of the community. This objective is to be achieved by:

- A. Allowing adequate signage for the effective use of signs as a means of identifying, advertising and communication of land uses;
- B. Establishing the appropriate bounds for location, size, number, type and use of signs to protect traffic safety, preserve property values and to promote visual order and clarity; and
- C. Establishing procedures and regulations for the fair and consistent administration and enforcement of these sign restrictions.

### 16.8.10.2 General Requirements.

- A. No sign may be erected, posted, enlarged, or substantially changed without a permit issued by the Code Enforcement Officer (CEO), except where Section 16.8.10.9 provides otherwise.
- B. No exterior sign may be artificially illuminated except where hooded or shielded or otherwise designed to prevent direct light spilling onto traveled ways or neighboring property.
- C. No sign may contain a moving message Board or intermittent illumination, except where necessary in time/temperature/date signs.
- D. Any sign that interferes with or closely imitates any official traffic sign, signal or device is prohibited.
- E. No sign designed to be transported by means of wheels is allowed, unless said vehicle is used in the normal day-to-day transportation operations of the business. All trailer signs are prohibited.
- F. Any changeable message signs must be integrated into a permanently-mounted sign. Such a changeable message Board is to be mounted a minimum of three and one-half feet above ground level.
- G. All signs must be maintained in a safe and sound structural condition.
- H. Advertising. No advertising or signage is permitted on wireless communication services facilities.
- I. Any sign not expressly permitted herein is prohibited.

### 16.8.10.3 Sign Location.

- A. All signs must be permanently installed on the premises of the activity to which the advertising message refers, except where Section 16.8.10.7 provides otherwise or upon approval by the Town Council.
- B. All signs must be located outside the full width of the right-of-way of any public way, unless authorized by the Town Council.



**Town of Kittery Maine  
Town Planning Board Meeting  
July 24, 2014**

**Town Code Amendment – Title 16.8.7 Sewer System and Septic Disposal, 16.9.1.4 Soil Suitability, 16.8.16 Lots and 16.2.1 Definitions.** Action: review and discuss in advance of 10/6 joint workshop with Town Council. Amendments to the Town Code to address soil suitability as it pertains to septic disposal systems and other development standards. Amendments also address regulations for sewer, subsurface wastewater disposal systems and holding tanks, and changes in form, format and language to address clarity.

**PROJECT TRACKING**

REQ'D	ACTION	COMMENTS	STATUS
YES	Discussion/	1/9/14 deferred to 1/23/14. issued to Subcommittee.	-
	Workshop	December 3, 2013	HELD
YES	Schedule Public Hearing	July 24, 2014; Advertised 7/11 and 7/16	COMPLETE
	Town Council/Planning Board Joint Workshop		PENDING
YES	Review/Recommendation to Town Council	Initiated 6/26/14;	PENDING

**BACKGROUND**

Back before the Planning Board to discuss prior to the October 6 Joint Council/Planning Board Workshop and determine if any changes are warranted. Board members' lists of implications associated with the proposed provision limiting the units of a subdivision where subsurface wastewater disposal is required are included.

**RECOMMENDATION**

Staff recommends changing the language in the above mentioned provision to read:

**16.8.7.2 Subsurface Wastewater Disposal System**

**A. Subsurface wastewater disposal is not permitted in a residential subdivision with five or more lots or dwelling units.**

This would coincide with how the provision has been described to date as allowing a 'minor subdivision' to be constructed with subsurface wastewater disposal systems but not a 'major subdivision'.

## Town of Kittery Ordinance Revision Memorandum

<b>Originator(s):</b> T. Emerson, Planning Board Chair; S. Tuveson, VC	<b>Council Sponsor(s):</b> J. Thomson, Chair
<b>Council meeting date:</b> TBD Joint Workshop Meeting: 9/08/14	<b>Title:</b> Sewage Disposal <b>(Subsurface wastewater disposal only)</b>
<b>Town code section:</b> Title 16, §16.8.7 (Subsurface Wastewater Disposal System, proposed as 16.8.7.2)	<b>History:</b> Amendment

**ENCLOSURES: CODE AMENDMENT (PG. 5) AND ENACTMENT ORDINANCE {FORTHCOMING}.**

33 **PURPOSE OF PROPOSAL:**  
34

35 MRS 30-A §4352 requires that "a zoning ordinance must be pursuant to and consistent with a  
36 comprehensive plan". This proposal contains amendments that would implement Kittery's  
37 Comprehensive Plan in many significant ways.

38  
39 It would also eliminate a reference to an outdated soil manual that restricts the siting of subsurface  
40 wastewater disposal (SWD) systems in a manner that does not reflect modern soil science or best  
41 practices.

42  
43 The proposal would bring this section into compliance with Town Charter section 2.14, which requires a  
44 single topic per ordinance.

45  
46 **SUMMARY OF PROPOSAL/AMENDMENT:**  
47

48 Section 16.8.7.2.A (lines 204-205) would prohibit SWD systems in subdivisions with four or more lots or  
49 dwelling units.

50  
51 Section 16.8.7.1.C (lines 190-191) would be deleted. This subsection limits septic use based on the  
52 outdated *Soil Suitability Guide*.

53  
54 Section 16.8.7.2.E.3 (lines 259-265) would increase the depth of soil required for passing test pits by  
55 six (6) inches, instead of mandating prohibitively-expensive advanced pretreatment for all new SWD  
56 systems.

57  
58 Section 16.8.7.2.D.1 (lines 226-228) would permit current soil-depth requirements to be followed where  
59 a replacement SWD system, with the same capacity as the original, cannot meet the newer standards.

60  
61 Section 16.8.7.2.F (lines 267-269) would require advanced pretreatment in new construction that is  
62 within 100 ft. of porous sand-and-gravel aquifers. There are only two small sand-and-gravel aquifers in  
63 Kittery, both are in the vicinity of Cutts Ridge.

64  
65 Section 16.8.7.1.G.2 (line 223) would be removed. Ordinances governing sewer connections and  
66 holding tanks would become separate subsections.  
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JUSTIFICATION:

- Proposed amendments are pursuant to and consistent with the Kittery Comprehensive Plan. They would:
- Steer development to areas with Town services. (Comp. Plan p.25, p.125, p.126, p.127)
- Discourage intensive development in areas not served by public water and sewerage. (Comp. Plan p.127)
- Help prevent overbuilding in any single year, thereby managing growth in a manner consistent with the Town's ability to absorb it. (Comp. Plan p.25, p.125)
- Prevent overbuilding in areas designated for low growth while helping to preserve rural character and open space. (Comp. Plan p.125, p.209)
- Protect sensitive environmental resources such as groundwater, wetlands, watersheds and sand-and-gravel aquifers (Comp. Plan pp.43-44, pp.62-64, p.125)

In addition:

- These amendments would help manage density without decreasing the value of currently divisible parcels.
- Requiring deeper soil for passing test pits ensures greater separation between a SWD system and the water table or bedrock. This improves the filtering of effluents. Although no current SWD system can filter excreted pharmaceuticals or all household chemicals, better soil filtration would provide greater protection from nitrogen and phosphorous contamination, called "nutrient pollution", of our groundwater, watersheds and wetlands. Soil scientists confirmed the value of this strategy.
- The proposal would not create a disincentive for the routine replacement of old or failing SWD systems. Such routine replacements would be held to less-stringent standards than those for new systems and systems being enlarged due to expanded use.
- Removing the outdated soil manual reference allows current best practices to be employed when siting SWD systems. This protects the Town's interests and the applicant's.
- Removing other topics from this subsection would make SWD regulations less confusing.

FISCAL IMPACT: None

148 CODE AMENDMENT

149 Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT

150 Article VII. Sewage Disposal

151 ~~16.8.7.1 Sanitary Sewer System and Septic Disposal.~~

152  
153 A. An existing or new dwelling unit or structure that requires wastewater disposal must connect to town sewer  
154 where sewer is within 100 feet of the property line per Town Code Title 13, Chapter 13.1 Public Sewer System.  
155 Individual dwellings and structures in approved and recorded developments where town sewer becomes available  
156 as described in this paragraph must connect per the requirements of Title 13, Chapter 13.1. {NEW}  
157

158 B. Where town sewer is located within one thousand (1,000) feet of the property line of a commercial or industrial  
159 development or a residential subdivision, the developer shall connect to town sewer per the town Wastewater  
160 Services Department (WSD) specifications. The developer shall provide written certification to the Planning  
161 Board from the WSD that the proposed addition to town sewer is within the capacity of the collection and  
162 wastewater treatment system. {MOVED FROM 16.8.7.3}  
163

164 C. Sewer mains, service lines and related improvements must be installed at the developer's expense. Service  
165 lines must extend to each lot's boundary line. Connections to town sewer must be installed in accordance to this  
166 Article and Title 13 Public Services in the Kittery Town Code.  
167 {MOVED FROM 16.8.7.1.E}  
168

169 D. Proposal and construction drawings must be approved in writing by the town Wastewater Services  
170 Department. All required approvals must be secured before the start of final plan review.  
171 {MOVED FROM 16.8.7.1.A & F}  
172

173 E. When town sewer connection to the parcel and/or proposed lots is not feasible, the Planning Board may allow  
174 individual or common subsurface wastewater disposal systems to be used in accordance with Section 16.8.7.2.  
175 To determine feasibility, the developer shall submit information that considers the unique physical circumstances  
176 of the property and sewer connection alternatives to conventional construction/installation techniques such as, but  
177 not limited to, horizontal/directional boring and low pressure sewer. The developer's information must be  
178 accompanied by findings and recommendations of the town Peer-Review Engineer. In determining feasibility, the  
179 Board may not base its decision solely on additional costs associated with a sewer connection. {MODIFIED &  
180 MOVED FROM 16.8.7.1.B}  
181

182 ~~A. Public sanitary sewer disposal system connections must be installed, in accordance to Article VII o Chapter~~  
183 ~~16.8, with proposal and construction drawings reviewed and approved in writing by the servicing sanitary sewer~~  
184 ~~agency. {Moved and Modified, SEE 16.8.7.1.D}~~  
185

186 ~~B. If, in the opinion of the Board, service to each lot by a sanitary sewer system is not feasible, the Board may~~  
187 ~~allow individual subsurface waste disposal, or a separate central sewage collection system to be used in~~  
188 ~~accordance with Section 16.8.7.4. {Moved and Modified, SEE 16.8.7.1.E}~~  
189

190 ~~C. In no instance may an initial installation septic disposal system be allowed in soils rated poor or very poor for~~  
191 ~~such purpose by the Soil Suitability Guide for Land Use Planning in Maine. {DELETED}~~  
192

193 ~~D. If the developer proposes individual subsurface waste disposal or central collection system and waste~~  
194 ~~generated is of a "significant" nature, or if waste is to be discharged, treated or untreated, into any body of water,~~  
195 ~~approval must be obtained in writing from the Maine Department of Environmental Protection. {DELETED}~~  
196

197 ~~E. Sanitary sewer disposal systems must be installed, at the expense of the developer, to the individual lot~~  
198 ~~boundary line. {Moved and Modified, SEE 16.8.7.1.C}~~  
199

200 ~~F. All required approvals of a sewage disposal system must be secured before official submission of a final plan.~~  
201 ~~{Moved and Modified, SEE 16.8.7.1.D}~~  
202

203 **16.8.7.2 Subsurface Wastewater Disposal System**

204 A. Subsurface wastewater disposal is not permitted in a residential subdivision with four or more lots or dwelling  
205 units.  
206

207 B. The developer shall submit plans for subsurface wastewater disposal designed by a Maine Licensed Site  
208 Evaluator in full compliance with the requirements of the State of Maine Plumbing Code, Subsurface Wastewater

209 Disposal Rules, and this Code. Subsurface wastewater disposal systems must be constructed according to the  
 210 approved plan. {MODIFIED & MOVED FROM 16.8.7.2}  
 211  
 212 C.G. All first-time subsurface wastewater subsurface-sewage disposal systems must be installed in  
 213 conformance with the State of Maine Subsurface Wastewater Disposal Rules and this Code. The Maine  
 214 Subsurface Wastewater Disposal rules require new systems, excluding fill extensions, to be constructed no less  
 215 than one hundred (100) feet, horizontal distance, from the normal high water line of a perennial water body. The  
 216 minimum setback distance for a new subsurface disposal system may not be reduced by variance. {Moved to item  
 217 1 below} The following also apply:  
 218 1. The minimum setback distance for a first-time subsurface disposal system may not be reduced by variance.  
 219 {MODIFIED & MOVED FROM 16.8.7.1.G above}  
 220 42. Clearing or removal of woody vegetation necessary to site a first-time system and any associated fill  
 221 extensions, must may not extend closer than one hundred (100) feet, horizontal distance, from the normal high  
 222 water line of a water body or the upland edge of a wetland. {MODIFIED & MOVED FROM 16.8.7.1.G.1}  
 223 2. Holding tanks are not allowed for a first-time residential use in the Shoreland Overlay Zone. {MOVED &  
 224 MODIFIED, SEE 16.8.7.3.B.2}  
 225  
 226 D. Replacement of subsurface wastewater disposal systems for existing legal uses:  
 227 1. Where no expansion of use is proposed, must comply with 16.8.7.2 and Table 16.9 to the extent practicable  
 228 and otherwise are allowed per the Maine Subsurface Wastewater Disposal Rules; or  
 229 2. Where expansion of use is proposed, must comply with 16.8.7.2 and Table 16.9.  
 230 {NEW}  
 231  
 232 **16.8.7.2 — Design and Standards.**  
 233 A developer must submit plans for sewage disposal designed by a Maine licensed site evaluator in full  
 234 compliance with the requirements of the State of Maine Plumbing Code and/or Subsurface Wastewater Disposal  
 235 Rules. {MOVED AND MODIFIED, SEE 16.8.7.2.B}  
 236  
 237 **16.8.7.3 — Public Sewer Connection Required.**  
 238 Where a public sanitary sewer line is located within one thousand (1,000) feet of a proposed development at its  
 239 nearest point, the developer must connect with such sanitary sewer line with a main as required by the sewer  
 240 department, and provide written certification to the Board from the department that the proposed addition to  
 241 service is within the capacity of the system's collection and treatment system. {MOVED AND MODIFIED, SEE  
 242 16.8.7.1.B}  
 243  
 244 **E. 16.8.7.4 Private Subsurface Wastewater Disposal Systems; on Unimproved Lots Created after April 26,**  
 245 **1990.**  
 246  
 247 A. Where public sewer connection is not feasible, the developer must submit evidence of soil suitability for  
 248 subsurface sewage wastewater disposal systems, i.e. test pit data and other information as required by the State  
 249 of Maine Subsurface Wastewater Disposal Rules and this Code. In addition:  
 250 1. Additionally, on lots with a limiting factor identified as being within twenty-four (24) inches of the surface, a  
 251 second site with suitable soils must be shown as a reserve area for future replacement should the primary site  
 252 fail. Such reserve area is to be shown on the plan; not be built upon; and, must comply with all the setback  
 253 requirements of the Subsurface Wastewater Disposal Rules and this Code. {MODIFIED FROM 16.8.7.4.A }  
 254  
 255 2.B. In no instance may a primary or reserve disposal area be permitted on soils or on a lot which requires  
 256 requiring a First-Time System Variance Request from per the State of Maine Subsurface Wastewater Disposal  
 257 Rules.  
 258  
 259 3.C. Test pits must be of sufficient numbers (a minimum of two) and so located at representative points within  
 260 the each disposal area (primary and reserve sites) to assure ensure that the proposed disposal area system can  
 261 be located on soils and slopes which that meet the criteria of the State of Maine Subsurface Wastewater Disposal  
 262 Rules and the State Plumbing Code. Passing test pits must have a minimum of fifteen (15) inches of existing  
 263 natural mineral soil above the limiting factor, except in the Shoreland and Resource Protection Overlay Zones  
 264 where passing test pits must have a minimum of twenty-one (21) inches of natural mineral soil above the limiting  
 265 factor. All passing and failing test pits must be shown on plan.  
 266  
 267 F. The developer shall install advanced pre-treatment to subsurface wastewater disposal systems that are located  
 268 inside or within 100 feet of areas that include a sand and gravel aquifer as indicated on the Maine Department of  
 269 Agriculture, Conservation and Forestry (DACF) Geological Survey Maps or determined by Maine DACF staff.  
 270 {NEW}

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**16.8.7.3 Holding Tanks**

This section includes by reference all information and requirements in Appendix A: Model Holding Tank Ordinance of the State of Maine Subsurface Wastewater Rules, January 18, 2011 (SMSWR) with the following exceptions and additions:

A. Section 2 Definitions.

"Authority" means Town Council of Kittery, York County, Maine.

"Municipality" means Kittery, York County, Maine.

B. Section 4. Rules and regulations to be in conformity with applicable law. All such rules and regulations adopted by the Authority must be in conformity with the provisions herein, including Section 7 First-Time Users, State of Maine Subsurface Wastewater Rules, all other ordinances of the Town of Kittery, all applicable laws, and applicable rules and regulations of the administrative agencies of the State of Maine. In addition:

{NEW}

1. Holding tanks may not be used when a seasonal dwelling unit is converted.

2. Holding tanks are not allowed for a first-time residential use. {MODIFIED & MOVED FROM 16.8.7.1.G.2}

3. Holding tanks are allowed for functionally water-dependent uses at a municipal facility located within the Commercial Fisheries/Maritime Uses Overlay Zone. {NEW}

a) The Harbormaster is the agent per the SMSWR and is responsible for monitoring tanks and scheduling inspections, routine pumping and maintenance. {NEW}

b) Holding tanks must be inspected for leaks or deterioration by a state-certified professional with a minimum of three (3) years of experience in pumping and inspecting septic and holding tanks. Holding tanks must be inspected each April and October and otherwise as needed, Inspections must include a written report submitted to the Code Enforcement Officer and the Kittery Port Authority {NEW}

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**Chapter 16.2 DEFINITIONS**

**16.2.2 Definitions**

~~**Subsurface sewage disposal system** means a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term does not include any wastewater discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system licensed under 38 M.R.S. §413, §1A, or any public sewer. The term does not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S. §13.1.~~

**Subsurface wastewater disposal system** means any system designed to dispose of waste or wastewater on or beneath the surface of the earth. These include but are not limited to septic tanks, disposal fields, holding tanks, pretreatment filters, piping, or any other fixture, mechanism or apparatus used for such purposes. This definition does not include any discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

**Wastewater** means any domestic wastewater, or other wastewater from commercial, industrial or residential sources that has attributes similar to those of domestic wastewater. This term specifically excludes hazardous or toxic wastes and materials.

**Domestic wastewater** means any wastewater produced by ordinary living uses, including liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried waste from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes of human origin.

**ENACTMENT ORDINANCE {FORTHCOMING}**

## Chris DiMatteo

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**From:** Tom <b-e@comcast.net>  
**Sent:** Thursday, September 18, 2014 12:05 PM  
**To:** Chris DiMatteo  
**Subject:** Re: PB Draft Agenda for 9-25

My thoughts on the NRA/septic issues:

Pros:

1. The ordinances might actually work to slow growth & protect the environment as intended.
2. The hopefully will stir up a long simmering debate.
3. They're finally off our plate.

Cons:

1. We could be sued.
  - A. For the usual "taking" reasons
  - B. Because the comp plan is out of date - see Susan's arguments.
  - C. Because the implementation strategies in the Comp Plan do not include this one.
  - D. There is no statistical evidence that skeptics are a problem E. The experts have told us that all MDEP & federal regs can be met.
  - F. Has this been legally tested?

Tom

## Chris DiMatteo

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**From:** Bob Melanson <bobm@sjmservicesinc.com>  
**Sent:** Wednesday, September 17, 2014 12:17 PM  
**To:** Chris DiMatteo  
**Subject:** RE: Proposed provision re: Subdivisions and septic

Chris,

My chief concern is that this policy puts the "planning" cart before the rights of property owners horse. Current example the Betty Welch project where the 80 acres goes from 24 lots to ¾ or an arbitrary devaluation from \$ 2,400,000 to \$ 300 to 400 , a drop of more than 80%.

Bob

**From:** Chris DiMatteo [mailto:CDiMatteo@kitteryme.org]  
**Sent:** Wednesday, September 17, 2014 9:55 AM  
**To:** Ann Grinnell; Bob Melanson; Deb Driscoll; Karen Kalmar; Mark Alesse; Susan Tuvevson; Tom Emerson  
**Subject:** Proposed provision re: Subdivisions and septic  
**Importance:** High

Good morning.

Just a reminder that at the last meeting we spoke of pulling together discussion purposes at next Thursday's meeting a list of implications associated with the proposed provision limiting the units of a subdivision where subsurface wastewater disposal is required.

Please email your lists by noon tomorrow so I can assemble and add to your meeting packets.

Thanks  
Chris

**Christopher Di Matteo**  
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## **Issues for Consideration re: Proposed Septic Ordinance/Slowing Growth in Specific Area**

### **1. Legal consequences should be thoroughly vetted before ratification.**

A review of Maine case law on point by town counsel and legal department of the MMA should be presented to the Town Council and the public, who ultimately shoulders the cost of litigation.

Following such review, Town Council may, in the public forum, weigh costs and benefits of slowing growth in a targeted area of Kittery.

### **2. Existing Comprehensive Plan cannot reflect current Kittery economic condition**

Development, and attendant property tax revenue, a major source of income for Kittery, should not be modified based on a document that is out of date.

Ratified in 2002, the Kittery Comprehensive Plan, does not take into account the town's present and projected fiscal health after the US and global historic economic downturn. MMA data show that Maine towns are all affected by static or declining revenue and rising costs.

A thorough economic analysis is warranted before adopting ordinance that slows growth in a majority of Kittery's area, and to confirm whether a proposed limit of any number of dwellings per year in this area, or in any area, has merit for short- and long-term projected income proficiency.

### **3. An ordinance to slow growth in any area of Kittery should be truthfully stated as such**

Adoption of the proposed septic ordinance is encouraged by proponents as being justified by the comprehensive plan. It can be argued that strict application of septic installation practices benefit ecologically sensitive areas.

The ultimate goal of this ordinance, however, is to slow growth in a major portion of Kittery without taking into public consideration the legal and economic effects on the entire town. As a matter of fairness, slowing growth as the target consequence should be clearly stated and openly referenced.

Assuming responsibility for our town's economic health is everyone's task. As much as citizens in an area of town would prefer to relegate their responsibility to others, for any length of time, their ability to opt out should be closely examined for deleterious economic effects which may occur in other parts of town as a result.

## Pros/Cons septic limit amendment -- KK

### CONS:

- A large parcel could not be subdivided to its current maximum limit at one time.
- The above would require owners of such lots to divide over time to maximize the profit from their land.

### PROS:

- Landowners may still divide their parcels over time to maximize profit.
- Amendment complies with State law by implementing several directives of the Comp Plan:
- It directs large-scale development to areas with sewer and water,
- Promotes slow growth in rural areas that are designated low or no growth,
- Helps prevent overbuilding, protecting property values of homeowners,
- Helps preserve rural character by allowing low-intensity cluster development,
- Protects watersheds, wetlands and habitat,
- Discourages suburban sprawl.
- It is not a moratorium.
- No new limits on development in areas with sewer. And allows low-intensity development in areas without sewer.
- Three-house clusters mimic a historic settlement pattern that shaped the way the town looks.

## Pros & Cons of Proposed Septic Amendment

### Cons:

May require property owners of larger parcels to develop land more slowly.

If a sunset provision is added, then the public will have ample opportunity to put this ordinance to the test, knowing it can be amended in the future if warranted.

### Pros:

Begins to accomplish what the 2002 Comprehensive Plan intended 12 years ago without requiring a 3 acre minimum lot size.

Slows growth in the areas where we do not and will not have town sewer.

Will help keep our historic pattern of growth in check to approximately 20 new homes per year.

Helps protect our ecosystem and precious water supply.

Encourages growth where we want it and discourages growth where we do *not* want it.

We have to start somewhere and I think this is a good place to start.

Planning Board Recommended Amendment to Kittery LUDC  
concerning development in rural areas that cannot be connected to public sewer.

Pros and Cons

*Prohibit Subsurface Waste Disposal systems in subdivisions with four or more lots/dwelling units.*

**Cons**

**Pros**

Owners of large parcels of land may object.	A majority of people in Kittery and throughout Maine support the management of growth, and state law requires it.
Land owners won't be able to maximize their selling price for land that has been in their family for years.	Property is zoned to encourage the responsible stewardship of the Town to protect what is in the best interests of the majority of us who have invested here.
This is a "moratorium" on development.	<i>False.</i> The dictionary definition of a moratorium is "a suspension of activity," which this is not. This merely slows the development of rural and environmentally sensitive places.
OK. If <u>not</u> a moratorium, it will <u>still</u> slow the creation of subdivision developments in rural parts of Kittery.	<i>True.</i> In accordance with the will of the people. Townspeople voted strongly in favor of preventing over-development in rural Kittery and Kittery Point. Our <i>Comprehensive Plan</i> is quite clear on this.
This violates a land owner's property right to do with his land what he wants.	No right is absolute. Zoning Laws protect towns and villages from ugly sprawl, whether is be too much housing or the inappropriate placement of commercial or industrial facilities.
This is over-regulation in view of the advanced pre-treatment septic systems that eliminate the possibility of environmental hazards, no matter what the soil is like or if there is ledge rock.	No septic system is foolproof. Not all are installed properly. Few are systematically monitored. With all the waste from dozens of houses going into one common leach field a Biomat of accumulated waste will eventually prevent the cleansing/absorption of dangerous effluent, which ends up in the environment.
What if a developer were made to set aside money for addressing potential environmental problems resulting from a major housing development?	Requiring developers to set aside funds for long term damage arising from projects makes sense. But it does not address the near-unanimous desire to steer growth <i>away</i> from rural Kittery, to protect the environment and preserve the historic settlement pattern.
What do we say to land owners who feel they won't get the most out of selling their land if it can't be sold to a big development company?	There are many ways to market land. A high quality house built on a twenty acre lot has almost unlimited upside potential in the increasingly hot southern Maine coastal real estate market.

destructive at worst. Self-destructive because it would destroy what makes Kittery unique and highly valuable as a real estate investment. No one would visit our increasingly well-known town to bicycle or run if it lost its identity and looked like every other suburban subdivision. No matter how well designed or expensive, no one visits a suburban subdivision for its charm and historical interest. They are all essentially the same. Kittery is one-of-a-kind.

We must make every reasonable effort to preserve the historically authentic Maine character of our town, or we will surely lose it in the next ten to twenty years. The Planning Board urges the Town Council to pass these measures as drafted, and trust that we have put in the time, intelligence and creativity to present you with a solution you can trust.