



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

AGENDA for Thursday, January 14, 2016

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

CALL TO ORDER–ROLL CALL–PLEDGE OF ALLEGIANCE – APPROVAL OF MINUTES – 11/19/2015 & 12/10/2015

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.

OLD BUSINESS

ITEM 1 – Rockwell Homes, 89 Route 236 – Final Plan Review

Action: Approve or deny final plan Owner/applicant Rockwell Homes, LLC request consideration of plans for a single, 2,520-square-foot building containing business offices and a showroom and a drive-through-only restaurant at 89 Route 236 (Tax Map 28, Lot 14-2) in the Commercial 2 (C-2) Zone. Agent is Ryan McCarthy, Tidewater Engineering & Surveying, LLC.

NEW BUSINESS

ITEM 2 – 3 Knight Ave – Shoreland Development Plan Review

Action: Accept or deny plan application; Approve or deny plan. Owner/applicant Christopher G. Eckel requests consideration of plans to remove and reconstruct an unattached garage and implement several improvements to the lot including a stairway, two pathways, and a retaining wall within 75 feet of a protected water body. The lot is located at 3 Knight Ave (Tax Map 4 Lot 70) in the Mixed Use – Kittery foreshore (MU-KF) and Shoreland Overlay (OZ-SL-250') zones. Agent is Ken Markley, North Easterly Surveying.

ITEM 3 – 32 Seapoint Rd – Shoreland Development Plan Review

Action: Accept or deny plan application; Approve or deny plan. Owner/Applicant Pop held, Inc requests consideration of plans to expand the principle dwelling unit located at 32 Seapoint Rd (Tax Map 64 Lot 27) in the Residential – Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250') zones. Agent is Ken Markley, North Easterly Surveying.

ITEM 4 - Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. (Ordained 9/24/2012; effective 10/25/2012); 16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green S trip

Action: review amendment and schedule a public hearing. The proposed amendments provide clarity with regard to open space and other requirement standards in cluster residential and cluster mixed-use development

ITEM 5 – Town Code Amendments – 16.10.3 – Development Plan Review and Approval Process; 16.10.3.2 Other Development Review; 16.10.3.4 Shoreland Development Review; 16.10.10 Shoreland Development Review; 16.10.10.1 Permits Required; 16.10.10.1.2 Permit Application; 16.10.10.2 Procedure for Administering Permits

Action: review amendment and schedule a public hearing. The proposed amendments address plan review procedures for development applications located in the Shoreland Overlay Zone.

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.

ITEM 6 – Town Code Amendments – 16.2 Definitions; 16.8.8.2.3 Applicability; 16.10.7.2 Final Plan Application Submittal Content

Action: review amendment and schedule a public hearing. The proposed amendments provide clarity with regard to a Municipal Separate Storm Sewer System (MS4) regulation for a Post-Construction Stormwater Management Plan.

ITEM 7 – Board Member Items / Discussion

A. TBD

ITEM 8 – Town Planner Items:

A. TBD

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.

1 Chairperson Ann Grinnell called the meeting to order at 6:02 p.m.
2

3 Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Robert Harris, David
4 Lincoln, Secretary Debbie Driscoll-Davis, Mark Alesse, and Deborah Lynch.
5 Staff present: Chris DiMatteo, Town Planner.
6

7 Pledge of Allegiance
8

9 Ms. Grinnell led those present in the Pledge of Allegiance.
10

11 Minutes: October 22, 2015
12

13 Ms. Davis reviewed the tape of the October 22nd meeting and offered corrections. She also
14 suggested that future minutes should include a note directing readers to view the video recording
15 available on the Town's website for complete details.
16

17 **MS. DAVIS MOVED TO ACCEPT THE MINUTES OF 10/22/15 AS AMENDED,
18 SECONDED BY MS. KALMAR WITH MR. LINCOLN APOSED. MOTION PASSED
19 6/1/0.**
20

21 **PUBLIC COMMENTS** - Public comment and opinion are welcome during this open session.
22 However, comments and opinions related to development projects currently being reviewed by the
23 Planning Board will be heard only during a scheduled public hearing when all interested parties
24 have the opportunity to participate. Those providing comment must state clearly their name and
25 address, and record it in writing at the podium.
26

27 Ms. Terry Lockhead of 16 Old Armory Way approached the podium. She stated that a group of
28 citizens residing at Foreside put together a proposal after viewing the last Planning Board Meeting
29 when the Foreside Design Review Committee was discussed. The group would like to propose
30 that the Foreside Design Review Committee be revived. The group feels that the Planning Board
31 has made a lot of progress but feels that reviving the Foreside Design Review Committee would
32 be beneficial. She referenced the directions given to the Kittery Foreside Design Review
33 Committee and Code Section 16.3.2.15 which says that the Design Review Committee is designed
34 to facilitate the revitalization of downtown Kittery as a neighborhood center to promote economic
35 business services and walk-in shopping while respecting the zone's historic and residential
36 character. The group feels that emphasis on the historic and residential part of the formula could
37 be served well by reviving the Committee. The group is proposing that the Committee bring
38 forward resident's goals identified at the Foreside forums and the community meeting that was
39 held at Lil's in August 2014; and work with the Planning Board to identify paths forward on these
40 goals and generate volunteer involvement and public support.
41

42 The group would like to see the Committee comprised of five members, including two Foreside
43 residents, an individual with architectural and/or historical expertise, a person with
44 communications experience, and an advocate for affordable workforce housing. Ms. Lockhead
45 asked if the proposal should go to Council or the Planning Board first. Mr. DiMatteo explained
46 that the proposal does not have to go through the Planning Board initially, that it can start with

47 Council, who has jurisdiction over these types of Boards. As the Kittery Foreside Design Review
48 Committee doesn't formally exist at this time, Council would need to vote to recreate it. Ms.
49 Lockheed added that as the Foreside Committee would work closely with the Planning Board, the
50 group prefers the Planning Board approach the Council. Ms. Lockheed noted that the group is
51 now referring to the Committee as the Foreside Neighborhood Committee.

52
53 Ms. Cathy Wolf of 10 Old Armory Way approached the podium. Ms. Wolf is asking the Planning
54 Board to support the Foreside Neighborhood Committee; she feels that the proposal would carry
55 more weight with Council with the Planning Board's backing.

56
57 Chairperson Grinnell suggested that consideration of the Foreside Neighborhood Committee be
58 addressed at the next meeting on December 10th.

59
60 **PRESENTATION/PUBLIC COMMENT**

61
62 **ITEM 1 – Kittery Neighborhood Bicycle/Pedestrian Planning**

63 Action: No formal action. The Kittery Area Comprehensive Transportation System (KACTS) and
64 the Town of Kittery are working together, with consultants of Sebago Technics and Alta Planning
65 and Design, to study the Route 1 Bypass from Memorial Circle to the Sarah Mildred Long Bridge
66 to develop a long-term vision for improving bicycle and pedestrian safety. This meeting is an
67 opportunity to review a final draft of the study for a future transformation of the Bypass, i.e.
68 number of vehicle lanes, sidewalks, landscaping, bike lanes, etc. in light of the new bridge. Steve
69 Sawyer, P.E. of Sebago Technics will present.

70
71 Mr. Steve Sawyer of Sebago Technics approached the podium. Ms. Grinnell noted that this is the
72 third meeting entertaining the Kittery Pedestrian and Bicycle Improvement Plan and asked Mr.
73 Sawyer to give a brief presentation. Mr. Sawyer reviewed the highpoints of the Plan and recapped
74 what has happened over the past year. He noted that a designer's workshop was held in May and
75 the results were presented to the Committee in July, 2015. Mr. Sawyer explained that there are
76 three options in the Plan. A copy of the Draft Kittery Pedestrian and Bicycle Improvement Plan
77 report was provided to the public in attendance.

78
79 Ms. Grinnell read the final conclusion of the Report for the public's benefit. She noted that in the
80 conclusion it appears the opinion of the Study Team is that the Bypass should not be touched until
81 a Land Use Study is done as KACTS and MDOT have recommended. It seems to support the
82 Town moving forward with the Plan Map 4-4 for the exterior roads surrounding the Bypass.

83
84 George Dow of 1 Bartlet Road, and the Economic Development Committee, approached the
85 podium. He feels the presentation and discussion of the Plan is a great exercise in understanding
86 what can be done with the Bypass. The pedestrian aspect of the Plan outside of the Bypass was
87 well done. Mr. Dow suggested consideration should be given to which one of the three options
88 would encourage business growth. He also suggested that consideration should be given to
89 connectivity and how the plan blends with Route 1.

90
91 Ms. Grinnell requested that the Economic Development Committee review the Draft Plan and the
92 Comprehensive Plan and report back to Council.

93 Mr. Lincoln asked Mr. Dow if the EDC has any plans for development of the property along the
94 Route 1 Bypass. Mr. Dow responded that there are several areas being looked at in Town and the
95 Bypass is one of them. Any development needs to pass muster with current zoning and the
96 Comprehensive Plan (which is currently being updated). He hopes that it will be known how the
97 Bypass will connect with the Sarah Mildred Long Bridge by the time it is completed.

98
99 Mr. Dow noted that the EDC has a sunset clause date of December 31, 2015 or sooner, at which
100 time it will need to go before Council. The EDC will be meeting on December 24th to determine
101 if the members wish to continue.

102
103 Ms. Grinnell inquired about what the cyclists crossing the bridge from Portsmouth will do when
104 they get to where the bike route ends in Maine. Mr. Steve Workman responded that DOT currently
105 directs cyclists off of the Bypass on both Maine and New Hampshire sides. MDOT does not
106 prohibit cyclists on the Route 1 Bypass north of the bridge. Mr. Workman feels that Kittery has a
107 well thought out vision, a vibrant community, a growing transportation network that includes
108 pedestrians and cyclists; and is making a multi-million dollar infrastructure investment that
109 accommodates cyclists. He noted that Kittery has connectivity problems and most of the planning
110 documents speak to improving that. Therefore, He feels that MDOT's requirement for more
111 planning from Kittery is an effort to stop progression. He urged the Town not to sit idle and push
112 forward with MDOT.

113
114 Mr. Workman stated that he thinks the recommendations outside of the Bypass are spot on. He
115 appreciates the bike symbols; and thanked Norman Albert and the crew of the Department of
116 Public Works for the work done to redo the sidewalk and reposition the crosswalk at the
117 intersection of Walker and Government.

118
119 Ms. Grinnell asked DPW if there is enough room to paint on the Bypass directing cyclists that go
120 on the Bypass and help with the pinch point. Mr. Albert responded that the Bypass is MDOT's
121 road and therefore DPW cannot paint.

122
123 Mr. Alesse asked if Mr. Workman if Old Post Road is a good connector to the circle from the
124 bridge. Mr. Workman responded that it is good but doesn't help with the overall connectivity
125 problems. There will be a better handle on the bike traffic volume when the Memorial Bridge is
126 done.

127
128 Ms. Davis asked for input from Norman Albert and Dan Cochran (Jacksons Hardware and
129 Marine). She noted that Mr. Albert has spoken about urban compact zone and what the State could
130 do if things were changed on the Bypass and what the expense might be to the Town.

131
132 Mr. Cochran is concerned that the Town is trying to fix a problem that may not exist. He does not
133 see a lot of foot or bike traffic, and the Bypass is not very scenic. The businesses along the area
134 are not the type of businesses that would draw foot and bicycle traffic. Mr. Cochran is concerned
135 that truck traffic will increase once the Sarah Mildred Long Bridge is complete and the weight
136 limit goes away. The pinch point over the old railroad bridge will be dangerous. Mr. Cochran
137 agrees with moving forward with the Plan recommendations for the rest of the Town, but feels that
138 the recommendation for the Bypass needs a harder look. There should be a measurement of the

139 costs involved and who will use the Bypass. Summertime traffic heading southbound for the bridge
140 on weekends already gets backed up with both lanes filled. So to reallocate one of those two lanes,
141 which are already narrow, for pedestrians and bicycles would create a problem even further north.
142 The Irving truck stop is always busy as well.

143
144 Ms. Wolf asked what the MDOT's rationalization is for not putting in the ability for bikes to go
145 up and down that road until it is known what is going to happen with long term development. She
146 feels that no matter what is put down on the road it would still be nice to ride bicycles on the road.
147 Mr. Sawyer responded that there is signage currently that prohibits bicycle and pedestrians but that
148 the MDOT would be willing to take it down; at the same time MDOT doesn't want to reallocate
149 travel lanes for bicycle or pedestrian use; and there isn't sufficient room to widen the shoulder.

150
151 Ms. Grinnell asked Mr. Sawyer if it is clear that MDOT doesn't want to give up any travel lane
152 space for bicycles and pedestrians. Mr. Sawyer explained that there is no prohibition for using the
153 travel lanes or the narrow shoulders. Expansion would need to be done and there isn't sufficient
154 room to expand where there is narrow or non-existent shoulder. MDOT has indicated that they
155 would be willing to discuss options if the Town would consider a land use plan/redevelopment
156 plan and be willing to put forth some public investment funds to change the number of, or widen
157 lanes and/or add a multiuse path. MDOT would want to see the Town's land use plan first.

158
159 Ms. Davis asked if the State plans to fix the railroad pass under the bridge. Mr. Sawyer responded
160 that in the State's structurally deficient and functionally obsolete bridge list, the structure is listed
161 as needing repairs in the not too distant future. Mr. Sawyer was told by the bridge maintenance
162 engineer in Augusta that there is no reason to have the old railroad trestle bridge any longer since
163 the railway has been abandoned. Filling in the bridge was discussed but there might be some right-
164 of-way impacts where the fill slope would end at the bottom. MDOT didn't want to talk to the
165 abutting property owners about purchasing more land, so they abandoned the idea. Mr. Sawyer
166 added that MDOT would be willing to work with the Town if the Town was willing to negotiate
167 with the abutters. There are probably other ideas out there such as putting up some retaining walls
168 at the bottom of the slope to keep the fill contained.

169
170 Ms. Lynch inquired if consideration could be given to shifting to one northbound lane and two
171 southbound lanes with the turn lane in the center and still having the bike lanes on the sides to
172 accommodate the pinch point if the bridge would be too expensive. Mr. Sawyer agreed that is an
173 idea that could be explored.

174
175 Mr. Sawyer noted that all the southern coastal communities such as Wells, Ogunquit and York
176 deal with the same traffic issue on Route One in the summer. He questioned whether it makes
177 sense to design for the worst case condition that occurs only during certain times of the year. He
178 added that there are choices for the vision that can be discussed. He noted that the choke point is
179 no longer at the York toll plaza but is now at the bridge since the Turnpike has been widened to
180 six lanes.

181
182 Mr. Harris stated that the place to start is with an idea and then you follow with action.

183

184 Ms. Grinnell asked when the bridge is complete, who will decide what will happen to pedestrians
185 and bikes after they cross the bridge and get to the intersection. Mr. Alesse suggested that
186 pedestrians and cyclists can make the choice to continue up Route One or choose to take Old Post
187 Road. He added that signage might be installed to encourage them to take Old Post Road.
188

189 Mr. Sawyer explained that his firm was involved in the design of the new bridge and added that
190 the design plans call for bike stenciling on the shoulders from the center of the bridge to the New
191 Hampshire side and there is nothing in the Plan for the center of the bridge to the Maine side.
192

193 The NHDOT has decided that all bicycle and pedestrian traffic will exit at the Albacore Museum
194 and there will be signage. Pedestrians and cyclists will not be allowed on the bypass south of that
195 point.
196

197 MDOT is different in that stenciling was not included but since construction has started they have
198 decided to add bicycle stenciling on the bridge. It is not yet clear what will be done at the Bridge
199 Street intersection. Mr. Sawyer noted that he has told the State that he wants to wait until the study
200 is done and Kittery makes a decision for what it wants to do north of the bridge. The intersection
201 would be changed to mold to whatever plan is adopted. He noted said that once Kittery decides
202 and the report is finalized this month, he will go back to the State to address the configuration.
203 The bridge will be finalized in 2017 and that gives the Town a year and a half to finalize its vision.
204

205 Ms. Kalmar suggested that the Board might take time during the meeting to decide how to start
206 discussing the vision and if the Board is willing to make some recommendations to Council about
207 the path outside of the Bypass. She also suggested that the Board might want to make a
208 recommendation that the EDC continue looking at the Bypass.
209

210 Mr. Norm Albert, Commissioner of Public Works, approached the podium and said that an update
211 from MDOT indicates the Memorial Circle Project will have a shared bike/ped path going from
212 Old Post Road around the traffic circle to Adams Drive. Once the Sarah Long Bridge is complete,
213 they will move on to the high level bridge, and traffic will be diverted back to the Sarah Long
214 Bridge. The Portsmouth side has two lanes going north and two going south and then it reduces
215 down to two Lanes going over the bridge. There will be intense traffic for the near future. This
216 may be one of the reasons why MDOT is holding out; for the Town to “get their eggs in a row”
217 and then take the opportunity to hand that part of the road over to the Town. Mr. Albert thinks that
218 might be the same for the railroad trestle. The Irving Gas station was done with the MDOT as
219 well. Mr. Alesse commented that it sounds like another three years of high volume traffic over
220 the Sarah Long Bridge. Mr. Albert commented that if the State hands it over to the Town, plowing,
221 maintenance and all expenses would be Kittery’s responsibility. He stated that York just purchased
222 a truck for over two hundred thousand and hired another person. York will be doing the same
223 again next year because MDOT handed all roads back to York. He added that MDOT uses
224 population count rather than urban compact standard to turn roads over to the Town. Paving and
225 culvert replacement would remain with MDOT but plowing goes to the Town. The vision is great
226 but consideration needs to be given to what the cost will be to the Town.
227

228 Mr. Albert explained to Mr. Dow that MDOT has given the section of Route 1 from Lewis Road
229 to the York Town line to Kittery, and Kittery is now responsible for its maintenance because it is

230 a compact road. MDOT is still responsible for paving and culvert replacement. The reason Kittery
231 has not been given the Bypass is because it is not compact. MDOT is trying to redefine the wording
232 for compact, and more than sixty towns that would be affected. MDOT has closed their York
233 station and they no longer have an inexpensive way to plow the Bypass so they wanted to pay
234 Kittery to do the plowing. Mr. Albert declined. He suggested that these things should be
235 considered in the plan.

236
237 *The Council took a five minute recess at this point.*
238

239 **ITEM 2 – Board Member Items / Discussion**

240 A. Election of Officers and Board Appointments

241
242 Ms. Grinnell announced that according to the Bylaws, appointment of officers must take place
243 in during the first meeting in December, which would be December 10th. This would be for
244 the positions of Chair, Vice Chair and the Secretary. Ms. Grinnell would like to step down
245 from the Kittery Port Authority and asked the Board to entertain the appointment of a new
246 representative for the coming year. She announced that she will be Haiti for the next meeting
247 of the Port Authority on the first Thursday in December.

248
249 Mr. Harris would like to wait for elections to take place with the Council which might result
250 in a change in the membership on the Planning Board. Ms. Grinnell noted that there is only
251 one opening on the Planning Board that the Council will have next Monday. She believes the
252 re-appointments will be interviewed first. Then there will be interviews from the pool for Mr.
253 Lincoln's seat as he will be stepping down following this meeting of the Planning Board.

254
255 Mr. Harris stated that he will wait for the December 10th meeting. In the interest of continuity
256 Ms. Davis stated that she is willing to proceed with the appointment of a Planning Board
257 representative to the Port Authority at this meeting. Ms. Lynch asked if it would be possible
258 to have a representative sit in for the Port Authority meeting that Ms. Grinnell will be missing
259 and then vote the person in during the December meeting.

260
261 **A VOTE WAS TAKEN TO PROCEED WITH THE APPOINTMENT OF A**
262 **PLANNING BOARD MEMBER TO THE KITTERY PORT AUTHORITY. WITH**
263 **MR. HARRIS, MS. LYNCH AND MR. LINCOLN OPPOSED. THE MOTION**
264 **CARRIED 4/3/0.**

265
266 Ms. Grinnell suggested that if a new person is appointed to the Planning Board next week, the
267 Board would want that person to serve on the Board for a while before being appointed as a
268 representative to a committee.

269
270 Mr. Lincoln noted that his term expires on November 30th and if a new person is appointed
271 next week, they will not begin serving until December 1st.

272
273 Ms. Grinnell commented that the Port Authority is trying to decide if it should stay as an
274 independent Board under the legislature or come under the umbrella of the Town.
275

276 Mr. Alesse expressed interest in serving on the Port Authority.

277

278 **MS. KALMAR NOMINATED MR. ALESSE TO THE KITTERY PORT AUTHORITY,**
279 **MS. DAVIS SECONDED. A VOICE VOTE WAS TAKEN, 4/3/0 WITH MR. HARRIS,**
280 **MS. LYNCH AND MR. LINCOLN APPOSING.**

281

282 Ms. Grinnell noted that the Port Authority meets on the first Thursday of the month and Mr.
283 Alesse's appointment will be for one year. She noted that other appointments will be on
284 December 10th.

285

286 B. Action List

287

288 Ms. Grinnell suggested that after the discussion of the Bypass Vision earlier in the meeting
289 that it should be an agenda item and given a priority of number one.

290

291 Mr. Lincoln commented that at one time the Board felt it was responsible for assuring that the
292 Codes and the Town Charter were followed. He questioned why the Board is spending so much
293 time on the Bypass issue. He feels that there is no point in the Board deciding what the zoning
294 should be until the Economic Development Committee comes up with some plans for
295 development of commercial activity. He felt that the Bypass discussion was premature.

296

297 Ms. Davis assed that it is the job of the Board to address regulatory work such as zoning, the
298 Charter and the Comprehensive Plan and that it may be premature but that it is a priority.

299

300 Ms. Davis suggests that it should be on the action list after the presentations that have been
301 given by Sebago Technics but not given a number one. She expects that the EDC will be
302 having some discussions about this and will hopefully bring ideas to the Comp Plan Update
303 Committee and to public meetings. Hopefully it will be incorporated into the Comp Plan. This
304 means that it would come before the Planning Board in another year or so. It should be added
305 to the list so as not to lose sight of the Bypass Vision.

306

307 Mr. DiMatteo added that he sees the Planning Board's role as one of participation not action,
308 and is free to make some recommendations. The Comp Plan would be a good vehicle to move
309 this idea along. The Board could be part of putting together an RFP if a further study were to
310 be done. The Board administers Title 16 and the Comp Plan and does mostly regulatory work.
311 However, since the Comp Plan is the Committee's long term planning piece, it is not out of
312 context for the board to consider the Bypass Vision.

313

314 Ms. Kalmar suggested that the Planning Board recommend that the EDC consider this topic
315 and make recommendations to the Comp Plan. Ms. Grinnell added that the Board also suggest
316 that the EDC not "sunset" on December 31st. Mr. DiMatteo added that the Board could draft
317 a letter or take a vote with its recommendation to Council.

318

319 Ms. Grinnell asked if the Board would be willing to write a letter to the Council. The Board
320 agreed and Mr. Lincoln suggested that the letter include the rationale for its recommendation.

321

322 C. Other

323

324 Mr. Lincoln thought there would be discussion about parking in Foreside. Mr. DiMatteo noted
325 that he spoke to the Chiefs and Mr. Albert and a letter summarizing their recommendations is
326 in the Board's packet.

327

328 Mr. Lincoln brought to the attention of the Board a newspaper article dated November 11,
329 2015. The subject was the appeal of the hotel. He noted that the Board did not wish to speak
330 about it at the last meeting but he recommended that each member consider the article
331 privately.

332

333 Mr. Lincoln distributed his recommendation on how applicants can be prepared to be more
334 effective once they are on the Board. Ms. Grinnell responded that the procedure is that the
335 people would be interviewed first for reappointment, and then applicants in the pool would be
336 interviewed for Mr. Lincoln's seat. The Council does have a copy of his recommendations but
337 the Council needs to decide what the procedure would be.

338

339 Ms. Kalmar said that the Board had a meeting with Council in February. She would like to
340 cluster some items from the action list and thus allow time to discuss the Foreside parking
341 situation with the Council as well. Mr. DiMatteo asked if item five from the action list could
342 be included. The list of items is in the June 25th minutes.

343

344 Ms. Kalmar asked if the Council would support the recommendation to include Adaptive
345 Reuse Ordinance to be included in the Comprehensive Plan to the Council. There was a
346 discussion about the merits. Ms. Lynch asked if a historic district or historic structures should
347 be included as well. Mr. Alesse felt that it would be good to come up with some incentives for
348 Adaptive Reuse.

349

350 **ITEM 3 – Town Planner Items:**

351 A. By-law revision

352

353 Ms. Grinnell asked if there could be something in the Bylaws to allow some slack in the number
354 of required meetings in October, November and December because it's very difficult for Staff
355 to have back to back meetings. Mr. DiMatteo noted that traditionally the Board was having
356 just one meeting in November and December and thought perhaps the Board was formally
357 voting on this each year. In the Bylaws the expectation is that there are two meetings in
358 November and December. Mr. DiMatteo suggested that while the Board is looking to change
359 their Bylaws perhaps it could be worded the meetings would be "as required". Ms. Grinnell
360 read Section 3 in the Bylaws which states that meetings of the Planning Board are held at 6:00
361 p.m. at the Town Hall on the second and fourth Thursdays of the calendar month; except in
362 November and December when the meetings will be held on the second and third Thursdays
363 of the month.

364

365 Ms. Davis and Mr. Lincoln suggested that the second meeting be as required, and that the
366 second meeting be on the third Thursday if required. Mr. DiMatteo will draft an amendment
367 and it can be voted on at the next meeting in December.

368 **MR. ALESSE MADE A MOTION TO ADJOURN AT 8:14 P.M., SECONDED BY MS.**
369 **DRISCOLL-DAVIS. MOTION PASSED BY VOICE VOTE 7/0/0.**

370

371 Submitted by Cathy Harman, Minutes Recorder, December 3, 2015.

372

373 *Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been*
374 *made to ensure the accuracy of the information the minutes are not intended as a verbatim transcript of comments at*
375 *the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the*
376 *video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.*

377

378

1 **TOWN OF KITTEERY, ME**
2 **PLANNING BOARD MEETING**
3 **Council Chambers**

UNAPPROVED
DECEMBER 10, 2015

4
5 **Meeting called to order: 6:03**

6
7 **Roll Call:**

8 Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Robert Harris, Secretary Debbie
9 Driscoll-Davis, Mark Alesse

10 Board members absent: Deborah Lynch

11 Staff present: Chris Di Matteo, Town Planner and Rebecca Spitko, Assistant Town Planner

12
13 **Pledge of Allegiance**

14
15 **Minutes: November 12, 2015**

16 Ms. Driscoll-Davis noted line 46-47 should read: “Mr. Di Matteo suggested what the committee is
17 looking for is the applicant to demarcate the devegetated areas by showing the dimensions of the other
18 devegetated areas like the 2015 paver pad.”

19
20 Ms. Driscoll-Davis questioned why certain pages of the minutes had a few sections highlighted. Mr. Di
21 Matteo clarified those were from previous draft version and not to raise attention to the board. Ms.
22 Driscoll-Davis requested all highlights be removed.

23
24 Ms. Kalmar noted the votes on page 11, 16 and 18-22 are incorrect and need to be changed to reflect
25 the 6 Board members who were present and voting at the November 12, 2015 meeting.

26
27 **Ms. Driscoll-Davis moved to approve the November 12, 2015 minutes as amended.**

28 **Ms. Kalmar seconded.**

29 **Motion passed 5-0-0**

30
31 **ITEM 1 – Yankee Commons Mobile Home Park Expansion – Final Subdivision Plan Review**

32 **Action: Approve or deny plan.**

33
34 Ms. Grinnell clarified that the staff has not completed their review of the application and CMA
35 comments have not been received. Therefore, although the agenda states ‘approve or deny plan’, a
36 motion to approve or deny the plan will not be entertained today.

37
38 Mr. Thomas Harmon of Civil Consultants approached the Board. He stated he was in agreement with the
39 Board’s decision to wait for further staff review before seeking approval and asked the Board for a
40 continuance on the application at this time. Ms. Grinnell asked if Mr. Harmon had received the response
41 letter written by Dan Moore from Kittery Conservation Commission. Mr. Harmon confirmed while he
42 has, he received today so he has not been able to review it in detail and, therefore, not prepared to
43 address its contents with the Board.

44
45 Ms. Grinnell asked if any Board members had questions for Mr. Harmon. Ms. Kalmar noted the plan
46 made several “hints” to numbers and figures, without going into further detail. Ms. Kalmar asked that be
47 expanded on in future application materials. Mr. Thomas agreed.

48
49 Ms. Grinnell asked Mr. Di Matteo when the Board could expect the next review of this application. Mr.
50 Di Matteo explained tonight's motion is to accept the final plan application, which will start the 90-day
51 timeline where the applicant is able to answer any further questions from the Board prior to a vote to
52 approve or deny the plan. In addition, the Board will receive and review CMA's final review of the
53 application. Mr. Harmon asked if there is an approximate date of when staff and CMA review will be
54 available for his review. Mr. Di Matteo stated he is awaiting CMA's response at any time and would like
55 to have everything gathered to present at the January 14th, 2016 Planning Board meeting. Mr. Harmon
56 expressed concern over the possibility of not having enough time to fully review material prior to the
57 January meeting and asked to not be put on the agenda until he feels prepared. Mr. Harmon cited the
58 upcoming holidays and personal time off as a possible catalyst for not having enough time to review
59 materials. The Board agreed.

60
61 **Ms. Kalmar moved to accept the final subdivision plan application for a 78-lot expansion of the**
62 **Yankee Commons Mobile Home Park located at US Route 1, for owner/applicant Real Property Trust**
63 **Agreement, Tax Map 66, Lot 24.**

64
65 **And**

66
67 **Move to continue the final subdivision plan for a 78-lot expansion of the Yankee Commons Mobile**
68 **Home Park located at US Route 1, for owner/applicant Real Property Trust Agreement, Tax Map 66,**
69 **Lot 24 not to exceed 90 days.**

70 **Mr. Alesse seconded the motion.**

71
72 **Motion carried 5-0-0**

73
74 Ms. Grinnell clarified the applicant has 90 days from the date of this meeting to return for review. Mr.
75 Harris asked if the Board would be voting on the application at their next review. Ms. Ginnell and Ms.
76 Kalmar answered possibly, but not necessarily. Mr. Harmon acknowledged.

77
78 **ITEM 2 – 34 Goose Point Rd – Shoreland Plan Review**
79 Action: Accept or deny plan application; Approve or deny plan.

80
81 Mr. Mick Sheffield and Ms. Wickie Rowland approached the podium to address the Board. Mr. Sheffield
82 clarified the proposal is only for the addition of the patio. The porch and deck were from a previous
83 application and received a permit by the Code Enforcement Officer September 2015.

84
85 Mr. Sheffield gave a presentation to the board describing the proposed development as outlined in the
86 application. Mr. Sheffield noted the total devegetated area would be approximately 1380 square feet;
87 however, they are trying to utilize and build around native features as much as possible so the proposed
88 devegetated area could be less. Ms. Rowland handed out an additional sketch of the proposed
89 development to the Board.

90
91 Ms. Grinnell asked if any Board members had any questions or comments for the applicant. No
92 questions or comments were presented.

93

94 **Ms. Kalmar moved to accept the Shoreland Development Plan application dated November 19, 2015**
95 **from Kevin Fickensher & Suzanne Olbricht for 34 Goose Point Rd. (Tax Map 34, Lot 2B) in the**
96 **Residential-Rural and Shoreland Zone.**

97 **Mr. Harris seconded the motion.**

98
99 **Motion carried 5-0-0.**

100
101 **Ms. Kalmar moved to grant conditional approval for the Shoreland Development Plan application**
102 **dated November 19, 2015 from Kevin Fickensher & Suzanne Olbricht for 34 Goose Point Rd (Tax Map**
103 **34, Lot 2B) in the Residential-Rural and Shoreland Overlay Zones upon the review and voting in the**
104 **affirmative on the Findings of Fact.**

105 **Ms. Driscoll Davis seconded.**

106
107
108
109 Kittery Planning Board

APPROVED

110
111 **Findings of Fact**
112 **For 34 Goose Point Rd**
113 **Shoreland Development Plan Review**

114
115 **WHEREAS:** Kevin Fickensher & Suzanne Olbricht requested approval of their Shoreland Development
116 Plan to construct a patio adjacent to an existing conforming dwelling located at 34 Goose Point Rd. (Tax
117 Map 34 Lot 2B) located in the residential-rural and shoreland overlay zones, hereinafter the
118 “Development” and

119
120 Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan
121 review notes prepared for 12/10/2015};

| | |
|-----------------------------------|------------|
| Shoreland Development Plan Review | 12/10/2015 |
| Site Walk | |
| Public Hearing | |
| Approval | 12/10/2015 |

122
123
124 And pursuant to the application and plan and other documents considered to be a part of a plan review
125 decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”)
126 {as noted in the plan review notes prepared for 12/10/2015};

- 127
128 1. Shoreland Development Plan Application, received November 19, 2015.
129 2. Site Plan, Ambit Engineering, Inc., November 2015

130
131 **NOW THEREFORE,** based on the entire record before the Planning Board and pursuant to the applicable
132 standards in the Land Use and Development Code, the Planning board makes the following factual
133 findings and conclusions:

134

135 FINDINGS OF FACT

136

137

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone

1.d The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...

Findings: The current devegetated area is 16.5% of the total property. The proposed development increases the devegetated coverage to a maximum of 18.23%.

Conclusion: The requirement appears to be met.

Vote: _5_ in favor _0_ against _0_ abstaining

138

139

140

141

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article 10 Shoreland Development Review

16.10.10.2 Procedure for Administering Permits

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

1. Maintain safe and healthful conditions;

Finding: The proposed development does not appear to have an adverse impact.

Conclusion: This requirement appears to be met

Vote: _5_ in favor _0_ against _0_ abstaining

2. Not result in water pollution, erosion or sedimentation to surface waters;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters.

Conclusion: This requirement appears to be met

Vote: _5_ in favor _0_ against _0_ abstaining

142

3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development doesn't require any changes to existing disposal wastewater system.

Conclusion: This requirement is not applicable.

Vote: 5 in favor 0 against 0 abstaining

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.

Conclusion: The proposed development does not appear to have an adverse impact. With the suggested conditions #2 and #3, this standard appears to be met.

Vote: 5 in favor 0 against 0 abstaining

5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

Finding: Shore cover is not adversely impacted

Conclusion: This requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

6. Protect archaeological and historic resources;

Finding: There does not appear to be any resources impacted.

Conclusion: This requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

Finding: The proposed development is not in the commercial fisheries/maritime use zone.

Conclusion: This requirement is not applicable.

Vote: 5 in favor 0 against 0 abstaining

8. Avoid problems associated with floodplain development and use;

Finding: The proposed development does not appear to be in the flood hazard zone.

Conclusion: This requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

9. Is in conformance with the provisions of this code;

Finding: The proposed development appears to meet all the dimensional standards of the R-RL zone and exists outside of the 100-foot setback from the Highest Annual Tide.

Conclusion: This requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

10. *Be recorded with the York county Registry of Deeds.*

Finding: A plan suitable for recording has been prepared.

Conclusion: As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.

Vote: 5 in favor 0 against 0 abstaining

143

144 Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review
145 standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan
146 Application of Kevin Fickensher & Suzanne Olbricht, owners and applicants, to construct a patio adjacent
147 to a conforming single family dwelling located at 34 Goose Point Rd (Tax Map 34, Lot 2B) in the
148 Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250') zones and subject to any conditions or
149 waivers, as follows:

150

151 **Waivers:** None

152

153 **Conditions of Approval** (to be depicted on final plan to be recorded):

154

155 1. No changes, erasures, modifications, or revisions may be made to any Planning Board approved
156 final plan. (Title 16.10.9.1.2)

157 2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated
158 with site and building construction to ensure adequate erosion control and slope stabilization.

159 3. Prior to the commencement of grading and/or construction within a building envelope, as shown
160 on the Plan, the owner and/or developer must stake all corners of the envelope. These markers
161 must remain in place until the Code Enforcement Officer determines construction is completed
162 and there is no danger of damage to areas that are, per Planning Board approval, to remain
163 undisturbed.

164 4. No trees are to be removed without prior approval by the Code Enforcement Officer or the
165 Shoreland Resource Officer.

166 5. All Notices to Applicant contained herein (Findings of Fact dated 12/10/15).

167

168 **Conditions of Approval** (not to be depicted on final plan):

169

170 6. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer
171 Review Engineer, and submit for Staff review prior to presentation on final Mylar.

172

173 The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact
174 upon confirmation of compliance with any conditions of approval.

175

176 **Vote of 5 in favor 0 against 0 abstaining**

177

178 APPROVED BY THE KITTELY PLANNING BOARD ON December 10, 2015

179

180 **Notices to Applicant:**

181

182 1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer
183 Review Engineer, and submit for Staff review prior to presentation of final mylar.

184 2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with
185 the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper
186 advertisements and abutter notification.

187 3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents
188 that may be required, must be submitted to the Town Planning Department for signing. Date of
189 Planning Board approval shall be included on the final plan in the Signature Block. After the signed
190 plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be
191 submitted to the Town Planning Department.

192 4. This approval by the Town Planning Board constitutes an agreement between the Town and the
193 Developer, incorporating as elements the Development Plan and supporting documentation, the
194 Findings of Fact, and any Conditions of Approval.

195 Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning
196 Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section
197 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

198

199 Mr. Sheffield asked if Title 16.6.2.A is stating the applicant must wait 45 days to proceed with
200 development. Mr. Di Matteo clarified the applicant should proceed at their own risk and be aware an
201 appeal is possible during the 45-day period directly following tonight's vote.

202

203 **ITEM 3 – 20 Whipoorwill Ln – Shoreland Development Plan Review**

204 Action: Accept or deny play application; Approve or deny plan.

205

206 Mr. Michael Moran and Mr. Chris Moran approached the podium to address the Board. Mr. M. Moran
207 gave a brief presentation on the proposed development as outlined in the application. Ms. Kalmar noted
208 a notice of violation (NOV) was issued on 12/8/2015 addressing the illegal tree clearing that occurred
209 2012 – 2014. Ms. Kalmar asked Mr. Di Matteo to clarify whether the Planning Board can review an
210 application with an outstanding NOV. Mr. Di Matteo stated, if desired, the Board may grant approval of

211 an application with an outstanding NOV, so long as a resolution of the violation is a condition of
212 approval.

213
214 Ms. Driscoll-Davis asked the applicant for an update on the status of the replanting plan. Mr. C. Moran
215 stated he spoke with both the Assistant Town Planner and the Shoreland Resource Officer prior to
216 tonight’s meeting with the Board. Mr. C. Moran apologized for the clearing stating he was unaware it
217 was a violation as it occurred outside the 100-foot setback from the highest annual tide. Mr. C. Moran
218 stated he has full intentions of working with the Shoreland Resource Officer and revegetating the
219 property as requested. Mr. Di Matteo confirmed and noted ongoing discussions between Mr. C. Moran
220 and the Shoreland Resource Officer regarding the 3:1 replanting requirement. Ms. Driscoll-Davis asked if
221 the septic system would create any replanting issues. Mr. M. Moran responded the septic does not
222 create any issues and stated all replanting will be within the 250-foot shoreland zone, although likely not
223 within the 100-foot buffer.

224
225 Ms. Kalmar asked why or how the applicant would know if additional information regarding the flood
226 zones on the property is required. Mr. Di Matteo stated this would be through the building permitting
227 process, not the Planning Board, and that this added as an informational note in the staff review. Mr. Di
228 Matteo clarified the proposed development is outside of the flood zone.

229
230 **Ms. Kalmar moved to accept the Shoreland Development Plan application dated November 23rd from**
231 **Christopher Moran for 20 Whippoorwill Ln (Tax map 33 Lot 3) in the Residential-Rural and Shoreland**
232 **Overlay Zones.**

233 **Mr. Harris seconded the motion.**

234
235 **Motion passed 5-0-0**

236
237 **Ms. Kalmar moved to grant conditional approval for the Shoreland Development Plan application**
238 **dated November 23rd, 2015 from Christopher Moran for 20 Whippoorwill Ln (Tax Map 33, Lot 3) in the**
239 **Residential-Rural and Shoreland Overlay Zones upon the review and voting in the affirmative on the**
240 **Findings of Fact.**

241
242
243 Kittery Planning Board **APPROVED**

244
245 **Findings of Fact**
246 **For 20 Whippoorwill Ln**
247 **Shoreland Development Plan Review**

248
249 **WHEREAS:** Christopher Moran requests approval of their Shoreland Development Plan to expand an
250 existing conforming single-family dwelling as well as construct a deck and patio on the property located
251 at 20 Whippoorwill Ln (Tax Map 33 Lot 3) located in the residential-rural and shoreland overlay zones,
252 hereinafter the “Development” and

253
254 Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan
255 review notes prepared for 12/10/2015}

256

| | |
|-----------------------------------|------------|
| Shoreland Development Plan Review | 12/10/2015 |
| Site Walk | |
| Public Hearing | |
| Approval | 12/10/2015 |

257
258 And pursuant to the application and plan and other documents considered to be a part of a plan review
259 decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"):
260 {as noted in the plan review notes prepared for 12/10/2015}

- 261
262 1. Shoreland Development Plan Application, received November 23, 2015.
263 2. Site Plan, Anderson Livingston Engineers, Inc. November 18, 2015

264
265 **NOW THEREFORE**, based on the entire record before the Planning Board and pursuant to the applicable
266 standards in the Land Use and Development Code, the Planning Board makes the following factual
267 findings and conclusions:

268
269 **FINDINGS OF FACT**

270
271 **Chapter 16.3 LAND USE ZONE REGULATIONS**

| |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16.3.2.17.D Shoreland Overlay Zone |
| <i>1.d The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...</i> |
| <u>Findings:</u> The proposed development increases the property's devegetated area from 7.3% to 12.9%. |
| <u>Conclusion:</u> The requirement appears to be met. |
| Vote: <u> 5 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining |

272
273
274 **Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW**

275 **Article 10 Shoreland Development Review**

| |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16.10.10.2 Procedure for Administering Permits |
| <i>D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:</i> |
| <i>1. Maintain safe and healthful conditions;</i> |
| <u>Finding:</u> The proposed development does not appear to have an adverse impact. |
| <u>Conclusion:</u> This requirement appears to be met |
| Vote: <u> 5 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining |
| <i>2. Not result in water pollution, erosion or sedimentation to surface waters;</i> |

| |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>Finding:</u> Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters.</p> <p><u>Conclusion:</u> This requirement appears to be met</p> |
| <p>Vote: <u>_5_</u> in favor <u>_0_</u> against <u>_0_</u> abstaining</p> |
| <p><i>3. Adequately provide for the disposal of all wastewater;</i></p> <p><u>Finding:</u> The proposed development is connecting to an existing septic system.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> |
| <p>Vote: <u>_5_</u> in favor <u>_0_</u> against <u>_0_</u> abstaining</p> |
| <p><i>4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i></p> <p><u>Finding:</u> Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.</p> <p><u>Conclusion:</u> The proposed development does not appear to have an adverse impact. With the suggested conditions #2 and #3, this standard appears to be met.</p> |
| <p>Vote: <u>_5_</u> in favor <u>_0_</u> against <u>_0_</u> abstaining</p> |
| <p><i>5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;</i></p> <p><u>Finding:</u> Shore cover is not adversely impacted</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> |
| <p>Vote: <u>_5_</u> in favor <u>_0_</u> against <u>_0_</u> abstaining</p> |
| <p><i>6. Protect archaeological and historic resources;</i></p> <p><u>Finding:</u> There does not appears to be any resources impacted.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> |
| <p>Vote: <u>_5_</u> in favor <u>_0_</u> against <u>_0_</u> abstaining</p> |
| <p><i>7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i></p> <p><u>Finding:</u> The proposed development is not in the commercial fisheries/maritime use zone.</p> |

| |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Conclusion: This requirement is not applicable.</p> |
| <p style="text-align: center;">Vote: <u>4</u> in favor <u>0</u> against <u>1</u> abstaining (Mr. Harris abstaining)</p> |
| <p><i>8. Avoid problems associated with floodplain development and use;</i></p> <p>Finding: A portion of the property is located in Flood Hazard Zone A. The existing structures and proposed development is at a higher elevation and not in the flood hazard zone. The applicant may need to provide additional information or documentation, such as an elevation certificate, to the Code Enforcement Officer prior to obtaining a building permit.</p> |
| <p>Conclusion: This requirement appears to be met.</p> |
| <p style="text-align: center;">Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p> |
| <p><i>9. Is in conformance with the provisions of this code;</i></p> <p>Finding: The proposed development appears meets all dimensional standards of the R-RL zone and exists outside of the 100 foot setback from the Highest Annual Tide.</p> |
| <p>Conclusion: This requirement appears to be met.</p> |
| <p style="text-align: center;">Vote: <u>4</u> in favor <u>0</u> against <u>1</u> abstaining (Mr. Harris abstaining)</p> |
| <p><i>10. Be recorded with the York county Registry of Deeds.</i></p> <p>Finding: A plan suitable for recording has been prepared.</p> |
| <p>Conclusion: As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.</p> |
| <p style="text-align: center;">Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p> |

277

278 Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review
 279 standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan
 280 application of Christopher Moran, owner and applicant, to expand an existing conforming single-family
 281 dwelling located at 20 Whippoorwill Ln (Tax Map 33, Lot 3) in the Residential-Rural (R-RL) and Shoreland
 282 Overlay (OZ-SL-250') zones and subject to any conditions or waivers, as follows:

283

284 **Waivers:** None

285

286 **Conditions of Approval** (to be depicted on final plan to be recorded):

287

- 288 6. No changes, erasures, modifications or revisions may be made to any Planning Board approved
289 final plan. (Title 16.10.9.1.2)
- 290 7. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated
291 with site and building construction to ensure adequate erosion control and slope stabilization.
- 292 8. Prior to the commencement of grading and/or construction within a building envelope, as shown
293 on the Plan, the owner and/or developer must stake all corners of the envelope. These markers
294 must remain in place until the Code Enforcement Officer determines construction is completed
295 and there is no danger of damage to areas that are, per Planning Board approval, to remain
296 undisturbed.
- 297 9. Prior to the issuance of any building permits a replanting plan must be submitted and approved
298 by the Shoreland Resource Officer.
- 299 10. No trees are to be removed without prior approval by the Code Enforcement Officer or the
300 Shoreland Resource Officer.
- 301 11. All Notices to Applicant contained herein (Findings of Fact dated 12/10/15).

302

303 **Conditions of Approval** (not to be depicted on final plan):

304

- 305 6. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer
306 Review Engineer, and submit for Staff review prior to presentation on final Mylar.

307

308 The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact
309 upon confirmation of compliance with any conditions of approval.

310

311 **Vote of 5 in favor 0 against 0 abstaining**

312

313 APPROVED BY THE KITTERY PLANNING BOARD ON December 10, 2015

314

315 **Notices to Applicant:**

316

- 317 5. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer
318 Review Engineer, and submit for Staff review prior to presentation of final mylar.
- 319 6. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with
320 the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper
321 advertisements and abutter notification.

322 7. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents
323 that may be required, must be submitted to the Town Planning Department for signing. Date of
324 Planning Board approval shall be included on the final plan in the Signature Block. After the signed
325 plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be
326 submitted to the Town Planning Department.

327 8. This approval by the Town Planning Board constitutes an agreement between the Town and the
328 Developer, incorporating as elements the Development Plan and supporting documentation, the
329 Findings of Fact, and any Conditions of Approval.

330 Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning
331 Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section
332 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

333
334 **ITEM 4 – Board Member Items/Discussion**

335 **A. Election of officers and Board appointments**

336
337 Ms. Kalmar nominated Ms. Debbie Driscoll-Davis for Secretary of the Planning Board for the 2016
338 calendar year.

339 Ms. Grinnell seconded the nomination

340
341 **Motion passed 4-0-1 (Mr. Harris abstaining)**

342
343 Ms. Grinnell asked Mr. Harris why he chose to abstain his vote. Mr. Harris stated he was uncomfortable
344 with elections in the absence of a full Board.

345
346 Mr. Alesse nominated Ms. Karen Kalmar for Vice Chair of the Planning Board for the 2016 calendar year.
347 Ms. Driscoll-Davis seconded the nomination

348
349 **Motion passed 4-0-1 (Mr. Harris abstaining)**

350
351 Ms. Driscoll-Davis nominated Ms. Ann Grinnell for Chair of the Planning Board for the 2016 calendar
352 year.

353 Ms. Kalmar seconded the nomination

354
355 **Motion passed 4-0-1 (Mr. Harris abstaining)**

356
357 Mr. Di Matteo reviewed the Board appointed Mr. Mark Alesse to the Kittery Port Authority for the 2016
358 calendar year at the November 19, 2015 Planning Board meeting, and they may consider appointments

359 to the Comprehensive Plan Committee as well as the Open Space Committee.

360
361 Ms. Grinnell nominated Ms. Karen Kalmar to the Open Space Committee and Ms. Debbie Driscoll-Davis
362 to the Comprehensive Plan committee for the 2016 calendar year.

363 Mr. Alesse seconded the nomination

364
365 **Motion passed 4-0-1 (Mr. Harris abstaining)**

366

367 **B. Foreside Neighborhood Committee**

368

369 Terry Lockhead, 16 Old Armory Way, approached the podium to address the Board. Ms. Lockhead
370 presented the Board with a proposal to revive the Foreside Design Review Committee with the intent of
371 working with residents and the Planning Board to organize/prioritize goals of Foreside neighborhood
372 residents, as well as generate volunteer involvement. Ms. Lockhead noted the proposal includes
373 signatures of 12 residents who are in support of reviving the committee. Mr. Di Matteo noted the
374 committee would need approval from Town Council to repopulate and Ms. Lockhead is seeking a letter
375 of support from the Planning Board to present to Town Council.

376

377 Ms. Driscoll-Davis inquired about the change of committee name from Foreside Design Review to
378 Foreside Neighborhood Committee. Ms. Lockhead explained the name change was an attempt to
379 broaden the scope of the committee, however she understand this could create unintended problems if
380 it conflicts with the language used in the Town Code and is not against using the original Foreside Design
381 Review title.

382

383 Ms. Kalmar suggested it might be beneficial for the committee to work closely with the Comprehensive
384 Plan Committee. Ms. Kalmar explained the Planning Board is a regulatory body while the Foreside
385 Design Review was intended to focus on the broader, vision of the neighborhood. This topic is currently
386 being addressed with the Comprehensive Plan Committee. Ms. Kalmar asked if it would be possible for
387 the Foreside Design Review Committee and Comprehensive Plan Committee to interface with one
388 another. Mr. Di Matteo affirmed. Ms. Lockhead clarified the board endorses reviving the Foreside
389 Design Review Committee, and also suggests a collaboration with the Comprehensive Plan Committee.

390

391 **Ms. Grinnell asked the Board if they are in favor of reviving the Foreside Design Review Committee.**
392 **Board responded 4-1-0 with Mr. Harris opposed**

393

394 Ms. Lockhead asked about next steps to reviving the Foreside Design Review Committee. Ms. Grinnell
395 explained the committee currently exists in the Town Code, however it has been dormant and must go
396 before Town Council to repopulate. Ms. Grinnell stated the Planning Board will produce a letter of
397 support to Town Council to revive the committee. Mr. Di Matteo agreed to draft a letter of support to
398 be reviewed by the Planning Board prior to submittal to Town Council.

399

400 Ms. Grinnell also suggested Ms. Lockhead attend the next Comprehensive Plan Committee held
401 Wednesday, January 20th, 2016 at 6pm in Conference Room A.

402

403 **C. Bylaw Revision**

404

405 Ms. Grinnell asked if the Board had any additional comments or revisions prior to voting. Ms. Kalmar
406 suggested changing section one "Newly appointed members must attend.." to "Members must attend".
407 Mr. Alesse and Ms. Driscoll-Davis agreed.

408

409 **Ms. Driscoll-Davis moved to accept revisions to Kittery Planning Board Bylaws.**

410 **Ms. Kalmar seconded**

411 **Motion approved 4-0-1 (Mr. Harris abstaining)**

412

413 **ITEM 5 – Town Planner Items**

414 **A. FEMA revised Zone A Flood Hazard Areas**

415 Mr. Di Matteo explained the maps included in the Board's packets are working maps sent out to
416 municipalities prior to preliminary maps being set. Once preliminary maps are finalized, the formal
417 appeal process will begin. This is expected to occur during the spring of 2016 with the appeal period
418 occurring summer 2016. Maps are then expected to be finalized during the spring of 2017 and effective
419 July 2017. The working maps in front of the Board are informational and no further action is required at
420 this time.

421

422 **B. Code Amendment – Title 16.8.11 – Cluster Residential and Cluster Mixed-Use Development**

423

424 A discussion ensued on the draft changes to Title 16.8.11 that included the following actions to be
425 reviewed at the January 14, 2016 Planning Board meeting:

- 426 1. 16.8.11.1.C – staff will review the public roadway setback provided in neighboring town codes
427 and produce a suggestion for Board consideration
- 428 2. Review language of scenic road buffers to differentiate between buffering development from
429 the road and impeding on scenic views.
- 430 3. 16.8.20.1 – Break section to highlight A. noise pollution and B. vegetative buffers in order to
431 avoid confusion of a relationship between the buffer and noise pollution.
- 432 4. 16.8.11.5.A.5 – Change “The lots shown in the conventional subdivision sketch plan must be
433 achieved without modifications to dimensional standards and shall not require a variance or
434 waiver from the existing ordinances.” To “ The lots shown in the conventional subdivision sketch
435 plan must comply with all local regulation within this code”
- 436 5. 16.8.11.6.E.1 – Remove “and be comprised of” and replace with “and must include”
- 437 6. 16.8.11.6.I.5 – Remove “the most restrictive requirement(s) shall apply” and replace with “The
438 most restrictive requirement applies”

439

440 Mr. Di Matteo presented the following updates to the Board

- 441 1. Updated Title 16 Code books have been printed and a copy has been given to each Board
442 member. Ms. Earldean Wells requested a copy. Mr. Di Matteo agreed.
- 443 2. Ms. Catherine Harman has resigned from her duties as minute recorder. Ms. Rebecca Spitko will
444 act as interim recorder for Planning Board meetings.

445

446 Ms. Kalmar asked the Board if they should present suggestions from the Fire and Police chief regarding
447 possible traffic pattern changes at the February workshop with Town Council. Ms. Driscoll-Davis
448 recommended bringing this to the Comprehensive Plan Committee for them to include with the planned
449 February public forum. Ms. Grinnell and Mr. Di Matteo agreed.

450

451 **Mr. Alesse moved to adjourn.**

452 **Ms. Driscoll-Davis seconded**

453 **Motion carried 5-0-0.**

454

455 The Kittery Planning Board meeting of December 10, 2015 adjourned at 7:28 p.m.

456

457 Submitted by Rebecca Spitko, Assistant Town Planner, on December 15, 2015

458

459 *Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been*
460 *made to ensure the accuracy of the information the minutes are not intended as a verbatim transcript of comments at*
461 *the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the*
462 *video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.*

December 14, 2015



Mr. Chris Di Matteo
Kittery Town Planner
200 Rogers Road
Kittery, ME 03904

Re: Updated Final Plan Submission & Response to Comments
Rockwell Homes LLC: Tax Map 28 Lot 14-2
Job No. 15-102

Dear Mr. Di Matteo:

On behalf of Rockwell Homes, Tidewater Engineering & Surveying LLC is pleased to resubmit the Final Site Plan Amendment submission for Tax Map 28 Lot 14-2. The first final plan package was submitted on September 24, 2015 and subsequently reviewed by CMA Engineers; however was not presented to the Planning Board as the Maine DOT Traffic Movement Permit approval was still outstanding at the time. We have since received approval from Maine DOT and are resubmitting the package which includes the addition of a right-turn lane on Route 236 for southbound vehicles entering the site.

The following documents are included within this Final Site Plan Amendment submission. The items marked with an asterisk (*) were submitted within the September 24th package and have not changed since the last CMA review.

1. Response to Staff & CMA review comments.
2. Response to Conservation Commission comments. *
3. Letter from Mark Hampton, Certified Soil Scientist. *
4. Email from Maine DEP. *
5. Updated septic design. *
6. Sign detail. *
7. Updated building elevations and floor plans. *
8. Updated stormwater report.
9. Maine DEP Stormwater Permit-by-Rule Application. *
10. Maine DOT Traffic Movement Permit Approval.
11. Updated plan set. (12 half size & 3 full size)

We hope that this submission addresses all of the concerns and comments received to date. Please schedule the final review of this application during the January 14, 2016 Planning Board meeting.

If you have any questions, please do not hesitate to contact me at (207) 439-2222 or email me at ryan@tidewatercivil.com.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Ryan M. McCarthy", is written over a light blue circular stamp.

Ryan M. McCarthy, P.E., P.L.S.
Manager of the Company
Tidewater Engineering & Surveying LLC
Enclosures:

Site Plan Amendment Application
Rockwell Homes - Multi-Use Building
Tax Map 28 Lot 14-2

RESPONSE TO STAFF REVIEW COMMENTS

1. Landscape Plan.
 - a. Based upon the review comments of the planner and the discussions held during the site walk, the applicant has agreed to reduce the clearing limits closest to Fernald Road by 70 feet (20 feet more than suggested by Town staff). This will also reduce the wetland impact by approximately 15 percent.
 - b. Additional plantings have been incorporated into the landscape plan to provide additional screening as suggested during the site walk. A row of red osier dogwood shrubs have been added between the drive-thru and Route 236 to screen drive-thru vehicles and their headlights. Knockout rose shrubs will be planted in both landscape islands adjacent to the parking area adjacent to the building. These rose shrubs grow to be 4 feet tall and will create a dense buffer between the parking area and Route 236. Walker's low catmint will be planted between the knockout rose shrubs to provide color contrast and variety as recommended in the Kittery design handbook. Although the name suggests this perennial is a low grower, it will actually grow to be 24 to 30 inches tall. Given these proposed planting, the landscape island adjacent will effectively screen the parking area.
2. Parking Calculations.
 - a. Feedback provided during the September 10, 2015 planning board meeting indicates that the Board is agreeable to the proposed parking calculations that have been provided. The parking calculation note on Sheet C4 Proposed Site Plan has been further clarified as requested by the Planner by providing additional detail with regards to the square footage excluded. Additionally, a plan note has been added to Sheet C4 to stipulate that if it becomes evident that there is insufficient parking on site, available parking must be increased as determined by the planning board.

RESPONSE TO CMA REVIEW COMMENTS

16.3 Zoning Regulations

- 16.3.2.11.D.4.a The parking areas are effectively screened by landscaped islands and shrubs. See Sheet L1 Landscape Plan and Response to Staff Review Comments 1.b. above for further detail on how this is accomplished.
- 16.3.2.11.D.4.b Building Design: The applicant has modified the proposed building design by adding more architectural features to break up the overall scale and massing of the roofline and facade. Three reverse gables have been added to the front façade along with extending a roof over the front pedestrian walkway. The reverse gables provide an area for building mounted signs to be incorporated into building design with proper proportioning and sign placement below the gable eaves. Overall we feel that this new building design is a great improvement and follows the recommendations found in Section II. Architecture of the Kittery Design Handbook more closely. See attached building elevation plan.
- The LUDC C-2 Zone Standards do not include an "Exterior Building Materials and Details" design requirement like the other C-1 and C-3 zones, however the applicant is still proposing materials that are in line with the Kittery Design

Handbook. Per the Design Handbook, buildings must be constructed of traditional, high-quality materials common to Kittery. Contemporary materials with the same visual characteristics (i.e. vinyl siding) are acceptable. None of the “discouraged materials” will be used. The applicant is proposing traditional vinyl siding (tan color) to mimic horizontal clapboard and vinyl cedar impressions (light blue color) on the upper portion of the gable ends and below the first floor windows to mimic cedar shakes. The roof will be traditional asphalt architectural shingles.

- 16.3.2.11.D.4.c.i. The landscape planter strip must be a minimum of 20 feet wide and is defined as a vegetated area (natural or landscaped) located adjacent and parallel to a road or street and designed to visually and functionally separate the roadway from the abutting upon which it is located. The applicant has provided a 43 foot wide fully vegetated and landscaped area between the right-of-way limits and the development. This landscaped area consisted of lawn, street trees and ferns. It is our interpretation of the LUDC that per the definition of a landscape planter strip, the full width of the 20 foot wide planter strip is not required to be entirely trees and shrubs, but instead is intended to require green space between the road and the development.
- 16.3.2.11.D.4.c.i.(A) Requirement met. The entire landscape planter strip is vegetated except for approved driveways.
- 16.3.2.11.D.4.c.i.(B) One street side tree for each fifty (50) feet of street frontage is required. It is our interpretation that this is applicable to only the street frontage that is proposed to be cleared along Route 236. Approximately 160 feet of frontage is proposed to be cleared, therefore three (3) street trees are being provided. An undisturbed forested buffer 50 feet wide along the street frontage of Fernald Road will be maintained in its current condition which includes well in excess of one tree per 50 feet. Existing large healthy trees are allowed to be counted toward this requirement therefore what is provided far exceeds the amount required.

16.8 Design and Performance Standards-Built Environment

Article VI. Streets and Pedestrian Ways

- 16.8.4.5. A Maine DOT scoping meeting was held on November 3, 2015 at 11am at the Kittery Town Office to discuss the traffic analysis and traffic movement permit submitted to Maine DOT for review. Maine DOT, Tidewater Engineering & Surveying, Eaton Traffic Engineering, Rockwell Homes, CMA Engineers, Kittery Town Planner and Assistant Town Planner were all present. It was determined during this meeting that the trip generation and traffic data within the report by Eaton Traffic Engineering was acceptable. Based upon this data, Maine DOT concluded that a dedicated right hand turn pocket was required for southbound vehicles to use while entering the site. A left hand turn pocket for northbound vehicles was also discussed, but determined not to be necessary due to the minimal amount of traffic performing this maneuver during the peak hour.

On November 23, 2015, the Traffic Movement Permit was approved by Maine DOT provided a right-hand turn pocket is provided. This permit approval is included within this submission and the plans have been updated to show the right-hand turn pocket.

Article VII. Sewage Disposal

- 16.8.7.4.A. A reserve area is now indicated on the plans.
- 16.8.7.4.C. Additional test pits have been performed. See attached updated septic design.

Article IX. Parking, Loading and Traffic

- 16.8.9.7.D. Feedback provided during the September 10, 2015 planning board meeting indicates that the Board is agreeable to the proposed parking calculations that have been provided. As suggested by Town Staff, a plan note has been added to Sheet C4 to stipulate that if it becomes evident that there is insufficient parking on site, available parking must be increased as determined by the planning board. It should be noted that the revised building design resulted in the need for two additional parking spaces due to an increase in the office space area.
- 16.8.9.4.G. The parking areas are effectively screened by landscaped islands and shrubs. See Sheet L1 Landscape Plan and Response to Staff Review Comments 1.b. above for further detail on how this is accomplished.
- 16.8.9.4.I. Per Article IX 16.8.9.4.I and 2010 ADA Standards for Accessible Design Section 208.2, one accessible space is required for a parking lot with 1 to 25 parking spaces. A total of 18 parking spaces are being provided therefore one accessible parking space is required.

Article X. Signs

- 16.8.10.1 Building-mounted Signs (16.8.10.6.b): A building mounted sign is proposed in each of the three reverse gables of the front of the building with a cumulative total area of 90 square feet (1.5' x 60' building frontage = 90 sf). See detail provided.
- Freestanding Signs (16.8.10.6.a): One freestanding sign is proposed at the driveway entrance with a total area of 150 square feet. See detail provided.
- Food Menu Signs (16.8.10.9.O): *Sign permit not required.* Two signs advertising food items for the Aroma Joe's are proposed. One is a freestanding sign in the drive-thru lane for queued vehicles and the other is a building-mounted sign at the order window. Each sign is less than 32 square feet. See detail provided.
- Drive-thru Awnings: A small awning is proposed over the order window and the pick-up window to provide protection from the weather. Each awning will have the Aroma Joe's logo imprinted on them. See photo provided.
- Other Signs: All other public information, general information and vehicular signs are exempt from permitting under Section 16.8.10.9. (i.e. stop signs, do not enter signs, etc.)

Article XXIV. Exterior Lighting

- 16.8.24.1 The design has been modified to reduce the uniformity ratio to less than 4:1.



Article VIII. Surface Drainage

Stormwater details were submitted August 27th and subsequently reviewed by CMA. No further comments from CMA were provided therefore the details are assumed to be acceptable.

16.8 Design and Performance Standards-Natural Environment

Article I. General

The MDEP Stormwater Permit-by-Rule application was received by Maine DEP on September 23rd. The 14 day review period has since concluded, therefore the permit application is automatically considered approved.

16.10 Development Plan Application and Review

Article V. Preliminary Application Review and Approval Process

16.10.5.2.C.10

Traffic Impact Analysis: A Maine DOT scoping meeting was held on November 3, 2015 at 11am at the Kittery Town Office to discuss the traffic analysis and traffic movement permit submitted to Maine DOT for review. Maine DOT, Tidewater Engineering & Surveying, Eaton Traffic Engineering, Rockwell Homes, CMA Engineers, Kittery Town Planner and Assistant Town Planner were all present. It was determined during this meeting that the trip generation and traffic data within the report by Eaton Traffic Engineering was acceptable by both Maine DOT and CMA Engineers. Based upon this data, Maine DOT concluded that a dedicated right hand turn pocket was required for southbound vehicles to use while entering the site. A left hand turn pocket for northbound vehicles was also discussed, but determined not to be necessary due to the minimal amount of traffic performing this maneuver during the peak hour.

On November 23, 2015, the Traffic Movement Permit was approved by Maine DOT provided a right-hand turn pocket is provided. This permit approval is included within this submission and the plans have been updated to show the right-hand turn pocket.

September 24, 2015



Mr. Chris Di Matteo
Kittery Town Planner
200 Rogers Road
Kittery, ME 03904

Re: Response to Conservation Commission Letter
Rockwell Homes LLC: Tax Map 28 Lot 14-2
Job No. 15-102

Dear Mr. Di Matteo:

Tidewater Engineering & Surveying has received two separate letters dated September 8, 2015 and September 21, 2015 from Earledean Wells of the Kittery Conservation Commission. In this letter, Ms. Wells expresses concern over removing the trees within the wetland located at the corner of Route 236 and Fernald Road on the subject parcel. This response letter serves to clarify statements made by Ms. Wells and to provide additional information regarding the wetland and the proposed development.

Summary of Proposed Development

The subject wetland is 1,357 square feet in area and located between the proposed building and Route 236. The applicant is proposing to clear the trees to improve the visibility of the business for vehicles traveling along Route 236. The stumps will be left flush with grade and vegetation (hay-scented ferns and elm trees) will be replanted to form part of the landscaped planter strip along the Route 236 frontage only. The applicant is NOT proposing to eliminate the small wetland, but instead is proposing a balance between the maintaining visibility of the business and maintaining the wetland's function and value.

The proposed tree cuttings and plantings were explained during the site walk and Ms. Wells expressed her concern regarding the impacts. In response, you had suggested that a certified soil scientist review the plan, potential impacts and significance of the wetland. Subsequent to this suggestion, the applicant contacted Mark J. Hampton (Certified Soil Scientist #216 and Licensed Site Evaluator #263). Mr. Hampton visited the site, reviewed the proposed plans and development and provided a letter of evaluation (enclosed).

Within this letter, Mr. Hampton states that the wetland "holds little wetland functions and values. The most likely is sediment and toxicant removal" of the road runoff from Fernald Road. Stormwater runoff is directed to this wetland from surface slopes and a ditch line along Fernald Road to the south. Mr. Hampton continues to state that not only will the wetland continue to function as it does now, the ability of the wetland to filter and remove sediments and toxicants will improve due to a higher density of vegetation in the future caused by removing the canopy. In closing, Mr. Hampton states, "In my professional opinion, removing trees from this wetland will not degrade the wetland in any way, but will likely improve the filtering ability of the wetland."



The landscape design, completed by Robbi Woodburn, ASLA of Woodburn & Company, proposes to plant hay-scented ferns as the ground cover within the wetland area and below the three proposed American elm trees, two of which are located within the wetland. These ferns are able to withstand both moist and dry soil conditions and will spread rapidly to create a dense vegetated groundcover. The elm trees will form a high, spreading umbrella-like canopy and provide shade to the underlying plants. For visual reference, the diameter of the tree symbols shown on the landscape plan represent the canopy size that can be expected.

During the site walk, those in attendance discussed ways to reduce the impacts to the wetland. It was suggested that the clearing limits be reduced along the Fernald Road side by approximately 50 feet. The applicant has agreed to and expanded beyond this suggestion to shifting the clearing limits by approximately 70 feet and to be able to further reduce the wetland impacts by nearly 200 square feet.

Clarifications

Ms. Wells states in her first letter that removing and replanting vegetation within the wetland is prohibited by State Statute. In her second letter, Ms. Wells states that she has spoken to Maine DEP who advised her that a permit would be required. It should be noted that under state statute 38 M.R.S.A. §480-Q(17), activities that alter less than 4,300 square feet of freshwater wetlands are exempt from state permitting under the Natural Resources Protection Act. Tidewater Engineering & Surveying has coordinated with Chris Coppi of Maine DEP and obtained a written confirmation that a permit is not required pursuant to the Natural Resources Protection Act. (see attached email)

Ms. Wells states that planting vegetation within a wetland is prohibited by the Kittery Ordinance. Per the definition of "wetland alteration" within the Kittery LUDC, the term '*alteration*' excludes "planting shrubs by hand" therefore the activity of replanting vegetation within a wetland is not only allowed, but could be considered a "wetland enhancement" as the final result will increase the wetland function and value (see letter from Mark Hampton, Certified Soil Scientist).

Ms. Wells states in her second letter that the wetland is connected by two culverts to a much larger wetland on the other side of Route 236. This is incorrect. The subject wetland is a small individual pocket wetland that is not contiguous with any other wetland. This can clearly be seen on the previous site plan (Sheet C2 within the plan set). The wetland does not extend to the driveway culvert nor is it contiguous with any of the downstream wetland pockets. During large storm events, stormwater runoff will overflow this wetland and continue in a northwesterly direction within a roadside ditch, pass through two driveway culverts and ultimately to a stream that leads to Spinney Creek. The denser vegetation within the wetland will improve the water quality of the runoff leading to the stream.

Ms. Wells states that Kittery LUDC 16.9.2.2.A, C & D prohibits clear cutting within 100 feet of this wetland. This is incorrect as 16.9.2.2 applies only to clearing and removal of vegetation within a Resource Protection or Shoreland Overlay Zone. The subject wetland is not located within either of these zones therefore a 100 foot setback is not applicable to this proposal.



Conclusion

Tidewater Engineering & Surveying concurs with both Mr. Hampton and Ms. Woodburn regarding the tree removal proposed within the wetland and the proposed plantings. The applicant is NOT proposing to eliminate the small wetland, but instead is proposing a balance between the maintaining visibility of the business and maintaining the wetland's function and value. As Mr. Hampton has stated, the proposed tree clearing will actually enhance the water quality protection value of the wetland by promoting a much denser vegetative ground cover than what currently exists. Furthermore, this activity is exempt from Maine DEP permitting. It is our opinion that what is proposed by the applicant will not create an unreasonable or adverse impact to the wetland.

Please provide this letter to the members of the Board for review and consideration. If you have any questions, please do not hesitate to contact me at (207) 439-2222 or ryan@tidewatercivil.com.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Ryan M. McCarthy".

Ryan M. McCarthy, P.E., P.L.S.
Manager of the Company
Tidewater Engineering & Surveying LLC

Enclosures:



MARK HAMPTON ASSOCIATES, INC.

4184

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

September 9, 2015

Mr. Chris Di Matteo
Planner
Town of Kittery
200 Rogers Road
Kittery, ME 03904

Re: Pocketed Wetland, Rockwell Homes Project, Fernald Road and Route 236, Kittery, ME

Dear Mr. Di Matteo,

On behalf of my client, Rockwell Homes, LLC, I have prepared this letter to discuss the pocketed wetland located on the proposed project located on the south west corner of the intersection of Fernald Road and Route 236, Dow Highway, in Kittery. I made a site visit today to make a field evaluation of the wetland on the property. This wetland exists in a depression area immediately adjacent to the Route 236 frontage. Stormwater and surface runoff is directed to this wetland from surface slopes and a ditch line along Fernald Road to the south. The runoff water should continue west along the Route 236 frontage, except that at the location of the wetland, it is 1-2 feet lower in elevation, creating this pocketed wetland.

The wetland holds little wetland functions and values. The most likely is sediment and toxicant removal. Since road runoff from Fernald Road is directed here. Other than that the wetland is a normal forested wetland. Under the proposal for the project, most of the trees located adjacent to and within the wetland are proposed to be cut to provide visibility to the project from Route 236. As long as the trees are cut during dry conditions, and the stumps are to remain, the wetland will continue to function as it does now, only it will be more of a scrub/shrub wetland. This wetland will actually improve the filtering and removal of sediments and toxicants due to the higher density of vegetation in the future.

In my professional opinion, removing trees from this wetland will not degrade the wetland in any way, but will likely improve the filtering ability of the wetland. If you have any questions or require additional information, please let me know.

Sincerely,

Mark J. Hampton, C.S.S., L.S.E.
Certified Soil Scientist #216
Licensed Site Evaluator #263

Cc: Ryan McCarthy, Tidewater Engineering & Surveying, LLC
Rockwell Homes, LLC

P.O. BOX 1931 • PORTLAND, ME 04104-1931 • 207-756-2900 • mhampto1@maine.rr.com

Quality services that meet your deadline

Tidewater Engineering LLC

From: Coppi, Chris <Chris.Coppi@maine.gov>
Sent: Thursday, September 24, 2015 1:32 PM
To: 'Tidewater Engineering LLC'
Cc: 'Chris DiMatteo'
Subject: RE: 89 Route 236, Kittery: Tree removal in wetland review

Sorry for the confusion folks, let me try to clarify. I may have “jumped the gun” with my response to Earldean before thinking it through.

Earldean and I discussed whether or not there were DEP permitting requirements to remove, what I understood was, a large amount of overstory within a forested wetland. I failed to mention the wetland alteration exemption and purely responded with the assumption that the amount of impact would exceed the exemption and therefore, would require a permit from the Department.

When a project triggers a permit with the Department under the NRPA (namely an impact in excess of the exemption or any impact in a wetland that is of special significance), we first look to determine if there is a project purpose, and if there is, how can the impact either be avoided or minimized. Removing a large amount of overstory in a forested wetland would alter the wetland because you would be removing the primary vegetation for which it is classified, namely trees. Performing a “wholesale” type clear for a view in a forested wetland of special significance, for example, may be considered unreasonable, yet it typically cannot be ruled on, yet can be advised, until a permit is submitted, reviewed, and determined to be unreasonable. Factors to consider for “unreasonableness” would include, but is not limited to, size of the impact, the development character of the surrounding wetlands and uplands, wetland vegetation diversity, presence of significant wildlife habitat, and, the degree of affect on the principle functions and values of the wetland (e.g. significantly altering significant wildlife habitat (SWH) where SWH is a primary function and value of the wetland).

Now that I know the facts of the project, the Department wouldn't use the term “unreasonable” in this case if the wetland was eligible for the wetland alteration exemption and the impact was less than 4,300 sf because it doesn't require a review under the Natural Resources Protection Act, 38 M.R.S.A. 480 (Q) (17). The proposed impact is less than 4,300 sf and satisfies the other requirements of the exemption pursuant to the NRPA, 480 (Q) (17).

Hope this helps.

Chris

Chris Coppi, Biologist
Field Services and Enforcement Unit
Bureau of Land Resources
Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

207.699.8178
Chris.Coppi@maine.gov

From: Tidewater Engineering LLC [mailto:ryan@tidewatercivil.com]
Sent: Thursday, September 24, 2015 8:42 AM
To: Coppi, Chris

Cc: 'Chris DiMatteo'
Subject: RE: 89 Route 236, Kittery: Tree removal in wetland review

Chris –

It has been requested that I forward you Earldean Wells' letters for review also. In an effort to minimize further confusion since Ms. Wells has been told one thing and we have been told another, can you elaborate on your discussions with Ms. Wells and why the determination regarding permitting requirements has changed?

If you want to add Ms. Wells to this email chain, her email is earldeanwells@myfairpoint.net.

Thank you for your time,

Ryan

Ryan M. McCarthy, P.E., P.L.S. | *Owner/Project Manager*
Tidewater Engineering & Surveying LLC | (207) 439-2222

From: Coppi, Chris [<mailto:Chris.Coppi@maine.gov>]
Sent: Wednesday, September 23, 2015 2:48 PM
To: 'Tidewater Engineering LLC' <ryan@tidewatercivil.com>
Cc: 'Chris DiMatteo' <CDiMatteo@kitteryme.org>
Subject: RE: 89 Route 236, Kittery: Tree removal in wetland review

Hi Ryan,

Based on the information you have provided, namely that the proposed wetland impact of 1,280 sf which is the result tree removal in the forested wetland, the Department is in agreement that a permit is not required pursuant to the Natural Resources Protection Act, 38 M.R.S.A. 480 (Q) (17).

Let me know if you have any further questions.

Chris Coppi, Biologist
Field Services and Enforcement Unit
Bureau of Land Resources
Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

207.699.8178
Chris.Coppi@maine.gov

From: Tidewater Engineering LLC [<mailto:ryan@tidewatercivil.com>]
Sent: Wednesday, September 23, 2015 11:07 AM
To: Coppi, Chris
Cc: 'Chris DiMatteo'
Subject: 89 Route 236, Kittery: Tree removal in wetland review

Chris –

Thank you for speaking with me over the phone regarding the proposed tree clearing within a pocket wetland adjacent to Route 236 in Kittery Maine and your discussions with Earldean Wells of the Kittery Conservation Commission. The

tree clearing is proposed to improve visibility of a multi-use building proposed at 89 Route 236 in Kittery. The applicant would like to remove the trees within a portion of this wetland. Three elm trees would be replanted along the road frontage, two of which will be located within the cleared portion of the wetland. Hay-scented ferns will be replanted along the ground under the elm trees to promote a dense ground cover that will hide the tree stumps that are cut flush with the grade. I've attached a letter from Mark Hampton, certified soil scientist, that describes the wetland and his opinion that the tree clearing activity will not degrade the wetland.

It is my interpretation of 38 M.R.S.A. §480-Q(17) that this activity is exempt from NRPA permitting due to the following...

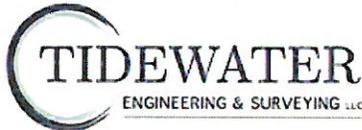
1. The total wetland size is 1,357 square feet. The clearing will be within 1,280 square feet of the wetland, which is less than 4,300 square feet.
2. The wetland is not located within a Shoreland zone.
3. The wetland is not a vernal pool.
4. The wetland is not contiguous with any other wetland.
5. The wetland does not contain more than 20,000 sf of open water, aquatic vegetation or emergent marsh vegetation.
6. The wetland does not consist of peat land dominated shrubs, sedges and sphagnum moss.
7. The entire activity constitutes a single, complete project.
8. The activity does not occur in a significant wildlife habitat per Maine IF&W maps.
9. Erosion control measures will comply with the MaineDEP Erosion and Sediment Control BMP manual.

I've also attached the existing conditions site plan and a draft of the landscape plan so you can see the wetland and the proposed activities. The Kittery Town Planner, Chris DiMatteo, is copied on this email.

Please respond and confirm. Thank you.

Ryan

Ryan M. McCarthy, P.E., P.L.S.
Owner/Project Manager



37 Route 236 Suite 201 | Kittery, ME 03904
ryan@tidewatercivil.com | (207) 439-2222

PROPERTY LOCATION

>> CAUTION: LPI APPROVAL REQUIRED <<

City, Town, or Plantation: Kittery
 Street or Road: Rt 236
 Division, Lot #:

Town/City: _____ Permit # _____
 Date Permit Issued: 1/1 Fee: \$ _____ Double Fee Charged []
 Local Plumbing Inspector Signature: _____ L.P.I. #: _____

OWNER/APPLICANT INFORMATION

Name (Last, first, MI): Rockwell Homes Owner Applicant
 Mailing Address of Owner/Applicant: 1021 Goodwin Rd
Eliot Me 03903
 Daytime Tel. #: 207-457-1600

The Subsurface Wastewater Disposal System shall not be installed until a Permit is issued by the Local Plumbing Inspector. The Permit shall authorize the owner or installer to install the disposal system in accordance with this application and the Maine Subsurface Wastewater Disposal Rules.

Municipal Tax Map # _____ Lot # _____

OWNER OR APPLICANT STATEMENT

I hereby state and acknowledge that the information submitted is correct to the best of my knowledge and understand that any falsification is reason for the Department of Local Plumbing Inspector to deny a Permit.

CAUTION: INSPECTION REQUIRED

I have inspected the installation authorized above and found it to be in compliance with the Subsurface Wastewater Disposal Rules Application.

Signature of Owner or Applicant _____ Date _____

Local Plumbing Inspector Signature _____ (2nd) date approved _____

PERMIT INFORMATION

| | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| TYPE OF APPLICATION <input checked="" type="checkbox"/> 1. First Time System <input type="checkbox"/> 2. Replacement System Type replaced: _____ Year installed: _____ <input type="checkbox"/> 3. Expanded System <input type="checkbox"/> a. <25% Expansion <input type="checkbox"/> b. >25% Expansion <input type="checkbox"/> 4. Experimental System <input type="checkbox"/> 5. Seasonal Conversion | THIS APPLICATION REQUIRES <input checked="" type="checkbox"/> 1. No Rule Variance <input type="checkbox"/> 2. First Time System Variance <input type="checkbox"/> a. Local Plumbing Inspector Approval <input type="checkbox"/> b. State & Local Plumbing Inspector Approval <input type="checkbox"/> 3. Replacement System Variance <input type="checkbox"/> a. Local Plumbing Inspector Approval <input type="checkbox"/> b. State & Local Plumbing Inspector Approval <input type="checkbox"/> 4. Minimum Lot Size Variance <input type="checkbox"/> 5. Seasonal Conversion Permit | DISPOSAL SYSTEM COMPONENTS <input checked="" type="checkbox"/> 1. Complete Non-engineered System <input type="checkbox"/> 2. Primitive System (graywater & alt. toilet) <input type="checkbox"/> 3. Alternative Toilet, specify: _____ <input type="checkbox"/> 4. Non-engineered Treatment Tank (only) <input type="checkbox"/> 5. Holding Tank, _____ gallons <input type="checkbox"/> 6. Non-engineered Disposal Field (only) <input type="checkbox"/> 7. Separated Laundry System <input type="checkbox"/> 8. Complete Engineered System (2000 gpd or more) <input type="checkbox"/> 9. Engineered Treatment Tank (only) <input type="checkbox"/> 10. Engineered Disposal Field (only) <input type="checkbox"/> 11. Pre-treatment, specify: _____ <input type="checkbox"/> 12. Miscellaneous Components |
| SIZE OF PROPERTY <u>± 1.04</u> <input type="checkbox"/> SQ. FT. <input checked="" type="checkbox"/> ACRES | DISPOSAL SYSTEM TO SERVE <input type="checkbox"/> 1. Single Family Dwelling Unit, No. of Bedrooms: _____ <input type="checkbox"/> 2. Multiple Family Dwelling, No. of Units: _____ <input checked="" type="checkbox"/> 3. Other: <u>Aroma, Joes and Rockwell</u> (specify) <u>Homes office space</u> Current Use <input type="checkbox"/> Seasonal <input type="checkbox"/> Year Round <input checked="" type="checkbox"/> Undeveloped | TYPE OF WATER SUPPLY <input type="checkbox"/> 1. Drilled Well <input type="checkbox"/> 2. Dug Well <input type="checkbox"/> 3. Private <input checked="" type="checkbox"/> 4. Public <input type="checkbox"/> 5. Other |

DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)

| | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| TREATMENT TANK <input checked="" type="checkbox"/> 1. Concrete <input checked="" type="checkbox"/> a. Regular <u>Water Tight</u> <input type="checkbox"/> b. Low Profile <input type="checkbox"/> 2. Plastic <input type="checkbox"/> 3. Other: _____ CAPACITY: <u>1000</u> GAL. <u>With a 250 Pump Station</u> | DISPOSAL FIELD TYPE & SIZE <input checked="" type="checkbox"/> 1. Stone Bed <input type="checkbox"/> 2. Stone Trench <input type="checkbox"/> 3. Proprietary Device <u>EJons</u> <input type="checkbox"/> a. cluster array <input type="checkbox"/> c. Linear <u>20 units</u> <input type="checkbox"/> b. regular load <input type="checkbox"/> d. H-20 load <input type="checkbox"/> 4. Other: _____ SIZE: <u>280'</u> <input type="checkbox"/> sq. ft. <input type="checkbox"/> lin. ft. | GARBAGE DISPOSAL UNIT <input checked="" type="checkbox"/> 1. No <input type="checkbox"/> 2. Yes <input type="checkbox"/> 3. Maybe If Yes or Maybe, specify one below: <input type="checkbox"/> a. multi-compartment tank <input type="checkbox"/> b. _____ tanks in series <input type="checkbox"/> c. increase in tank capacity <input type="checkbox"/> d. Filter on Tank Outlet | DESIGN FLOW <u>262</u> gallons per day BASED ON: <input type="checkbox"/> 1. Table 4A (dwelling unit(s)) <input checked="" type="checkbox"/> 2. Table 4C (other facilities) SHOW CALCULATIONS for other facilities: <u>Aroma, Joes - 130gpd + 36gpd</u> <u>Rockwell Homes & office works e</u> <input type="checkbox"/> 3. Section 4G (meter readings) <u>12gpd/meter</u> ATTACH WATER METER DATA <u>96gpd</u> |
| SOIL DATA & DESIGN CLASS PROFILE CONDITION: <u>3/C</u> at Observation Hole # <u>1</u> Depth <u>18"</u> of Most Limiting Soil Factor | DISPOSAL FIELD SIZING <input type="checkbox"/> 1. Medium—2.6 sq. ft. / gpd <input checked="" type="checkbox"/> 2. Medium—Large 3.3 sq. ft. / gpd <input type="checkbox"/> 3. Large—4.1 sq. ft. / gpd <input type="checkbox"/> 4. Extra Large—5.0 sq. ft. / gpd | EFFLUENT/REJECTOR PUMP <input type="checkbox"/> 1. Not Required <input type="checkbox"/> 2. May Be Required <input checked="" type="checkbox"/> 3. Required Specify only for engineered systems: DOSE: _____ gallons | LATITUDE AND LONGITUDE at center of disposal area Lat. <u>43</u> d <u>7</u> m <u>5</u> s Lon. <u>70</u> d <u>45</u> m <u>23</u> s if g.p.s, state margin of error: <u>± 20 FT.</u> |

SITE EVALUATOR STATEMENT

I certify that on 6-26-15 (date) I completed a site evaluation on this property and state that the data reported are accurate and that the proposed system is in compliance with the State of Maine Subsurface Wastewater Disposal Rules (10-144A CMR 241).

Kenneth A. Gardner
 Site Evaluator Signature

73 SE # 6-29-15 Date

Kenneth A. Gardner
 Site Evaluator Name Printed

207-637-2260 Telephone Number _____ E-mail Address _____

Note: Changes to or deviations from the design should be confirmed with the Site Evaluator.

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Health & Human Services
 Division of Environmental Health
 (207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation

Street, Road, Subdivision

Owner's Name

Kittery

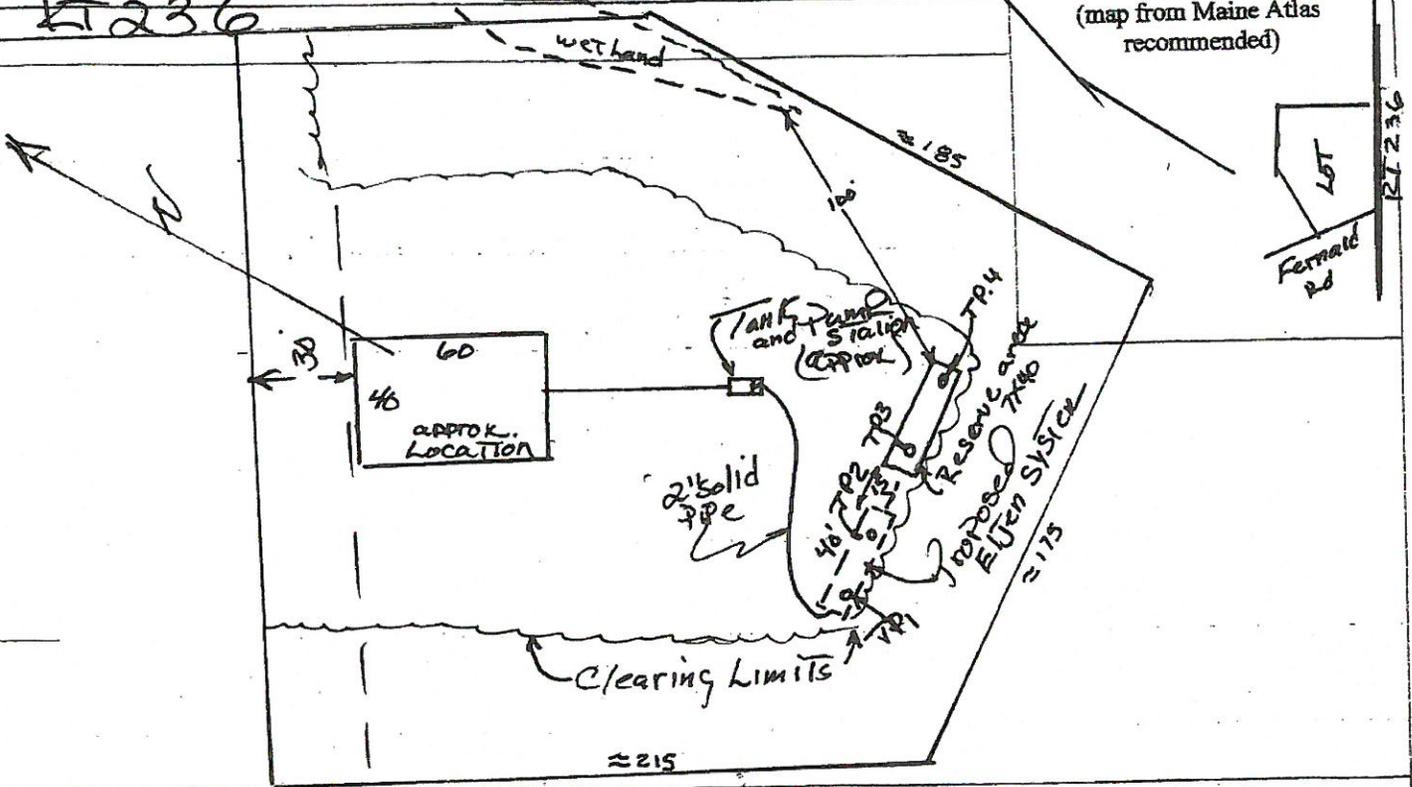
RT 236

Rockwell Homes

SITE PLAN

Scale 1" = 1=60 ft. or as shown

SITE LOCATION PLAN
 (map from Maine Atlas recommended)



SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole 1, 2+3 Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

10" TOPSOIL REMOVED

| Depth Below Mineral Soil Surface (inches) | Texture | Consistency | Color | Mottling |
|-------------------------------------------|------------|-------------|-------------------|----------|
| 0-10 | Sandy loam | friable | yellow brown | |
| 10-20 | | | 10YR 5/6 | |
| 20-30 | | | | Red |
| 30-40 | | firm | light olive brown | |
| 40-50 | | | 2.5Y 5/4 | |

Observation Hole 4 Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

| Depth Below Mineral Soil Surface (inches) | Texture | Consistency | Color | Mottling |
|-------------------------------------------|------------|-------------|-------------------|----------|
| 0-10 | sandy loam | friable | Dark Brown | |
| 10-20 | | | yellow | |
| 20-30 | | | Br. 10YR 5/6 | |
| 30-40 | | firm | light olive brown | |
| 40-50 | | | 2.5Y 5/4 | |

TOPSOIL REMOVED

| | | | |
|---------------------|--------------|-----------------|--------------------------------------------|
| Soil Classification | Slope | Limiting Factor | <input type="checkbox"/> Ground Water |
| <u>3 C</u> | <u>8-10%</u> | <u>18"</u> | <input type="checkbox"/> Restrictive Layer |
| Profile Condition | | | <input type="checkbox"/> Bedrock |
| | | | <input type="checkbox"/> Pit Depth |

| | | | |
|---------------------|--------------|-----------------|--------------------------------------------------|
| Soil Classification | Slope | Limiting Factor | <input checked="" type="checkbox"/> Ground Water |
| <u>3 C</u> | <u>8-10%</u> | <u>15"</u> | <input type="checkbox"/> Restrictive Layer |
| Profile Condition | | | <input type="checkbox"/> Bedrock |
| | | | <input type="checkbox"/> Pit Depth |

Kenneth Gardner 73 6-29-15
 Site Evaluator Signature SE # Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Department of Human Services
Division of Health Engineering, Station 10
(207) 287-5872 Fax: (207) 287-3165

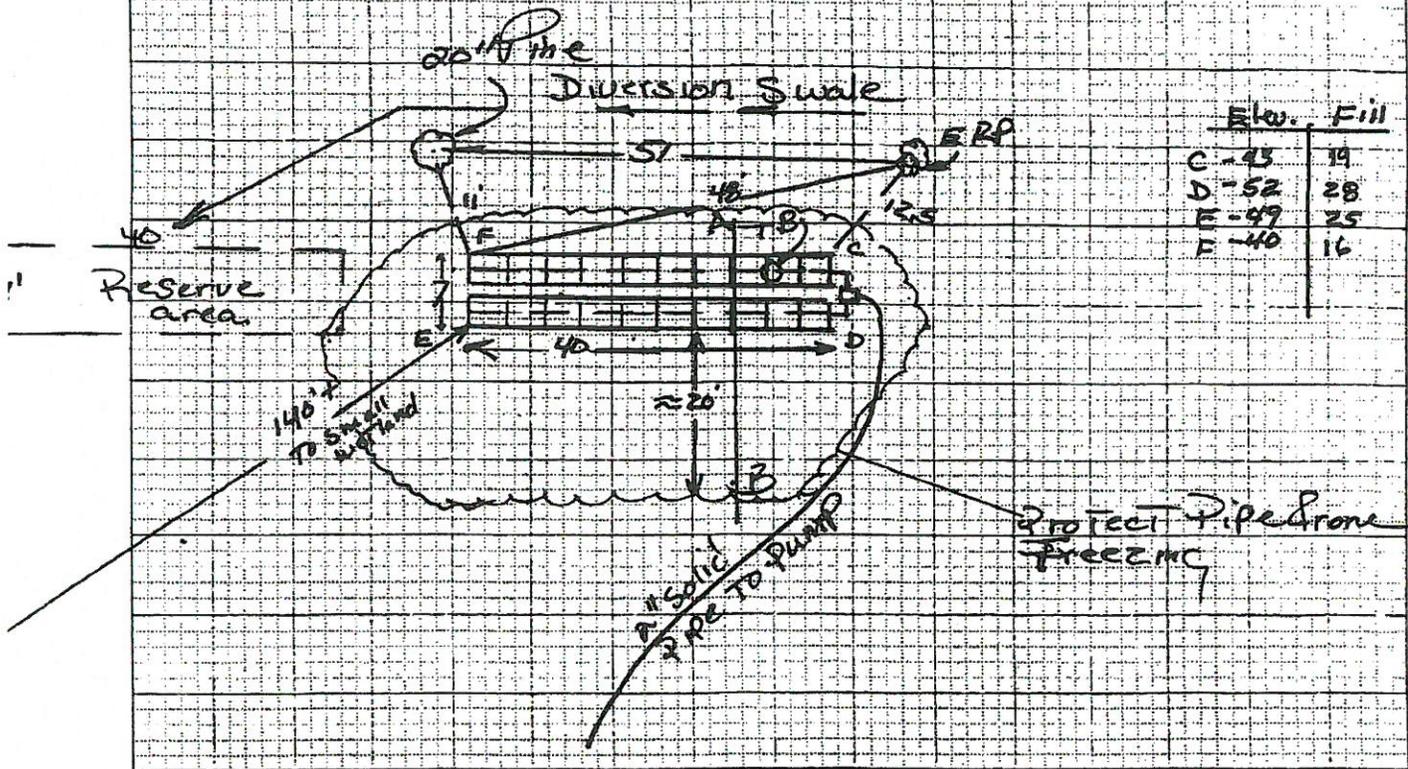
Town, City, Plantation
Kittery

Street, Road, Subdivision
RT 236

Owner or Applicant Name
Rockwell Homes

SUBSURFACE WASTEWATER DISPOSAL PLAN

Scale: 1" = 20' ft.



BACKFILL REQUIREMENTS

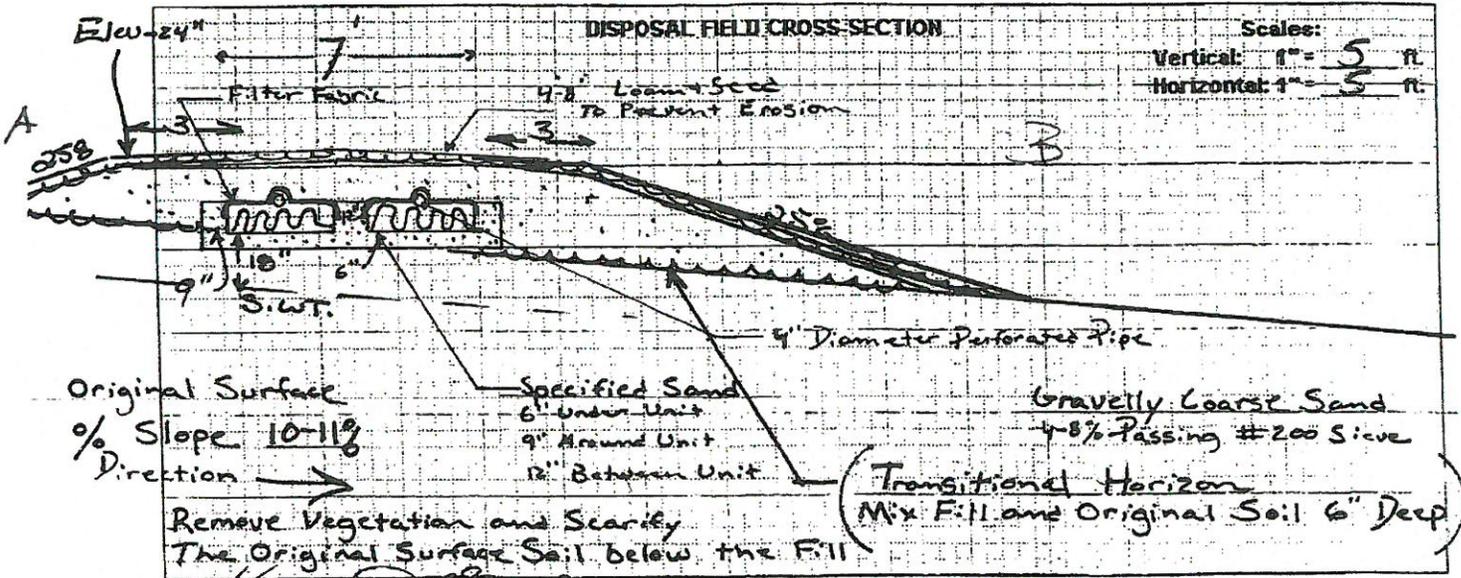
Depth of Backfill (upslope) **19'**
 Depth of Backfill (downslope) **28'**
 DEPTHS AT CROSS-SECTION (shown below)

CONSTRUCTION ELEVATIONS

Finished Grade Elevation **-24'**
 Top of Distribution Pipe or Proprietary Device **-32'**
 Bottom of Disposal Field **-43'**

ELEVATION REFERENCE POINT

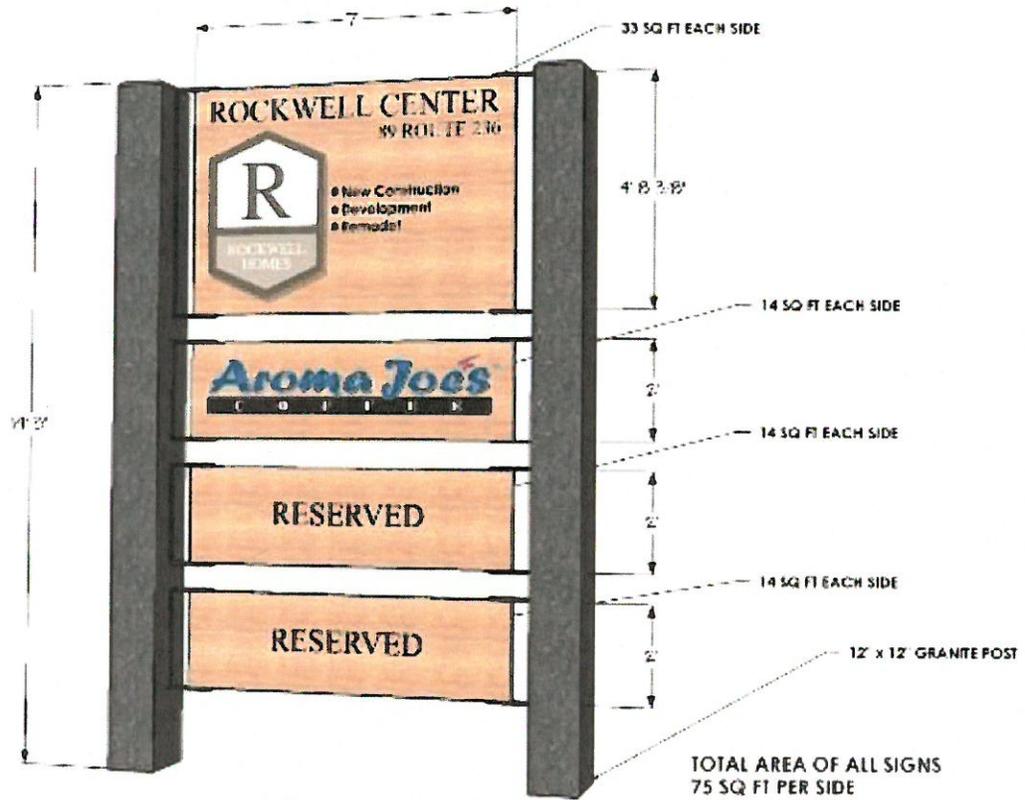
Location & Description: **24" Beech Tree with a nail 29" above ground**
 Reference Elevation is: **0.0" or at Elev 0"**



[Signature]
 Site Evaluator Signature

SE# **25** Date **7-16-15**

FREESTANDING SIGN DETAIL



BUILDING MOUNTED SIGNS

See Building Elevation Plan for placement and sizes.

Summary

| <u>Sign Description</u> | <u>Location</u> | <u>Sign Area</u> |
|-------------------------|----------------------------|------------------|
| Aroma Joe's | Front Left Reverse Gable | 15.4 SF |
| Rockwell Homes | Front Center Reverse Gable | 33.4 SF |
| Reserved | Front Right Reverse Gable | 21 SF |
| Misc. | Order Window Awning | 12.5 SF |
| Misc. | Pick-up Window Awning | 12.5 SF |
| Total Sign Area | | 94.8 SF |

Total Allowable Sign Area (64 LF Building x 1.5 SF/LF) = 96 SF

ORDER WINDOW MENU SIGN (55" TALL X 32" WIDE)

(Note: exempt from permitting under 16.8.10.9.O)

Espresso Coffee & Mocha

| | | | | | |
|----------------|-------|------|------|------|------|
| Arroz Lache | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |
| Arroz Mocha | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |
| Carajal Way | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |
| Fresh Mocha | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |
| Matty Bar | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |
| PS Mocha | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |
| Michael Mocha | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |
| Espresso ARMO® | 14.95 | 1.50 | 1.75 | 4.25 | 1.00 |

Brewin' Coffee & Sips

| | | | | |
|--------------------------|------|------|------|------|
| Fresh Brewed Coffee | 3.75 | 3.98 | 7.98 | 1.98 |
| Espresso Mocha | 3.75 | 3.98 | 7.98 | 1.98 |
| Espresso Mocha Coffee | 3.75 | 3.98 | 7.98 | 1.98 |
| Tropic the World Coffee | 3.75 | 3.98 | 7.98 | 1.98 |
| Mighty Leaf Gourmet Jazz | 3.75 | 3.98 | 7.98 | 1.98 |
| Al's Wishes Brew | 3.75 | 3.98 | 7.98 | 1.98 |
| Dragon Claw Tea | 3.75 | 3.98 | 7.98 | 1.98 |

Ai's RUSH' Energizer Energy Drink

| | | |
|----------------------|------|------|
| Single | 1.99 | 2.99 |
| Double | 2.99 | 3.99 |
| Triple | 3.99 | 4.99 |
| Al's RUSH' drink can | 1.99 | 2.99 |

Freazin' Cream, Mocha & Cakes

| | | | | |
|-------------------------|------|------|------|------|
| Capuccino FROST | 3.75 | 4.25 | 4.75 | 4.98 |
| Mocha FROST | 3.75 | 4.25 | 4.75 | 4.98 |
| Flavored FROST | 3.75 | 4.25 | 4.75 | 4.98 |
| Frozen Luscious | 3.75 | 4.25 | 4.75 | 4.98 |
| Al's Pubs Muffin & Muff | 3.75 | 4.25 | 4.75 | 4.98 |

Kiddin' From 3-12 yrs Old

| | | | |
|---------------------|------|------|------|
| Milk Chocolate | 1.99 | 2.99 | 3.99 |
| White Hot Chocolate | 1.99 | 2.99 | 3.99 |
| Shenanigans | 1.99 | 2.99 | 3.99 |
| Cup of Milk | 1.99 | 2.99 | 3.99 |
| Simply Orange Juice | 1.99 | 2.99 | 3.99 |
| Simply Lemonade | 1.99 | 2.99 | 3.99 |

Chillin' & Shakin' Cream, Mocha & Cakes

| | | | | |
|-------------------------------------|------|------|------|------|
| Local Coffee | 3.75 | 3.98 | 7.98 | 1.98 |
| Local Espresso Mocha Coffee | 3.75 | 3.98 | 7.98 | 1.98 |
| Organic Local Black Tea / Green Tea | 3.75 | 3.98 | 7.98 | 1.98 |
| Flavored Gels | 3.75 | 3.98 | 7.98 | 1.98 |
| Arroz Pubs® Muffin & Muff | 3.75 | 3.98 | 7.98 | 1.98 |

Break FAST in All Day Every Day

| | | |
|------------------------|------|------|
| Bacon English Muffin | 1.99 | 2.99 |
| Sausage Biscuit | 1.99 | 2.99 |
| Egg & Cheese Croissant | 1.99 | 2.99 |
| Pepper Jack Biscuit | 1.99 | 2.99 |

Munchin' Local Baked Goods & Sweet Treats

| | | |
|---------------|------|------|
| Donuts | 1.99 | 2.99 |
| Muffins | 1.99 | 2.99 |
| Cinnamon Roll | 1.99 | 2.99 |
| Apple Fritter | 1.99 | 2.99 |
| Scones | 1.99 | 2.99 |
| Donut Bites | 1.99 | 2.99 |

Brindin' Coffee ready for home/office use

| | | |
|-------------------------|------|------|
| 1 Cup Bag - House Blend | 1.99 | 2.99 |
| 1 Pound of Coffee | 1.99 | 2.99 |

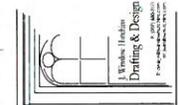


QUEUING MENU SIGN (48" TALL X 54" WIDE)

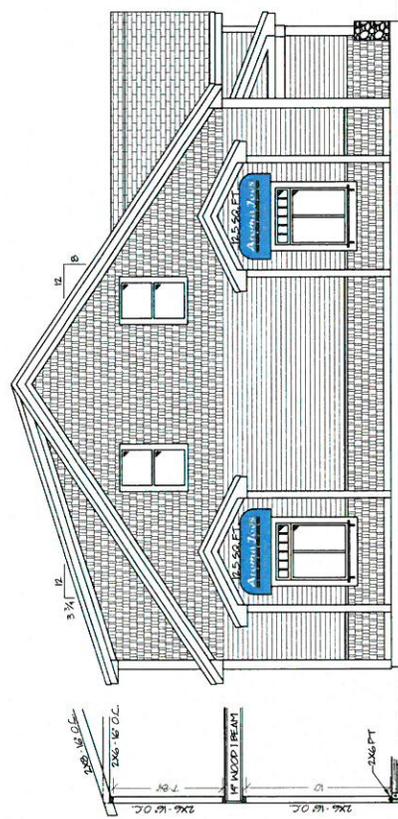
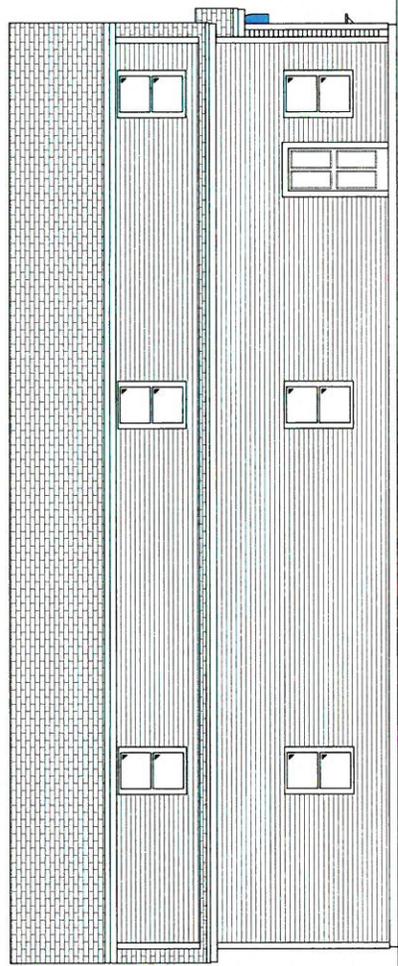
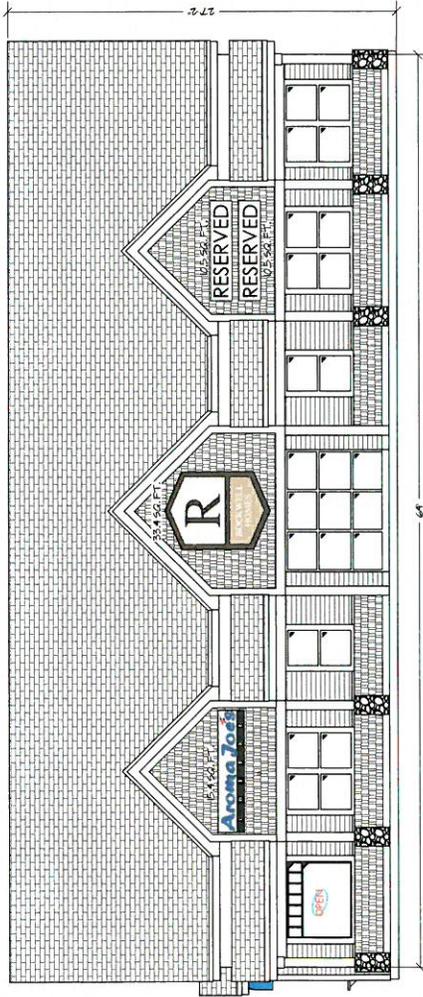
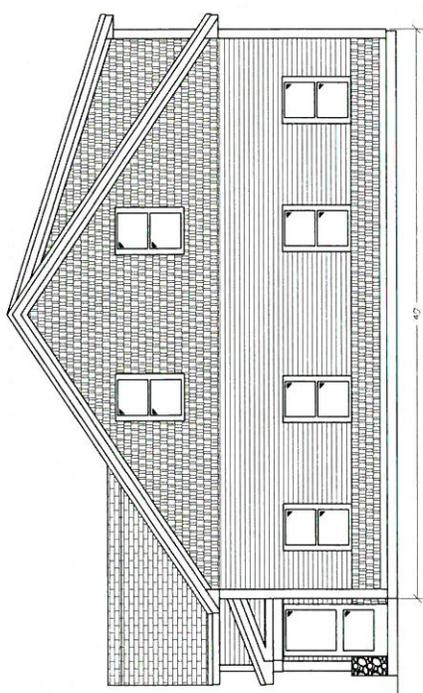
(Note: exempt from permitting under 16.8.10.9.O)

| Espressin' | | Brewin' | |
|-----------------------------|---------------------------|--------------------------|--------------------------|
| Small | Large | Small | Large |
| Arora Latté | \$2.75 | 3.25 | 3.75 |
| Arora Mocha | \$2.75 | 3.25 | 3.75 |
| Caramel Way | \$2.75 | 3.25 | 3.75 |
| Irish Kicker | \$2.75 | 3.25 | 3.75 |
| Nutty Bar | \$2.75 | 3.25 | 3.75 |
| PB Mocha | \$2.75 | 3.25 | 3.75 |
| Wicked Mudslide | \$2.75 | 3.25 | 3.75 |
| Espresso BOMB IT | | Fresh Brewed Coffee | |
| Single | \$1.50 | Small | \$1.75 |
| Double | \$1.80 | Medium | \$2.00 |
| Frozen Fuel | \$4.90 | Large | \$2.25 |
| A1's RUSH Energizin | | Espresso Bomb Coffee | |
| Single | \$1.50 | Small | \$1.75 |
| Double | \$1.80 | Medium | \$2.00 |
| Frozen Fuel | \$4.90 | Large | \$2.25 |
| Signature Energy Intensions | | Travel the World Coffee | |
| Black Jack | Blue Hawaiian | Sweet-N-Tart | Mighty Leaf Gourmet Teas |
| Beach Bum | Rock-It-Pop | many flavors available | A1's Witchy Brew |
| Freezin' | | Oregon Chal Tea | |
| Cappuccino Frappe | \$2.75 | 3.25 | 3.75 |
| Mocha Frappe | \$2.75 | 3.25 | 3.75 |
| Flavored Frappe | \$2.75 | 3.25 | 3.75 |
| Frozen Lemonade | \$3.00 | 3.50 | 4.00 |
| A1's Palm Half n Half | \$3.00 | 3.50 | 4.00 |
| Fruit Smoothies | \$2.75 | 3.25 | 3.75 |
| - Strawberry & Banana | - Blueberry & Pomegranate | Juggo Joe Setup | \$14.90 |
| - Pina Colada | - Strawberry | - Mango | |
| Kiddin' | | Chillin' & Shakin' | |
| Hot Chocolate | \$1.75 | 2.00 | 2.25 |
| White Hot Chocolate | \$1.75 | 2.00 | 2.25 |
| Steamer | \$1.75 | 2.00 | 2.25 |
| Cup O' Milk | \$1.25 | 1.50 | 1.75 |
| Simply Orange Juice | \$2.00 | 2.25 | 2.50 |
| Simply Lemonade | \$2.00 | 2.25 | 2.50 |
| BreakFASTin' | | Iced Coffee | |
| Basic English Muffin | \$1.00 | Small | \$1.25 |
| Ham & Cheese Croissant | \$1.00 | Medium | \$1.50 |
| Sausage Biscuit | \$1.25 | Large | \$1.75 |
| Pepper Jack Biscuit | \$1.25 | Small | \$1.50 |
| Bagels | \$1.25 | Medium | \$1.75 |
| Umpqua Oats | \$1.00 | Large | \$1.50 |
| Munchin' | | Donuts | |
| Donuts | \$1.00 | Chocolate Croissant | \$2.25 |
| Muffins | \$1.00 | Chocolate Bakery Bundt | \$2.25 |
| Cinnamon Roll | \$1.00 | Whoopie Pie | \$1.50 |
| Apple Fritter | \$1.00 | Super Pretzel | \$2.00 |
| Scones | \$2.00 | Chewy Marshmallow Square | \$1.50 |
| Donut Holes | 25¢ ea / \$2.00 per doz | Cookies | \$1.00 |
| Grindin' | | Cup O' Cookies | |
| J Cup Box - House Blend | 12 single serve packs | \$4.50 | |
| Pound of Coffee | | \$8.50 | |



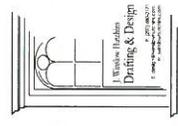


SCALE: 1/8" = 1'

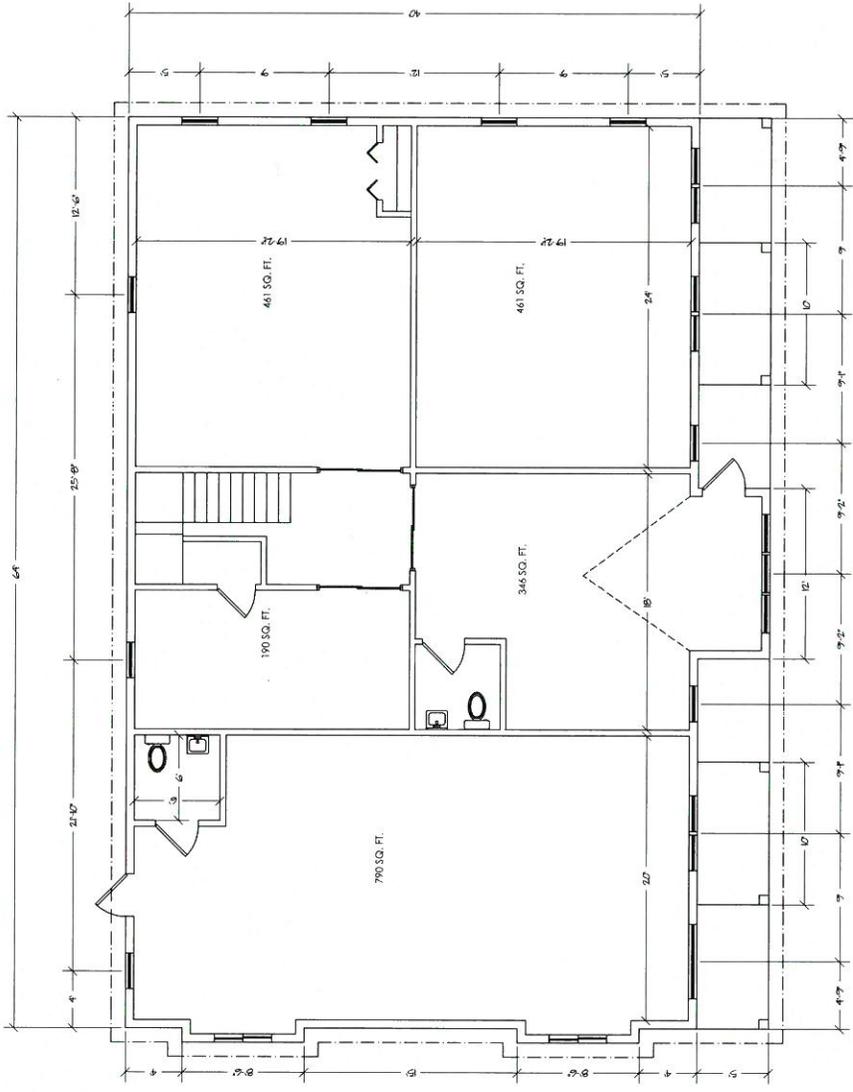


BACK WALL SECTION

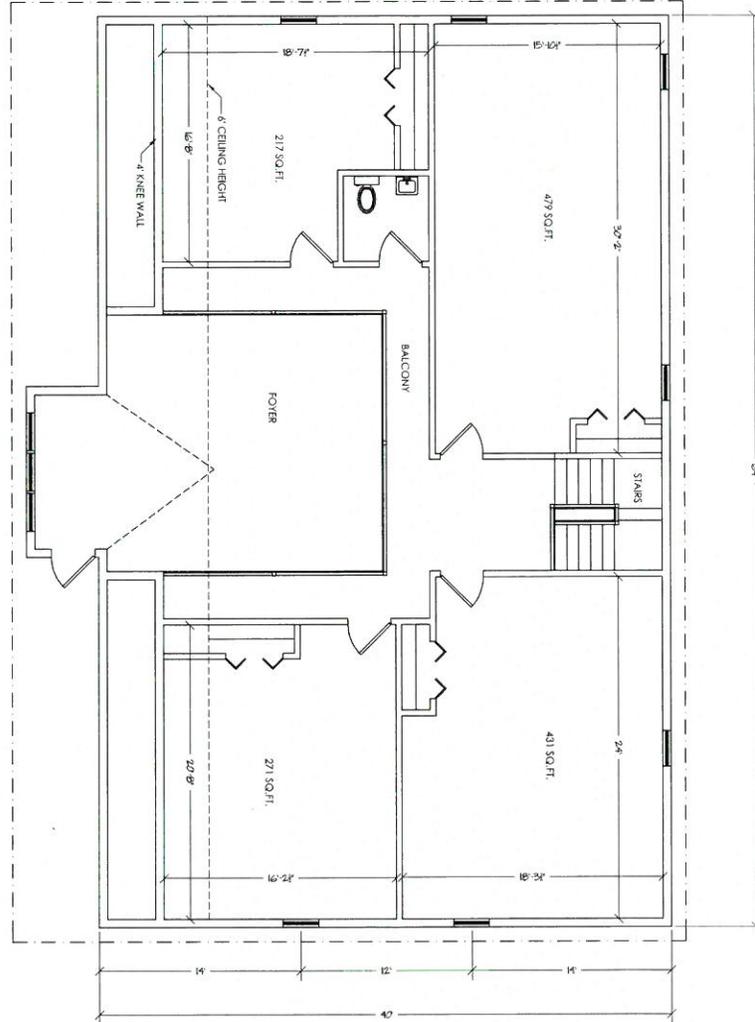
The architect has based on information provided by the client. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided.



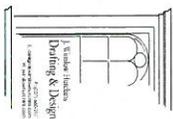
SCALE: 1/8" = 1'-0"



3 SECOND FLOOR PLAN



SCALE: 1/4" = 1'



| SHEET | SECOND FLOOR PLAN | PROJECT LOCATION | CLIENT INFORMATION | DISCLAIMER | ISSUE DATE |
|-------|---------------------------------------------------|---------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| 3 | ROCKWELL HOMES OFFICE & AROMA JOE'S DRIVE THROUGH | 89 ROUTE 236 ELIOT, MAINE | ROCKWELL HOMES | <p>All plans prepared are based on information given by the client. Dimensions and specifications shown herein shall be subject to change or correction before construction begins. Client and contractor are responsible for exact construction. Contractor assumes all liability for building construction. Plans and specifications herein are not intended to be construed as a contract or agreement. Client should consult a registered architect or engineer for any questions or concerns.</p> | <p>11/15/2023</p> |

September 21, 2015



Ms. Marybeth Richardson
Maine Dept. of Environmental Protection
312 Canco Road
Portland, ME 04103

Re: Stormwater PBR Submission
Rockwell Homes LLC: Tax Map 28 Lot 14-2
Job No. 15-102

Dear Ms. Richardson:

On behalf of Rockwell Homes, Tidewater Engineering & Surveying LLC is submitting this NRPA Stormwater Permit-by-Rule for a proposed site to be developed at 89 Route 236, Kittery, Maine. I previously contacted you via email on June 10, 2015 to discuss this project with you. The development will include the construction of a multi-use building with associated parking and stormwater improvements. The site design has been completed and is currently under review by the Town of Kittery Planning Board.

The proposed site is estimated to disturbed approximately 1.15 acres of land and include approximately 0.51 acres of impervious surfaces. The site is not located within a direct watershed of a lake most at risk or an urban impaired stream. As a result, this project qualifies for a Stormwater Permit-by-Rule.

The following is included in this submission.

1. Stormwater PBR Application Form
2. \$61 Fee
3. Location Map
4. Photos of the Site
5. Certificate of Good Standing (Rockwell Homes LLC)
6. Design Plans (site plan, grading plan, erosion & sediment control plan & detail plan)

If you have any questions, please do not hesitate to contact me at (207) 439-2222 or ryan@tidewatercivil.com.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Ryan M. McCarthy".

Ryan M. McCarthy, P.E., P.L.S.
Manager of the Company
Tidewater Engineering & Surveying LLC

Enclosures:

STORMWATER PBR APPLICATION FORM

PLEASE TYPE OR PRINT IN INK ONLY

| | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 1. Name of Applicant: ROCKWELL HOMES LLC (Aaron Wiswell) | | 5. Name of Agent: (if applicable) TIDEWATER ENG & SURV. LLC RYAN M. MCARTHUR | |
| 2. Applicant's Mailing Address: 1021 GOODWIN RD ELIOT, ME 03903 | | 6. Agent's Mailing Address: 57 ROUTE 236 SUITE 201 KITTERY, ME 03904 | |
| 3. Applicant's Daytime Phone #: (207) 457-1600 | | 7. Agent's Daytime Phone #: (207) 439-2222 | |
| 4. Applicant's email address: aaron@homesbyrockwell.com | | 8. Agent's email address: ryan@tidewatercivil.com | |
| 9. Location of Project: (Road, Street, Rt.#) 89 Route 236 | | 10. Town: Kittery | |
| | | 11. County: York | |
| 12. Is this PBR for renewal of an individual stormwater permit? If yes, skip to Block 27 and signature page. | | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 13. Type of Direct Watershed: (Check all that apply) | | 14. Amount of Developed Area: | <input checked="" type="checkbox"/> Total # of 1.15 acres OR <input type="checkbox"/> Total # of _____ square feet |
| <input type="checkbox"/> Lake not most at risk <input type="checkbox"/> Lake most at risk <input type="checkbox"/> Lake most at risk, severely blooming <input type="checkbox"/> River, stream or brook <input type="checkbox"/> Urban impaired stream <input checked="" type="checkbox"/> Freshwater wetland <input type="checkbox"/> Coastal wetland <input type="checkbox"/> Wellhead of public water supply | | 15. Amount of Impervious Area: | <input checked="" type="checkbox"/> Total # of 0.51 acres OR <input type="checkbox"/> Total # of _____ square feet |
| 16. Creating a common plan of development or sale? | | 17. Is this activity part of a larger project? | |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 18. Name of waterbody (ies) drained to: SPINNEY CREEK DISCATAQUA RIVER | | 19. Name of impaired Waterbody, if applicable: N/A | |
| 20. Brief Project Description: Develop 1.4 ACRE commercial property on Route 236 to accommodate an Aroma Joe's and business office space (multi-use building) | | | |
| 21. Size of Lot or Parcel and UTM locations, if known: | | UTM Northing, if known: 4775475 UTM Easting, if known: 356982 | |
| <input type="checkbox"/> _____ square feet OR <input checked="" type="checkbox"/> 1.4 acres | | | |
| 22. Deed Reference Numbers: Book#: 16989 Page#: 210 | | 23. Map and Lot Numbers: Map #: 28 Lot #: 14-2 | |
| 24. DEP Staff Previously contacted: Marybeth Richardson | | 25. Project started prior to application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, Completed?: <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 26. Resubmission of PBR Application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | If yes, prior application #: _____ Prior project manager: _____ | |
| 27. Written Notice of Violation? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | If yes, name of DEP enforcement staff involved: _____ | |
| 28. Detailed Directions to the Project Site: (Attach separate sheet if necessary) | | Take I-95 South to Exit 2 ME-236N, Take left @ end of ramp onto Rt. 236 North. Site is 1.1 miles on the left after Fernald Road. | |
| 29. Renewal of individual stormwater permit | | DEP Permit#: _____ Project Manager: _____ | |
| 30. SUBMISSIONS ▼ | | | |
| <input checked="" type="checkbox"/> This form (signed and dated) <input checked="" type="checkbox"/> Fee | | <input type="checkbox"/> Dept. of Inland Fisheries and Wildlife Approval (if in Essential Habitat) <input checked="" type="checkbox"/> Photos of Area <input checked="" type="checkbox"/> ESC Plan <input checked="" type="checkbox"/> Location Map <input checked="" type="checkbox"/> Site Plan | |
| For Renewal of an individual Stormwater permit only: <input type="checkbox"/> This form (signed and dated) <input type="checkbox"/> Copy of original stormwater permit <input type="checkbox"/> Fee | | | |
| Does the agent have an interest in this project? If yes, what is the interest? | | No | |
| CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2 | | | |

CERTIFICATIONS / SIGNATURES

Applicant's Statement:

I am applying for a Stormwater PBR and have attached the required PBR submissions. I have read the requirements herein and I affirm that my project satisfies the applicable stormwater management standards. I authorize staff of State and Federal agencies having jurisdiction over this activity, to access the project site for the purpose of determining compliance with the rules.

Signed: _____

Date: _____

9.21.15

Notice of Intent to Comply with Maine Construction General Permit

With this Stormwater PBR notification form and my signature below, I am filing notice of my intent to carry out work which meets the requirements of the Maine Construction General Permit. I have read and will comply with all of the MCGP standards. In addition, I will file a Notice of Termination (NOT) within 20 days of project completion.

If this form is not being signed by the landowner or lessee of the property, attach documentation showing authorization to sign.

Signed _____

Date: _____

9.21.15





State of Maine



Department of the Secretary of State

I, the Secretary of State of Maine, certify that according to the provisions of the Constitution and Laws of the State of Maine, the Department of the Secretary of State is the legal custodian of the Great Seal of the State of Maine which is hereunto affixed and that the paper to which this is attached is a true copy from the records of this Department.

In testimony whereof, I have caused the Great Seal of the State of Maine to be hereunto affixed. Given under my hand at Augusta, Maine, this twenty-first day of September 2015.



Matthew Dunlap
Secretary of State

Additional Addresses

| Legal Name | Title | Name | Charter # | Status |
|------------------------------------------|---------------------------------------|---------------------|------------|---------------|
| ROCKWELL HOMES, LLC | Registered Agent | JOSEPH V. LENKOWSKI | 20043140DC | GOOD STANDING |
| Home Office Address (of foreign entity) | Other Mailing Address | | | |
| | 1038 MAIN STREET SANFORD, ME 04073 | | | |

*Rockwell Homes
Stormwater PBR*

KITTERY MAIN POST OFFICE
 KITTERY, Maine
 039049998
 2269030904-0099
 09/21/2015 (207)439-2018 04:31:09 PM

| Sales Receipt | | |
|--------------------------------------------------------------|---------------------|-------------|
| Product Description | Sale Unit Qty Price | Final Price |
| PORTLAND ME 04103 Zone-1 First-Class Mail Large Env 2.50 oz. | | \$1.42 |
| Expected Delivery: Wed 09/23/15 | | |
| Issue Postage: | | \$1.42 |

| | | |
|-------------------------------------------------------------------|--|---------|
| PORTLAND ME 04103-4349 Zone-1 First-Class Mail Large Env 2.50 oz. | | \$1.42 |
| Expected Delivery: Wed 09/23/15 | | |
| @@ Certified Mail | | \$3.45 |
| USPS Certified Mail #: 70150640000683484930 | | |
| Customer Postage | | -\$1.42 |
| Subtotal: | | \$3.45 |
| Issue Postage: | | \$3.45 |

Total: \$4.87

Paid by: VISA \$4.87
 Account #: XXXXXXXXXXXXX0606
 Approval #: 03220G
 Transaction #: 199
 23903213791

@@ For tracking or inquiries go to USPS.com or call 1-800-222-1811.

Order stamps at usps.com/shop or call 1-800-Stamp24. Go to usps.com/clicknship to print shipping labels with postage. For other information call 1-800-ASK-USPS.

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 Clerk: 04

All sales final on stamps and postage
 Refunds for guaranteed services only
 Thank you for your business

0664 9438 0000 040 STD 7015 0640 0000 8348 4990

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PORTLAND ME 04103 **OFFICIAL USE**

| | |
|--------------------------------------------------------------|--------|
| Certified Mail Fee | \$3.45 |
| Extra Services & Fees (check box, add fee as appropriate) | |
| <input type="checkbox"/> Return Receipt (hardcopy) | \$0.00 |
| <input type="checkbox"/> Return Receipt (electronic) | \$0.00 |
| <input type="checkbox"/> Certified Mail Restricted Delivery | \$0.00 |
| <input type="checkbox"/> Adult Signature Required | \$0.00 |
| <input type="checkbox"/> Adult Signature Restricted Delivery | \$0.00 |
| Postage | \$1.42 |
| Total Postage and Fees | \$4.87 |

Sent To: *Maine DEP*
 Street and Apt. No., or PO Box No.: *312 Canco Road*
 City, State, ZIP+4®: *Portland ME 04103*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

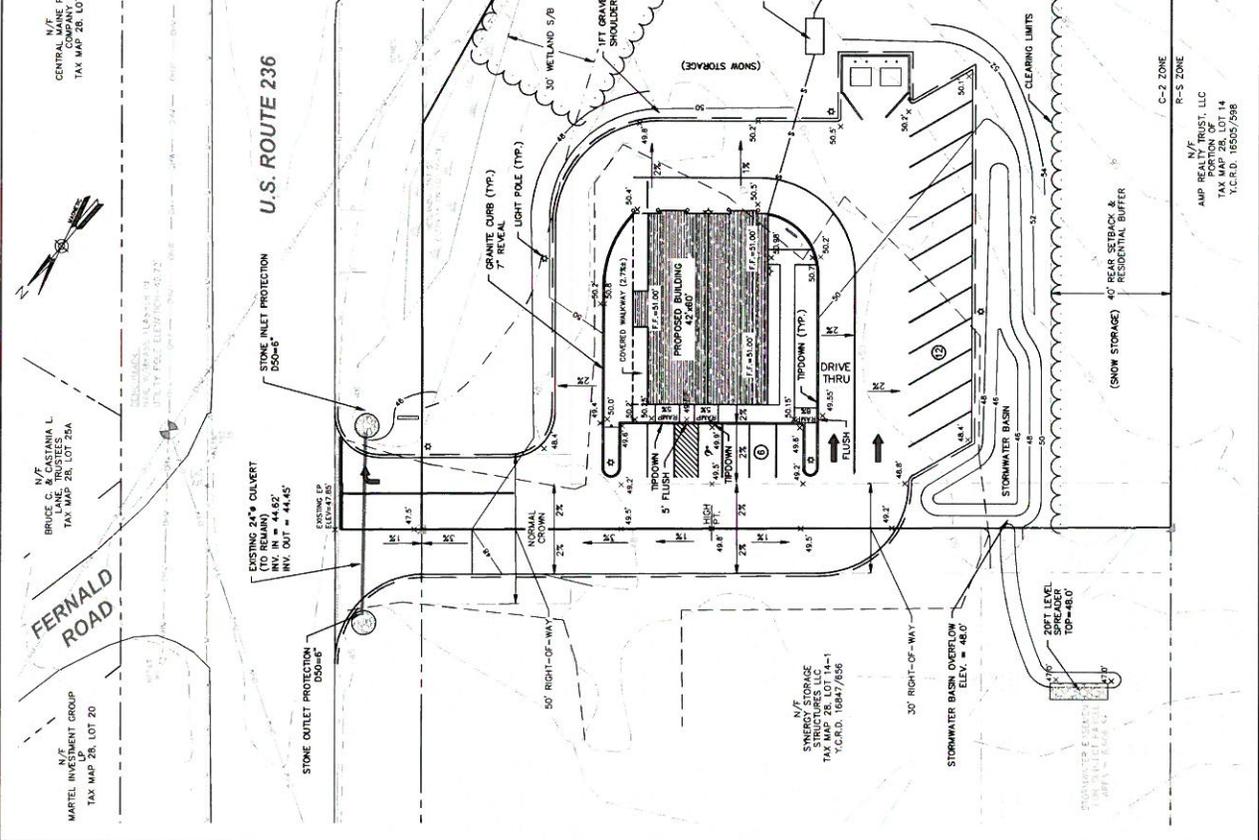
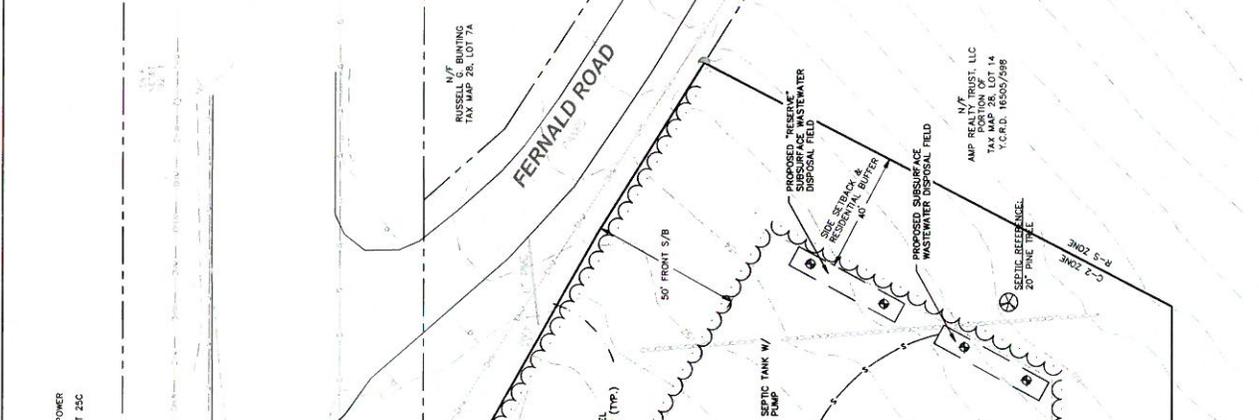
KITTERY, ME 03904
 0904
 04 Postmark Here
 SEP 21 2015
 09/21/2015

| NO. | DATE | SUBMISSION/REVISION DESCRIPTION |
|-----|------|---------------------------------|
| | | |
| | | |
| | | |

NOT ALL SHOWN
 DRAFT

GRADING AND DRAINAGE NOTES:
 1. THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED GRADING AND DRAINAGE ASSOCIATED WITH THE DEVELOPMENT OF A 42' X 60' MIXED USE BUILDING TO BE LOCATED ON TAX MAP 28 LOT 14-2 IN KITTEBY, MAINE.
 2. ALL PROPOSED GRADES ARE BASED UPON THE BENCHMARKS SHOWN ON THIS PLAN. CONSTRUCTION OF THE PROPOSED BUILDING SHALL BE IN ACCORDANCE WITH THE CONSTRUCTION. ANY DISCREPANCY SHALL BE REPORTED TO THE OWNER AND ENGINEER IMMEDIATELY.
 3. NO SOIL DISTURBING ACTIVITIES SHALL TAKE PLACE UNTIL ALL EROSION & SEDIMENT CONTROL BMPs ARE IN PLACE. SEE EROSION AND SEDIMENT CONTROL PLAN.
 4. SWALES AND STORMWATER BASINS SHALL BE STABILIZED PRIOR TO DIRECTING STORMWATER TO THEM.
 5. SLOPES OF PROPOSED SWALES, BANKS SHALL BE INSTALLED ON ALL SLOPES STEEPER THAN 3:1 SLOPE UNLESS PROTECTED BY ANGULAR STONE WITH A GSD OF 6 INCHES IN DIAMETER.
 6. CONTRACTOR SHALL NOT DISTURB ANY AREAS BEYOND THE CLEARING LIMITS SHOWN ON THIS PLAN.
 7. THE MAXIMUM SLOPE OF CURB RAMPS SHALL BE 1:12 OR 8.33% TO MEET ADA COMPLIANCE. MAXIMUM SLOPE OF SIDEWALKS SHALL BE 1:50 OR 2% UNLESS OTHERWISE HANDRAILS WILL BE REQUIRED.
 8. THE MAXIMUM SLOPE IN ANY DIRECTION ON THE SURFACE OF THE HANDICAP PARKING SPACE AND ACCESSIBLE ASLE SHALL BE 1:50.

1/2 SIZE SCALE: 1" = 40'
 GRAPHIC SCALE
 1 inch = 20 ft.
 1 inch = 40 ft.





STATE OF MAINE
 DEPARTMENT OF TRANSPORTATION
 16 STATE HOUSE STATION
 AUGUSTA, MAINE 04333-0016

Paul R. LePage
 GOVERNOR

David Bernhardt
 COMMISSIONER

Applicant: Rockwell Homes, LLC
 1021 Goodwin Road
 Eliot, ME 03903
 Project Location: 89 Route 236, Kittery, Maine
 Kittery Tax Map 028, Lot 14-2
 Project: Aroma Joe's and Office Space
 Identification #: Reg.01-00203-A-N
 Permit Category: 100-200 PCE's
 Traffic Engineer: Eaton Traffic Engineering
 Attn: William C. Eaton, PE
 67 Winter Street, Suite 1
 Topsham, ME 04086
 (207) 725-9805

Pursuant to the provision of 23 M.R.S.A. § 704-A and Chapter 305 of the MaineDOT's Regulations, the Maine Department of Transportation has considered the application of Rockwell Homes, LLC with supportive data, agency review and other related materials on file.

PROJECT DESCRIPTION

The project consists of a multi-use building housing an Aroma Joe's retail coffee business and 2,700 SF of office space. The project is estimated to generate 134 trips during the AM peak hour of travel. The site is proposed to be accessed via one existing full movement unsignalized entrance on Route 236.

Findings

Based on a review of the files and related information, MaineDOT approves the Traffic Movement Permit Application of Rockwell Homes, LLC. subject to the following conditions:

MITIGATION

The mitigation is intended to describe that conceptually shown on the following plan provided by Tidewater Engineering and Surveying, LLC. The plan is titled "Proposed Site Plan", dated August 27th, 2015.

If the descriptions contained herein conflict with the plan, these descriptions shall take precedence over the plan. Not all of the mitigation discussed herein maybe shown on that or any plan. The following mitigation shall be constructed or implemented to MaineDOT's satisfaction prior to the opening of the facility, unless otherwise approved by MaineDOT.

General Requirements For All Entrances

The entrances shall provide overhead illumination, if not existing, to illuminate the intersections per MaineDOT standards at a minimum. Overhead lighting shall have an average of 0.6 to 1.0 foot candles, with the maximum to minimum lighting ratio of not more than 10:1 and an average to minimum light level of not more than 4:1.

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Off-Site Mitigation

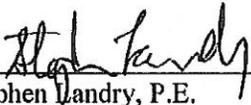
Site Entrance / Route 236

Construct a dedicated right-turn pocket on Route 236 to serve traffic turning right into the site entrance. The dedicated right-turn pocket shall meet MaineDOT design guide standards for a priority I arterial highway.

Overall Requirements

- A. Provide all necessary auxiliary signs, striping and pavement markings to implement the improvements described herein according to MaineDOT and/or National standards.
- B. All plantings and signs (existing and/or proposed; permanent and/or temporary) shall be placed and maintained such that they do not block available sight distances and do not violate the State's "Installations and Obstructions" law. No signage, plantings or structures shall be allowed within the "clear zone" if they constitute a deadly fixed object as determined by MaineDOT. All signs shall meet MRSA Title 23, Chapter 21, Section 1914; "On-Premise Signs".
- C. If any of the supporting data or representations for which this permit is based changes in any way or is found to be incorrect / inaccurate, the applicant shall request in writing from MaineDOT a decision of what impacts those changes will have on the permit. The applicant will then be required to submit those changes for review and approval and additional mitigation as a result of those changes may be required at the expense of the applicant.
- D. Because the proposed project affects the State Highway and drainage systems and requires improvement to that system, the applicant must obtain approval of the design plans and coordinate work through MaineDOT's State Traffic Engineer or Assistant State Traffic Engineer, who can be reached at (207) 624-3620 in Augusta.

By:



Stephen Landry, P.E.
State Traffic Engineer

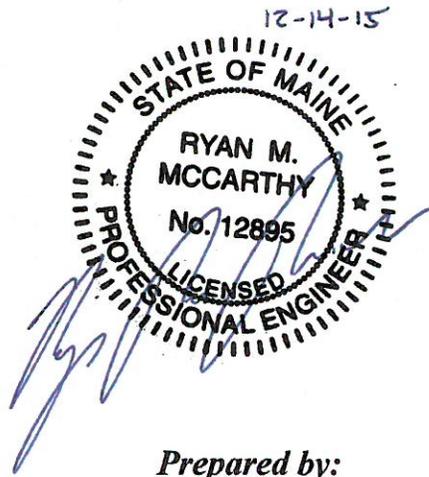
Date: 11/23/13

STORMWATER REPORT

July 23, 2015
Updated December 14, 2015

Prepared for:

Rockwell Homes LLC
1021 Goodwin Road
Eliot, Maine 03903



37 Route 236 Suite 201
Kittery, Maine 03904

Project No. 15-102

1. NARRATIVE

The purpose of this report is to analyze the potential stormwater effects as a result of a proposed development to be located on Tax Map 28 Lot 14-2, Route 236, Kittery, Maine. Rockwell Homes LLC is proposing to develop the parcel to accommodate a 40' by 64' multi-use building with associated driveway, parking and site improvements.

Per the Town of Kittery Land Use & Development Code Section 16.8.8.1, the peak stormwater discharge from the site in the post-development conditions must be limited to the pre-development peak discharge for the 2-year and 25-year, 24-hour storm event, based on rainfall data for Portsmouth, NH. This report provides calculations and documentation to support that the proposed site plan and stormwater management system will meet this requirement.

Since the development is estimated to result in more than 1 acre of disturbed area, but less than 1 acre of impervious surfaces, the project has obtained a Maine DEP Stormwater Permit-by-Rule approval from Maine DEP per the Chapter 500 Basic Standards.

2. SITE SOILS AND VEGETATIVE COVER

A high intensity soil survey was performed by Kenneth Gardner of JRK Soils Inc. (CSS#61) for the previous owner of the property. This soil survey documented the presence and location of the following soil types.

| <u>Symbol</u> | <u>Soils Name, Type, & Slope</u> | <u>Hydrologic Soil Group</u> |
|---------------|--------------------------------------|------------------------------|
| Br | Brayton fine sandy loam | C |
| Co | Colonel fine sandy loam | C |
| Dx | Dixfield fine sandy loam | C |

3. DESIGN METHODOLOGY

A computer-aided design software package, HydroCAD (v 10.00), was used to model the pre-development and post-development hydrology of the stormwater runoff generated from the site. The model is based on the SCS TR-20 program and is subject to cumulative rainfall/volume dependent routing calculations. Hydrographs are prepared for each element of the watershed and routed through the storage-indication method to produce various time-based results.

Rainfall data was obtained from the New Hampshire Stormwater Manual Volume 2 Appendix A: New Hampshire Rainfall Tables.



4. EXISTING DRAINAGE CONDITIONS

For purposes of this analysis, one subcatchment was established that encompasses the area within the property limits, the shared right-of-way along the western property line, and to the centerline of Route 236 and Fernald Road. Stormwater runoff from this subcatchment generally flows in a northerly direction to a roadside ditch along Route 236 and ultimately to a large offsite wetland to the northwest of the site.

The pre-development analysis models the property in the condition prior to the clearing and grading operations performed by the previous owner. This provides a more conservative baseline to model the true pre-development condition of the property when it was a fully undeveloped site. Although the Pre-Development Drainage Plan shows the existing tree line, edge of gravel, construction entrance and driveway culvert, these surface characteristics were excluded from the analysis.

5. PROPOSED WATERSHED ANALYSIS

For the proposed analysis, the pre-development subcatchment was divided into three smaller subcatchments that reflect the stormwater hydrology of the proposed site. The area of the site to the front and east of the proposed building will continue to flow to the roadside ditch along Route 236 and will cross under the driveway through a 24 inch culvert. The area of the site to the back and west of the proposed building will flow to a stormwater basin adjacent to the paved parking area.

The proposed stormwater basin to the rear of the property was sized and designed to mitigate an increase in the peak stormwater discharge from the site. This basin will store a portion of the stormwater volume during large storms and release it at a slower rate over an overflow spillway. Stormwater that exits the basin over the spillway enters into a shallow ditch and to a level spreader where it is then dispersed as sheet flow across a designated wooded buffer, ultimately leading to the same off-site wetland to the northwest of the site.

6. ANALYSIS AND RESULTS

The table below summarizes the results of the HydroCAD analysis for the 2-year and 25-year 24 hour storm event.

Table 1: 2-year Storm Event Summary Table

| Storm Event | PRE | POST | Change (+/-) |
|-----------------------|----------|----------|--------------|
| 2-year 24 hour storm | 1.36 cfs | 1.21 cfs | - 0.15 cfs |
| 25-year 24 hour storm | 3.91 cfs | 3.84 cfs | - 0.07 cfs |



7. CONCLUSIONS

The proposed improvements to site are anticipated to result in a decrease in the peak stormwater discharge rate for the 2-year 24 hour storm event and the 25-year 24 hour storm. As a result, it is Tidewater Engineering & Surveying LLC's opinion that there will be no adverse impacts or increased flooding on abutting properties as a result of this development if the designed stormwater measures are constructed per the design plans.

Appendix A
Pre-Development HydroCAD Results



Proposed Conditions

Prepared by Hewlett-Packard Company

HydroCAD® 10.00-15 s/n 09052 © 2015 HydroCAD Software Solutions LLC

Type III 24-hr 2-year Rainfall=3.10"

Printed 12/9/2015

Page 1

Summary for Subcatchment E: Pre-Development

Runoff = 1.36 cfs @ 12.24 hrs, Volume= 0.143 af, Depth= 0.92"

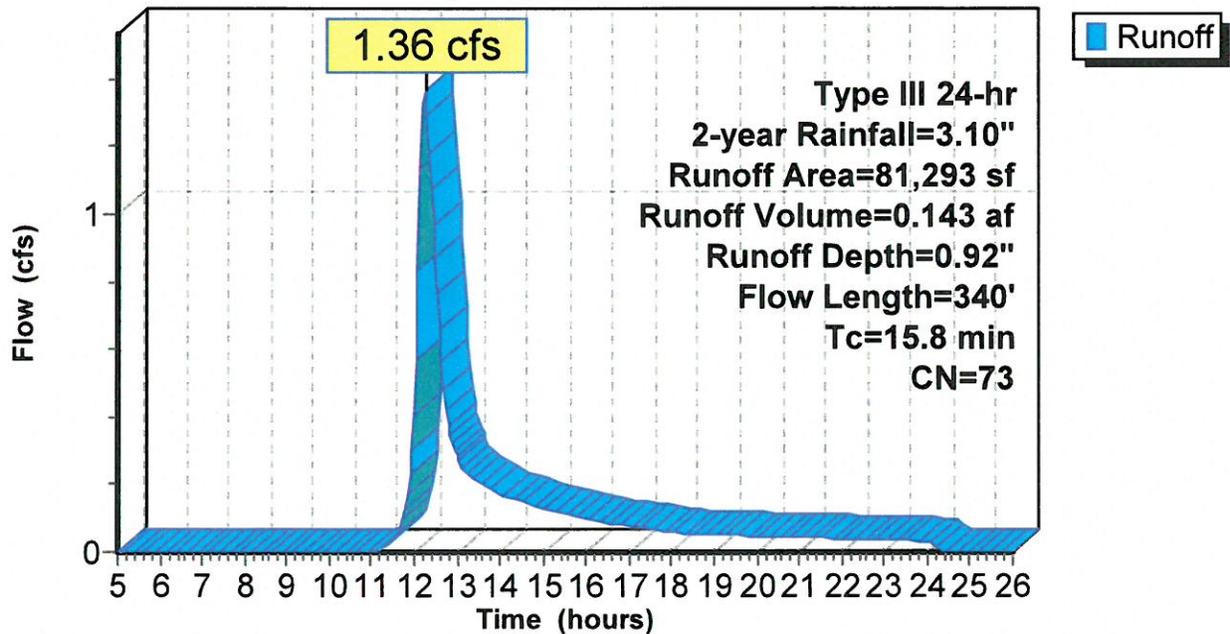
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
Type III 24-hr 2-year Rainfall=3.10"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| * 6,808 | 98 | Route 236 |
| 5,984 | 74 | >75% Grass cover, Good, HSG C |
| 68,501 | 70 | Woods, Good, HSG C |
| 81,293 | 73 | Weighted Average |
| 74,485 | | 91.63% Pervious Area |
| 6,808 | | 8.37% Impervious Area |

| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|------------------------------------------------------------------|
| 11.2 | 100 | 0.1100 | 0.15 | | Sheet Flow, Woods: Light underbrush n= 0.400 P2= 3.00" |
| 4.6 | 240 | 0.0300 | 0.87 | | Shallow Concentrated Flow, Woodland Kv= 5.0 fps |
| 15.8 | 340 | Total | | | |

Subcatchment E: Pre-Development

Hydrograph



Proposed Conditions

Prepared by Hewlett-Packard Company

HydroCAD® 10.00-15 s/n 09052 © 2015 HydroCAD Software Solutions LLC

Type III 24-hr 25-year Rainfall=5.20"

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Page 2

Summary for Subcatchment E: Pre-Development

Runoff = 3.91 cfs @ 12.22 hrs, Volume= 0.379 af, Depth= 2.44"

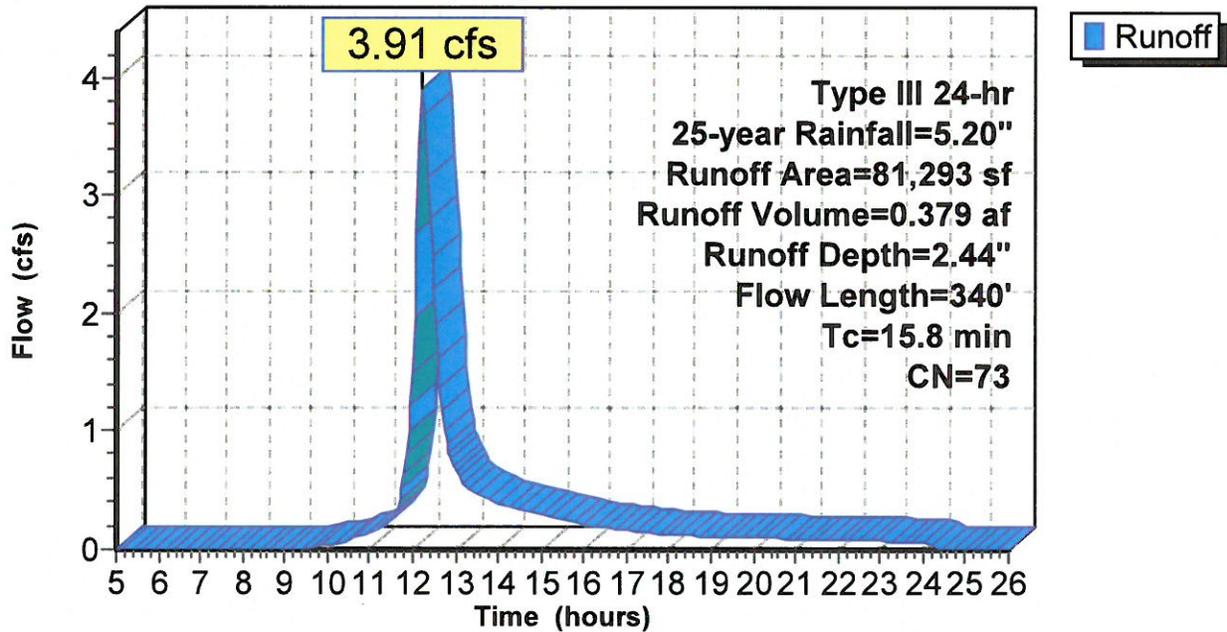
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
 Type III 24-hr 25-year Rainfall=5.20"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| * 6,808 | 98 | Route 236 |
| 5,984 | 74 | >75% Grass cover, Good, HSG C |
| 68,501 | 70 | Woods, Good, HSG C |
| 81,293 | 73 | Weighted Average |
| 74,485 | | 91.63% Pervious Area |
| 6,808 | | 8.37% Impervious Area |

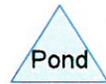
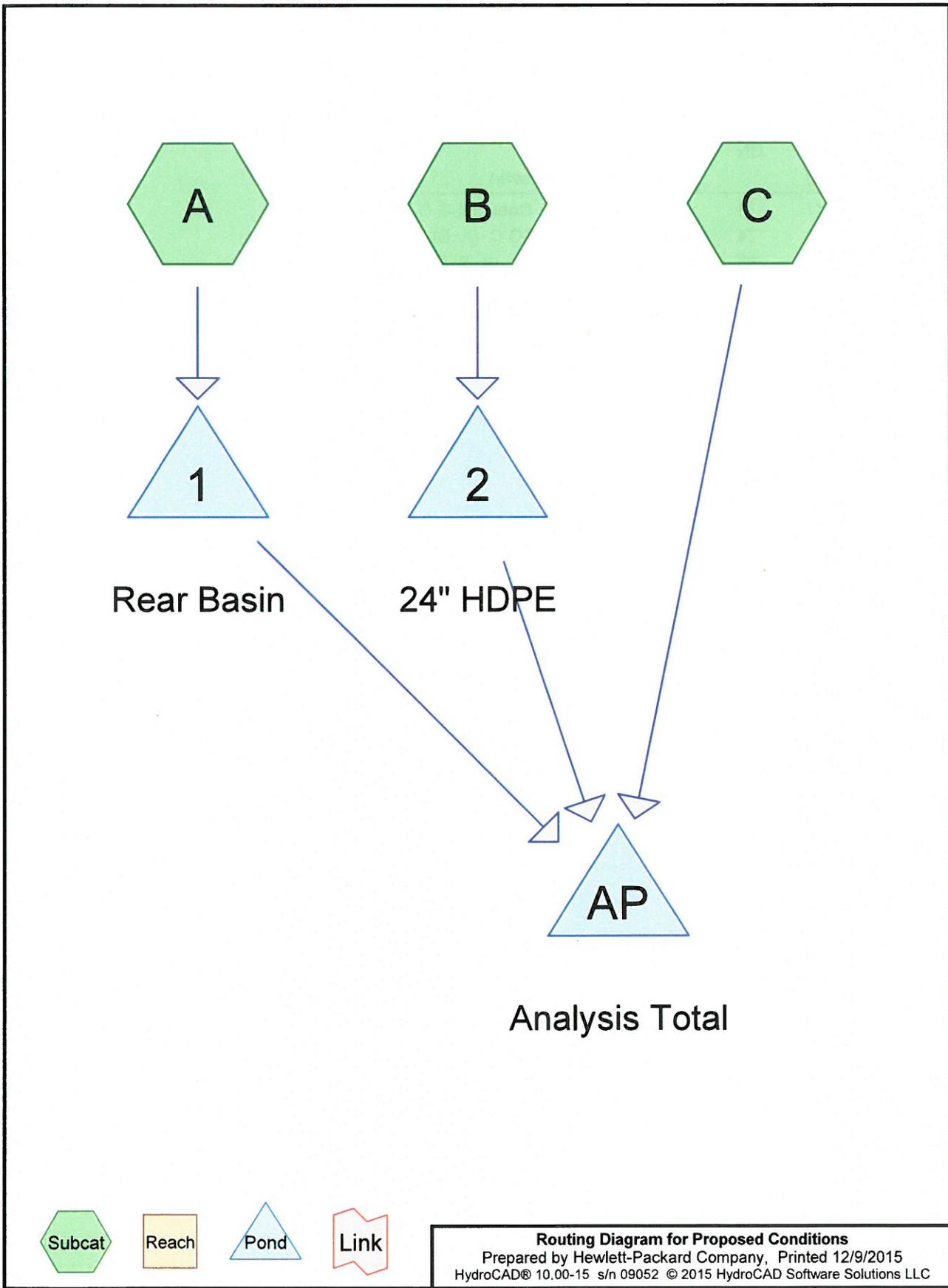
| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|------------------------------------------------------------------|
| 11.2 | 100 | 0.1100 | 0.15 | | Sheet Flow, Woods: Light underbrush n= 0.400 P2= 3.00" |
| 4.6 | 240 | 0.0300 | 0.87 | | Shallow Concentrated Flow, Woodland Kv= 5.0 fps |
| 15.8 | 340 | Total | | | |

Subcatchment E: Pre-Development

Hydrograph



Appendix B
Post-Development HydroCAD Results



Routing Diagram for Proposed Conditions
Prepared by Hewlett-Packard Company, Printed 12/9/2015
HydroCAD® 10.00-15 s/n 09052 © 2015 HydroCAD Software Solutions LLC

Proposed Conditions

Prepared by Hewlett-Packard Company

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Page 2

Area Listing (selected nodes)

| Area (acres) | CN | Description (subcatchment-numbers) |
|-----------------|----|-----------------------------------------|
| 0.687 | 74 | >75% Grass cover, Good, HSG C (A, B, C) |
| 0.028 | 74 | Landscape Beds, HSG C (A, B) |
| 0.451 | 98 | Paved parking, HSG C (A, B, C) |
| 0.066 | 98 | Roofs, HSG C (A, B) |
| 0.145 | 98 | Route 236 Pavement (B) |
| 0.489 | 70 | Woods, Good, HSG C (A, B, C) |

Proposed Conditions

Prepared by Hewlett-Packard Company

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Type III 24-hr 2-year Rainfall=3.10"

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Page 3

Summary for Subcatchment A:

Runoff = 0.79 cfs @ 12.19 hrs, Volume= 0.072 af, Depth= 1.46"

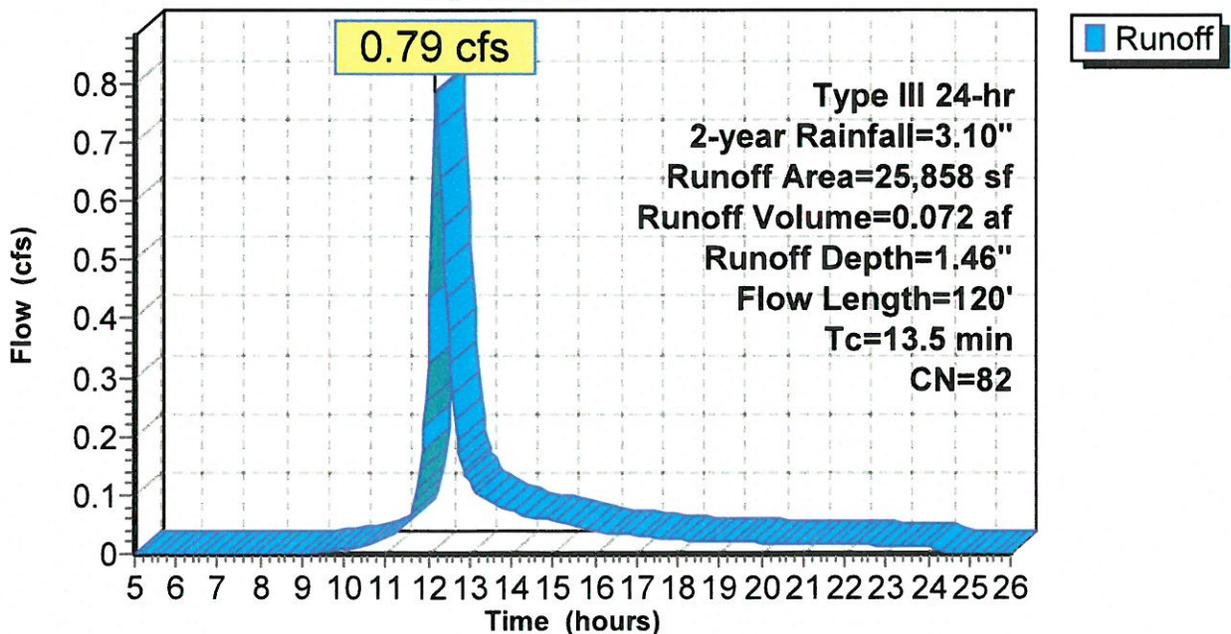
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
Type III 24-hr 2-year Rainfall=3.10"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| 1,280 | 98 | Roofs, HSG C |
| * 541 | 74 | Landscape Beds, HSG C |
| 8,888 | 70 | Woods, Good, HSG C |
| 6,010 | 74 | >75% Grass cover, Good, HSG C |
| 9,139 | 98 | Paved parking, HSG C |
| 25,858 | 82 | Weighted Average |
| 15,439 | | 59.71% Pervious Area |
| 10,419 | | 40.29% Impervious Area |

| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|----------------------------------------------------------------------|
| 9.5 | 60 | 0.0600 | 0.11 | | Sheet Flow, Woods: Light underbrush n= 0.400 P2= 3.00" |
| 2.3 | 10 | 0.0600 | 0.07 | | Sheet Flow, Grass: Bermuda n= 0.410 P2= 3.00" |
| 1.7 | 50 | 0.0050 | 0.49 | | Shallow Concentrated Flow, Short Grass Pasture Kv= 7.0 fps |
| 13.5 | 120 | Total | | | |

Subcatchment A:

Hydrograph



Proposed Conditions

Prepared by Hewlett-Packard Company

HydroCAD® 10.00-15 s/n 09052 © 2015 HydroCAD Software Solutions LLC

Type III 24-hr 2-year Rainfall=3.10"

Printed 12/9/2015

Page 4

Summary for Subcatchment B:

Runoff = 1.25 cfs @ 12.25 hrs, Volume= 0.127 af, Depth= 1.33"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
Type III 24-hr 2-year Rainfall=3.10"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| 1,600 | 98 | Roofs, HSG C |
| * 673 | 74 | Landscape Beds, HSG C |
| 22,483 | 74 | >75% Grass cover, Good, HSG C |
| 7,145 | 98 | Paved parking, HSG C |
| * 6,318 | 98 | Route 236 Pavement |
| 11,738 | 70 | Woods, Good, HSG C |
| 49,957 | 80 | Weighted Average |
| 34,894 | | 69.85% Pervious Area |
| 15,063 | | 30.15% Impervious Area |

| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|----------------------------------------------------------------------|
| 6.6 | 47 | 0.0900 | 0.12 | | Sheet Flow, Woods: Light underbrush n= 0.400 P2= 3.00" |
| 7.5 | 53 | 0.0900 | 0.12 | | Sheet Flow, Grass: Bermuda n= 0.410 P2= 3.00" |
| 3.2 | 210 | 0.0250 | 1.11 | | Shallow Concentrated Flow, Short Grass Pasture Kv= 7.0 fps |
| 17.3 | 310 | Total | | | |

Proposed Conditions

Prepared by Hewlett-Packard Company

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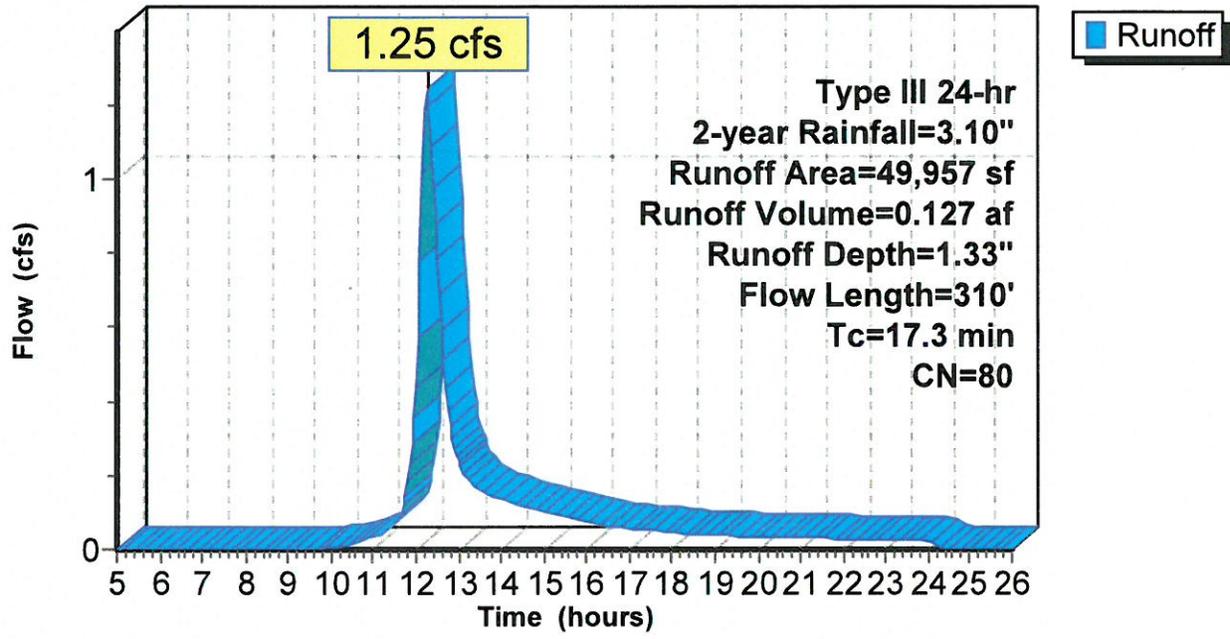
Type III 24-hr 2-year Rainfall=3.10"

Printed 12/9/2015

Page 5

Subcatchment B:

Hydrograph



Proposed Conditions

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Type III 24-hr 2-year Rainfall=3.10"

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Page 6

Summary for Subcatchment C:

Runoff = 0.27 cfs @ 12.09 hrs, Volume= 0.020 af, Depth= 1.91"

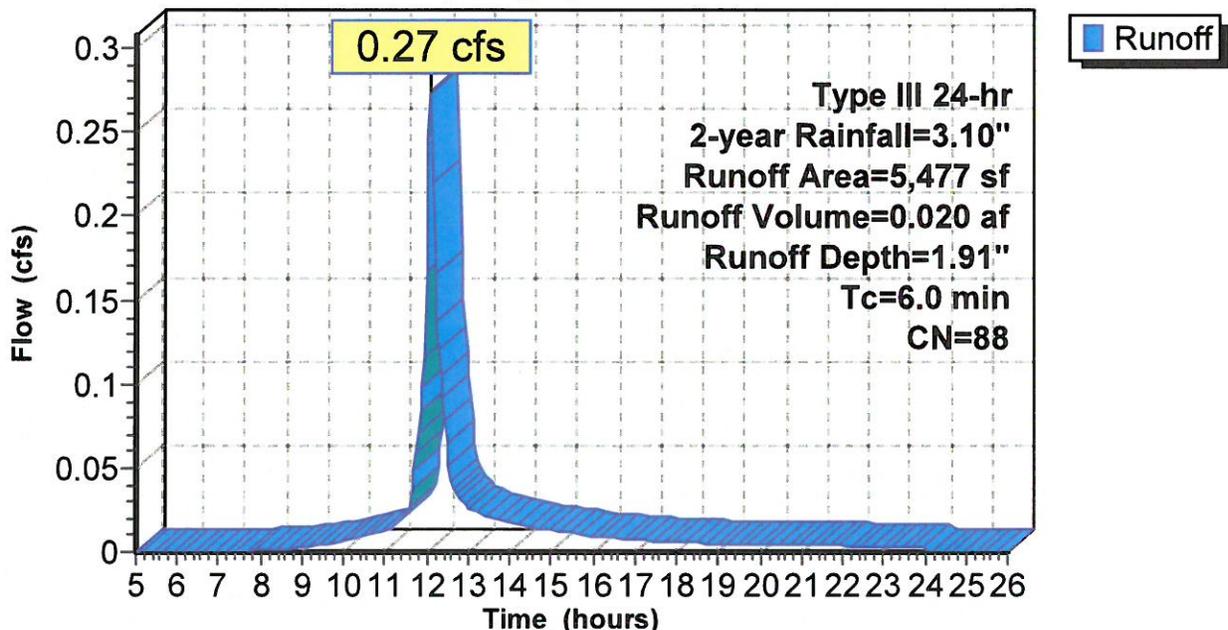
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
 Type III 24-hr 2-year Rainfall=3.10"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| 680 | 70 | Woods, Good, HSG C |
| 1,447 | 74 | >75% Grass cover, Good, HSG C |
| 3,350 | 98 | Paved parking, HSG C |
| 5,477 | 88 | Weighted Average |
| 2,127 | | 38.84% Pervious Area |
| 3,350 | | 61.16% Impervious Area |

| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|--------------------------|
| 6.0 | | | | | Direct Entry, Minimum Tc |

Subcatchment C:

Hydrograph



Proposed Conditions

Type III 24-hr 2-year Rainfall=3.10"

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Summary for Pond 1: Rear Basin

Inflow Area = 0.594 ac, 40.29% Impervious, Inflow Depth = 1.46" for 2-year event
 Inflow = 0.79 cfs @ 12.19 hrs, Volume= 0.072 af
 Outflow = 0.05 cfs @ 15.13 hrs, Volume= 0.022 af, Atten= 93%, Lag= 176.4 min
 Primary = 0.05 cfs @ 15.13 hrs, Volume= 0.022 af

Routing by Stor-Ind method, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
 Peak Elev= 48.04' @ 15.13 hrs Surf.Area= 1,689 sf Storage= 2,257 cf

Plug-Flow detention time= 385.3 min calculated for 0.022 af (30% of inflow)
 Center-of-Mass det. time= 252.8 min (1,097.6 - 844.8)

| Volume | Invert | Avail.Storage | Storage Description |
|--------|--------|---------------|------------------------------------------------------------|
| #1 | 46.00' | 4,163 cf | Custom Stage Data (Prismatic) Listed below (Recalc) |

| Elevation (feet) | Surf.Area (sq-ft) | Inc.Store (cubic-feet) | Cum.Store (cubic-feet) |
|------------------|-------------------|------------------------|------------------------|
| 46.00 | 580 | 0 | 0 |
| 47.00 | 1,065 | 823 | 823 |
| 48.00 | 1,663 | 1,364 | 2,187 |
| 49.00 | 2,289 | 1,976 | 4,163 |

| Device | Routing | Invert | Outlet Devices |
|--------|---------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| #1 | Primary | 48.00' | 2.5' long x 3.0' breadth Broad-Crested Rectangular Weir Head (feet) 0.20 0.40 0.60 0.80 1.00 1.20 1.40 1.60 1.80 2.00 2.50 3.00 3.50 4.00 4.50 Coef. (English) 2.44 2.58 2.68 2.67 2.65 2.64 2.64 2.68 2.68 2.72 2.81 2.92 2.97 3.07 3.32 |

Primary OutFlow Max=0.05 cfs @ 15.13 hrs HW=48.04' (Free Discharge)
 ↳1=Broad-Crested Rectangular Weir (Weir Controls 0.05 cfs @ 0.50 fps)

Proposed Conditions

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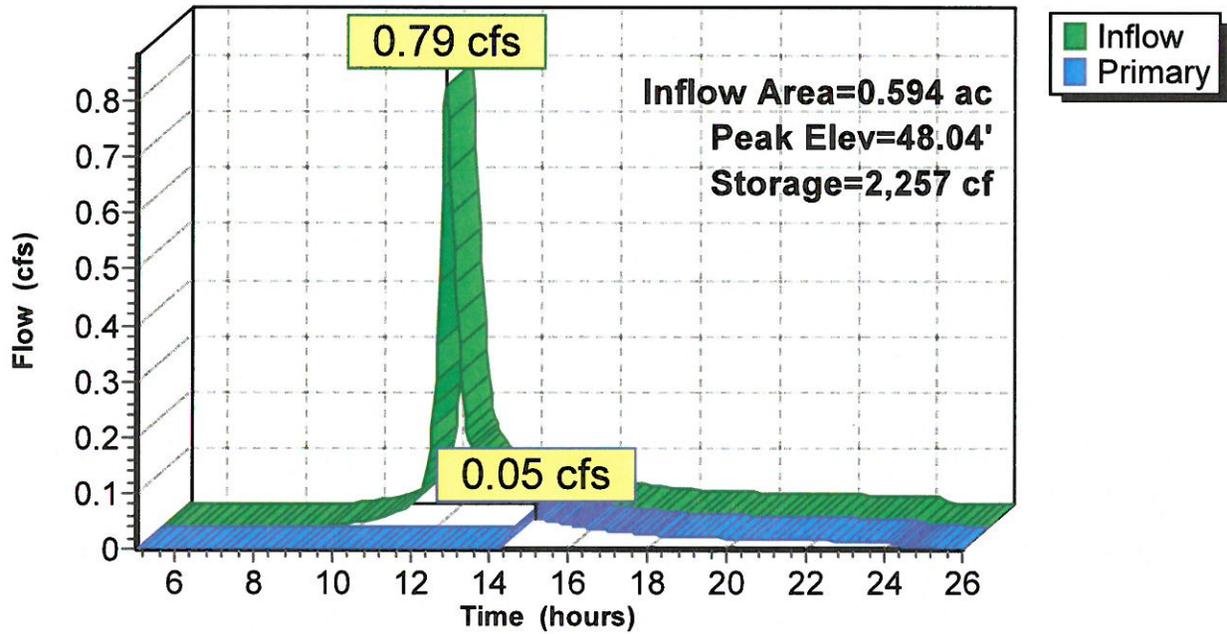
Type III 24-hr 2-year Rainfall=3.10"

Printed 12/9/2015

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Pond 1: Rear Basin

Hydrograph



Proposed Conditions

Type III 24-hr 2-year Rainfall=3.10"

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Summary for Pond 2: 24" HDPE

Inflow Area = 1.147 ac, 30.15% Impervious, Inflow Depth = 1.33" for 2-year event
 Inflow = 1.25 cfs @ 12.25 hrs, Volume= 0.127 af
 Outflow = 1.11 cfs @ 12.35 hrs, Volume= 0.121 af, Atten= 11%, Lag= 5.9 min
 Primary = 1.11 cfs @ 12.35 hrs, Volume= 0.121 af

Routing by Stor-Ind method, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
 Peak Elev= 45.18' @ 12.35 hrs Surf.Area= 1,435 sf Storage= 710 cf
 Flood Elev= 47.00' Surf.Area= 7,515 sf Storage= 8,578 cf

Plug-Flow detention time= 44.1 min calculated for 0.121 af (96% of inflow)
 Center-of-Mass det. time= 21.8 min (876.7 - 854.9)

| Volume | Invert | Avail.Storage | Storage Description |
|---------------------|----------------------|---------------------------|------------------------------------------------------------|
| #1 | 44.00' | 17,915 cf | Custom Stage Data (Prismatic) Listed below (Recalc) |
| Elevation (feet) | Surf.Area (sq-ft) | Inc.Store (cubic-feet) | Cum.Store (cubic-feet) |
| 44.00 | 100 | 0 | 0 |
| 45.00 | 900 | 500 | 500 |
| 46.00 | 3,870 | 2,385 | 2,885 |
| 48.00 | 11,160 | 15,030 | 17,915 |

| Device | Routing | Invert | Outlet Devices |
|--------|---------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| #1 | Primary | 44.62' | 24.0" Round Culvert L= 60.0' CPP, projecting, no headwall, Ke= 0.900 Inlet / Outlet Invert= 44.62' / 44.45' S= 0.0028 '/ Cc= 0.900 n= 0.013 Corrugated PE, smooth interior, Flow Area= 3.14 sf |

Primary OutFlow Max=1.10 cfs @ 12.35 hrs HW=45.18' (Free Discharge)
 ↑-1=Culvert (Barrel Controls 1.10 cfs @ 2.30 fps)

Proposed Conditions

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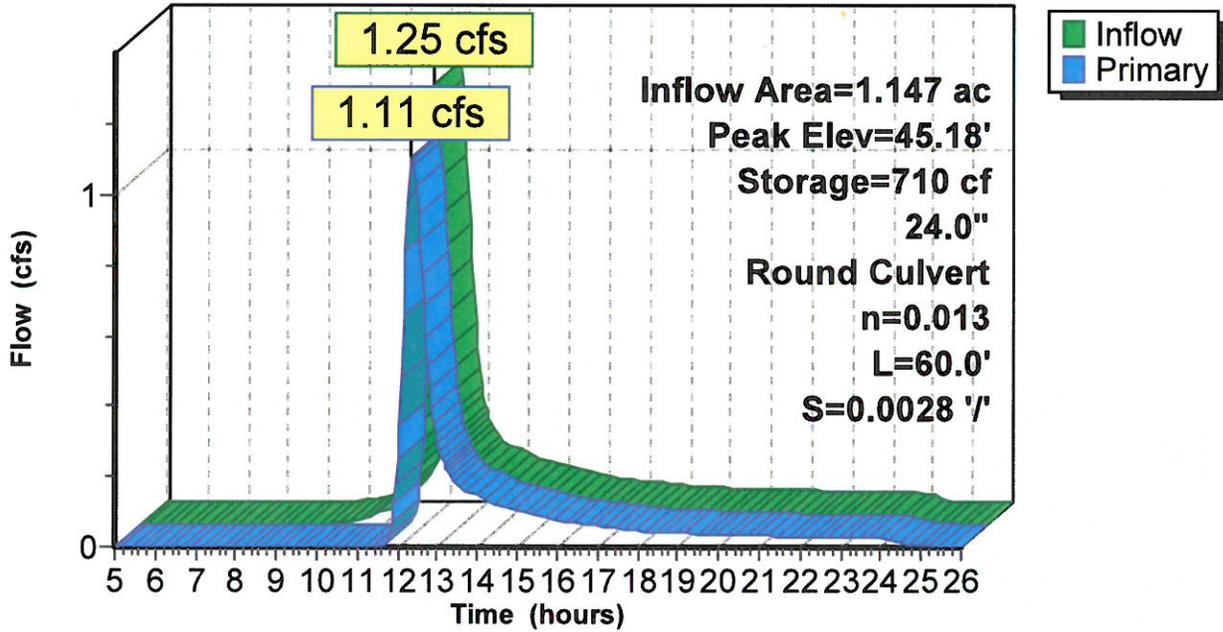
Type III 24-hr 2-year Rainfall=3.10"

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Pond 2: 24" HDPE

Hydrograph



Proposed Conditions

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Type III 24-hr 2-year Rainfall=3.10"

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Summary for Pond AP: Analysis Total

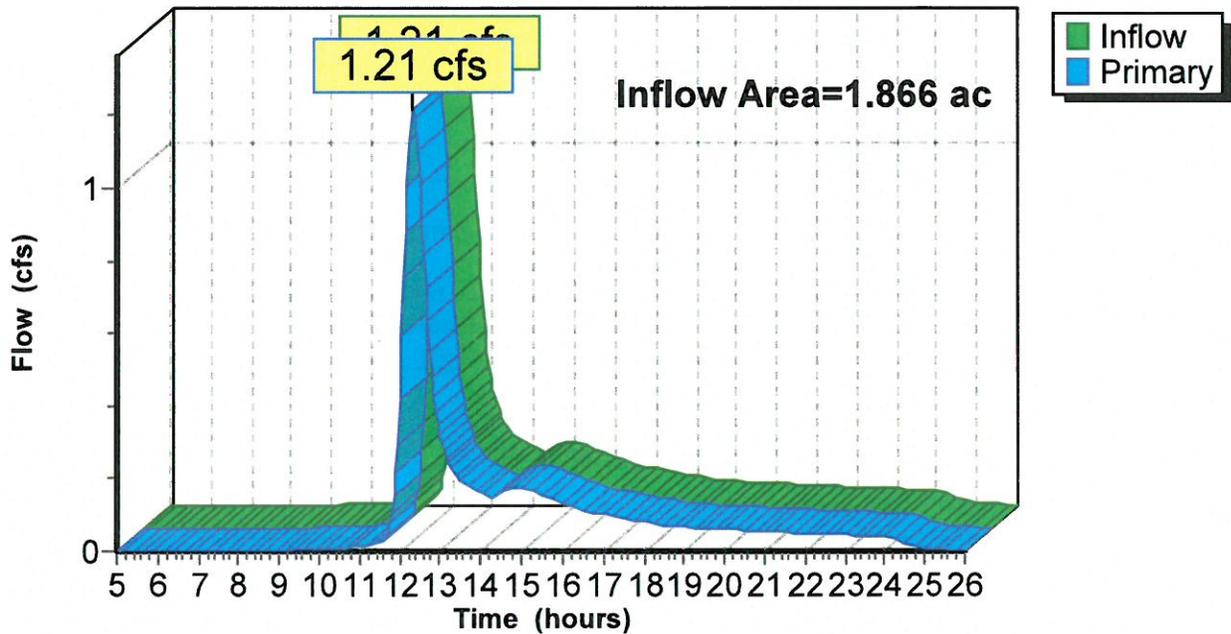
[40] Hint: Not Described (Outflow=Inflow)

Inflow Area = 1.866 ac, 35.47% Impervious, Inflow Depth > 1.05" for 2-year event
Inflow = 1.21 cfs @ 12.33 hrs, Volume= 0.163 af
Primary = 1.21 cfs @ 12.33 hrs, Volume= 0.163 af, Atten= 0%, Lag= 0.0 min

Routing by Stor-Ind method, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs

Pond AP: Analysis Total

Hydrograph



Proposed Conditions

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Type III 24-hr 25-year Rainfall=5.20"

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Summary for Subcatchment A:

Runoff = 1.77 cfs @ 12.19 hrs, Volume= 0.161 af, Depth= 3.26"

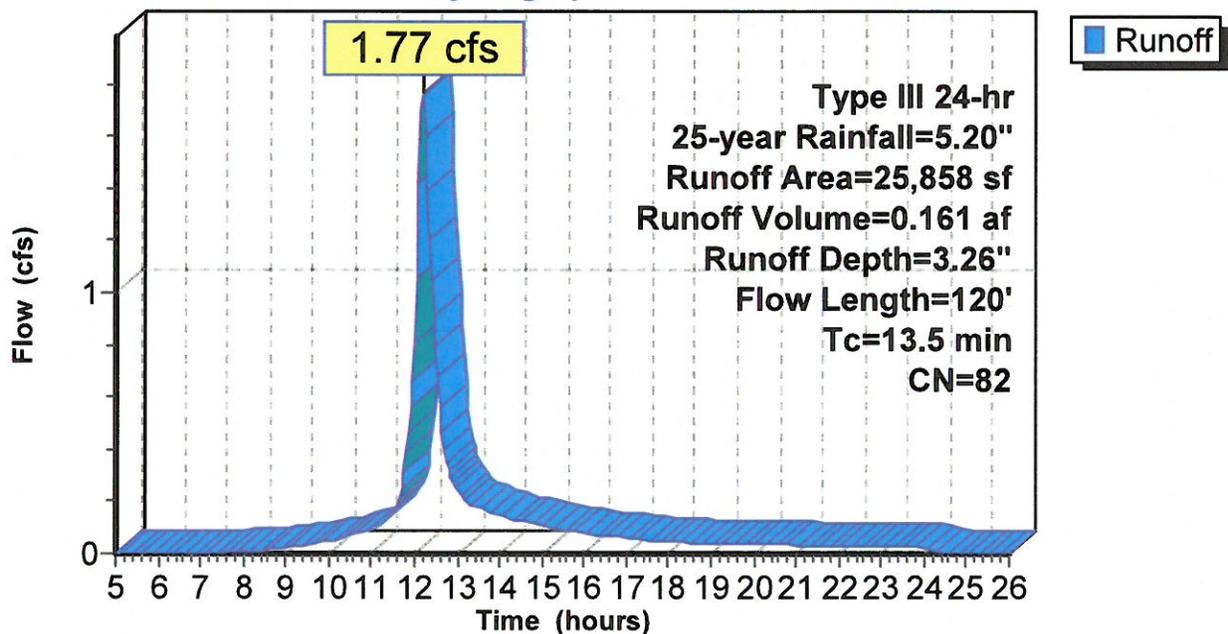
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-year Rainfall=5.20"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| 1,280 | 98 | Roofs, HSG C |
| * 541 | 74 | Landscape Beds, HSG C |
| 8,888 | 70 | Woods, Good, HSG C |
| 6,010 | 74 | >75% Grass cover, Good, HSG C |
| 9,139 | 98 | Paved parking, HSG C |
| 25,858 | 82 | Weighted Average |
| 15,439 | | 59.71% Pervious Area |
| 10,419 | | 40.29% Impervious Area |

| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|----------------------------------------------------------------------|
| 9.5 | 60 | 0.0600 | 0.11 | | Sheet Flow, Woods: Light underbrush n= 0.400 P2= 3.00" |
| 2.3 | 10 | 0.0600 | 0.07 | | Sheet Flow, Grass: Bermuda n= 0.410 P2= 3.00" |
| 1.7 | 50 | 0.0050 | 0.49 | | Shallow Concentrated Flow, Short Grass Pasture Kv= 7.0 fps |
| 13.5 | 120 | Total | | | |

Subcatchment A:

Hydrograph



Proposed Conditions

Type III 24-hr 25-year Rainfall=5.20"

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Summary for Subcatchment B:

Runoff = 2.94 cfs @ 12.24 hrs, Volume= 0.293 af, Depth= 3.07"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-year Rainfall=5.20"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| 1,600 | 98 | Roofs, HSG C |
| * 673 | 74 | Landscape Beds, HSG C |
| 22,483 | 74 | >75% Grass cover, Good, HSG C |
| 7,145 | 98 | Paved parking, HSG C |
| * 6,318 | 98 | Route 236 Pavement |
| 11,738 | 70 | Woods, Good, HSG C |
| 49,957 | 80 | Weighted Average |
| 34,894 | | 69.85% Pervious Area |
| 15,063 | | 30.15% Impervious Area |

| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|----------------------------------------------------------------------|
| 6.6 | 47 | 0.0900 | 0.12 | | Sheet Flow, Woods: Light underbrush n= 0.400 P2= 3.00" |
| 7.5 | 53 | 0.0900 | 0.12 | | Sheet Flow, Grass: Bermuda n= 0.410 P2= 3.00" |
| 3.2 | 210 | 0.0250 | 1.11 | | Shallow Concentrated Flow, Short Grass Pasture Kv= 7.0 fps |
| 17.3 | 310 | Total | | | |

Proposed Conditions

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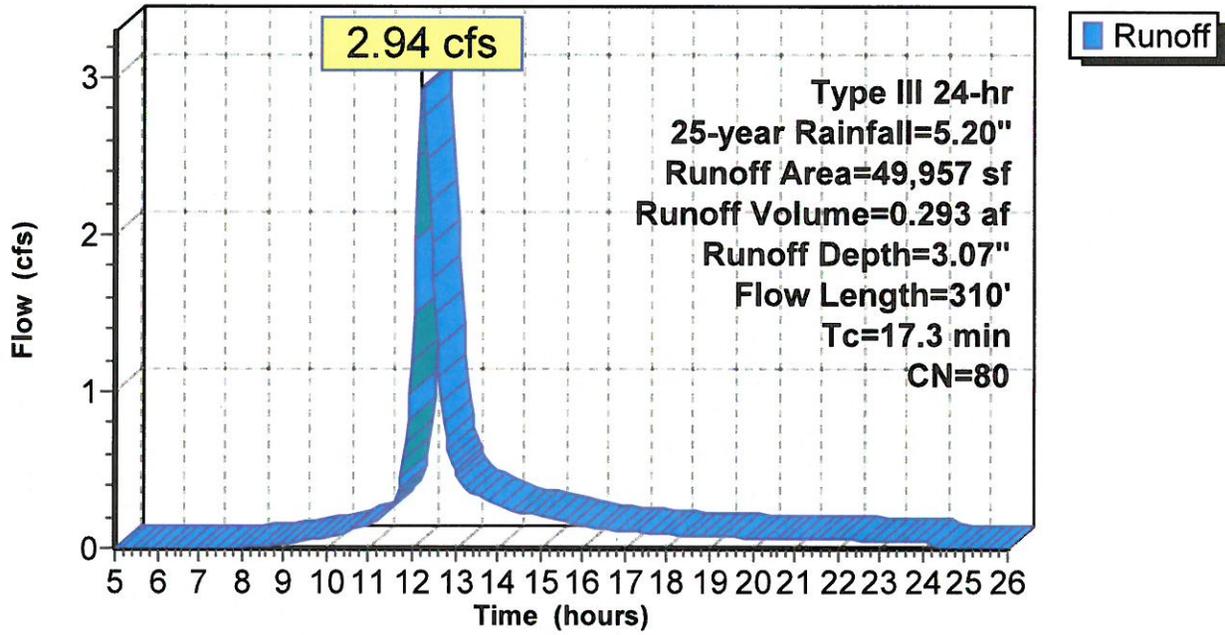
Type III 24-hr 25-year Rainfall=5.20"

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Subcatchment B:

Hydrograph



Proposed Conditions

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Type III 24-hr 25-year Rainfall=5.20"

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Summary for Subcatchment C:

Runoff = 0.54 cfs @ 12.09 hrs, Volume= 0.040 af, Depth> 3.86"

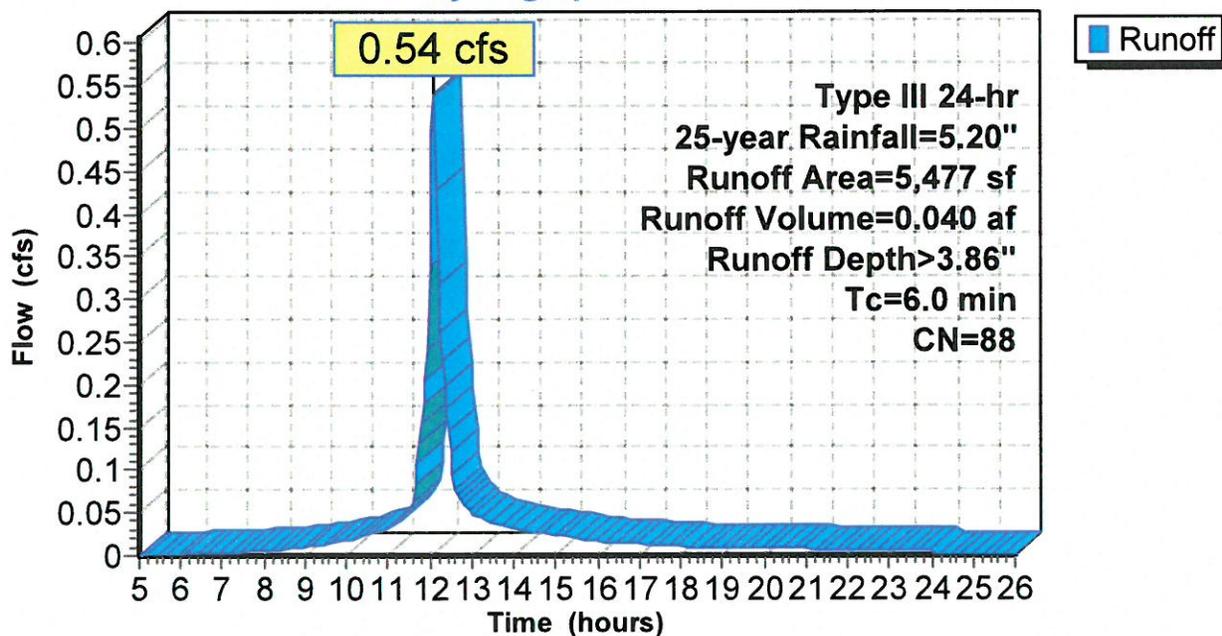
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-year Rainfall=5.20"

| Area (sf) | CN | Description |
|-----------|----|-------------------------------|
| 680 | 70 | Woods, Good, HSG C |
| 1,447 | 74 | >75% Grass cover, Good, HSG C |
| 3,350 | 98 | Paved parking, HSG C |
| 5,477 | 88 | Weighted Average |
| 2,127 | | 38.84% Pervious Area |
| 3,350 | | 61.16% Impervious Area |

| Tc (min) | Length (feet) | Slope (ft/ft) | Velocity (ft/sec) | Capacity (cfs) | Description |
|----------|---------------|---------------|-------------------|----------------|--------------------------|
| 6.0 | | | | | Direct Entry, Minimum Tc |

Subcatchment C:

Hydrograph



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Type III 24-hr 25-year Rainfall=5.20"

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Summary for Pond 1: Rear Basin

Inflow Area = 0.594 ac, 40.29% Impervious, Inflow Depth = 3.26" for 25-year event
 Inflow = 1.77 cfs @ 12.19 hrs, Volume= 0.161 af
 Outflow = 1.10 cfs @ 12.39 hrs, Volume= 0.111 af, Atten= 38%, Lag= 12.1 min
 Primary = 1.10 cfs @ 12.39 hrs, Volume= 0.111 af

Routing by Stor-Ind method, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
 Peak Elev= 48.31' @ 12.39 hrs Surf.Area= 1,859 sf Storage= 2,737 cf

Plug-Flow detention time= 169.2 min calculated for 0.111 af (69% of inflow)
 Center-of-Mass det. time= 74.6 min (896.2 - 821.6)

| Volume | Invert | Avail.Storage | Storage Description |
|---------------------|----------------------|---------------------------|------------------------------------------------------------|
| #1 | 46.00' | 4,163 cf | Custom Stage Data (Prismatic) Listed below (Recalc) |
| Elevation (feet) | Surf.Area (sq-ft) | Inc.Store (cubic-feet) | Cum.Store (cubic-feet) |
| 46.00 | 580 | 0 | 0 |
| 47.00 | 1,065 | 823 | 823 |
| 48.00 | 1,663 | 1,364 | 2,187 |
| 49.00 | 2,289 | 1,976 | 4,163 |

| Device | Routing | Invert | Outlet Devices |
|---------------------------------------------------------------|---------|--------|----------------------------------------------------------------|
| #1 | Primary | 48.00' | 2.5' long x 3.0' breadth Broad-Crested Rectangular Weir |
| Head (feet) 0.20 0.40 0.60 0.80 1.00 1.20 1.40 1.60 1.80 2.00 | | | |
| 2.50 3.00 3.50 4.00 4.50 | | | |
| Coef. (English) 2.44 2.58 2.68 2.67 2.65 2.64 2.64 2.68 2.68 | | | |
| 2.72 2.81 2.92 2.97 3.07 3.32 | | | |

Primary OutFlow Max=1.09 cfs @ 12.39 hrs HW=48.31' (Free Discharge)
 ↳ **1=Broad-Crested Rectangular Weir** (Weir Controls 1.09 cfs @ 1.41 fps)

Proposed Conditions

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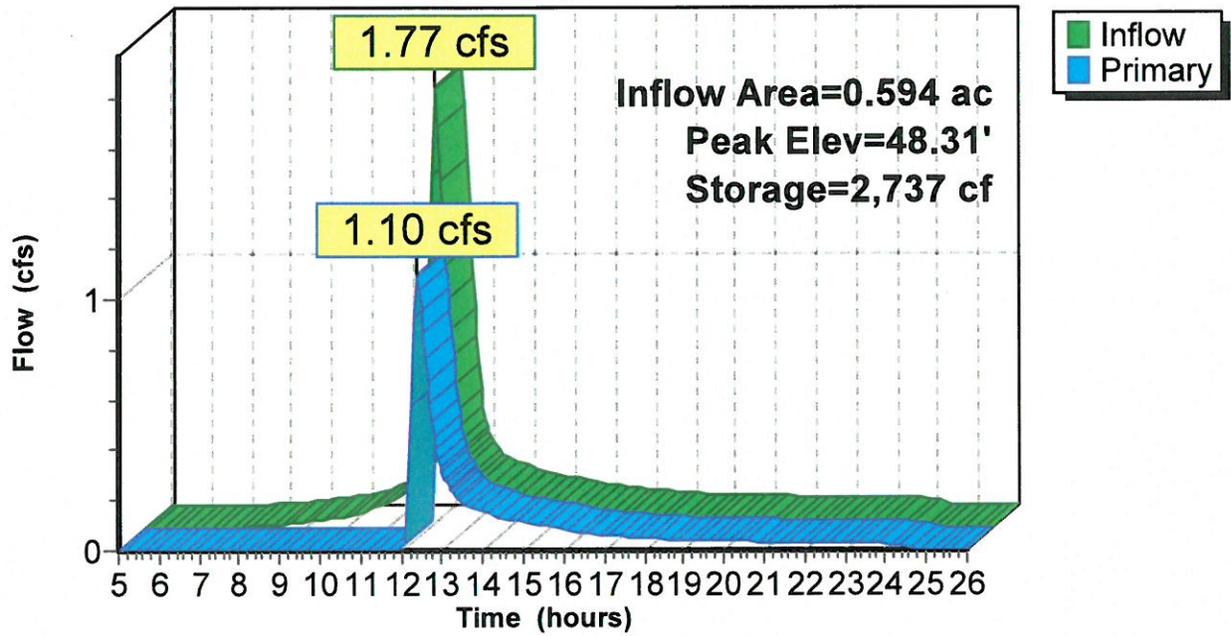
Type III 24-hr 25-year Rainfall=5.20"

Printed 12/9/2015

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Pond 1: Rear Basin

Hydrograph



Proposed Conditions

Type III 24-hr 25-year Rainfall=5.20"

Prepared by Hewlett-Packard Company

Printed 12/9/2015

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Summary for Pond 2: 24" HDPE

Inflow Area = 1.147 ac, 30.15% Impervious, Inflow Depth = 3.07" for 25-year event
 Inflow = 2.94 cfs @ 12.24 hrs, Volume= 0.293 af
 Outflow = 2.55 cfs @ 12.34 hrs, Volume= 0.288 af, Atten= 13%, Lag= 6.2 min
 Primary = 2.55 cfs @ 12.34 hrs, Volume= 0.288 af

Routing by Stor-Ind method, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs
 Peak Elev= 45.49' @ 12.34 hrs Surf.Area= 2,355 sf Storage= 1,297 cf
 Flood Elev= 47.00' Surf.Area= 7,515 sf Storage= 8,578 cf

Plug-Flow detention time= 26.4 min calculated for 0.288 af (98% of inflow)
 Center-of-Mass det. time= 15.7 min (846.3 - 830.6)

| Volume | Invert | Avail.Storage | Storage Description |
|------------------|-------------------|------------------------|------------------------------------------------------------|
| #1 | 44.00' | 17,915 cf | Custom Stage Data (Prismatic) Listed below (Recalc) |
| Elevation (feet) | Surf.Area (sq-ft) | Inc.Store (cubic-feet) | Cum.Store (cubic-feet) |
| 44.00 | 100 | 0 | 0 |
| 45.00 | 900 | 500 | 500 |
| 46.00 | 3,870 | 2,385 | 2,885 |
| 48.00 | 11,160 | 15,030 | 17,915 |

| Device | Routing | Invert | Outlet Devices |
|--------|---------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| #1 | Primary | 44.62' | 24.0" Round Culvert L= 60.0' CPP, projecting, no headwall, Ke= 0.900 Inlet / Outlet Invert= 44.62' / 44.45' S= 0.0028 '/ Cc= 0.900 n= 0.013 Corrugated PE, smooth interior, Flow Area= 3.14 sf |

Primary OutFlow Max=2.55 cfs @ 12.34 hrs HW=45.49' (Free Discharge)
 ↑1=Culvert (Barrel Controls 2.55 cfs @ 2.87 fps)

Proposed Conditions

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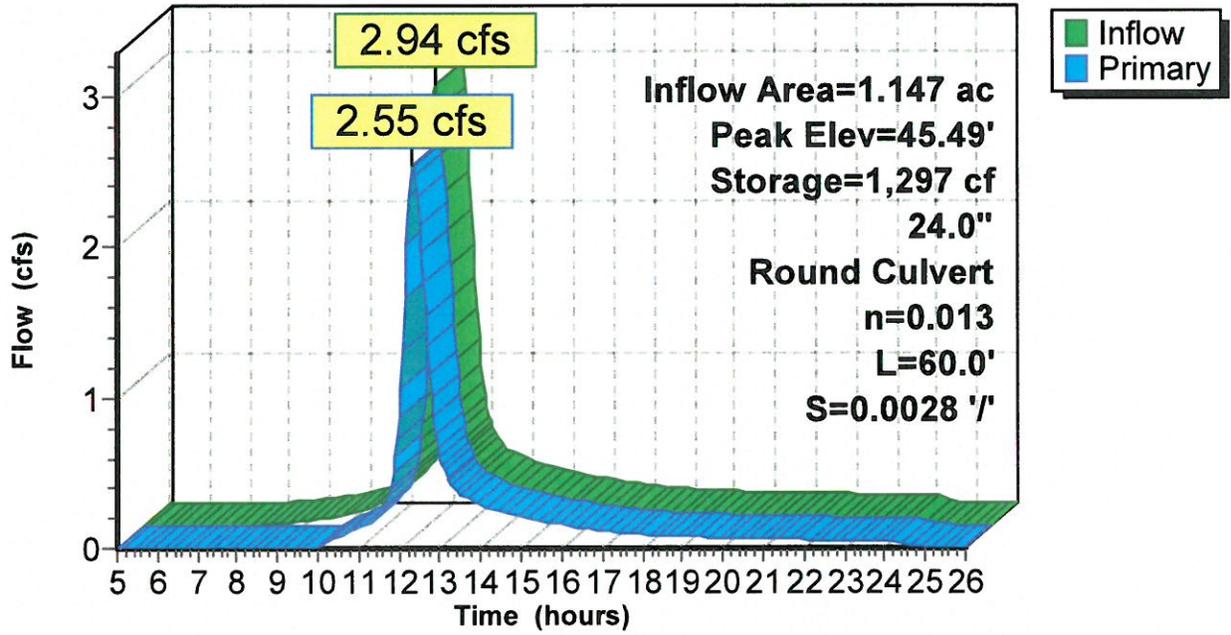
Type III 24-hr 25-year Rainfall=5.20"

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Pond 2: 24" HDPE

Hydrograph



Proposed Conditions

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Type III 24-hr 25-year Rainfall=5.20"

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Summary for Pond AP: Analysis Total

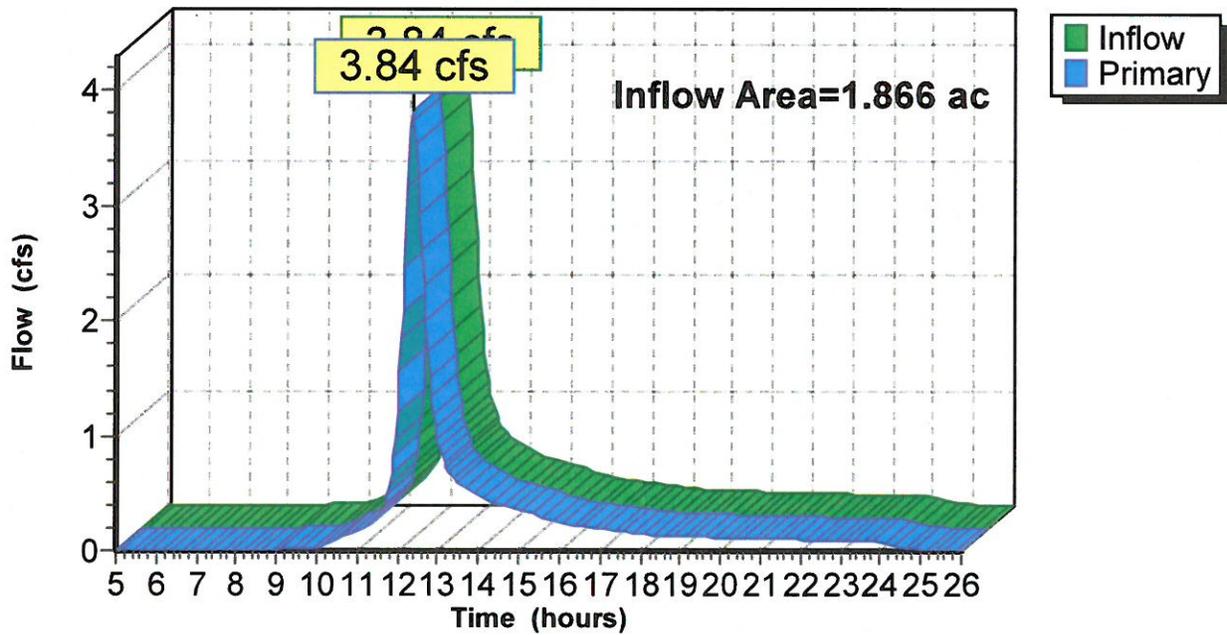
[40] Hint: Not Described (Outflow=Inflow)

Inflow Area = 1.866 ac, 35.47% Impervious, Inflow Depth > 2.82" for 25-year event
Inflow = 3.84 cfs @ 12.36 hrs, Volume= 0.439 af
Primary = 3.84 cfs @ 12.36 hrs, Volume= 0.439 af, Atten= 0%, Lag= 0.0 min

Routing by Stor-Ind method, Time Span= 5.00-26.00 hrs, dt= 0.05 hrs

Pond AP: Analysis Total

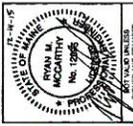
Hydrograph



Appendix C

Pre-Development Drainage Plan





| NO. | DATE | SUBMISSION/REVISION DESCRIPTION |
|-----|----------|-------------------------------------------|
| 1 | 02/14/15 | ISSUED FOR FINAL REVIEW BY TOWN OF OTTERY |
| 2 | 12/14/15 | ISSUED FOR FINAL REVIEW BY TOWN OF OTTERY |

TIDEWATER
ENGINEERING & SURVEYING, INC.
27 Park Ave. 5th Fl. Otter, ME 03946
(207) 439-2222 | www.tidewater.com

PRE-DEVELOPMENT DRAINAGE PLAN

PROJECT: SITE PLAN AMENDMENT: MIXED-USE BUILDING
TAX MAP 28 LOT 14-2, OTTERY, ME

APPLICANT/OWNER: ROCKWELL HOMES, LLC
1021 GOODWIN ROAD
ELDT, ME 03903

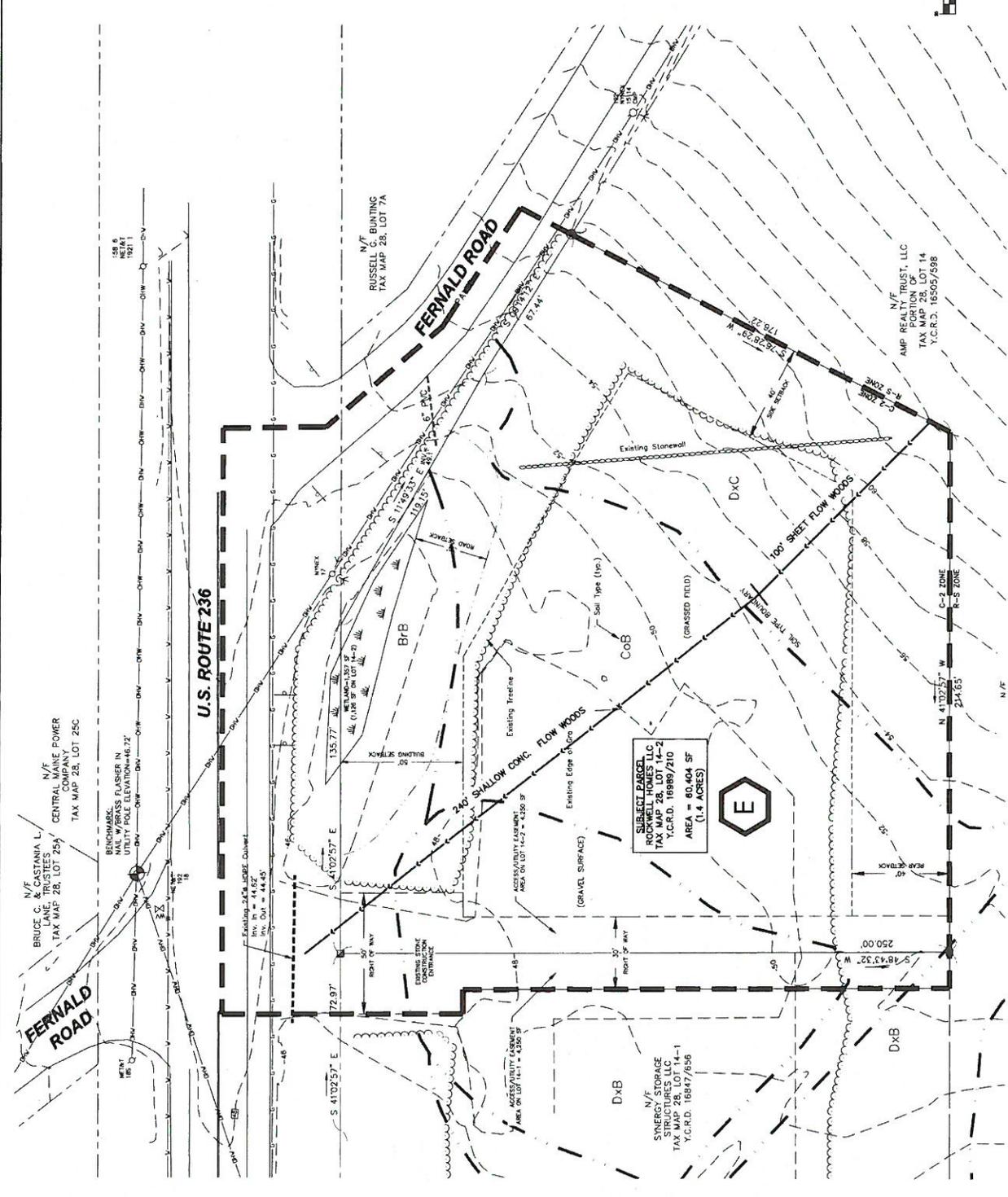
SHEET: 15-102
DATE: JULY 2016
SCALE: 1" = 20'

DRAWING: **D1**

PRE-DEVELOPMENT DRAINAGE NOTES:

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE LOCATION OF THE NODES AND FLOW PATHS IN THE STORMWATER REPORT FOR TAX MAP 28 LOT 14-2 ON BEHALF OF ROCKWELL HOMES, LLC.

2. FOR PURPOSES OF THE ANALYSIS, THE ENTIRE SITE AND THE ADJACENT AREAS TO THE NORTH, EAST AND SOUTH ARE ASSUMED TO BE DEVELOPED. THE SITE SLOPED IN THE NORTHERLY DIRECTION TO ROUTE 236 AND INTO A GRAVEL SURFACE TO THE NORTHWEST CORNER OF THE PROPERTY. THE CLEARED AREAS AND THE GRAVEL SHOWN ON THIS PLAN WERE WITHIN THE PAST TWO YEARS.



LEGEND

- SUBCATCHMENT
- POND
- FLOWPATH TC

GRAPHIC SCALE
(IN FEET)
1 Inch = 20 Ft.

BRIDGE C. & CASTANIA L. N/F
LANE, TRUSTEES
CENTRAL MAINE POWER
TAX MAP 28, LOT 25A
TAX MAP 28, LOT 25C

BRIDGE C. & CASTANIA L. N/F
RUSSELL C. BUNTING
TAX MAP 28, LOT 7A

BRIDGE C. & CASTANIA L. N/F
AMP REALTY TRUST, LLC
PORTION OF
TAX MAP 28, LOT 14
T.C.R.D. 16895/588

BRIDGE C. & CASTANIA L. N/F
STENERGY STORAGE
STRUCTURES, LLC
TAX MAP 28, LOT 14-1
T.C.R.D. 16897/656

SUBJECT PARCEL
TAX MAP 28, LOT 14-2
T.C.R.D. 16889/210
AREA = 60,404 SF
(1.4 ACRES)

Appendix D

Post-Development Drainage Plan

**Town of Kittery Maine
 Town Planning Board Meeting
 January 14, 2016**

Rockwell Homes, 89 Route 236 – Final Site Plan Review

Action:, approve or deny final plan; Owner/applicant Rockwell Homes, LLC request consideration of plans for a single, 2,520-square-foot building containing business offices and a showroom and a drive-through-only restaurant at 89 Route 236 (Tax Map 28, Lot 14-2) in the Commercial 2 (C-2) Zone. Agent is Ryan McCarthy, Tidewater Engineering & Surveying, LLC.

PROJECT TRACKING

| REQ'D | ACTION | COMMENTS | STATUS |
|-------|------------------------------------------|-------------------------|---------|
| NO | Sketch Plan Review and Approval | Scheduled 6/11/2015 | GRANTED |
| NO | Site Visit | Scheduled 9/3/2015 | HELD |
| YES | Determination of Completeness/Acceptance | 8/20/2015 | GRANTED |
| YES | Public Hearing and Preliminary Approval | Scheduled 9/10/2015 | HELD |
| YES | Final Plan Review and Decision | Scheduled for 1/14/2016 | PENDING |

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS. As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.**

Background

The Board first reviewed Rockwell Homes, LLC ‘s conceptual plans to develop a professional office and a drive-through-only restaurant (Aroma Joe’s) through Sketch Plan review at the 6/11 meeting. The preliminary plan submitted has not changed to any large degree from the Sketch Plan.

The project is proposed as a major modification to an approved plan. The lot was originally subdivided in February 2014, one of the two commercial lots originally approved for retail/wholesale storage of firewood (carved out of the of parcel Map 28, Lot 14 which was before the Board as a cluster residential subdivision along Fernald Road).

That previous approval includes certain provisions for the possible subsequent and future development of the lots. Some of the forethought and conditions made during that division last year will have a bearing on this project, as well as on lot 14-1 next door. An easement along the property line between the two provides a shared access. The current proposal is on a lot of 1.4 acres, and includes a mixed use building and associated parking and other site improvements. The building is proposed to have three business office units and a drive-through-only restaurant.

The Board visited the site on Thursday, September 3 and discussed the extent of the clearing along the ROW and removal of vegetation within a small wetland. A public hearing was held on September 10, 2015. Preliminary approval was granted with the conditions.

Review

Generally the proposed site plan is in conformance with Town’s land use code and the design appears to accommodate well the proposed uses. CMA has performed their final peer-review (1/4/2016) which is

attached and also attached is their 8/18/2015 review. The following are comments from the previous preliminary plan review followed by comments on the final plan.

{from the 9/10 plan review notes}

1) Landscape Plan. *The extent of the proposed clearing along the street frontage does not seem to be warranted. Though this is a commercial zone and it is important for the buildings to be visible from the street this objective can be achieved in a manner that might be less intense than removing all the trees and understory within a 180-foot swath.*

When this lot was originally approved as part of a commercial subdivision the Board required the front yard setback to be preserved for two main reasons: 1) Title 16.3.2.11 references Kittery's Design Handbook for proper application of code standards. In Part I. Site Planning, page 2 of the Handbook, Site Analysis, and Preservation of Existing Features (e.g. mature trees) are site planning principles that should be used to apply the required standards; and 2) without a having a specific development proposed to review it was not clear to what extent clearing vegetation was appropriate.

With #2 in place a determination with regard to tree cutting is easier but should not be done without consideration of #1. The applicant has proposed to replace the clear vegetation with some new trees and ferns, however, from staff's perspective when considering the limited scale of the building and the examples provided in the Design Handbook, less cutting and more planting should be required. Additional planting that would screen the parking at the front of the building and drive-thru vehicles would also address C-2 Zone Standards concerning parking.

UPDATE: The applicant has revised the plans to reflect staff's comments. The clearing limit has been reduced to a smaller and more appropriate opening that will be planted with ferns, lawn and three canopy trees. In addition planting has been proposed to screen the parking and enhance the building façade.

2) Parking Calculations: *The applicant's proposed modifications to the required parking for the proposed development outlined in the project narrative seems reasonable. Additional information would be helpful however. Itemizing the square area for the entire Office Unit 3 and/or the gross area proposed not to be counted would be helpful in clarifying the details in the proposed parking calculations.*

If the proposed parking calculations are amenable to the Board perhaps a plan note/conditional of approval for the final plan might include a stipulation that any changes to the intensity of use and/or it becomes evident that there is insufficient parking on site, available parking must be increased as determined by the planning board.

UPDATE: The draft findings of fact include the suggested condition.

{comments for current final plan submittal}

3) Preliminary Plan Conditions:

1. *Revise plan to limit the extent of clearing and increase the clearing limits closest to Fernald Road by 50 ft. As stated in comment #1, the applicant has addressed this condition*
2. *Revise the landscape plan to accommodate planting that will effectively screen the parking at the front of the building and drive through vehicles. The landscape plan has been revised and it appears the additional planting addresses the screening of the drive-thru vehicles. Additional plantings at the corner (currently shown as lawn) of the drive-thru exit and the right turn lane leaving the site would be optimal in effectively screening the parking in front of the building.*

3. *Address Planning Board, CMA and staff comments prior to submitting a final plan, add additional handicap parking space, show additional test pit, reserve area for septic, details for storm water basins, sign details, submit final permits and address Conservation Commission's concerns in writing.* The applicant has satisfactorily addressed comments that referenced in this condition. See CMA's 1/4/16 letter and the applicant's response to staff and CMA comments and a 9/24/15 letter addressing the Conservation Commission's concerns, all included in this packet.

The latter issue around the impact to the adjacent wetland seems to be resolved when considering the definition of wetland alteration in 16.2.2.

Wetland Alteration means filling, dredging, removal of vegetation, muck or debris, draining or otherwise changing the hydrology; construction or repair of a structure. On a case-by-case basis and as determined by the Planning Board, the term "alteration" may exclude:

- (1) An activity of installing a fence post or planting shrubs by hand;
- (2) Alteration of an existing structure such as a bench or hand rail; and
- (3) The construction, repair or alteration of a structure, with minimal impact, such as a nesting box, pasture fence or staff gauge.

Staff recommends the proposed trees be located outside of the wetland since it is likely they will benefit more by being in more well drained soil and planting dug mechanically. There does not seem to be any restriction from removing the trees in the wetland as long as removing them does not physically disrupt or alter the wetland or change the wetland's hydrology.

4. *Address traffic concerns.* The applicant has received a Traffic Movement Permit from the Maine DOT dated 11/23/2015 and attached for the Board's reference. CMA has some additional recommendations that can be a condition of approval if the Board concurs.

4) Sign location. The location for the proposed free-standing sign is located within the Route 236 Right-of-Way which is not allowed per 16.8.10.3.B. The plan needs to be revised to show the proposed sign outside of the right-of-way. A sign permit will need to be completed and submitted and approved by the Town prior to installation.

Recommendation/Action

The final plan submission appears to be complete and ready for the Board to consider conditional approval.

Move to accept the final plan application and approve with conditions the final site plan for 89 Route 236 (Map 28, Lot 14-2) located in the Commercial-2 Zone. for owner and applicant Rockwell Homes, LLC. upon the review and voting, in the affirmative, on the Findings of Fact...

**KITTERY PLANNING BOARD
 FINDINGS OF FACT -**

UNAPPROVED

**for
 Rockwell Homes, LLC, 89 Route 236
 Mixed Use Development Site Plan**

Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and required by the Planning Board.

WHEREAS: Owner/applicant Rockwell Homes, LLC request consideration of plans for a single, 2,520-square-foot building containing business offices and a showroom and a drive-through-only restaurant at 89 Route 236 (Tax Map 28, Lot 14-2) in the Commercial 2 (C-2) Zone

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 1/14/2016;

| | | |
|--------------------------------------|-----------------------|-----------|
| Sketch Plan Review | Held | 6/11/2015 |
| Site Visit | Held | 9/3/2015 |
| Preliminary Plan Completeness Review | Held, accepted | 8/20/2015 |
| Public Hearing | Held | 9/10/2015 |
| Preliminary Plan Approval | Granted (conditional) | 9/10/2015 |
| Final Plan Approval | Granted (conditional) | 1/14/2016 |

and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following and as noted in the Plan Review Notes dated 1/14/2016 (Hereinafter the “Plan”).

1. Subdivision Review Application and Drainage Analysis, Tidewater Engineering & Surveying, received July 23, 2015 and revised December 14, 2015.
2. Original Site Plan, Civil Consultants, REV date February 20, 2014
3. Amended Site Plan, Existing Conditions Plan, Grading and Drainage Plan, Landscape Plan, Site Lighting Plan (Charron Inc), Erosion and Sedimentation Control Plan, Detail Sheets, Architectural Drawings (J. Winslow Hutchins), and Stormwater Report, Tidewater Engineering & Surveying, received July 23, 2015, with a revision dates through 12/14/2015
4. MDOT Traffic Movement Permit dated 11/23/2015
5. MDEP Stormwater Permit By Rule application dated 9/21/2015

NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section 16.10.8.3.4. and as recorded below:

FINDINGS OF FACT

Action by the board shall be based upon findings of fact 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.

The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if

any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

The proposed mixed-use building that includes a drive-thru restaurant (Aroma Joe's) with no accommodation for seating has received a MDOT traffic moving permit and the planning board concurred with the reduced parking proposed due to the type of restaurant and likely limited parking demand for the primary office use (owners Rockwell Homes) proposed. A condition of approval requires that parking requirements will be reevaluated if the proposed uses change and/or if it is evident the demand is greater than anticipated. The proposed Development appears to conform to Title 16. The Board finds this standard has been met.

Vote of _ in favor_ against _ abstaining

B. Freshwater Wetlands Identified.

All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

A small wetland along Route 236 has been identified. The Board finds this standard has been met..

Vote of _ in favor_ against _ abstaining

C. River, Stream or Brook Identified.

Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B, Subsection 9.

None have been identified. The Board finds this standard is not applicable. .

Vote of _ in favor_ against _ abstaining

D. Water Supply Sufficient. {and}

The proposed development has sufficient water available for the reasonably foreseeable needs of the development.

E. Municipal Water Supply Available.

The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.

The Kittery Water District provided a letter of evaluation verifying its capacity to supply water to the proposed project. The Board finds these standards has been met.

Vote of _ in favor_ against _ abstaining

F. Sewage Disposal Adequate.

The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

Location of subsurface wastewater disposal system and a reserve system have been located on the plan and a completed HHE-200 application with test pit information has been submitted. The Board finds this standard has been met.

Vote of _ in favor_ against _ abstaining

| |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| G. Municipal Solid Waste Disposal Available. |
| <i>The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.</i> |
| The proposed development accommodates a dumpster. The Board finds this standard has been met. |
| Vote of _ in favor_ against _ abstaining |
| H. Water Body Quality and Shoreline Protected. |
| <i>Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.</i> |
| The development is not within 250 feet of any regulated (non-forested) wetland as it relates to the shoreland overlay zone. The Board finds this standard is not applicable. |
| Vote of _ in favor_ against _ abstaining |
| I. Groundwater Protected. |
| <i>The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.</i> |
| As referenced in F. Sewage Disposal Adequate, the proposed development will not adversely affect the quality or quantity of groundwater. The Board finds this standard has been met. |
| Vote of _ in favor_ against _ abstaining |
| J. Flood Areas Identified and Development Conditioned. |
| <i>All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.</i> |
| The property is not located within a flood prone area. The Board finds this standard is not applicable. |
| Vote of _ in favor_ against _ abstaining |
| K. Stormwater Managed. |
| <i>Stormwater Managed. The proposed development will provide for adequate stormwater management</i> |
| CMA, town peer-review engineer reports that the applicant has prepared a complete stormwater design and associated analysis and the proposed development meets the requirements of the LUDC. The design was prepared by Tidewater Engineering & Surveying and reviewed by CMA Engineers. |
| The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate stormwater management. The Board finds this standard has been met. |
| Vote of _ in favor_ against _ abstaining |

| |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| L. Erosion Controlled. |
| <i>The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.</i> |
| The Contractor shall follow MDEP best management practices for erosion and sediment control (silt fencing, silt sacks, etc.), and CMA engineers will be notified to observe application during construction (see conditions of approval #2). |
| The proposed development conforms to Title 16.8.8 Surface Drainage and will provide for adequate erosion and sediment control measures on site. The Board finds this standard has been met. |
| Vote of __ in favor__ against __ abstaining |
| M. Traffic Managed. |
| <i>The proposed development will:</i> |
| <ol style="list-style-type: none"> 1. <i>Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and</i> 2. <i>Provide adequate traffic circulation, both on-site and off-site.</i> |
| An analysis of the traffic generation has been completed and reviewed by CMA, and the Maine DOT who, after a meeting with the Town, CMA, the applicant and their agents, granted a Traffic Movement Permit for the proposed development. This includes a right-turn pocket on Rt. 236. CMA has some additional comments that are identified in their 1/4/2016 review letter that the applicant will be required to follow as part of Condition # 6., and Condition # 4 as related to the parking requirements. |
| The proposed development conforms to Title 16.8.9 Parking, Loading and Traffic and will provide for adequate traffic circulation. The Board finds this standard has been met. |
| Vote of __ in favor__ against __ abstaining |
| N. Water and Air Pollution Minimized. |
| <i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i> |
| <ol style="list-style-type: none"> 1. <i>Elevation of the land above sea level and its relation to the floodplains;</i> 2. <i>Nature of soils and sub-soils and their ability to adequately support waste disposal;</i> 3. <i>Slope of the land and its effect on effluents;</i> 4. <i>Availability of streams for disposal of effluents;</i> 5. <i>Applicable state and local health and water resource rules and regulations; and</i> 6. <i>Safe transportation, disposal and storage of hazardous materials.</i> |
| <ol style="list-style-type: none"> 1. The development is located outside of a Flood Hazard Area. 2 An competed HHE has been submitted for subsurface wastewater disposal systems 3 thru 6. Not applicable to the proposed development. |
| It does not appear the proposed development will result in undue water or air pollution The Board finds this standard has been met. |
| Vote of __ in favor__ against __ abstaining |

| |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| O. Aesthetic, Cultural and Natural Values Protected. |
| <i>The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.</i> |
| There is no significant change proposed in the use of the property that would have an undue adverse impact on aesthetic, cultural or natural values. |
| The property does not include any significant aesthetic, cultural or natural values that require protection. The Board finds this standard has been met. |
| Vote of __ in favor__ against __ abstaining |
| P. Developer Financially and Technically Capable. |
| <i>Developer is financially and technically capable to meet the standards of this section.</i> |
| The developer will provide an inspection escrow in an amount suitable to cover the costs of on-site inspection by the Peer Review Engineer to ensure the proposed development is constructed according to the approved plan. The Board finds this standard has been met. |
| Vote of __ in favor__ against __ abstaining |

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 final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers: None

Conditions of Approval (to be included on the final plan):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. that any changes to the intensity of use and/or it becomes evident to the Code Enforcement Officer, that there is insufficient parking on site, available parking must be increased as determined and approved by the planning board
5. All Notices to Applicant contained in the Findings of Fact (dated: January14, 2016).

Conditions of Approval (Not to be included on the final plan):

6. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar.

Notices to Applicant: (not to be included on the final plan)

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.
4. The owner and/or developer, in an amount and form acceptable to the town manager, must file with the municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and site erosion and stormwater stabilization, including inspection fees for same.
5. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

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

Vote of __ in favor__ against __ abstaining

APPROVED BY THE KITTELY PLANNING BOARD ON January 14, 2016

Ann Grinnell, Planning Board Chair

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.



January 4, 2016

Chris DiMatteo, Town Planner
Town of Kittery
P.O. Box 808
Kittery, Maine 03904

**RE: Town of Kittery, Planning Board Services
Site Plan Amendment Application Review #3
Rockwell Homes, LLC
Route 236 and Fernald Road, Tax Map 28, Lot 14-2
CMA #591.88**

Dear Chris:

CMA Engineers has received the following information for Assignment #88, final review of the Site Plan Amendment Application (Tax Map 28, Lot 14-2):

- 1) Site Plan Amendment Application for Rockwell Homes, LLC, Tax Map 28 Lot 14-2 prepared by Tidewater Engineering & Surveying, dated December 14, 2015.
- 2) Response letter and supporting documentation dated December 14, 2015.

The proposed project is a major modification to a previously approved two commercial lot subdivision and site plan. The current proposal is to develop the one of the lots by constructing a multi-use building with associated parking and site improvements.

We believe the applicant has addressed our comments from the previous reviews (dated August 18, 2015 and September 21, 2015).

Regarding traffic and access, the applicant has recently obtained a Traffic Movement Permit from Maine DOT (dated November 23, 2015). This permit requires a right-hand turn pocket, or south-bound turning lane into the site. We have the following comments regarding the design to accomplish the requirements of the permit:

1. The existing fog line should be obliterated for the length of the turn lane/taper.
2. The 4" SWL between the between the auxiliary lane and travel lane should be solid, not dashed.
3. Correctly space and add dimension spacing to turn arrow symbols.
4. Provide a section through the auxiliary lane to show proposed front/back slopes. Specify required clear zone and confirm this distance can be achieved.

CMA ENGINEERS, INC.
CIVIL/ENVIRONMENTAL ENGINEERS

35 Bow Street
Portsmouth, New Hampshire
03801-3819

Phone: 603/431-6196

Fax: 603/431-5376

E-mail: info@cmaengineers.com

Web Site: www.cmaengineers.com

5. Provide striping details (or references) with sizes, paint type, etc.
6. The 19.0 mm base course should be installed in maximum single lifts of 3".
7. Demonstrate that the gravel base thicknesses meet Maine DOT requirements for new construction.

Should you have any questions, please do not hesitate to call.

Very truly yours,

CMA ENGINEERS, INC.



Jodie Bray Strickland, P.E.

Project Engineer

cc: Ryan McCarthy, P.E. Tidewater Engineering and Survey



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January 4, 2016

Chris DiMatteo, Town Planner
Town of Kittery
P.O. Box 808
Kittery, Maine 03904

**RE: Town of Kittery, Planning Board Services
Site Plan Amendment Application Review #3
Rockwell Homes, LLC
Route 236 and Fernald Road, Tax Map 28, Lot 14-2
CMA #591.88**

Dear Chris:

CMA Engineers has received the following information for Assignment #88, final review of the Site Plan Amendment Application (Tax Map 28, Lot 14-2):

- 1) Site Plan Amendment Application for Rockwell Homes, LLC, Tax Map 28 Lot 14-2 prepared by Tidewater Engineering & Surveying, dated December 14, 2015.
- 2) Response letter and supporting documentation dated December 14, 2015.

The proposed project is a major modification to a previously approved two commercial lot subdivision and site plan. The current proposal is to develop the one of the lots by constructing a multi-use building with associated parking and site improvements.

We believe the applicant has addressed our comments from the previous reviews (dated August 18, 2015 and September 21, 2015).

Regarding traffic and access, the applicant has recently obtained a Traffic Movement Permit from Maine DOT (dated November 23, 2015). This permit requires a right-hand turn pocket, or south-bound turning lane into the site. We have the following comments regarding the design to accomplish the requirements of the permit:

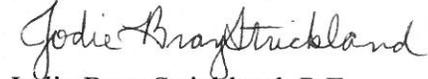
1. The existing fog line should be obliterated for the length of the turn lane/taper.
2. The 4" SWL between the between the auxiliary lane and travel lane should be solid, not dashed.
3. Correctly space and add dimension spacing to turn arrow symbols.
4. Provide a section through the auxiliary lane to show proposed front/back slopes. Specify required clear zone and confirm this distance can be achieved.

5. Provide striping details (or references) with sizes, paint type, etc.
6. The 19.0 mm base course should be installed in maximum single lifts of 3”.
7. Demonstrate that the gravel base thicknesses meet Maine DOT requirements for new construction.

Should you have any questions, please do not hesitate to call.

Very truly yours,

CMA ENGINEERS, INC.



Jodie Bray Strickland, P.E.

Project Engineer

cc: Ryan McCarthy, P.E. Tidewater Engineering and Survey



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Web Site: www.cmaengineers.com

September 21, 2015

Chris DiMatteo, Town Planner
Town of Kittery
P.O. Box 808
Kittery, Maine 03904

**RE: Town of Kittery, Planning Board Services
Site Plan Amendment Application Review #2
Rockwell Homes, LLC
Route 236 and Fernald Road, Tax Map 28, Lot 14-2
CMA #591.88**

Dear Chris:

CMA Engineers has received the following information for Assignment #88, review #2 of the Site Plan Amendment Application (Tax Map 28, Lot 14-2):

- 1) Site Plan Amendment Application for Rockwell Homes, LLC, Tax Map 28 Lot 14-2 prepared by Tidewater Engineering & Surveying, dated August 27, 2015.
- 2) Application for Maine DOT Permit for the Aroma Joe's., Kittery Maine, by Eaton Traffic Engineering, August 2015.

We have reviewed the information submitted for conformance with the Kittery Land Use and Development Code (LUDC) and general engineering practices, and offer the comments below that correspond directly to the Town's Ordinances. We note that several of the comments from the previous review were not addressed and are repeated here.

The proposed project is a major modification to a previously approved two commercial lot subdivision and site plan to allow timber harvesting and retail sale of the firewood from within the clearing limits. The current proposal is to develop the lot by constructing a multi-use building with associate parking and site improvements.

16.3 Zoning Regulations

16.3.2.IID.4b. The applicant states that changes have been made to the exterior of the building and updated renderings are forthcoming. Elevations should be submitted for evaluation of conformance with the Town's building design standards.

16.3.2.IID.4c. i. The landscape planter strip must be a minimum of twenty feet wide, the proposed planter strip is ten feet wide.

(B) A minimum of one streetside tree is required for each fifty feet of street frontage. For three hundred feet of frontage on U.S. Route 236 and Fernald Road, six streetside trees are required. Five streetside trees are proposed.

50-foot Easement for Sidewalk.

On the original subdivision approved prior to this application, Note 3 of the Development Conditions on the Subdivision Plan states:

“THE 50’ FRONT SETBACK/YARD AREA SHOWN ON LOTS 1 AND 2 IS SUBJECT TO A PUBLIC EASEMENT TO THE TOWN OF KITTEERY FOR THE CONSTRUCTION OF A PAVED SIDEWALK AND ASSOCIATED STREET TREES. THE INSTALLATION OF THE SIDEWALK SHALL BE DONE BY THE OWNER/DEVELOPER IN ACCORDANCE WITH DETAILS APPROVED BY THE PLANNING BOARD AT THE TIME DEVELOPMENT IS PROPOSED BEYOND THAT REPRESENTED PLAN SHEET C2 (SITE PLANM REVISION 5, DATED 2/20/14)”

Sheet C3 of the current proposal, on Note 8. states:

“PROPERTY IS SUBJECT TO A PUBLIC EASEMENT TO THE TOWN OF KITTEERY FOR THE CONSTRUCTION OF A PAVED SIDEWALK AND ASSOCIATED STREET TREES.”

The limits of that easement should be shown on the proposed plan (it is not yet shown).

Additionally, the Planning Board should determine if the current developer has any responsibilities for the further development of the referenced sidewalk.

16.8 Design and Performance Standards-Built Environment

Article VI. Streets and Pedestrian Ways

16.8.4.5. *See discussion of issues and questions under 16.10, Article V*

Article VII. Sewage Disposal

16.8.7.4.A. The test pit log shows an unspecified limiting factor with 24” of the surface (at 18”) so a reserve area should be indicated on the plans.

16.8.7.4.C. The test pit log shows one test pit. There should be a minimum of two test pits conducted to determine soil suitability.

Article IX. Parking, Loading and Traffic

16.8.9.4.D. The applicant has provided the minimum number of parking spaces (15) for the restaurant portion of the site with the justification that it is a drive thru so there are no seats and no additional spaces required. The correct number of spaces are provided for the office. This approach appears reasonable. Does the Planning Board concur with the justification for the number of parking spaces?

Article X. Signs

16.8.10.1

The applicant indicates that changes to the exterior of the building will impact the location of the signs. Building elevations and sign locations and details should be provided to determine conformance with the Ordinances.

Article XXIV. Exterior Lighting

16.8.24.3.A.

The uniformity ratio of the “park and drive” is required to be less than 4:1 and is shown to be 4.3:1. Minor modifications should be made.

16.9 Design and Performance Standards-Natural Environment

Article I. General

16.9.1.3 Prevention of Erosion;

16.9.1.4 Soil Suitability

16.9.1.5 Water Quality and Wastewater Pollution

The Stormwater management plans submitted to ME DEP should be part of the Town of Kittery planning board review process, and address these issues. The final permits should be reviewed as part of this process.

16.10 Development Plan Application and Review

Article V Preliminary Application Review and Approval Process

16.10.5.2. C.10 Traffic Impact Analysis

The applicant has prepared a traffic impact analysis of the proposed development, which is expressed as an Application for MDOT Permit for the Proposed Aroma Joes, Kittery, Maine, prepared by Eaton Traffic Engineering (ETE) of Topsham, ME and dated August, 2015. Because the peak traffic is over 100 trip ends per hour, and MDOT Traffic Movement Permit is required for the use.

We have reviewed the document. Our comments are presented below.

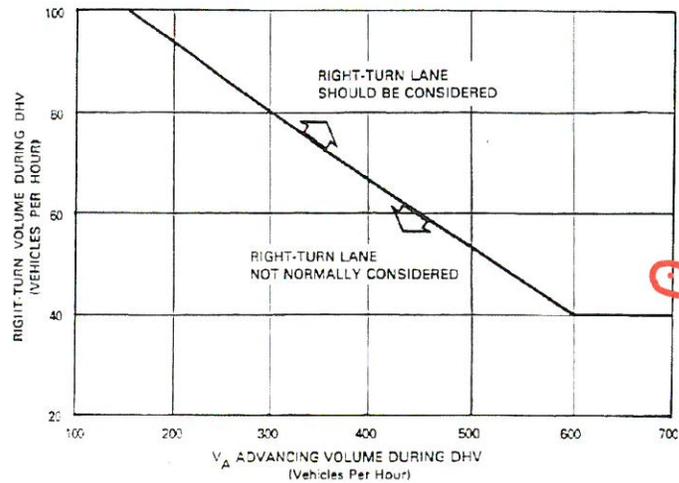
Driveway Performance:

Due to the volume of traffic proposed to enter and leave the site during peak hours, the travel speeds on this section of Route 236, and only the through travel lanes north and south bound (with shoulders), there appears to be a threshold issue as to whether the proposed volume of traffic proposed to use the facility can be reasonably and safely managed with just the through lanes on Route 236, and no auxiliary turning lanes.

Auxiliary turning lanes may be warranted under general traffic considerations, and under MDOT’s specific guidance. The guidance figures for southbound, right turning traffic at peak hour is presented below, with the proposed condition indicated in red. The figure is limited at 700 vehicles per hour, and the actual is 900 VPH, making the warrant stronger.

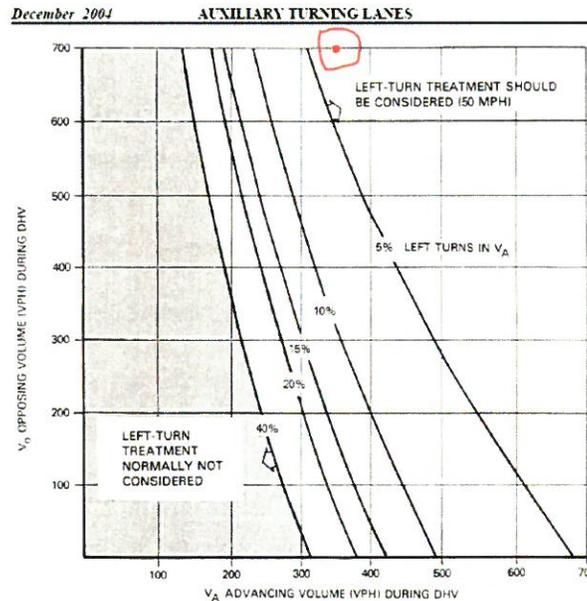
8-27

December 2004 AUXILIARY TURNING LANES



The guidance figure for northbound, left turning traffic at peak hour is presented below, with the proposed condition in also in red. Again, the figure stops at 700 VPH, and the estimated condition is 900 VPH, making the warrant stronger.

8-30



The ETE report suggests that the warrants for turning lanes are a “borderline condition”. Based on the actual data presented, as corroborated by our limited observations at the site around 8 AM on September 11, 2015, we believe this is a stronger condition than that, and should be further evaluated.

We note that there are several high-volume businesses in the vicinity and north of the proposed development on Route 236 (Dunkin Donuts, Kennebunk Savings Bank, Irving gas and

convenience store, and the new Cumberland Farms gas and convenience store). All are accessed from two lanes north or south, or have access off perpendicular street or roadway. In this way, access to these businesses is off a turning lane, and a through lane remains for ongoing traffic.

ETE proposes to mitigate the turning problem by making the radius into the driveway from the north larger so that vehicles would not have to slow down as much to enter the driveway. We raise the following questions regarding this proposed mitigation:

- What turning speeds does ETE predict are safe, and
- What effect does the larger radius have on turning speeds?
- If the easement for a future walkway is exercised by the Town, and pedestrians cross the entrance, are increased speeds acceptable?
- The roadway shoulder is used by cyclists and pedestrians. Are increased speeds compatible with those existing uses?

ETE references the wide shoulder as a positive consideration. The project would likely encourage vehicles accessing the facility to use the wide shoulder as an “unofficial turning lane”. If so, that would be incompatible with vehicle breakdown, cycling, and pedestrian uses of the shoulder.

Trip Generation:

The estimated trip generations for the office space and the drive-through coffee appear reasonable.

The trip generation for the future storage facility appear to be underestimated (2 trips per peak AM hour). The estimate is optimistic, and a more conservative (ie: higher) number should be used unless there is a more substantial basis for the lower estimate.

Fernald Road:

Regarding the Fernald Road entrance on the east side of Route 236 from the driveway, the development will impact drivers turning left (south) onto Rt 236 from the westbound Fernald Road approach. ETE’s analysis (HCM Unsignalized analysis) indicates the delay for these drivers will increase from 41 seconds (pre-development) to 148 seconds (post-development), an increase of over three times. We note that the table for Level of Service changes does not reflect the magnitude of the increased delay. Drivers on Fernald Road would have to wait for a gap in right turning traffic exiting the site driveway in addition to a gap in traffic on Rt 236. Long delays can cause drivers to accept small (possible unsafe) gaps in traffic on Rt 236. The impact of this should be further evaluated.

Additionally, the driveway aligns with Fernald Road. Vehicles simultaneously turning left from both the facility and Fernald Road when there is a traffic gap will compete for space, and potentially be in conflict.

MDOT Traffic Movement Permit Review

An MDOT Traffic Movement Permit is required. We suggest that Town staff be present and/or be represented for such review meetings between the applicant and MDOT.

Should you have any questions, please do not hesitate to call.

Very truly yours,

CMA ENGINEERS, INC.



William A. Straub, P.E.
Project Engineer

cc: Ryan McCarthy, P.E. Tidewater Engineering and Survey



August 18, 2015

Chris DiMatteo, Town Planner
Town of Kittery
P.O. Box 808
Kittery, Maine 03904

**RE: Town of Kittery, Planning Board Services
Site Plan Amendment Application
Rockwell Homes, LLC
Route 236 and Fernald Road, Tax Map 28, Lot 14-2
CMA #591.88**

Dear Chris:

CMA Engineers has received the following information for Assignment #88, review of the Site Plan Amendment Application (Tax Map 28, Lot 14-2):

- 1) Sketch Plan Review Application for 89 U.S. Route 236, Kittery, ME, prepared by Tidewater Engineering & Surveying, dated May 21, 2015.
- 2) Site Plan Amendment Application for Rockwell Homes, LLC, Tax Map 28 Lot 14-2 prepared by Tidewater Engineering & Surveying, dated July 21, 2015.
- 3) Site Plan Amendment Mixed Use Building, Tax Map 28 Lot 14-2, 89 Route 236, Kittery, Maine, dated July 2015.
- 4) Stormwater Report, July 23, 2015, prepared for Rockwell Homes, LLC, 1021 Goodwin Road Eliot, Maine 03903, prepared by Tidewater Engineering & Surveying.

We have reviewed the information submitted for conformance with the Kittery Land Use and Development Code (LUDC) and general engineering practices, and offer the comments below that correspond directly to the Town's Ordinances.

The proposed project is a major modification to a previously approved two commercial lot subdivision and site plan to allow timber harvesting and retail sale of the firewood from within the clearing limits. The current proposal is to develop the lot by constructing a multi-use building with associate parking and site improvements.

16.3 Zoning Regulations

16.3.2.11D.4a &c. The parking requires screening. The applicant has stated that a landscape plan is forthcoming.

50-foot Easement for Sidewalk. On the original subdivision approved prior to this application, Note 3 of the Development Conditions on the Subdivision Plan states:

“THE 50’ FRONT SETBACK/YARD AREA SHOWN ON LOTS 1 AND 2 IS SUBJECT TO A PUBLIC EASEMENT TO THE TOWN OF KITTEERY FOR THE CONSTRUCTION OF A PAVED SIDEWALK AND ASSOCIATED STREET TREES. THE INTALLATION OF THE SIDEWALK SHALL BE DONE BY THE OWNER/DEVELOPER IN ACCORDANCE WITH DETAILS APPROVED BY THE PLANNING BOARD AT THE TIME DEVELOPMENT IS PROPOSED BEYOND THAT REPRESENTED PLAN SHEET C2 (SITE PLANM REVISION 5, DATED 2/20/14)”

Sheet C3 of the current proposal, on Note 8. states:

“PROPERTY IS SUBJECT TO A PUBLIC EASEMENT TO THE TOWN OF KITTEERY FOR THE CONSTRUCTION OF A PAVED SIDEWALK AND ASSOCIATED STREET TREES.”

The limits of that easement should be shown on the proposed plan (it is not yet shown).

Additionally, the Planning Board should determine if the current developer has any responsibilities for the further development of the referenced sidewalk and street trees.

16.8 Design and Performance Standards-Built Environment

Article VII. Sewage Disposal

- 16.8.7.4.A. The test pit log shows an unspecified limiting factor with 24” of the surface (at 18”) so a reserve area should be indicated on the plans.
- 16.8.7.4.C. The test pit log shows one test pit. There should be a minimum of two test pits conducted to determine soil suitability.

Article IX. Parking, Loading and Traffic

- 16.8.9.4.D. The applicant has provided the minimum number of parking spaces (15) for the restaurant portion of the site with the justification that it is a drive thru so there are no seats and no additional spaces required. The correct number of spaces are provided for the office. This approach appears reasonable. Does the Planning Board concur with the justification for the number of parking spaces?
- 16.8.9.4.G. Parking landscaping is required. The applicant has stated that a landscape plan is forthcoming.
- 16.8.9.4.I. The applicant has provided one accessible parking space but two are required.
- 16.10.5.2.C.10 The applicant states that a traffic evaluation report and MEDOT Traffic Movement Permit are in preparation. These need to be reviewed in detail.

Article X. Signs

16.8.10.1 The applicant indicates two signs on the plans. Details should be provided to determine conformance with the Ordinances.

Article XXIV. Exterior Lighting

16.8.24.1 The applicant has indicated that a lighting plan is forthcoming.

Article VIII. Surface Drainage

The proposed plan for stormwater management includes the use of a stormwater basin for storage of peak stormwater flows with controlled release of stormwater to an overflow spillway and a wooded buffer.

The design limits post construction flows to levels below those at pre-construction.

The applicant should provide details for the stormwater basin (construction materials, proposed plantings, spillway, etc).

16.9 Design and Performance Standards-Natural Environment

Article I. General

16.9.1.3 Prevention of Erosion;

16.9.1.4 Soil Suitability

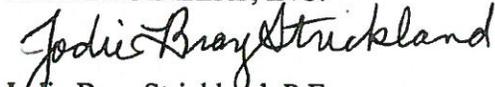
16.9.1.5 Water Quality and Wastewater Pollution

The Stormwater management plans submitted to ME DEP should be part of the Town of Kittery planning board review process, and address these issues. The final permits should be reviewed as part of this process.

Should you have any questions, please do not hesitate to call.

Very truly yours,

CMA ENGINEERS, INC.



Jodie Bray Strickland, P.E.

Project Engineer

cc: Ryan McCarthy, P.E. Tidewater Engineering and Survey

North
W  EASTERLY
SURVEYING, Inc.

191 State Road, Suite #1 • Kittery, Maine 03904 • (207) 439-6333 • Fax (207) 439-1354

DEC 23 2015 PM 4:44

December 23, 2015

Kittery Planning Board
c/o Chris DeMatteo - Town Planner
200 Rogers Road
Kittery, ME 03904

Planning Board Review – Shoreland Development – Chris Eckel - 3 Knight Avenue, Kittery,
ME
Job# 15716

Dear Planner and Planning Board Members,

The Eckel Family would like to apply to rebuild and expand the garage located on their property at 3 Knights Avenue in Kittery. The present garage is aged and in need of major repair. They would like to replace it with a slightly larger (29.2%) garage. As people in town know, there have been many parking issues in this area and this proposal would provide the most reasonable off street parking to service the single family dwelling located on this lot. They would also like to stabilize the bank adjacent to Knights Avenue with a small retaining wall. A stone walkway from the garage to the dock is being proposed and a catch drain along the northeasterly side of the house. Attached you will find the following:

- 1) A Shoreland Development Plan Application
- 2) An Expansion/Construction Analysis within the Shoreland Overlay Zone.
- 3) A couple of sketches of the proposed garage.
- 4) An aerial photo showing the building's relationship with the river.
- 5) Photos of the existing garage.
- 6) A Shoreland Development Plan.

As you can see the objectives of the code are being met by the owners and would like the planning board to approve this modest expansion within the Shoreland Zone.

Please feel free to contact me should you have any questions.

Sincerely:


Kenneth D. Markley R.L.S.
President – North Easterly Surveying, Inc.

SHORELAND DEVELOPMENT PLAN APPLICATION



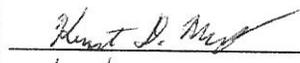
TOWN OF KITTEY
Planning & Development Department
 200 Rogers Road, Kittery, ME 03904
 Telephone: 207-475-1323 Fax: 207-439-6806

MAP 4 LOT 70
 DATE: _____
 FEE: \$ 200.00
 ASA*: _____

| | | | | |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------------|--------------------------------------------------------|
| PROPERTY DESCRIPTION | Physical Address | 3 Knight Avenue, Kittery, Maine | | |
| | Base Zone | MU-KF | Overlay Zone (s) | OZ-SL-250 |
| OWNER INFORMATION | Name | Christopher G. Eckel Rev. Trust | | Mailing Address 3 Knight Ave. Kittery |
| | Phone | 603-714-9695 | | |
| | Email | CGEckel@gmail.com | | |
| AGENT INFORMATION | Name | Ken Markley | | Company North Easterly Surveying, Inc. |
| | Phone | 207-439-6333 | | Mailing Address 191 State Road Kittery, ME 03904 |
| | Email | Ken@easterlysurveying.com | | |
| | Fax | 207-439-1354 | | |
| APPLICANT INFORMATION | Name | | | Mailing Address |
| | Phone | | | |
| | Email | | | |
| PROJECT DESCRIPTION | <u>Existing Use:</u> Single Family Dwelling with a 1 car garage. | | | |
| | <u>Proposed Use (describe in detail):</u> Single Family Dwelling with a 2 car garage. Garage expansion being 29.2% by area and 15.9% by volume | | | |

| | |
|----------------------------|---------------------------------------------------------------------------------------------------------------------|
| PROJECT DESCRIPTION | Please describe any construction constraints (wetlands, shoreland overlay zone, flood plain, non-conformance, etc.) |
| | Entire lot is within 100 feet of the Piscataqua River |

I certify I have provided, to the best of my knowledge, information requested for this application that is true and correct and I will not deviate from the Plan submitted without notifying the Planning and Development Department of any changes.

| | | | |
|-------------------------------|-----------------------------------------------------------------------------------|---------------------------|-------|
| Applicant's Signature: |  | Owner's Signature: | _____ |
| Date: | 12/23/15 | Date: | _____ |

*Applicant Service Accounts: Fees to pay other direct costs necessary to complete the application process, not including application fees. Title 3, Chapter 3.3.

MINIMUM PLAN SUBMITTAL REQUIREMENTS

15 Copies of this Application Form, all supporting documents, and the Development Plan and Vicinity Map
12 plan copies may be half-size (11"x17") and 3 must be full-size (24"x36")

Shoreland Development Plan format and content:

- A) Paper Size; no less than 11" X 17" or greater than 24" X 36"
- B) Plan Scale
 - Under 10 acres: no greater than 1" = 30'
 - 10 + acres: 1" = 50'
- C) Title Block
 - Title: Shoreland Development Plan
 - Applicant's name and address
 - Name of preparer of plan with professional information
 - Parcel's Kittery tax map identification (map – lot) in bottom right corner
 - Vicinity Map or aerial photo showing geographic features 5,000 feet around the site.**
- D) Signature Block
 - Area for signature by Planning Board Chair and Date of Planning Board Approval

Development Plan must include the following existing and proposed information:

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Existing:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Land Use Zones and boundaries <input type="checkbox"/> Topographic map (optional) <input type="checkbox"/> Wetlands and flood plains <input type="checkbox"/> Water bodies and water courses <input type="checkbox"/> Parcel area <input type="checkbox"/> Lot dimensions <input type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input type="checkbox"/> Streets, driveways and rights-of-way <input type="checkbox"/> Structures <input type="checkbox"/> Distance from structure to water body and property lines <input type="checkbox"/> Floor area, volume, devegetated area, and building coverage | <p>Proposed: (Plan must show the lightened existing topography under the proposed project plan for comparison.)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Recreation areas and open space <input type="checkbox"/> Setback lines and building envelopes <input type="checkbox"/> Lot dimensions <input type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input type="checkbox"/> Streets, driveways and rights-of-way <input type="checkbox"/> Structures <input type="checkbox"/> Floor area, volume, devegetated area, and building coverage <p>Distance to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Nearest driveways and intersections <input type="checkbox"/> Nearest fire hydrant <input type="checkbox"/> Nearest significant water body; ocean, wetland, stream |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Expansion/Construction Analysis within the Shoreland Overlay Zone¹ (see Table 16.9)

Size of water body or wetland: <500 sf <501 sf-1 acre >1 acre

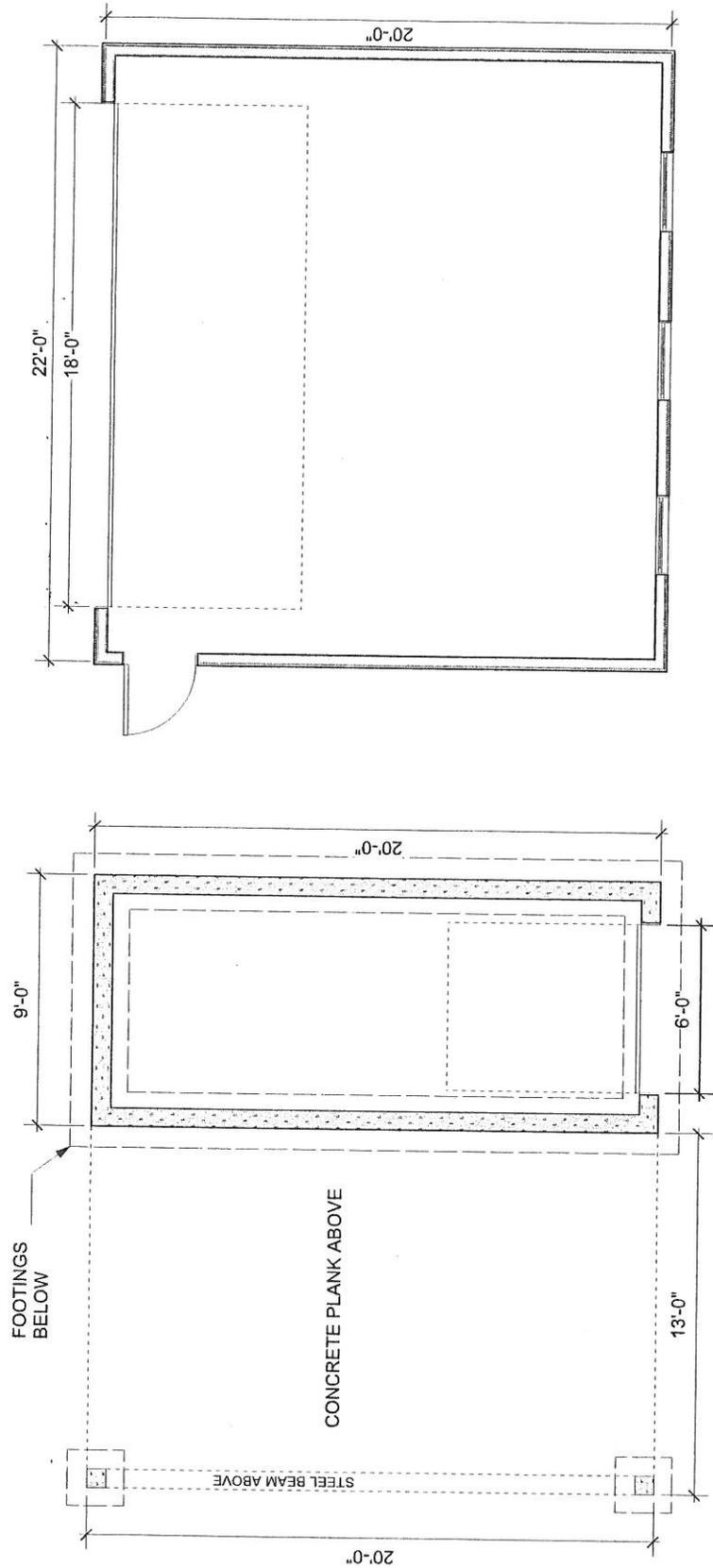
Structure distance from water body: 28.1 feet

| STRUCTURE | Existing | Proposed | % Increase* | |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------|-------------|--------------|
| SF (Area) | 480 sf | 620 sf | 29.2 % | |
| CF (Volume) | 4,280 cf | 4960 cf | 15.9 % | |
| Construction: | New: <input type="checkbox"/> Demo/Rebuild: <input checked="" type="checkbox"/> Maintenance/repair: <input type="checkbox"/> | | | Value: \$ |
| *Total increase in area and/or volume may not exceed 30% for any new construction since 1/1/1989. | | | | |

| PARCEL DE-VEGETATION | % Allowed* | Existing SF | Proposed SF | % Proposed* |
|--------------------------------------------------------------------------------------------------|-------------|-------------|-------------|---------------|
| Lot Size (sf) 8,355 | 60 % | 1,675 sf | 2665 sf | 31.9 % |
| *See underlying zone standards for de-vegetated area percent allowed within a Shoreland Overlay. | | | | |

| BUILDING COVERAGE | % Allowed* | Existing SF | Proposed SF | % Proposed* |
|-----------------------------------------------------------------------|-------------|-------------|-------------|---------------|
| Lot Size (sf) 8,355 | 60 % | 1,190 sf | 1,330 sf | 15.9 % |
| *See underlying zone standards for building coverage percent allowed. | | | | |

¹Calculations for area, volume, and de-vegetated areas must be included on the final plan and certified by a State of Maine registered architect, landscape architect, engineer, or land surveyor.

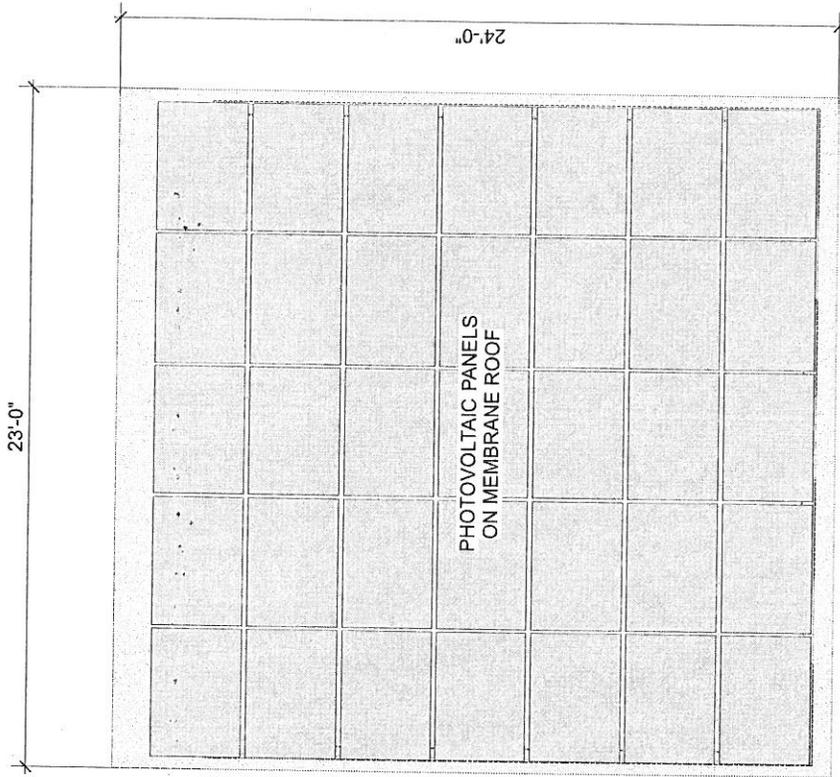


1 GROUND FLOOR PLAN

2 FIRST FLOOR PLAN

| | | | |
|--|--|------------------------------------------------------------|----------------------------------------------------|
| | | KNIGHT AVE. GARAGE KITTERY ME 03904 16 DECEMBER 2015 | A-1 PROPOSED GROUND & FIRST FL. PLANS |
|--|--|------------------------------------------------------------|----------------------------------------------------|

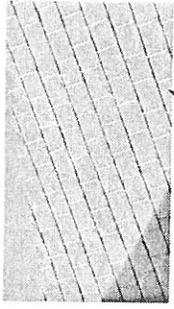




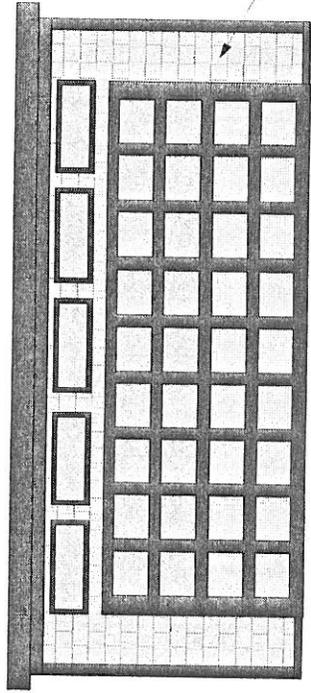
1 ROOF PLAN



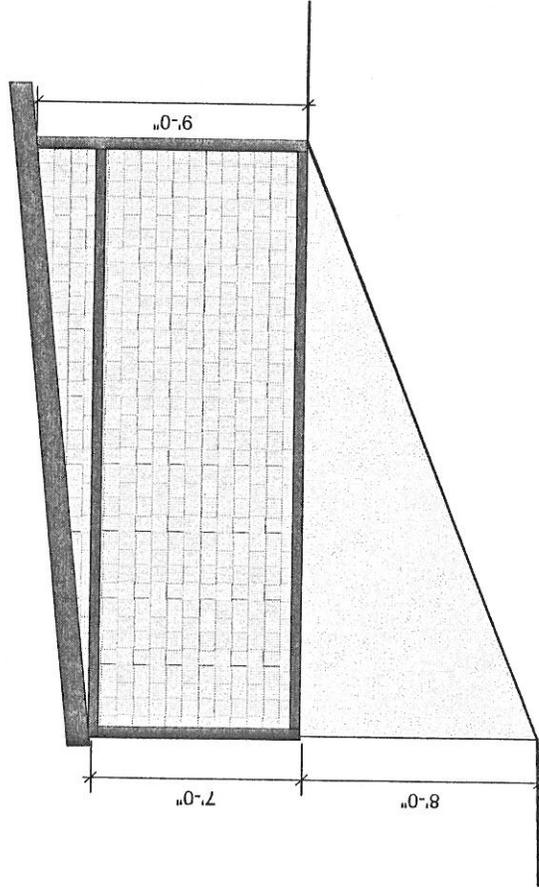
| | | | |
|-------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------|------------------------------------------|
| <p>ARCHITECTURE 1 SALT MARSH LANE KITTERY POINT, MAINE 03905 207-459-8755</p> | <p>0 2 4 8</p> | <p>KNIGHT AVE. GARAGE KITTERY ME 03904 16 DECEMBER 2015</p> | <p>PROPOSED ROOF PLAN A-2</p> |
|-------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------|------------------------------------------|



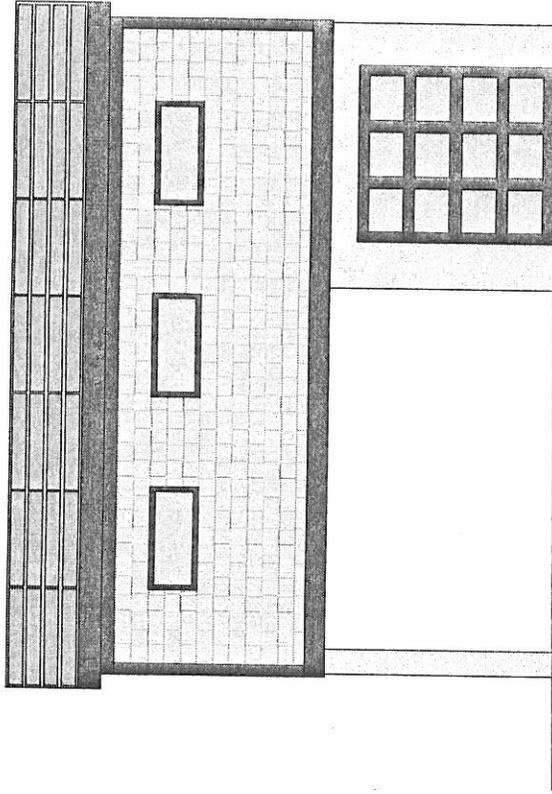
METAL SHINGLE SIDING



3 NORTH ELEVATION

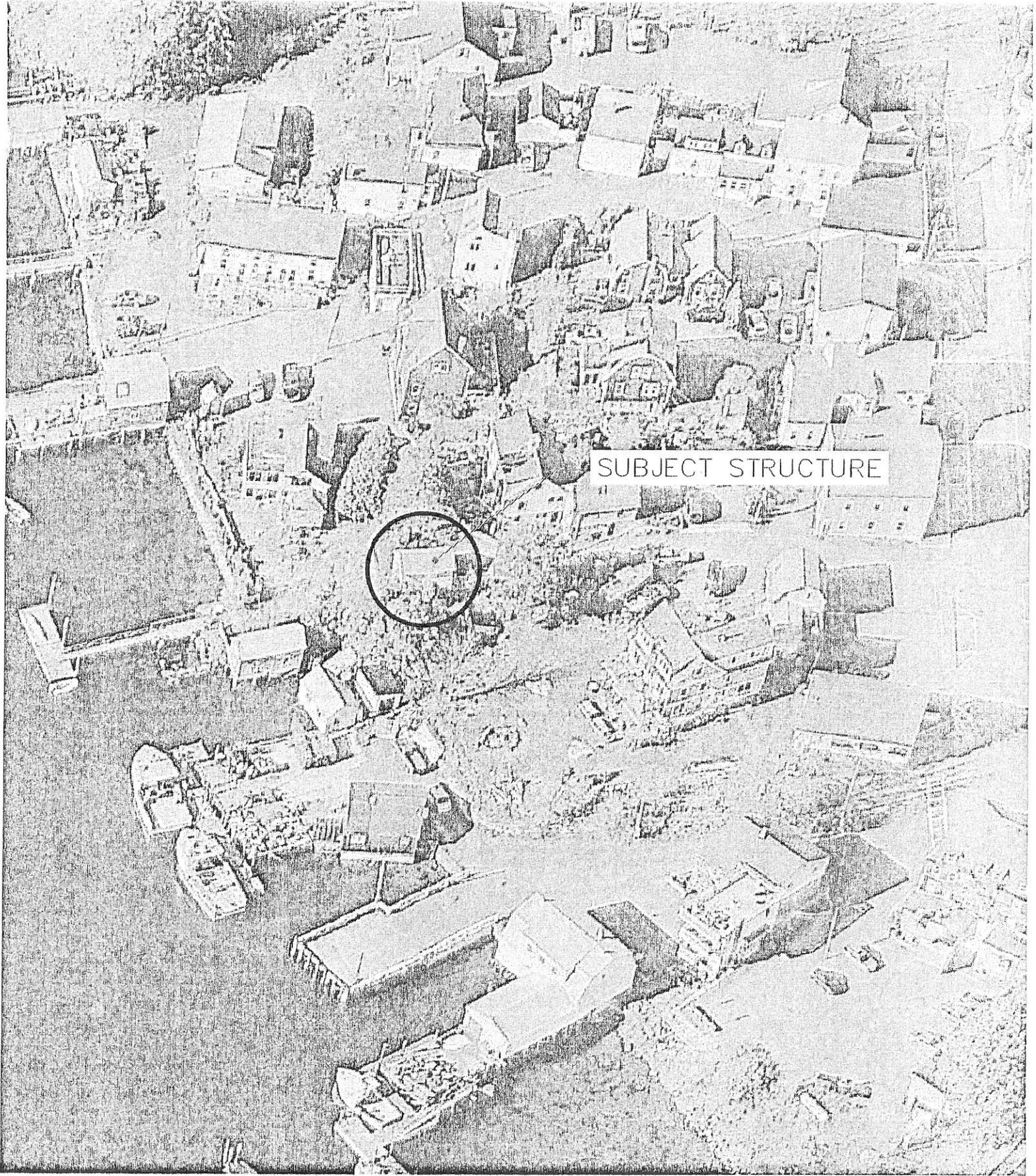


1 SIDE ELEVATION
(OTHER SIDE REVERSED)

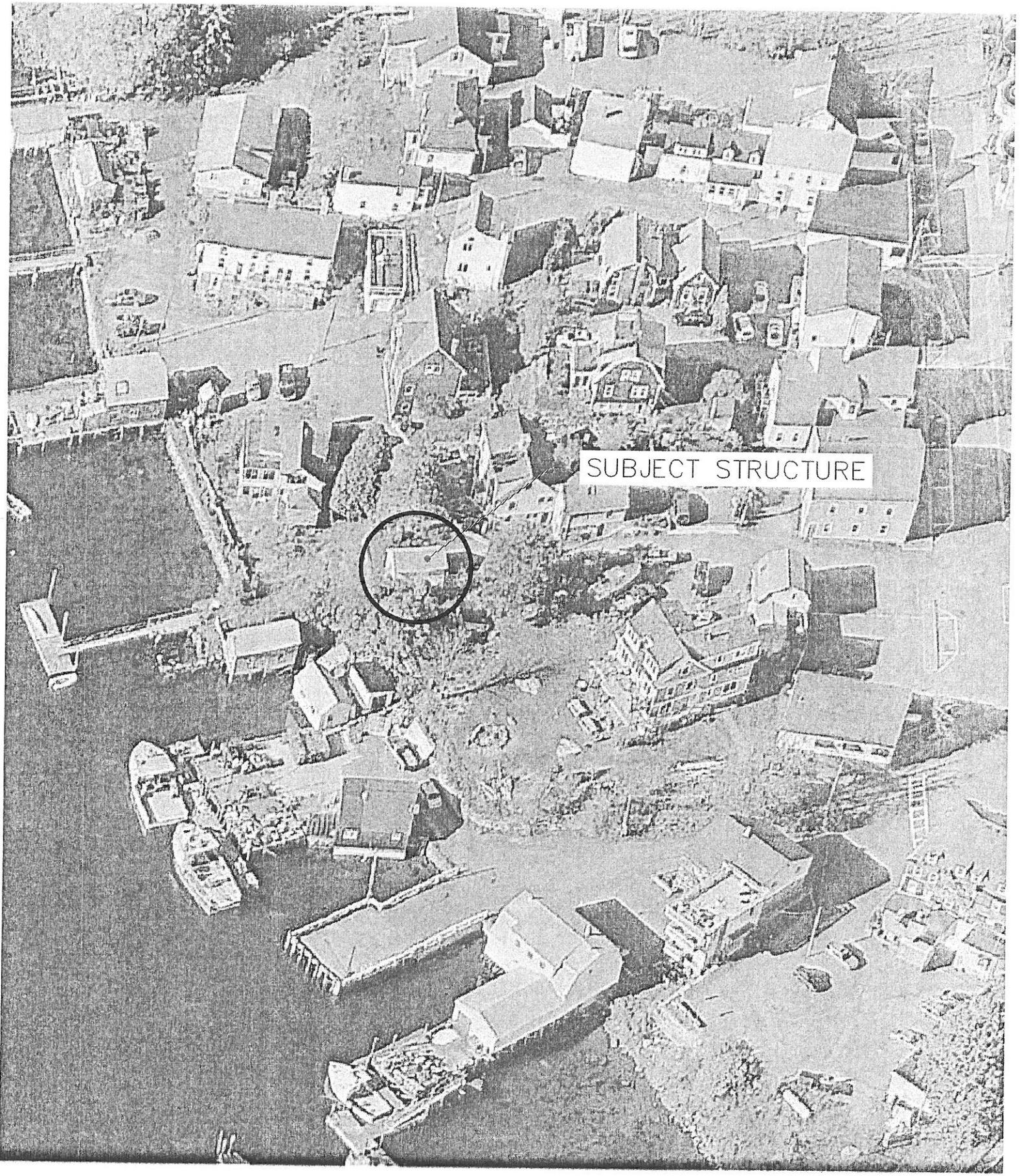


2 SOUTH ELEVATION

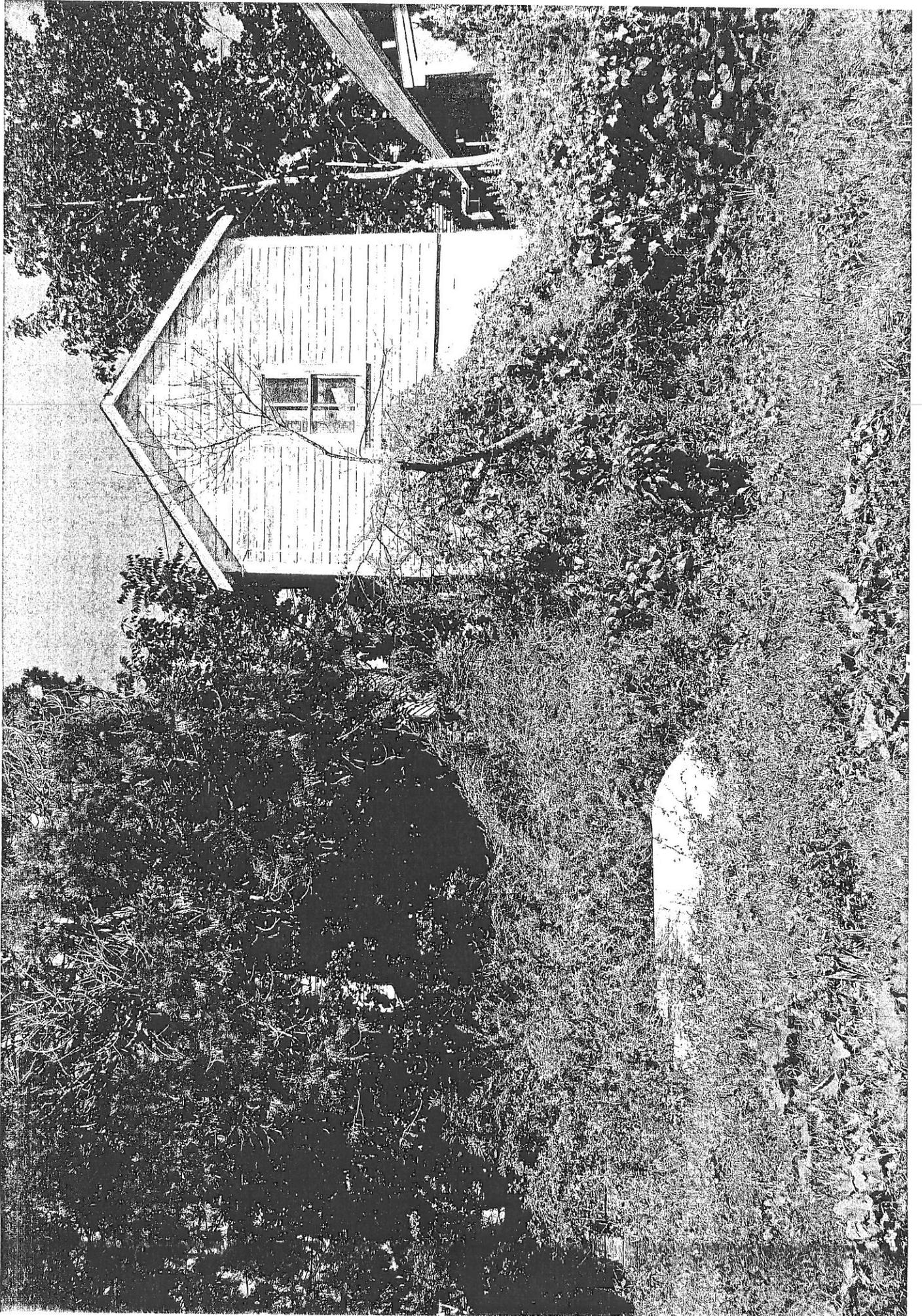
| | | | |
|-------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------|-----------------------------------------|
| <p>PARKER ARCHITECTURE 301 WARELLANE KITTERY ME 03904 207.459.8755</p> | | <p>KNIGHT AVE. GARAGE KITTERY ME 03904 16 DECEMBER 2015</p> | <p>PROPOSED ELEVATIONS</p> <h1>A-3</h1> |
|-------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------|-----------------------------------------|

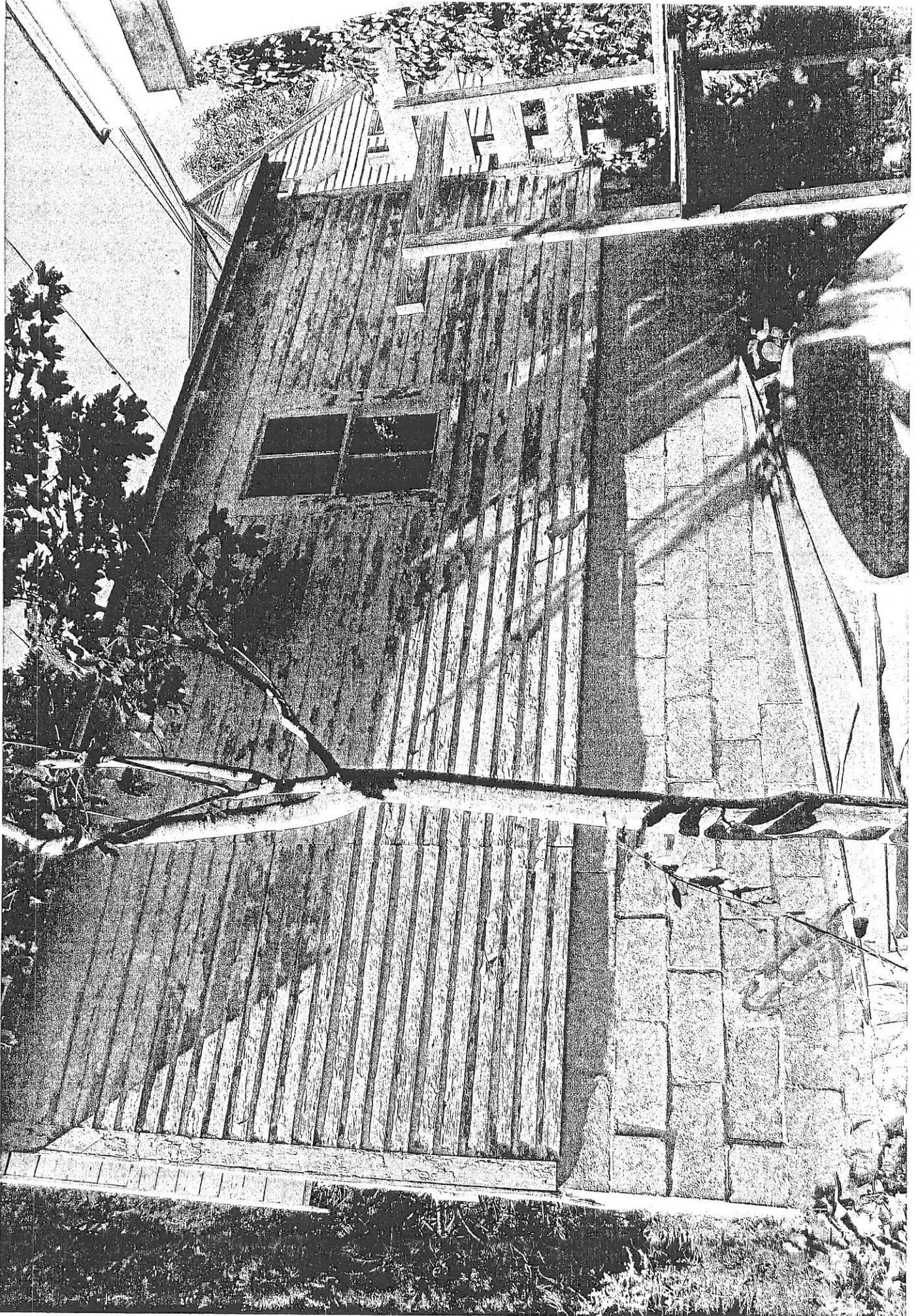


SUBJECT STRUCTURE



SUBJECT STRUCTURE





ZONING DATA PER KITTERY TOWN CODE "TITLE 16 LAND USE AND DEVELOPMENT CODE"(LAST AMENDMENT 1/28/15) (SEE NOTE #6):

BASE ZONE: MIXED USE - KITTERY FORESIDE (MU-KF)

OVERLAY ZONES:

WATER BODY/WETLAND PROTECTION AREA - 250' (OZ-SL-250')
COMMERCIAL FISHERIES/MARITIME USES (OZ-CFMU)

MU-KF BASE ZONE REQUIREMENTS:

MINIMUM LAND AREA PER DWELLING UNIT: 5,000 SQ. FT.
MINIMUM LOT SIZE: 5,000 SQ. FT.
MINIMUM STREET FRONTAGE: 0 FT.
MINIMUM FRONT YARD: 10 FT.
MINIMUM REAR AND SIDE YARDS: 10 FT.
MINIMUM SEPARATION DISTANCE BETWEEN PRINCIPAL BUILDINGS ON SAME LOT: 10 FT.
MAXIMUM BUILDING HEIGHT: 35 FT.

MINIMUM SETBACK FROM WATER BODY AND WETLAND DEPENDENT USES: 0 FT.

ALL OTHER USES: 75 FT.

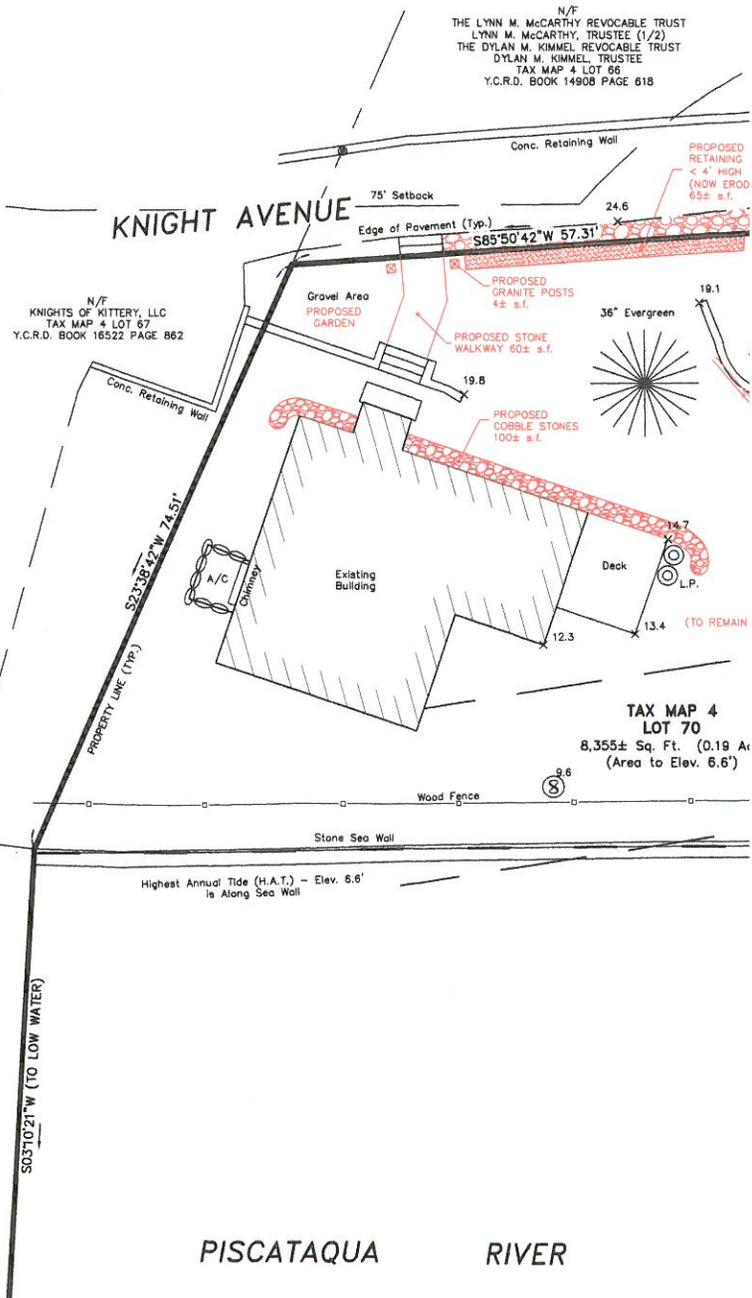
MAXIMUM BUILDING COVERAGE: 60%
MINIMUM OPEN SPACE ON SITE: 40%

OZ-SL-250' REQUIREMENTS (SEE 16.3.2.17):

MINIMUM LOT SIZE: 10,000 SQ. FT.
MINIMUM LAND AREA PER DWELLING UNIT: 10,000 SQ. FT.
MINIMUM SHORE FRONTAGE: 50 FT.
MAXIMUM DEVEGETATED COVERAGE: 60%

PRINCIPAL AND ACCESSORY STRUCTURES SETBACK: 75 FT. FROM NORMAL HIGH WATER, UPLAND EDGE OF A COASTAL WETLAND

ACCESSORY PATIO/DECK < 500 SQ. FT. SETBACK: 75 FT. FROM NORMAL HIGH WATER, UPLAND EDGE OF A COASTAL WETLAND



EXISTING STRUCTURE (GARAGE) NONCONFORMANCE WITHIN 100' SETBACK*:

FLOOR AREA 480± SQ. FT.
STRUCTURE VOLUME 4,280± CU. FT.

PROPOSED STRUCTURE (GARAGE) EXPANSION CALCULATION:

INCREASE FLOOR AREA 140± SQ. FT. = 29.2% EXPANSION (620± SQ. FT. TOTAL)
INCREASE STRUCTURE VOLUME 680± CU. FT. = 15.9% EXPANSION (4,960± CU. FT. TOTAL)

EXISTING DEVEGETATED COVERAGE CALCULATION:

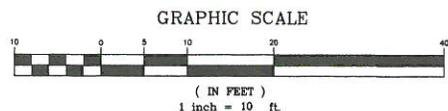
BUILDINGS 1,190± SQ. FT. (14.2%)
GRAVEL/WALLS 320± SQ. FT.
DECK 165± SQ. FT.
TOTAL 1,675± SQ. FT. (1,675 SQ. FT. / 8,355 SQ. FT. = 20.0%)

PROPOSED DEVEGETATED COVERAGE CALCULATION:

PROPOSED ADDITION 140± SQ. FT.
BUILDINGS 1,190± SQ. FT.
GRAVEL/WALLS 320± SQ. FT.
DECK 165± SQ. FT.
PROPOSED DEVEG. SURFACES 850± SQ. FT.
TOTAL 2,665± SQ. FT. / 8,355 SQ. FT. = 31.9%

BUILDING COVERAGE CALCULATION (TOTAL PARCEL):

EXISTING 1,190 SQ. FT. = 14.2%
PROPOSED 1,330 SQ. FT. = 15.9%



**Town of Kittery Maine
Town Planning Board Meeting
January 14, 2016**

ITEM 2 – 3 Knight Ave – Shoreland Development Plan Review

Action: Accept or deny plan application; Approve or deny plan. Owner/applicant Christopher G. Eckel requests consideration of plans to remove and reconstruct an unattached garage and implement several improvements to the lot including a stairway, two pathways and a retaining wall within 75 feet of a protected water body. The lot is located at 3 Knight Ave (Tax Map 4 Lot 70) in the Mixed Use – Kittery foreshore (MU-KF), Shoreland Overlay (OZ-SL-250’) and Commercial Fisheries/Maritime Uses (OZ-CFMU) zones. Agent is Ken Markley, North Easterly Surveying.

PROJECT TRACKING

| REQ'D | DESCRIPTION | COMMENTS | STATUS |
|-------|--------------------------------|----------|--------------------|
| NO | Sketch Plan | | NA |
| NO | Site Walk | | |
| YES | Determination of Completeness | | Scheduled for 1/14 |
| NO | Public Hearing | | |
| Yes | Final Plan Review and Decision | | |

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN ¼: HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 – Grading/Construction Final Plan Required. – Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Background

Planning Board review of this project is required by 16.10.3.2 Other Development Review because it is located in the Shoreland Overlay Zone. The existing use is a non-conforming single-family dwelling on a conforming lot. The entire lot is located within the 100-foot setback from the highest annual tide (HAT) of Piscataqua River. All front and side yard setbacks are met.

The proposed development is to remove an existing garage and rebuild a larger, two car garage. In addition, the applicant requests consideration for several improvements to the property including:

1. A stone stairway and 4 foot pathway leading from the proposed garage to an on-the-water shed
2. A 4-foot pathway leading from the road to the entryway of the principal dwelling
3. Two granite posts to identify walkway from pavement to house
4. Retaining wall <4 feet high along the street frontage, existing conditions – eroding, totaling 65 square feet
5. 100 square feet of cobblestone along the front perimeter of the house for storm water drainage

Staff Review

- The existing garage is located within the 100-foot setback from the HAT, where volume and area calculations are required. Development on structures located within the required setback from a protected resource is subject to a lifetime limit of no more than thirty percent (30%). Town records show no repairs or expansions on the property since January 1, 1989. The proposed development is within this maximum at 29.2% increased floor area and 15.9% increased volume.
- The existing garage is set back 28.1 feet from the HAT. The proposed garage does not result in a greater encroachment than the 28.1 feet, and therefore does not increase nonconformance.
- The Mixed Use – Kittery Foreside zone has a 60% maximum building coverage standard. The existing building coverage level is 14.2%. The proposed building coverage level is 15.9% and meets zone standard.
- Maximum devegetated area in the Shoreland Overlay Zone in the Mixed Use – Kittery Foreside zone is 60%. The current devegetated area is 20.0% of the total property. The proposed development increases the devegetated coverage to 31.9% and meets zone standards. No tree clearing is requested for the proposed development.
- The proposed development includes the addition of a stone stairway, a 4-foot walkway leading from the property's garage to an on-the-water shed, and a 4-foot walkway from the road to the entryway of the existing principal structure. These features are not permissible within 75-feet from the HAT in the Shoreland Overlay Zone.
- The plan shows an existing retaining wall in front of the entry to the principal dwelling. Due to working without a permit, a stop work order was issued on July 2, 2015 for this development. The applicant was directed by the Code Enforcement Officer to apply to the Planning Board for review and approval. The retaining wall, stairs directly in front of the house, and gravel area are not allowed within the 75 foot setback. Returning the area to its pre-development vegetative conditions will be required as part of the shoreland development plan's approval.
- The application also includes a proposed retaining wall to either support or replace an eroding retaining wall along Knight Avenue. The Code Enforcement and Shoreland Resource Officers reviewed the property and found the retaining wall to be structurally significant to support Knight Ave, however a replacement wall should be designed and approved by a professional engineer to ensure functionality. In addition, its size and dimensions need to be the minimum necessary to perform its intended use.

With the recommendations listed below, the proposal for the expansion an existing garage appear to meet the standards of Title 16. The proposed development does not exceed devegetation or building coverage levels for the property and is within the expansion of a nonconforming structure regulatory limits.

Staff recommends the approval of this plan with the following modifications to the plan

1. Indicate size and location of existing retaining wall along Knight Avenue
2. Remove the proposed granite posts, stone stairway and both walkways from the plan
3. Update devegetated coverage calculations to include only the proposed garage expansion
4. Final plan must be stamped/signed by professional surveyor prior to mylar signing
5. Revise plan to include a note that indicates the removal of the improvements constructed without a permit and plans to return to original grade and vegetated surface

Recommendations

Staff recommends the acceptance of the application as complete and a continuance, not to exceed 90 days, for applicant to apply Board recommendations. The Board may wish to schedule a public hearing and/or site walk.

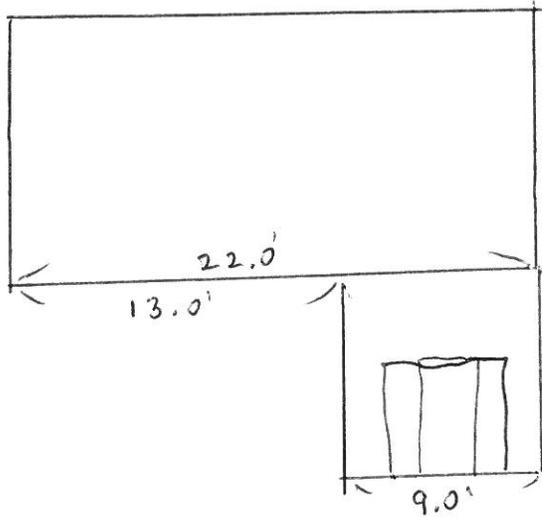
Move to accept the Shoreland Development Plan application dated 12/23/2015 from Christopher Eckel for 3 Knight Avenue (Tax Map 4 Lot 70) in the Mixed Use-Kittery Foreside, Shoreland Overlay and Commercial Fisheries/Maritime Uses Zones...

and

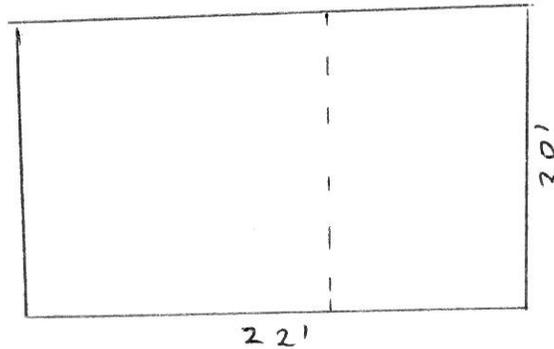
Move to continue the Shoreland Development plan application dated 12/23/2015 from Christopher Eckel for 3 Knight Avenue (Tax Map 4 Lot 70) in the Mixed Use-Kittery Foreside, Shoreland Overlay and Commercial Fisheries/Maritime Uses Zone, not to exceed 90-days.

PROPOSED - ECKEL GARAGE

BACK OF BUILDING
LOOKING FROM
THE RIVER



TOP VIEW



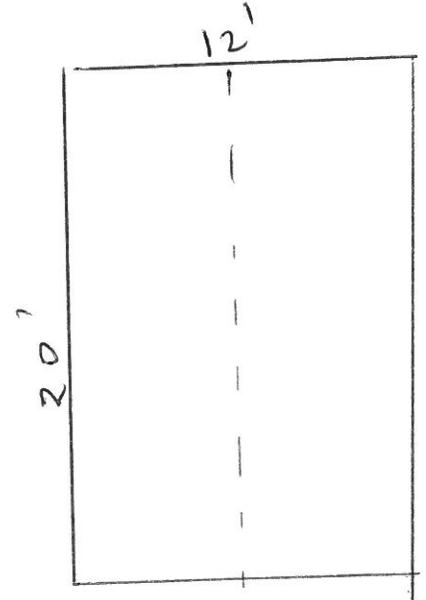
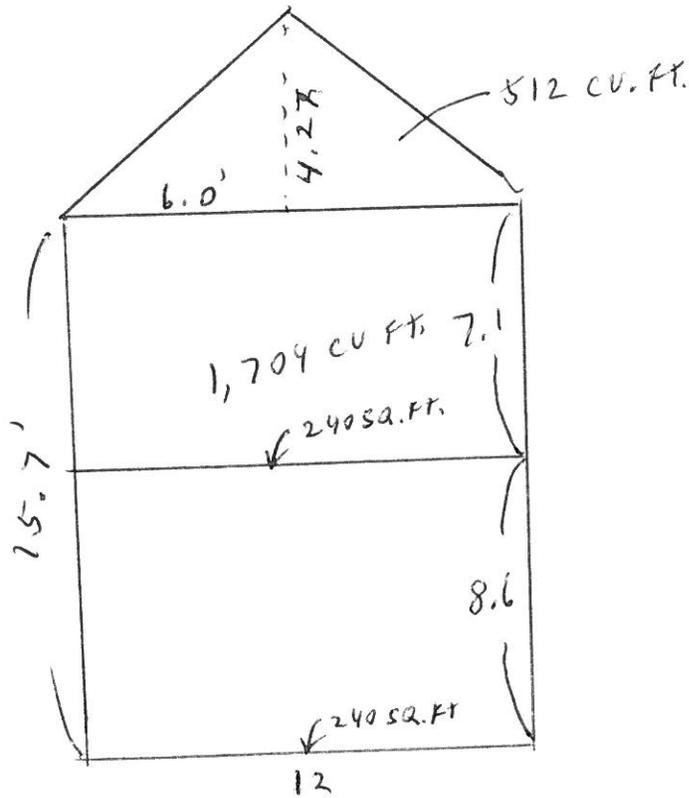
$$\begin{aligned}
 \text{PROPOSED SQ. FT.} &= 22' \times 20' = 440 \text{ SQ. FT.} && \text{(TOP FLOOR)} \\
 &= 9' \times 20' = 180 \text{ SQ. FT.} && \text{(BOT. FLOOR)} \\
 \hline
 \text{TOTAL} &= 620 \text{ SQ. FT.}
 \end{aligned}$$

$$\frac{\text{PROPOSED}}{\text{EXISTING}} = \text{PERCENT EXPANDED} = \frac{620}{480} = 1.2917 = 29.17\% \approx 29.2\%$$

$$\begin{aligned}
 \text{PROPOSED VOLUME (SHED ROOF AVERAGE HEIGHT 8.0')} \\
 = \text{HT} \times \text{DEPTH} \times \text{WIDTH} &= 8' \times 20' \times 22' = 3,520 \text{ CU. FT. (TOP FLOOR)} \\
 = \text{HT} \times \text{DEPTH} \times \text{WIDTH} &= 8' \times 20' \times 9' = 1,440 \text{ CU. FT. (BOT FLOOR)} \\
 \hline
 \text{TOTAL} &= 4,960 \text{ CU. FT. TOTAL}
 \end{aligned}$$

$$\frac{\text{PROPOSED}}{\text{EXISTING}} = \text{PERCENT EXPANDED} = \frac{4960}{4280} = 1.1589 = 15.89\% \approx 15.9\%$$

EXISTING - RECKEL GARAGE



EXISTING SQ. FT. = $12' \times 20' \times 2 = 480' \text{ SQ. FT.}$

EXISTING VOLUME:

ATTIC = $6.0' \times \overset{4.27}{\cancel{5.12}} \times 20 = 512 \text{ CU. FT.}$
 $(\frac{1}{2} 6.0 \times \overset{4.27}{\cancel{2+2}})$

FLOOR 1 = $7.1 \times 12 \times 20 = 1,704 \text{ CU. FT.}$

BOTTOM FLOOR = $8.6 \times 12 \times 20 = 2,064 \text{ CU. FT.}$

TOTAL

4,280 CU. FT.

EXISTING STRUCTURE (GARAGE) NONCONFORMANCE WITHIN 100' SETBACK*:

FLOOR AREA 480± SQ. FT.
STRUCTURE VOLUME 4,280± CU. FT.

PROPOSED STRUCTURE (GARAGE) EXPANSION CALCULATION:

INCREASE FLOOR AREA 140± SQ. FT. = 29.2% EXPANSION (620± SQ. FT. TOTAL)
INCREASE STRUCTURE VOLUME 680± CU. FT. = 15.9% EXPANSION (4,960± CU. FT. TOTAL)

EXISTING DEVEGETATED COVERAGE CALCULATION:

BUILDINGS 1,190± SQ. FT. (14.2%)
GRAVEL/WALLS 320± SQ. FT.
DECK 165± SQ. FT.
TOTAL 1,675± SQ. FT. (1,675 SQ. FT /8,355 SQ. FT. = 20.0%)

PROPOSED DEVEGETATED COVERAGE CALCULATION:

PROPOSED ADDITION 140± SQ. FT.
BUILDINGS 1,190± SQ. FT.
GRAVEL/WALLS 320± SQ. FT.
DECK 165± SQ. FT.
PROPOSED DEVEG. SURFACES 850± SQ. FT.
TOTAL 2,665± SQ. FT /8,355 SQ. FT. = 31.9%)

BUILDING COVERAGE CALCULATION (TOTAL PARCEL):

EXISTING 1,190 SQ. FT. = 14.2%
PROPOSED 1,330 SQ. FT. = 15.9%

S0370'21"W (TO LOW WATER)

North
W  EASTERLY
SURVEYING, Inc.

191 State Road, Suite #1 • Kittery, Maine 03904 • (207) 439-6333 • Fax (207) 439-1354

December 22, 2015

Kittery Planning Board
c/o Chris DeMatteo - Town Planner
200 Rogers Road
Kittery, ME 03904

Planning Board Review – Shoreland Zoning Development Application – 32 Seapoint Road,
Kittery Point, ME
Job# 12713

Dear Planner and Planning Board Members,

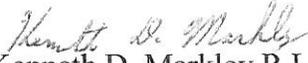
The Held Family would like to apply to expand and renovate their cottage at 32 Seapoint Road. They would like to remove an existing 8' by 20' wing at the back of the house and replace it with a new 15' by 30' wing. This property has been in the family since 1945. On December 8, 2015, the Zoning Board of Appeals approved a variance to allow a 6.3% building coverage in this zone. Attached you will find the following:

- 1) A letter from the family explaining the history and need for the expansion.
- 2) A Shoreland Development Plan Application
- 3) An Expansion/Construction Analysis within the Shoreland Overlay Zone.
- 4) An aerial photo showing the building's relationship with Seapoint Beach.
- 5) A proposed floor plan of the existing and proposed expansion.
- 6) A Shoreland Development Plan.

As you can see the objectives of the code are being met by the owners and would like the planning board to approve this modest expansion within the Shoreland Zone. The lot is available to the planning board and planning department for site walks and the building is accessible upon notification if desired.

Please feel free to contact me should you have any questions.

Sincerely:


Kenneth D. Markley R.L.S.
President – North Easterly Surveying, Inc.

Request for Approval of Shoreland Development Application – 32 Seapoint Road

The cottage at 32 Seapoint Road was built around 1900 and has been owned by the Held family for 70 years. It has been a beloved summer home for most of the descendants of Morris Held who bought the property in 1945. There are currently over 80 living relatives who have rights to use the property and come from all across the country to enjoy Kittery Point.

The cottage has a one small bedroom and one and half bathrooms. Additional sleeping space has been improvised in the living room, dining room and attic.

The purpose of the proposed expansion/renovation is to replace the existing small bedroom with 2 bedrooms and 2 small bathrooms. This will make the cottage much more useful for the many relatives who use it.

The lot is 29,000 square feet and is highly constrained on expansion possibilities. The simplest and most attractive expansion is the one proposed which removes the bedroom at the rear of the house (an 8' by 20' wing) and replaces it with a new 15' by 30' unit that includes 2 bedrooms and 2 bathrooms. This is a net additional lot coverage of 290 square feet.

The addition was designed to comply with all of the Town's building requirements for setbacks and is within the limits of 30% increase in square footage and volume for property within the Shoreland Development Zone. Given the 29,000 square foot lot, the addition would also be within the 6% lot coverage restriction. However, we have discovered that the lot has about 5,000 square feet of what is considered tidal area (even though it is only very rarely impacted by tidal water). If we reduce the lot size by the tidal area then the addition would put the coverage over the limit by 0.3%.

Given the following facts:

1. We had owned the property for over 40 years before all of these restrictions were put in place.
2. We designed the addition to comply with all of the restrictions.
3. We have a very small lot that is heavily impacted by the 6% coverage restriction.
4. With the Tidal area removed, the proposed plan is only over the coverage amount by 0.3%.

We request approval of our building permit as submitted.

Thank you very much,

The Held Family

SHORELAND DEVELOPMENT PLAN APPLICATION



TOWN OF KITTERY
Planning & Development Department
 200 Rogers Road, Kittery, ME 03904
 Telephone: 207-475-1323 Fax: 207-439-6806

| |
|-----------------------------|
| MAP <u>64</u> LOT <u>27</u> |
| DATE: <u>10/21/15</u> |
| FEE: \$ <u>200.00</u> |
| ASA*: _____ |

| | | | | |
|------------------------------|------------------|------------------------------------------------|------------------|-------------------------------------------------------------------|
| PROPERTY DESCRIPTION | Physical Address | 32 Seapoint Road Kittery Point, Maine 03905 | | |
| | Base Zone | RC-Rural Conservation | Overlay Zone (s) | Shoreland Overlay |
| OWNER INFORMATION | Name | Pop Held, Inc. | | Mailing Address 30 Seapoint Road Kittery Point, Maine 03905 |
| | Phone | 207-439-5542 | | |
| | Email | jerry@heldgroup.com | | |
| AGENT INFORMATION | Name | Kenneth D. Markley, RLS | | Company North Easterly Surveying, Inc. |
| | Phone | 207-439-6333 | | Mailing Address 191 State Road Kittery, Maine 03904 |
| | Email | ken@easterlysurveying.com | | |
| | Fax | | | |
| APPLICANT INFORMATION | Name | Jerry Held | | Mailing Address 30 Seapoint Road Kittery Point, Maine 03905 |
| | Phone | 408-499-7998 | | |
| | Email | jerry@heldgroup.com | | |

| | |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PROJECT DESCRIPTION | <p><u>Existing Use:</u></p> <p style="text-align: center;">Single family seasonal vacation home</p> |
| | <p><u>Proposed Use (describe in detail):</u></p> <p>Single family seasonal vacation home. The proposal is to remodel this single bedroom, 1 1/2 bath summer home to be a 2 bedroom 3 bath summer home. The existing bedroom will be removed and replaced by 2 bedrooms and 2 baths.</p> |

| | |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PROJECT DESCRIPTION | Please describe any construction constraints (wetlands, shoreland overlay zone, flood plain, non-conformance, etc.) |
| | The property is located in a shoreland development zone and is 0.59 acres in size. The construction involves a 290 sq. ft. addition. total proposed building expansion is less than 30%. Total proposed lot coverage is 6.3%. Applicant is seeking relief from 6% lot coverage requirement based on existing non-conforming lot size and character of the lot. |

I certify I have provided, to the best of my knowledge, information requested for this application that is true and correct and I will not deviate from the Plan submitted without notifying the Planning and Development Department of any changes.

| | |
|--------------------------------------------------|----------------------------------------------|
| Applicant's Signature: <u><i>Grant H. My</i></u> | Owner's Signature: <u><i>[Signature]</i></u> |
| Date: <u>10/21/15</u> | Date: <u>10-21-15</u> |

*Applicant Service Accounts: Fees to pay other direct costs necessary to complete the application process, not including application fees. Title 3, Chapter 3.3.

MINIMUM PLAN SUBMITTAL REQUIREMENTS

15 Copies of this Application Form, all supporting documents, and the Development Plan and Vicinity Map
 12 plan copies may be half-size (11"x17") and 3 must be full-size (24"x36")

- Shoreland Development Plan format and content:
- A) Paper Size; no less than 11" X 17" or greater than 24" X 36"
 - B) Plan Scale
 - Under 10 acres: no greater than 1" = 30'
 - 10 + acres: 1" = 50'
 - C) Title Block
 - Title: Shoreland Development Plan
 - Applicant's name and address
 - Name of preparer of plan with professional information
 - Parcel's Kittery tax map identification (map -- lot) in bottom right corner
 - Vicinity Map or aerial photo showing geographic features 5,000 feet around the site.
 - D) Signature Block
 - Area for signature by Planning Board Chair and Date of Planning Board Approval

Development Plan must include the following existing and proposed information:

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Existing:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Land Use Zones and boundaries <input type="checkbox"/> Topographic map (optional) <input type="checkbox"/> Wetlands and flood plains <input type="checkbox"/> Water bodies and water courses <input type="checkbox"/> Parcel area <input type="checkbox"/> Lot dimensions <input type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input type="checkbox"/> Streets, driveways and rights-of-way <input type="checkbox"/> Structures <input type="checkbox"/> Distance from structure to water body and property lines <input type="checkbox"/> Floor area, volume, devegetated area, and building coverage | <p>Proposed: (Plan must show the lightened existing topography under the proposed project plan for comparison.)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Recreation areas and open space <input type="checkbox"/> Setback lines and building envelopes <input type="checkbox"/> Lot dimensions <input type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input type="checkbox"/> Streets, driveways and rights-of-way <input type="checkbox"/> Structures <input type="checkbox"/> Floor area, volume, devegetated area, and building coverage <p>Distance to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Nearest driveways and intersections <input type="checkbox"/> Nearest fire hydrant <input type="checkbox"/> Nearest significant water body; ocean, wetland, stream |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Expansion/Construction Analysis within the Shoreland Overlay Zone¹
(see Table 16.9)

Size of water body or wetland: <500 sf <501 sf-1 acre >1 acre

Structure distance from water body: 55.8 feet

| | | | | |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------|-------------|---------------------|
| STRUCTURE | Existing | Proposed | % Increase* | |
| SF (Area) | 1557 sf | 1784 sf | 14.58 % | |
| CF (Volume) | 13191 cf | 16590 cf | 25.77 % | |
| Construction: | New: <input type="checkbox"/> Demo/Rebuild: <input checked="" type="checkbox"/> Maintenance/repair: <input type="checkbox"/> | | | Value: \$ 60,000 |
| *Total increase in area and/or volume may not exceed 30% for any new construction since 1/1/1989. | | | | |

| PARCEL DE-VEGETATION | % Allowed* | Existing SF | Proposed SF | % Proposed* |
|--------------------------------------------------------------------------------------------------|------------|-------------|-------------|-------------|
| Lot Size (sf) 25,560 | 20 % | 3,595 sf | 3,885 sf | 15.2 % |
| *See underlying zone standards for de-vegetated area percent allowed within a Shoreland Overlay. | | | | |

| BUILDING COVERAGE | % Allowed* | Existing SF | Proposed SF | % Proposed* |
|-----------------------------------------------------------------------|------------|-------------|-------------|-------------|
| Lot Size (sf) 25,560 | 6 % | 1,320 sf | 1,610 sf | 6.3 % |
| *See underlying zone standards for building coverage percent allowed. | | | | |

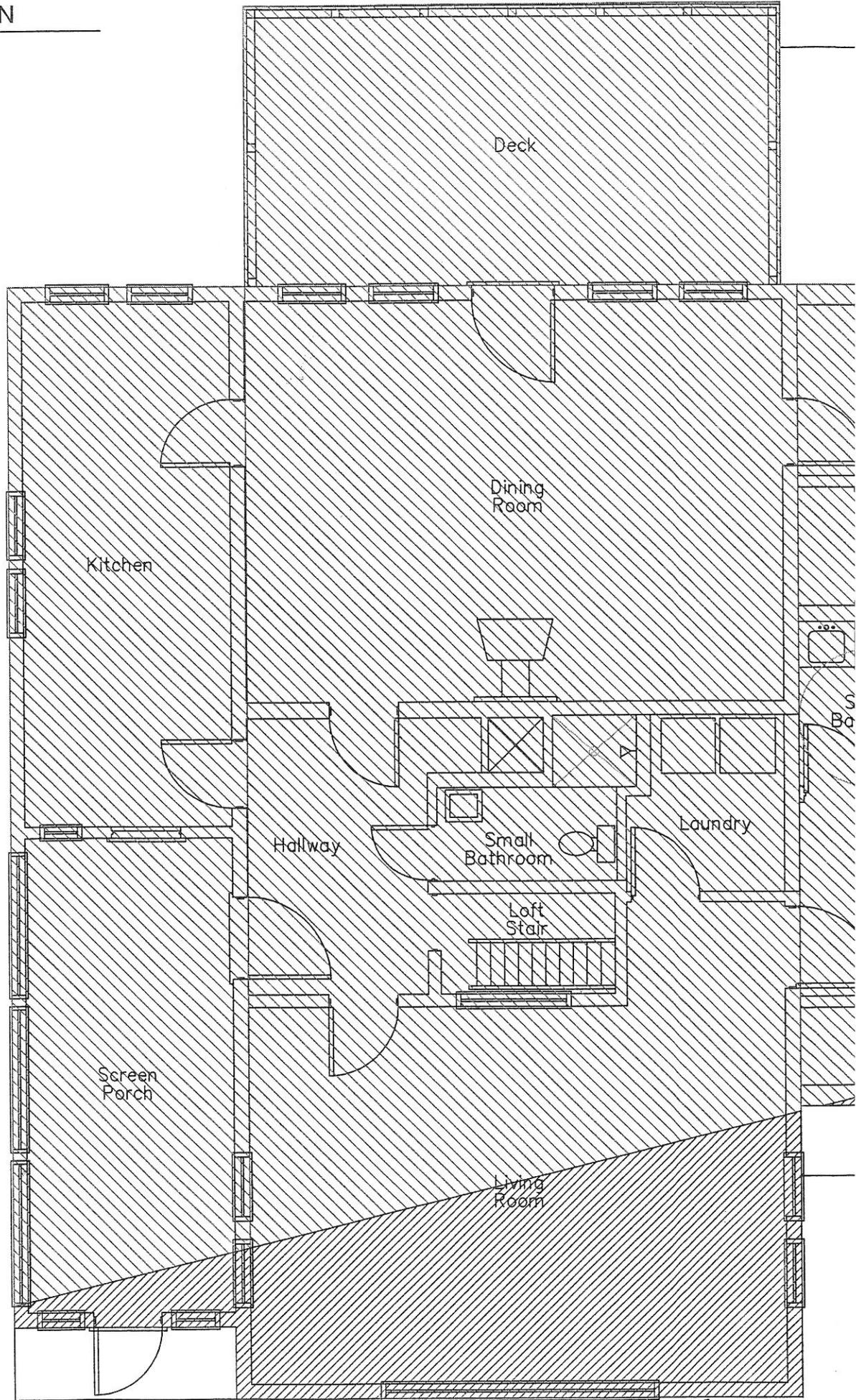
¹Calculations for area, volume, and de-vegetated areas must be included on the final plan and certified by a State of Maine registered architect, landscape architect, engineer, or land surveyor.



1

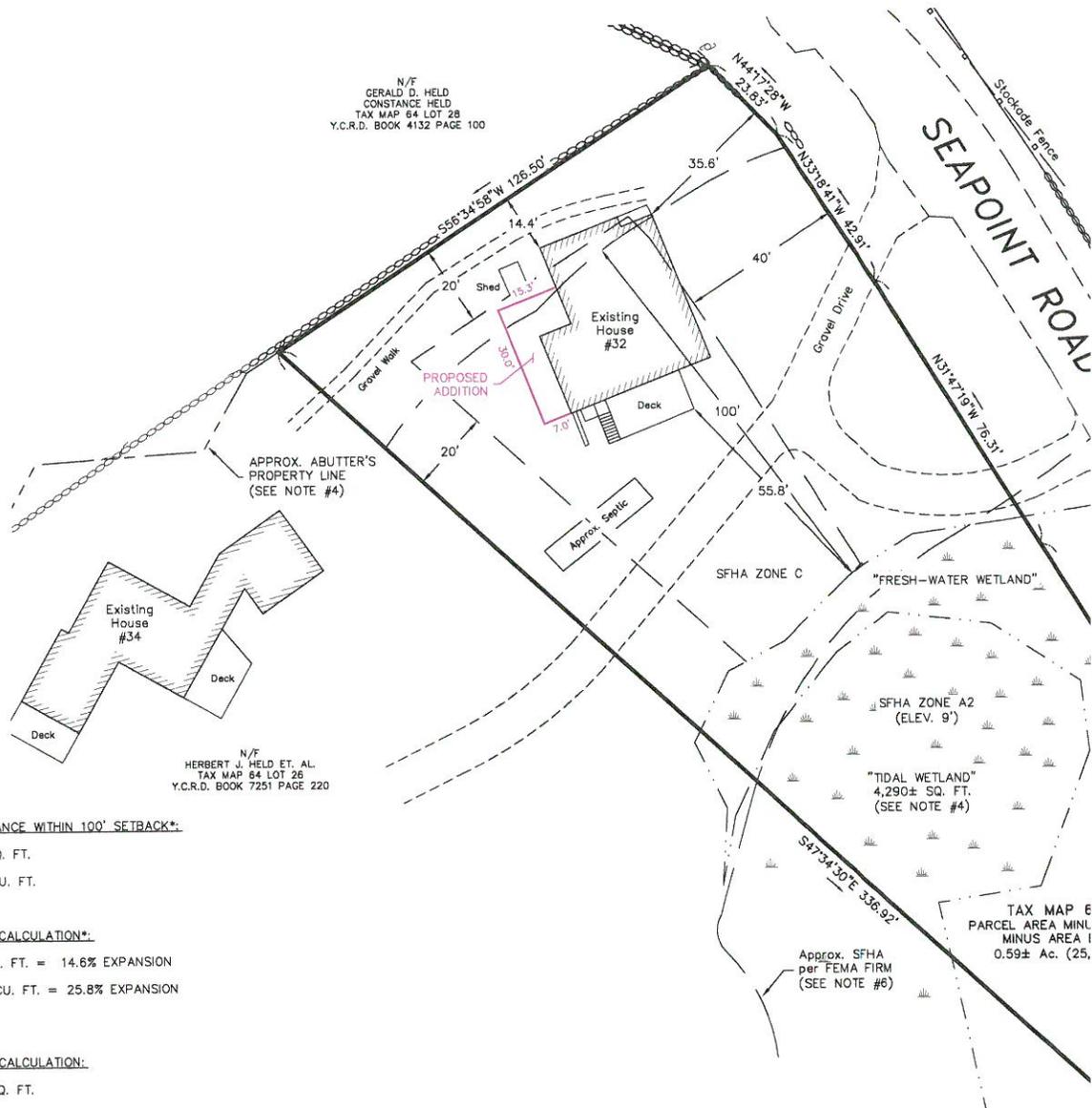
MAIN FLOOR PLAN

SCALE 3/8" = 1'-0"





N/F
GERALD D. HELD
CONSTANCE HELD
TAX MAP 64 LOT 28
Y.C.R.D. BOOK 4132 PAGE 100



EXISTING STRUCTURE NONCONFORMANCE WITHIN 100' SETBACK*:

FLOOR AREA 1,557± SQ. FT.
STRUCTURE VOLUME 13,191± CU. FT.

PROPOSED STRUCTURE EXPANSION CALCULATION*:

FLOOR AREA 1,784± SQ. FT. = 14.6% EXPANSION
STRUCTURE VOLUME 16,590± CU. FT. = 25.8% EXPANSION

*PROVIDED BY ARQ ARCHITECTS

EXISTING DEVEGETATED COVERAGE CALCULATION:

BUILDING 1,290± SQ. FT.
SHED 30± SQ. FT.
GRAVEL 2,005± SQ. FT.
DECK/STEPS 270± SQ. FT.
TOTAL 3,595± SQ. FT. (3,595 SQ. FT. /25,560 SQ. FT. = 14.1%)

PROPOSED DEVEGETATED COVERAGE CALCULATION:

PROPOSED ADDITION 290± SQ. FT.
BUILDING 1,290± SQ. FT.
SHED 30± SQ. FT.
GRAVEL 2,005± SQ. FT.
DECK/STEPS 270± SQ. FT.
TOTAL 3,885± SQ. FT. (3,885 SQ. FT. /25,560 SQ. FT. = 15.2%)

EXISTING BUILDING COVERAGE:

BUILDING 1,290± SQ. FT.
SHED 30± SQ. FT.
TOTAL 1,320± SQ. FT. (1,320 SQ. FT. /25,560 SQ. FT. = 5.2%)

PROPOSED BUILDING COVERAGE:

PROPOSED ADDITION 290± SQ. FT.
BUILDING 1,290± SQ. FT.
SHED 30± SQ. FT.
TOTAL 1,610± SQ. FT. (1,610 SQ. FT. /25,560 SQ. FT. = 6.3%)

CONDITIONS OF APPROVAL (TBD):

1. NO CHANGES, ERASURES, MODIFICATIONS OR REVISIONS MAY BE MADE TO ANY PLANNING BOARD APPROVED FINAL PAN. (TITLE 16.10.9.1.2)
2. APPLICANT/CONTRACTOR WILL FOLLOW MAINE DEP BEST MANAGEMENT PRACTICES FOR ALL WORK ASSOCIATED WITH SITE AND BUILDING CONSTRUCTION TO ENSURE ADEQUATE EROSION CONTROL AND SLOPE STABILIZATION.
3. PRIOR TO THE COMMENCEMENT OF GRADING AND/OR CONSTRUCTION WITHIN A BUILDING ENVELOPE, AS SHOWN ON THE PLAN, THE OWNER AND/OR DEVELOPER MUST STAKE ALL CORNERS OF THE ENVELOPE. THESE MARKERS MUST REMAIN IN PLACE UNTIL THE CODE ENFORCEMENT OFFICER DETERMINES CONSTRUCTION IS COMPLETED AND THERE IS NO DANGER OF DAMAGE TO AREAS THAT ARE, PER PLANNING BOARD APPROVAL, TO REMAIN UNDISTURBED.
2. ALL NOTICES TO APPLICANT CONTAINED HEREIN (FINDINGS OF FACT, DATED TBD).

YORK,ss REGISTRY OF DEEDS
Received _____
at _____ h _____ m _____ M., and
Filed in Plan Book _____ Page _____
ATTEST:

Register

Kittery, Maine
Date of Appro _____
Chairman _____

**Town of Kittery Maine
Town Planning Board Meeting
January 14, 2016**

ITEM 3 – 32 Seapoint Rd – Shoreland Development Plan Review

Action: Accept or deny plan application; Approve or deny plan. Owner/Applicant Pop held, Inc requests consideration of plans to expand the principle dwelling unit located at 32 Seapoint Rd (Tax Map 64 Lot 27) in the Residential – Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250’) zones. Agent is Ken Markley, North Easterly Surveying.

PROJECT TRACKING

| REQ'D | DESCRIPTION | COMMENTS | STATUS |
|-------|--------------------------------|---------------------------|--------------------|
| | Board of Appeals | Hardship Variance Request | Granted 12/8/2015 |
| NO | Sketch Plan | | NA |
| NO | Site Walk | At the Board's discretion | |
| YES | Determination of Completeness | | Scheduled for 1/14 |
| NO | Public Hearing | At the Board's discretion | |
| Yes | Final Plan Review and Decision | | Feasible for 1/14 |

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN ¼: HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 – Grading/Construction Final Plan Required. – Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Background

Planning Board review of this project is required by 16.10.3.2 Other Development Review because it is located in the Shoreland Overlay Zone. The existing use is a non-conforming single-family dwelling on a non-conforming lot. The majority of the existing dwelling is located within the 100-foot setback from a tidal wetland and the front yard setback standard for the Residential Rural Conservation (R-RLC) zone is not met. Side yard setbacks are met. The lot does not meet the minimum lot size or minimum land area per dwelling unit standard for the R-RLC zone.

The proposed development is a 290 sq. ft. expansion of the existing principal dwelling to allow for a second bedroom and additional bathroom.

Staff Review

The majority of the existing structure is located within the 100-foot setback from the upland edge of the tidal wetland where volume and area calculations are required. Development on structures located within the required setback from a protected resource is subject to a lifetime limit of no more than thirty percent (30%). The proposed development is within this maximum at 17.4%.

The Residential – Rural Conservation zone has a 6% maximum building coverage standard. The existing and proposed building coverages are 5.2% and 6.3%, respectively. The applicant submitted a hardship variance application and appeared before the Board of Appeals on December 8, 2015. The applicant was granted a hardship variance to increase the maximum building coverage standard from 6% to 6.3% (Letter of Decision attached). The proposed development may not exceed a building coverage of 6.3%.

Maximum devegetated area in the shoreland overlay zone is 20% of the lot. The current devegetated area is 14.1%. The proposed development increases the devegetated coverage to 15.2%. No clearing is being requested for the proposed development.

The existing structure is set back 14.4' from the road and does not meet the 40-foot front yard setback required in the R-RLC zone. The proposed development does not result in a greater encroachment and therefore does not increase nonconformance.

The proposal for the expansion of an existing single family dwelling appears to meet the standards of Title 16. The proposed development does not increase nonconformity of the existing lot or dwelling and does not exceed devegetation coverage and, with the Board of Appeals variance, does not exceed building coverage levels for the property.

Staff recommends the approval of this plan with minor changes to the plan

1. Replace building coverage standard from 20% to 6% to reflect R-RLC zone standards
2. Include a reference to the granted hardship variance as a note on the plan
3. Submit a diagram to illustrate calculations for the increase in floor area and volume to staff

Recommendations

The proposed development appears to meet the requirements of Title 16, as described with the conditions included in draft findings of fact. After accepting the application the board should determine if a public hearing is warranted or necessary.

The Board may first accept the plan application.

Move to accept the Shoreland Development Plan application dated 10/21/2015 from Pop Held, Inc for 32 Seapoint Road (Tax Map 64 Lot 27) in the Residential-Rural Conservation and Shoreland Overlay Zones...

The Board may move to approve with conditions (suggestions provided below) and proceed to reading and voting on the Findings of Fact.

Move to grant approval with conditions for the Shoreland Development Plan application dated 10/21/2015 from Pop Held, Inc for 32 Seapoint Road (Tax Map 64 Lot 27) in the Residential-

Rural Conservation and Shoreland Overlay Zones upon the review and voting, in the affirmative, on the Findings of Fact...

Kittery Planning Board

UNAPPROVED

**Findings of Fact
For 32 Seapoint Road
Shoreland Development Plan Review**

WHEREAS: Pop Held, Inc requests approval of their Shoreland Development Plan to expand an existing conforming single-family dwelling on the property located at 32 Seapoint Road (Tax Map 64 Lot 27) located in the residential-rural conservation and shoreland overlay zones, hereinafter the “Development” and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan review notes prepared for 1/14/2016}

| | |
|-----------------------------------|-----------|
| Hardship Variance Granted | 12/8/2015 |
| Shoreland Development Plan Review | 1/14/2016 |
| Site Walk | |
| Public Hearing | |
| Approval | 1/14/2016 |

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”): {as noted in the plan review notes prepared for 12/10/2015}

1. Shoreland Development Plan Application, received **10/21/2015**.
2. Site Plan, Anderson Livingston Engineers, Inc. October 21, 2015

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

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

| |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16.3.2.17.D Shoreland Overlay Zone |
| <i>1.d The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...</i> |
| <u>Findings:</u> The proposed development increases the property’s devegetated area from 14.1% to 15.2%. |
| <u>Conclusion:</u> The requirement appears to be met. |
| Vote: ___ in favor ___ against ___ abstaining |

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS

Article III Nonconformance

16.7.3.1 Prohibitions and Allowances

A. Except as otherwise provided in this Article, a nonconforming conditions must not be permitted to become more nonconforming

Finding: The existing structure does not meet the 40-foot front yard setback required in the R-RLC zone. The proposed development does not result in setbacks less than those existing and therefore does not increase nonconformance.

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

16.7.3.5 Types of Nonconformance

16.7.3.5.5 Nonconforming Structure Repair and/or Expansion

A. A nonconforming structure may be repaired or maintained and may be expanded in conformity with the dimensional requirements, such as setback, height, etc., as contained in this Code. If the proposed expansion of a nonconforming structure cannot meet the dimensional requirements of this Code, the Board of Appeals or the Planning Board (in cases where the structure is located in a Shoreland Overlay or Resources Protection Overlay Zone) will review such expansion application and may approve proposed changes provided the changes are no more conforming than the existing condition and the Board of Appeals or the Planning Board (in cases where the structure is located in a Shoreland overlay or Resources Protection Overlay Zone) makes its decision per section 16.6.6.2.

See 16.6.6.1 and its reference to 16.6.6.2 below.

16.6.6 Basis for Decision

16.6.6.1.B In hearing appeals/requests under this Section, the Board of Appeals [note: Planning Board is also subject to this section per 16.7.3.5.5 above] must use the following criteria as the basis of a decision:

1. Proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;
2. Use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located, or of permitted or legally established uses in adjacent use zones;
3. Safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location; and
4. Use will be in harmony with and promote the general purposes and intent of this Code.

The Board must also give consideration to the factors listed in 16.6.6.2.

Finding: The proposed development does not have an adverse impact on the use of adjacent properties, permitted or legally established uses in this, or adjacent, zones or the health, safety and impact of the Town.

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

16.7.3.6 Nonconforming Structures in Shoreland and Resource Protection Zones

16.7.3.6.1 Nonconforming Structure Expansion

A nonconforming structure may be added to, or expanded, after obtaining Planning Board approval and a permit from the Code Enforcement Officer. Such addition or expansion must not increase the non-conformity of the structure and must be in accordance with the subparagraphs [A through C] below.

A. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure will not be permitted to expand, as measured in floor area or volume, by thirty percent (30%) or more during the lifetime of the structure.

B. If a replacement structure conforms to the requirements of Section 16.7.3.6.1.A and is less than the required setback from a water body, tributary stream or wetland, the replacement structure will not be permitted to expand if the original structure existing on January 1, 1989, has been expanded by 30% in floor area and volume since that date.

C. Whenever a new, enlarged or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 16.7.3.5.2 – Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 16.7.3.5.3, above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it will not be considered to be an expansion of the structure.

Finding: The majority of the existing structure is located within the 100-foot setback from the upland edge of the tidal wetland where volume and area calculations are required. Development on structures located within the required setback from a protected water source is subject to a lifetime limit of thirty percent (30%). **The proposed development is within this maximum at 17.4%.**

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article 10 Shoreland Development Review

16.10.10.2 Procedure for Administering Permits

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

1. Maintain safe and healthful conditions;

Finding: The proposed development does not appear to have an adverse impact.

Conclusion: This requirement appears to be met

Vote: ___ in favor ___ against ___ abstaining

2. Not result in water pollution, erosion or sedimentation to surface waters;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters.

Conclusion: This requirement appears to be met

Vote: ___ in favor ___ against ___ abstaining

3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development is connecting to an existing septic system.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.

Conclusion: The proposed development does not appear to have an adverse impact. With the suggested conditions #2 and #3, this standard appears to be met.

Vote: ___ in favor ___ against ___ abstaining

5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

Finding: Shore cover is not adversely impacted

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

6. Protect archaeological and historic resources;

Finding: There does not appears to be any resources impacted.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

Finding: The proposed development is not in the commercial fisheries/maritime use zone.

Conclusion: This requirement is not applicable.

Vote: ___ in favor ___ against ___ abstaining

8. Avoid problems associated with floodplain development and use;

Finding: The proposed development is not located within a flood zone

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

9. Is in conformance with the provisions of this code;

Finding: The proposed development conforms to Title 16 with the exception of building coverage. The Residential – Rural Conservation zone has a 6% maximum building coverage standard. The existing and proposed building coverage levels are 5.2% and 6.3%, respectively. The applicant was granted a hardship variance through the Kittery Board of Appeals to increase the maximum building coverage standard from 6% to 6.3% at the December 8, 2015 meeting. The proposed development may not exceed 6.3%.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

10. Be recorded with the York county Registry of Deeds.

Finding: A plan suitable for recording has been prepared.

Conclusion: As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.

Vote: ___ in favor ___ against ___ abstaining

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan Application of Pop Held, Inc, owner and applicant, to expand an existing conforming single-family dwelling located at 32 Seapoint Road (Tax Map 64, Lot 27) in the Residential-Rural Conservation(R-RL) and Shoreland Overlay (OZ-SL-250') zones and subject to any conditions or waivers, as follows:

Waivers: None

Conditions of Approval (to be depicted on final plan to be recorded):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. No trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer.
5. All Notices to Applicant contained herein (Findings of Fact dated 1/14/2016).

Conditions of Approval (not to be depicted on final plan):

6. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to presentation on final Mylar.

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

Vote of ___ in favor ___ against ___ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON January 14, 2016

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to presentation of final mylar.
2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.

4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

**Town of Kittery
Planning Board Meeting
January 14, 2016**

Town Code Amendments – 16.8.11 - Cluster Residential and Cluster Mixed-Use Development. (Ordained 9/24/2012; effective 10/25/2012); **16.8.11.1 Purpose; 16.8.11.3 Dimension Standards Modifications; 16.8.11.5 Application Procedure; 16.8.11.6 Standards; 16.8.20.1 Green Strip**
Action: review amendment and schedule a public hearing. The proposed amendments provide clarity with regard to open space and other requirement standards in cluster residential and cluster mixed-use development

PROJECT TRACKING

| REQ'D | ACTION | COMMENTS | STATUS |
|-------|----------------------------------------------------|----------|-------------------------|
| NO | Workshop | | 5/28/2015 |
| YES | Initial Planning Board Meeting | | 12/10/2015 |
| NO | Secondary Planning Board Meeting | | Scheduled for 1/14/2016 |
| YES | Public Hearing (special notice requirements) | | Feasible for 1/28/2016 |
| YES | Review/Approval/ Recommendation to Town Council | | |

Background

This group of amendments was developed over the course of several months, was reviewed at the workshop on May 28, 2015 and revised December 10, 2015. The amendments were revised again for review at the January 14, 2016 Planning Board meeting, with recommendations from the Board.

Review

Attached for the Board's consideration are amendments to Article XI of Title 16.8

Recommendation

If the Planning Board is amenable to the proposed amendments and/or along with any revisions they find is warranted, the Board can...

...move to schedule a public hearing for Town Code Amendments, Title 16.2 Definitions, Title 16.8.8.2.3 Applicability, and 16.10.7.2 Final Plan Application Submittal Content on February 25, 2016.

1 **Article XI. Cluster Residential and Cluster Mixed-Use Development.** (Ordained 9/24/12; effective
2 10/25/12)

3
4 **16.8.11.1 Purpose.**

5 To implement adopted Comprehensive Plan policies regarding the Town's natural, scenic, marine,
6 cultural and historic resources, land use patterns and recreation and open space, this Article is intended
7 to encourage and allow new concepts and innovative approaches to housing/commercial development
8 and environmental design so development will be a permanent and long-term asset to the Town, while in
9 harmony with the natural features of the land, water and surrounding development. Objectives include:

- 10
11 A. efficient use of the land and water, with small networks of utilities and streets;
12 B. preservation of contiguous, unfragmented open space and creation of recreation areas;
13 C. maintenance of rural character, by means of preserving farmland, forests and rural viewscapes,
14 preserving backlots beyond 100 feet from the public roadway, and buffering scenic roads;
15 D. preservation of areas with the highest ecological value
16 E. location of buildings and structures on those portions of the site most appropriate for
17 development;
18 F. creation of a network of contiguous open spaces or 'greenways' by linking the common open
19 spaces within the site and to open space on adjoining lands wherever possible;
20 G. reduction of impacts on water resources by minimizing land disturbance and the creation of
21 impervious surfaces and stormwater runoff;
22 H. preservation of historic, archaeological, and cultural features; and
23 I. minimization of residential development impact on the municipality, neighboring properties, and
24 the natural environment.
25
26

27
28
29 **16.8.11.3 Dimension Standards Modifications.**

30 Notwithstanding other provisions of this Code relating to dimensional standards, the Planning Board, in
31 reviewing and approving proposed residential or mixed-use development under this Article, may modify
32 said dimensional standards to permit flexibility in approaches to site design in accordance with the Code
33 standards. The Board may allow subdivision or site development with modified dimensional standards
34 where the Board determines the benefit of a cluster development is consistent with the Code. For the
35 purposes of this article, dimensional standards includes only, lot size, lot coverage, street frontage and
36 yard setback requirements. Such modifications may not be construed as granting variances to relieve
37 hardship.
38

39
40 **16.8.11.5 Application Procedure.**

41 All development reviewed under this Article is subject to the application procedures in Chapter 16.10,
42 Development Plan Application and Review, and the following:

- 43
44 A. In addition to the requirements of Chapter 16.10, the following are required at submittal of the
45 Sketch Plan:
46
47 1. Calculations and maps to illustrate:

- 48 a. proposed dimensional modifications and the dimensional standards required in the zone
49 in which the development will be located;
50 b. All land area identified in Title 16.7.8 Net Residential Acreage; and (Ordained 9-28-15)
51 c. Net Residential Density; and
52 d. open space as defined in Section 16.8.11.6.D.2 of this Article.
53
54 2. A map showing constraints to development, such as, but not limited to, wetlands, resource
55 protection zones, shoreland zones, deer wintering areas, side slopes in excess of thirty-three
56 percent (33%), easements, rights-of-way, existing roads, driveway entrances and intersections,
57 existing structures, and existing utilities.
58
59 3. A written statement describing the ways the proposed development furthers the purpose and
60 objectives of this Article, including natural features which will be preserved or enhanced. Natural
61 features include, but are not limited to, moderate-to-high value wildlife and waterfowl habitats,
62 important agricultural soils, moderate-to-high yield aquifers and important natural or historic sites
63 worthy of preservation.
64
65 4. The location of each of the proposed building envelopes. Only developments having a total
66 subdivision or site plan with building envelopes will be considered.
67
68 5. The Planning Board may require a sketch plan showing a conventional nonclustered
69 subdivision layout to determine the maximum number of lots/dwelling units to be permitted. The
70 lots shown in the conventional subdivision sketch plan must comply with all regulations as stated
71 in this code.
72
-

73
74
75 **16.8.11.6 Standards.**

76
77 E. Open Space Requirements:

- 78
79 1. Open space must contain equal at least 50% of the total area of the property, ~~and no less~~
80 ~~than 30% of the total net residential acreage, as defined~~ and must include no less than 50% of the
81 property's total net residential acreage.
82
83 2. Total calculated open space must be designated as follows (See Open Space definitions
84 Section 16.2): a. Open Space, Reserved; b. Open Space, Common; and/or c. Open Space, Public
85
86 3. The use of any open space may be further limited or controlled by the Planning Board at the
87 time of final approval, where necessary, to protect adjacent properties or uses.
88
89 4. Open space must be deeded in perpetuity for the recreational amenity and environmental
90 enhancement of the development and be recorded as such. Such deed provisions may include
91 deed/plan restrictions, private covenants, or arrangements to preserve the integrity of open spaces
92 and their use as approved by the Planning Board.
93
94 5. Open space must also be for preserving large trees, tree groves, woods, ponds, streams,

95 glens, rock outcrops, native plant life, and wildlife cover as identified in applicant's written
96 statement. In the Business Park (BP) zone, open space may be both man-made and natural. Man-
97 made open space must be for the development of recreational areas, pedestrian ways and
98 aesthetics that serve to interconnect and unify the built and natural environments.
99

100 6. Open space should be in a contiguous form of unfragmented land to protect natural
101 resources, including plant and wildlife habitats. For the purposes of this article contiguous and
102 unfragmented means land that is optimal in area and shape for its intended use as identified by
103 qualified conservation agencies or applicable organizations and determined by the Planning
104 Board.
105

106 7. A portion of the open space should be in close proximity to other open spaces used for
107 recreation (e.g. a common green, multi-purpose athletic field, gardens, and playgrounds).
108

109 8. Open space must include preservation of areas with the highest ecological value as identified
110 on specialized mapping such as Beginning with Habitat or identified by a qualified conservation
111 agency or organization, such as, Maine Inland Fish and Wildlife, Maine DEP, U.S. Fish and
112 Wildlife, the Kittery Open Space Committee, Kittery Land Trust or another bona fide party. The
113 final allocation, location and shape of the open space to be determined by the Planning Board.
114
115

116
117
118 I. The developer must take into consideration the following points, and illustrate the treatment of
119 buildings, structures, spaces, paths, roads, service and parking areas, recreational facilities, and any
120 other features determined by the Planning Board to be a part of the proposed development.
121

122 1. Orientation. Buildings, view corridors and other improvements are to be designed so scenic
123 vistas and natural features are integrated into the development. Buildings should be sited to
124 consider natural light and ventilation.
125

126 2. Utility Installation. All utilities are to be installed underground, wherever possible. The
127 Planning Board must require the developer to adopt a prudent avoidance approach when
128 permitting above ground electrical service installations. Transformer boxes, pumping stations and
129 meters must be located so as not to be unsightly or hazardous to the public.
130

131 3. Recreation. Facilities must be provided consistent with the development proposal. Active
132 recreation requiring permanent equipment and/or modification of the site may not be located within
133 the wetland setback areas or contiguous reserved open space areas.
134

135 4. Buffering. Planting, landscaping, form and siting of building and other improvements, or
136 fencing and screening must be used to integrate the proposed development with the landscape
137 and the character of any surrounding development.
138

139 5. Development Setbacks.

140 Setbacks from wetlands and water bodies, must demonstrate compliance to Table 16.9 of Chapter
141 16.9.4.3. These setbacks must be permanently maintained as no cut, no disturb buffer areas. If

142 the setback areas are not of substantial vegetation to provide a sufficient buffer, the Planning
143 Board may require additional plantings. Wherever cluster development is subject to conflicting
144 setback requirements, the most restrictive requirement applies.
145

146
147 **16.8.20.1 Green Strip.**
148

149 A. Subdivision design must minimize the possibility of noise pollution either from within or without
150 the development (from highway or industrial sources) by providing and maintaining a green strip at
151 least twenty (20) feet wide between the abutting properties that are so endangered.
152

153 B. Subdivision design must maintain a green strip of no less than fifty (50) feet along scenic
154 roadways, as described in the Comprehensive Plan.

**Town of Kittery
Planning Board Meeting
January 14, 2016**

- 1 **ITEM 5 – Town Code Amendments – 16.10.3 – Development Plan Review and Approval Process;**
 2 **16.10.3.2 Other Development Review; 16.10.3.4 Shoreland Development Review; 16.10.10 Shoreland**
 3 **Development Review; 16.10.10.1.1 Permits Required; 16.10.10.1.2 Permit Application; 16.10.10.2**
 4 **Procedure for Administering Permits**
 5 Action: review amendment and schedule a public hearing. The proposed amendments address plan review
 6 procedures for development applications located in the Shoreland Overlay Zone.

PROJECT TRACKING

| REQ'D | ACTION | COMMENTS | STATUS |
|-------|----------------------------------------------------|-------------------------|--------|
| NO | Workshop | | |
| YES | Initial Planning Board Meeting | Scheduled for 1/14/2016 | |
| NO | Secondary Planning Board Meeting | | |
| YES | Public Hearing (special notice requirements) | | |
| YES | Review/Approval/ Recommendation to Town Council | | |

Background

This group of amendments is developed to respond to the many review applications the Board receives that do not include development within the 100 or 75 foot setback in the Shoreland zone but still needs planning board approval, per 16.10.3.2 for the determination of devegetated area. Other minor changes are included for clarity and form.

Review

Attached for the Board's consideration are amendments to Article XI of Title 16.10.3.2 and the definition of development in 16.2.2.

Recommendation

If the Planning Board is amenable to the proposed amendments and/or along with any revisions they find is warranted, the Board can...

...move to schedule a public hearing for Town Code Amendments, Title 16.2 Definitions, Title 16.10.3.2 Other Development Review, 16.10.3.4 Shoreland Development Review and 16.10.10 Shoreland Development Review on February 25, 2016.

7 **16.2.2 Definitions.**

8 **Development** means:

- 9 1) a change in land use involving alteration of the land, water or vegetation, or
10 2) the addition or alteration of structures or other construction not naturally occurring.

14 **Article III. Development Plan Review and Approval Process**

16 **16.10.3.1 General Development, Site, and Subdivision Plans Review.**

17 All proposed development including site, subdivision, business use and other development must be
18 reviewed for conformance with the procedures, standards and requirements of this Code by the Planning
19 Board except as provided herein, but in all cases by the Town Planner and Code Enforcement Officer and
20 where required the Board of Appeals as provided herein.

22 **16.10.3.2 Other Development Review.**

23 An applicant or applicant's authorized agent must obtain Planning Board approval in accordance with this
24 Code for all development except the following, unless **proposed development is subject to a Shoreland
25 Development Plan Review requiring Board approval** ~~located within the Shoreland Overlay or Resource
26 Protection Overlay Zones:~~

- 27
28 A. Single and duplex family dwellings, except if within either a Shoreland or Resource Protection
29 Overlay Zone, in addition to other criteria specified in Article X of Chapter 16.10, applicable to the
30 granting of a special exception use request, the Planning Board must review and may approve a
31 development plan for a one to two family residential structure, including driveways provided the applicant
32 meets all of the applicable provisions of the Town Code including Design and Performance Standards.
33
34 B. Expansion of existing use where the expanded use will require fewer than six additional parking
35 spaces.
36
37 C. Division of land into lots (i.e., two lots) which division is not otherwise subject to Planning Board
38 review as a subdivision.
39
40 D. Business use as provided in Section 16.4.3.5.

43 **16.10.3.4 Shoreland Development Review.**

44
45 A. All development in the Shoreland, Resource Protection, and Commercial Fisheries/Maritime Uses
46 Overlay Zones involving the use, expansion, change or replacement of an existing use or structure, or
47 renewal of a discontinued non-conforming use must be reviewed and approved as provided in **16.10.10
48 and elsewhere in** this Code, and tracked as a shoreland development for reporting purposes.

49
50 B. All development in the Shoreland, Resource Protection, and Commercial Fisheries/Maritime Uses
51 Overlay Zones other must be approved by the Planning Board except for the following:"

- 52
53 1. Proposed development that is located outside the required setback for principal and accessory
54 structures as identified in 16.3.2.17.D.2. and is not subject to Planning Board review as explicitly

55 required elsewhere in this Title. Such proposed development must be reviewed and approved by the
56 Code Enforcement Officer (CEO) prior to issuing a building permit. The total devegetated area of the
57 lot (that portion within the Shoreland Overlay Zone) must be calculated by the applicant and verified by
58 the CEO and recorded in the Town's property records. This subsection does not include any
59 development proposed in the Resource Protection and Stream Protection Overlay Zones.

60
61 2. Piers, docks, wharfs, bridges and other structures and uses extending over or below the Highest
62 Annual Tide (HAT) elevation, subject to review and approval by the Port Authority as outlined in Title
63 16.11 Marine related development.

64
65 3. Division of a conforming parcel that would result in the creation of fewer than three (3) conforming
66 lots or dwelling units in a five (5) year period,

67
68 4. Timber harvesting and clearing of vegetation for activities other than timber harvesting which are
69 subject to review and approval by the Shoreland Resource Officer or Code Enforcement Officer.
70
71

72
73 **Article X. Shoreland Development Review**

74
75 **16.10.10.1 General.**

76
77 **16.10.10.1.1 Permits Required.**

78
79 A. After the effective date of this code, no person may, without first obtaining a permit, engage in any
80 activity or use of land or structure requiring a permit in the shoreland or resource protection overlay zones
81 in which such activity or use would occur, or expand, change or replace an existing use or structure, or
82 renew a discontinued nonconforming use.
83

84 B. When replacing an existing culvert, the watercourse must be protected so that the crossing does not
85 block fish passage, and adequate erosion control measures must be taken to prevent sedimentation of
86 the water in the watercourse.
87

88 C. A permit is not required for the replacement of an existing road culvert provided the replacement
89 culvert is not:

90
91 1. More than one standard culvert size larger in diameter than the culvert being replaced,

92
93 2. More than twenty-five (25) percent longer than the culvert being replaced, and

94
95 3. Longer than seventy-five (75) feet.
96

97 D. A permit is not required for an archaeological excavation provided the excavation is conducted by an
98 archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and
99 unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and
100 permanent stabilization measures.

101
102 E. Any permit required by this Section is in addition to any other permit required by other law or

103 ordinance.

104

105 **16.10.10.1.2 Permit Application.**

106

107 A. Every applicant for a Shoreland Development Review permit must ~~complete~~ and submit a completed
108 ~~Kittery~~ application form and a site plan drawn to scale and as indicated in in Section 16.10.5.2B, to the
109 Code Enforcement Officer ~~appropriate official as indicated in Section 16.10.5.2B~~.

110

111 B. All applications must be signed by the owner, ~~owners or lessee of the property or other person~~
112 ~~authorizing the work, certifying that the information in the application is complete and correct. If the~~
113 ~~person signing the application is not the owner or lessee of the property then that person must submit a~~
114 ~~letter of authorization from the owner or lessee.~~ or individual who can show evidence of right, title or
115 interest in the property or by an agent, representative, tenant, or contractor of the owner with written
116 authorization from the owner to apply for a permit hereunder, certifying that the information in the
117 application is complete and correct.

118

119 C. All applications must be dated, and the Code Enforcement Officer, ~~Town Planner, Town Clerk or~~
120 ~~Kittery Port Authority, as appropriate~~ or his/her representative, must note upon each application the date
121 and time of its receipt ~~by each~~.

122

123 D. Whenever the nature of the proposed structure requires the installation of a subsurface sewage
124 disposal system, a completed application for a subsurface wastewater disposal permit must be submitted.
125 The application must include a site evaluation approved by the Plumbing Inspector.

126

127 **16.10.10.2 Procedure for Administering Permits.**

128 Within thirty five (35) days of the receipt of a written application, the Town Planner for Planning Board
129 review or Code Enforcement Officer for all other review, and as indicated in Section 16.10.5-2B3,4, must
130 notify the applicant in writing that the application is or is not complete. If the application is incomplete, the
131 written notification must specify the additional material required to complete the application.

132

133 A. The Code Enforcement Officer is required to approve, approve with conditions or deny all permit
134 applications in writing within thirty-five (35) days of receiving a completed application.

135

136 B. If the Planning Board has a waiting list of applications, a decision on the application will occur within
137 thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the
138 completed application, or within thirty-five (35) days of the public hearing, if one is held.

139

140 C. Permits will be approved if the proposed use or structure is found to be in conformance with the
141 purposes and provisions of this section.

142 The applicant is required to demonstrate, to the satisfaction of the reviewing authority, that the proposed
143 land use activity is in conformance with the purposes and provisions of this Code.

144

145 D. An application will be approved or approved with conditions if the reviewing authority makes a
146 positive finding based on the information presented. It must be demonstrated that the proposed use will:

147

- 148 1. maintain safe and healthful conditions;
- 149 2. not result in water pollution, erosion or sedimentation to surface waters;
- 150 3. adequately provide for the disposal of all wastewater;

- 151 4. not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- 152 5. conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- 153 6. protect archaeological and historic resources;
- 154 7. not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/
155 maritime activities district;
- 156 8. avoid problems associated with floodplain development and use
- 157 9. is in conformance with the provisions of this Code; and
- 158 10. recorded with the York County Registry of Deeds.

**Town of Kittery
Planning Board Meeting
January 14, 2016**

ITEM 6

Town Code Amendment – 16.2 Definitions.
Town Code Amendment – 16.8.8.2.3 Applicability.
Town Code Amendment – 16.10.7.2 Final Plan Application Submittal Content.

Action: review amendment and schedule a public hearing. The proposed amendments provide clarity with regard to a Municipal Separate Storm Sewer System (MS4) regulation for a Post-Construction Stormwater Management Plan.

PROJECT TRACKING

| REQ'D | ACTION | COMMENTS | STATUS |
|-------|----------------------------------------------------|----------|-------------------------|
| NO | Workshop | | |
| YES | Initial Planning Board Meeting | | Scheduled for 1/14/2016 |
| YES | Public Hearing (special notice requirements) | | |
| YES | Review/Approval/ Recommendation to Town Council | | |

Background

When the Town of Kittery initially became a regulated community under the MS4 General Permit, an ordinance was adopted to add a Post Construction Management Plan per requirements of the Permit. There has been recent proposed development in the Urbanized Area triggering this ordinance which brought to light the inadequacies of the current ordinance language, so the proposed amendments provide the needed clarity and full scope of applicability and requirements.

Review

Attached for the Board's consideration are amendments the definition of a Post-Construction Management Plan, when Post-Construction Stormwater Management regulations apply, and what the Post-Construction Stormwater Management Plan must entail.

Recommendation

If the Planning Board is amenable to the proposed amendments and/or along with any revisions they find is warranted, the Board can...

...move to schedule a public hearing for Town Code Amendments, *Title 16.2 Definitions, Title 16.8.8.2.3 Applicability, and 16.10.7.2 Final Plan Application Submittal Content* on February 25, 2016.

Code Amendments

16.2 Definitions.

Post-Construction Stormwater Management Plan means: a. for projects that require approval by the Maine Department of Environmental Protection under Chapter 500 Stormwater Management in Maine, an Inspection and Maintenance Plan as required by that Rule, or b. for projects that do not require approval by the Maine Department of Environmental Protection under Chapter 500 Stormwater Management in Maine, a plan to inspect and maintain BMPs and Stormwater Management Facilities employed by a new development or redevelopment to meet the stormwater standards of the municipality's subdivision, site plan, or other zoning, planning or other land use ordinances.

16.8.8.2.3 Applicability.

A. In General.

This Section applies to all new development or ~~construction~~ redevelopment (i.e., development on premises already improved with buildings and structures) activity including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb an area equal to or greater than one acre. ~~and; redevelopment or construction activity on premises already improved with buildings and structures or activities or uses, but does not include activities such as exterior remodeling.~~

16.10.7.2 Final Plan Application Submittal Content.

R. Stormwater management plan for stormwater and other surface water drainage prepared by a registered professional engineer including the location of stormwater and other surface water drainage area; a Post Construction Maintenance Management Plan and Agreement that defines maintenance responsibilities, responsible parties, shared costs, and schedule for maintenance; a draft Maintenance Agreement for Stormwater Management Facilities, and where applicable, draft documents creating a homeowners association referencing the Maintenance responsibilities. Where applicable, ~~a~~ the Maintenance Agreement must be included in the Document of Covenants, Homeowners Documents and/or as riders to the individual deed and recorded with the York County Registry of Deeds.
(Ordained 9/26/11; effective 10/27/11)