

**Town of Kittery  
Planning Board Meeting  
January 11, 2024**

**ITEM 3 – 15 Bowen Road– Shoreland Development Plan Review**

Action: Accept application. Approve plan or continue review: Pursuant to §16.9.3 Shoreland Development Review of the Town of Kittery Land Use and Development Code, Nicole Sanborn, on behalf of owner/applicant Eric Dyer, requests approval to stabilize 86 linear feet of existing eroding shoreline with riprap along the property of 15 Bowen Road, Tax Map 17, Lot 4, in the Residential-Urban, Shoreland Overlay, and Resource Protection Overlay Zones.

**PROCESS SUMMARY**

<b>REQUIRED</b>	<b>ACTION</b>	<b>COMMENTS</b>	<b>STATUS</b>
Yes	KPA Approval for portions below HAT line	Scheduled for 1/4/24	Pending; planning board review contingent on approval
Yes	Staff Review	1/4/24	Complete
No	Site Visit	Optional	Optional
No	Public Hearing	Optional	Optional
Yes	Final Plan Review	Scheduled for 1/11/24	Pending

**PROJECT INTRODUCTION**

15 Bowen Road is an existing lot of record located along the mouth of Spruce Creek in the Residential-Urban Zone. The parcel contains a single-family dwelling partially covered by a Shoreland Overlay Zone, with an existing float and stone rip-rap area located both in the Resource Protection Overlay Zone and a FEMA flood hazard area. Abutting the property directly to the southwest is Bowen Road, a Town-owned right-of-way which provides public access to the water with a kayak ramp. A stone wall on 15 Bowen separates the property and the Town right-of-way.

The plan proposes to reconstruct 86 linear feet of shoreline with riprap and vegetative stabilization measures. The riprap will consist of 24” to 36” sized rocks built up at a slope from the toe, supported by a base of crushed stone and underlain with a geo-textile fabric. The riprap will reach an elevation of 14 feet before transitioning to a vegetative slope stabilized with native plants. The plan proposes a vegetated slope of 1,758 sq ft., followed by 853 sq. ft. of riprap above the HAT line and 446 sq. ft. below the HAT line. Concurrently, the applicant is also seeking approval from the Kittery Port Authority to replace an existing float on the property.

Per **§16.9.B.(2)**, planning board review of the proposal is required due to the lot’s proximity within a Resource Protection Overlay Zone and a Flood Hazard Area. **§16.9.C.(1).(c)** requires KPA to approve all development below the HAT line prior to planning board review. KPA approval is anticipated on January 4<sup>th</sup>, 2024; if the applicant receives approval on this date, the planning board may review their shoreland development application during their January 11<sup>th</sup> meeting. **Pending Port Authority approval, staff recommend the planning board approve the application.**

**APPLICATION & PLAN REVIEW**

35 Staff reviewed the submitted application and plan and have the following comments:

- 36 1. The survey has a note stating it will “replace an existing stone masonry wall in-kind if found to be  
37 structurally deficient during construction,” as the applicant does not want to disturb the wall unless  
38 necessary. To ensure compliance with all requirements, the applicant is seeking approval for the  
39 replacement of the wall during this meeting. Staff suggest a condition of approval stating that any  
40 replacement of the wall will be done in-kind, and maintain current height, width, and dimensions.
- 41 2. The applicant provided an analysis of alternatives to show the proposed solution is optimal. The  
42 first alternative, adding a bulkhead seawall, would only redirect wave energy to exacerbate erosion  
43 in abutting properties (including the Town-owned water access road). The second alternative,  
44 relying only on vegetation, appears infeasible due to the steep slope of the shoreline and the risk of  
45 the site to soil erosion without further stabilization.
  - 46 a. The application includes pictures of the property showing exposed roots which seem to  
47 support the argument that vegetative buffers would not provide adequate erosion control.
- 48 3. Attachment #6 contains the construction plans including a note confirming erosion control methods  
49 will be in place before work may begin.
- 50 4. The Shoreland Overlay Zone Ordinance §16.4.28.E.(3).(a). requires new principal and accessory  
51 structures to be set back at least 100 feet, horizontal distance, from the HAT line of any water  
52 bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater  
53 wetlands. Shoreland stabilization is not considered a structure in regards to this setback.
  - 54 a. The proposed float replacement is under the jurisdiction of Kittery Port Authority. Water-  
55 dependent uses, such as floats, have a 0-foot setback from any water bodies.
- 56 5. §16.4.28.E.(2). allows 20% of total lot area in the shoreland zoning overlay to be comprised of  
57 non-vegetated surfaces or structures. The applicant has provided an email from Jeffrey Kalinich at  
58 Maine Department of Environmental Protection confirming that land used for shoreline  
59 stabilization projects are exempt from devegetation calculations. Because the project proposes only  
60 shoreline stabilization, devegetation calculations are not required.
  - 61 a. Staff suggest a condition of approval to be added to the plan noting that all future  
62 development not related to shoreline stabilization must include the entire riprap area in  
63 devegetation calculations.
  - 64 b. The portions of the float above the HAT line are being replaced in-kind with the same  
65 dimensions, and therefore do not increase devegetation of the lot.

## 66 **DISCUSSION, NEXT STEPS, AND RECOMMENDATIONS**

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67 The proposed plan would improve the safety and well-being of the property owners and shows they are  
68 choosing the development option with the least impact to abutting properties. Staff suggest acceptance of  
69 the plan and allowing the application to move to final plan approval and meet all other permitting  
70 requirements. The Planning Board should discuss the plan and determine if it meets the requirements to  
71 accept the plan, and/or direct the applicant to make any changes that are necessary.

## 72 **RECOMMENDED MOTIONS**

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73 Below are motions for the Planning Board’s consideration:

74 *Motion to accept the application*

75 Move to accept the plan for a shoreland development application from Nicole Sanborn, on behalf of  
76 owner/applicant Eric Dyer.

77 ***Motion to approve the application***

78 Move to approve the plan for a shoreland development application from Nicole Sanborn, on behalf of  
79 owner/applicant Eric Dyer.

1  
2 **Kittery Planning Board**  
3 **Findings of Fact**  
4 **For 15 Bowen Road**  
5 **Shoreland Development Plan Review**

**DRAFT**  
**M 17 L 4**

6  
7 Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the  
8 Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and  
9 required by the Planning Board.

10 **WHEREAS:** Agent Nicole Sanborn, on behalf of owner/applicant Eric Dyer, requests approval to stabilize  
11 86 linear feet of existing eroding shoreline with riprap along the property of 15 Bowen Road, Tax Map 17,  
12 Lot 4, in the Residential-Urban, Shoreland Overlay, and Resource Protection Overlay Zones.

13  
14 Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes  
15 prepared for 1/11/2024.

16

Shoreland Development Plan Staff Review	1/4/23
Site Walk	None
Public Hearing	None
Approval	1/11/23

17  
18 Pursuant to the application and plan and other documents considered to be a part of a plan review decision  
19 by the Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”):

- 20  
21 1. Shoreland development plan application received 12/5/2023 from Nicole Sanborn of Tidewater  
22 Engineering & Surveying.

23  
24 **NOW THEREFORE**, based on the entire record before the Planning Board and pursuant to the  
25 applicable standards in the Land Use and Development Code, the Planning Board makes the following  
26 factual findings and conclusions:

27  
28 **FINDINGS OF FACT**

29  
30 **Chapter 16.4 LAND USE ZONE REGULATIONS**

**16.4.28.E. Shoreland Overlay Zone**

*(2) 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:*

**Finding:** All surfaces counted within shoreline stabilization projects are not included in devegetation calculations, as confirmed by the Maine Department of Environmental Protection. All other development is replacement-in-kind, and will not increase devegetation.

**Conclusion:** The requirement appears to be met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

31  
32 **Chapter 9 MARITIME AND SHORELAND RELATED DEVELOPMENT**  
33 **Article III Planning Board Shoreland Development Review**

**16.9.3.F. Findings of Fact**

*(2) 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:*

*(a) Maintain safe and healthful conditions:*

Finding: The proposed shoreline stabilization appears necessary to maintain safe conditions on the property. The application has endeavored to show the stabilization option chosen will not have adverse impacts on the safety of adjacent lots.

Conclusion: This requirement appears to be met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

*(b) Not result in water pollution, erosion or sedimentation to surface waters:*

Finding: The proposed development as represented in the plans and application will reduce the risk of water pollution, and best practices for erosion and sedimentation will be observed in development.

Conclusion: This requirement appears to be met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

*(c) Adequately provide for the disposal of all wastewater:*

Finding: No wastewater is anticipated as a part of this development.

Conclusion: This requirement appears to have been met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

*(d) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat:*

Finding: The proposed development as represented in the plans appears to reduce the risk of adverse impact on nearby natural resources.

Conclusion: The requirement appears to be met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

*(e) Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters:*

Finding: Shore cover is conserved in accordance with the Code. There are no adverse impacts to visual or actual points of access to waters.

Conclusion: This requirement appears to be met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

*(f) Protect archaeological and historic resources:*

Finding: There appear to be neither archaeological nor historic resources impacted.

Conclusion: This requirement does not appear applicable.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

<p><i>(g) Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district:</i></p> <p><b>Finding:</b> No commercial fishing takes place on the property, but there is a partial commercial fishery overlay zone on the adjacent Town right-of-way. By providing shoreline stabilization on 15 Bowen Road, the development appears to have a positive impact on the shoreline of the Town right-of-way.</p> <p><b>Conclusion:</b> This requirement appears to be met.</p> <p style="text-align: right;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(h) Avoid problems associated with floodplain development and use:</i></p> <p><b>Finding:</b> All floodplain management standards will be followed in the shoreland stabilization process.</p> <p><b>Conclusion:</b> This requirement appears to be met.</p> <p style="text-align: right;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(i) Is in conformance with the provisions of this code:</i></p> <p><b>Finding:</b> The proposed development is an accessory to an existing non-conforming dwelling, and proposed improvements will improve the property's conformity to the provisions of Title 16.</p> <p><b>Conclusion:</b> This requirement appears to be met.</p> <p style="text-align: right;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(j) Be recorded with the York County Registry of Deeds:</i></p> <p><b>Finding:</b> A plan suitable for recording once the Surveyor's stamp is added has been prepared by <b>Tidewater Engineering &amp; Surveying.</b></p> <p><b>Conclusion:</b> As stated in the Notices to Applicant contained herein, a Shoreland Development Plan must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.</p> <p style="text-align: right;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>

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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 subject to any conditions or waivers, as follows:

**Waivers:** None

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

1. All future developments not related to shoreline stabilization must include the entire riprap area in revegetation calculations.
2. Any replacement of the stone wall between 15 Bowen Road and the adjacent southwest property must be done in-kind, maintaining current dimensions, or else seek subsequent planning board approval.
3. Without prior approval, no changes, erasures, modifications or revisions may be made to any Planning Board approved final plan per Title 16.9.3.I.

50 4. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated  
51 with site and construction to ensure adequate erosion control and slope stabilization.

52 5. All Notices to Applicant contained herein (Findings of Fact dated 1/11/2024).

53  
54 **Conditions of Approval** (not to be depicted on final plan):

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

57 2. Surveyor’s stamp must be on the final plan.

58  
59 **Notices to Applicant:**

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61 1. Incorporate any plan revisions on the final plan as required by Planning Board and submit for  
62 Staff review prior to presentation of final plan.

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

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

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

74 5. Prior to construction, applicant shall obtain any and all permits required by the code enforcement  
75 office to complete proposed work.

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77 The Planning Board authorizes the Planning Board Chair or Vice chair to sign the Final Plan and the  
78 Findings of Fact upon confirmation of required plan changes.

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80 **Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

81  
82 APPROVED BY THE KITTERY PLANNING BOARD ON \_\_\_\_\_

83  
84  
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87 \_\_\_\_\_  
88 Dutch Dunkelberger, Planning Board Chair

89  
90 Per Title 16.2.12. - An aggrieved party with legal standing may appeal a final decision of the Planning  
91 Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section  
92 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.



**LEGEND**

- SUBJECT PARCEL BOUNDARY LINE
- EDGE OF PAVEMENT
- EXISTING STONE WALL
- EXISTING SEWER LINE
- 10 — CONTOUR: POSITIVE ELEVATION
- (10) — CONTOUR: NEGATIVE ELEVATION
- IRON PIPE, ROD, OR DISK FOUND
- DRILL HOLE FOUND
- GRANITE/CONCRETE BOUND
- UTILITY POLE

**GENERAL NOTES:**

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE LOCATION OF A PROPOSED FIXED PIER, SEASONAL GANGWAY, SEASONAL MAIN FLOAT AND ASSOCIATED ACCESS RAMP TO BE LOCATED ON MAP 17 LOT 4 IN KITTERY, ME. THE EXISTING PIER STRUCTURE IS BEING FULLY REPLACED AND THE MAIN FLOAT IS BEING EXPANDED. SAID PLAN SHALL BE USED FOR APPLYING FOR PERMITS FROM THE TOWN OF KITTERY, MAINE DEPT. OF ENVIRONMENTAL PROTECTION AND U.S. ARMY CORPS OF ENGINEERS.

**OWNER OF RECORD:**

TAX MAP 17 LOT 4  
ERIC DYER  
15 BOWEN ROAD  
KITTERY, MAINE 03904  
Y.C.R.D. BOOK 17735 PAGE 0077

3. THE PROPERTY IS LOCATED WITHIN THE TOWN OF KITTERY RESIDENTIAL-URBAN ZONING DISTRICT AND SHORELAND PROTECTION OVERLAY 250' DISTRICT. ZONING REGULATIONS ARE SUBJECT TO CHANGE. OWNER SHALL CONFIRM ALL ZONING REGULATIONS WITH THE TOWN OF KITTERY PRIOR TO ANY DEVELOPMENT.

4. BASIS OF BEARING IS MAINE STATE PLANE (NAD83) WEST ZONE, US FOOT.

5. ELEVATIONS AND TOPOGRAPHY SHOWN HEREON CORRESPOND TO NAVD88.

6. THE BOUNDARY SHOWN HEREON IS BASED ON REFERENCE PLAN 1.

7. THE RIPARIAN LIMITS SHOWN HEREON WERE CALCULATED USING THE COLONIAL METHOD.

8. ABUTTER LINES SHOWN HEREON SHALL BE CONSIDERED APPROXIMATE AND ARE FOR REFERENCE PURPOSES ONLY. ABUTTER LINES SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.

9. THE 2018 HIGHEST ANNUAL TIDE (H.A.T.) ELEVATION PUBLISHED BY MAINE DEP FOR TIDAL STATION 8423898 FORT POINT IS ELEV. = 6.4' (NAVD88). THE H.A.T. ELEVATION IS USED TO DELINEATE THE UPLAND EDGE OF THE COASTAL RESOURCE FOR REGULATORY PURPOSES UNDER THE MANDATORY SHORELAND ZONING ACT.

10. TIDAL ELEVATIONS: THE FOLLOWING TIDAL ELEVATIONS WERE OBTAINED FROM DATA PUBLISHED BY N.O.A.A. FOR TIDE STATION 8423898, FORT POINT. ALL ELEVATIONS CORRESPOND TO NAVD88.

MEAN HIGHER-HIGH WATER (MHHW)	4.39'
MEAN HIGH WATER (MHW)	3.97'
MEAN LOW WATER (MLW)	-4.66'
MEAN LOWER-LOW WATER (MLLW)	-5.00'
LOWEST ASTRONOMICAL TIDE (LAT)	-7.14'

11. THE 100-YEAR FLOOD ELEVATION OF THE PISCATAQUA RIVER IS ELEVATION 11.0' (NGVD29) PER FEMA FIRM MAP 230171 0005D. THIS ELEVATION CONVERTED TO THE DATUM SHOWN HEREON IS 10.25' (NAVD88).

12. UTILITY LOCATIONS SHOWN ON THESE PLANS ARE APPROXIMATE AND MAY NOT BE ENTIRELY ACCURATE OR COMPLETE.

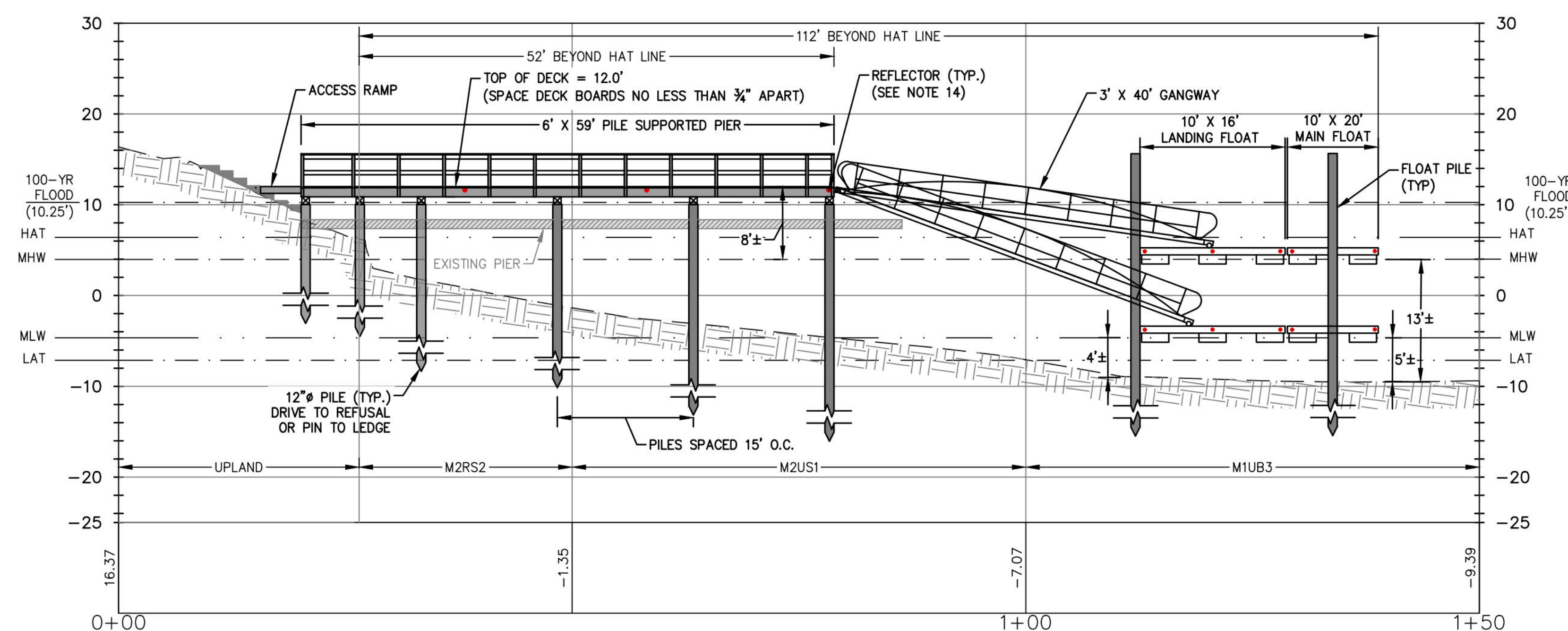
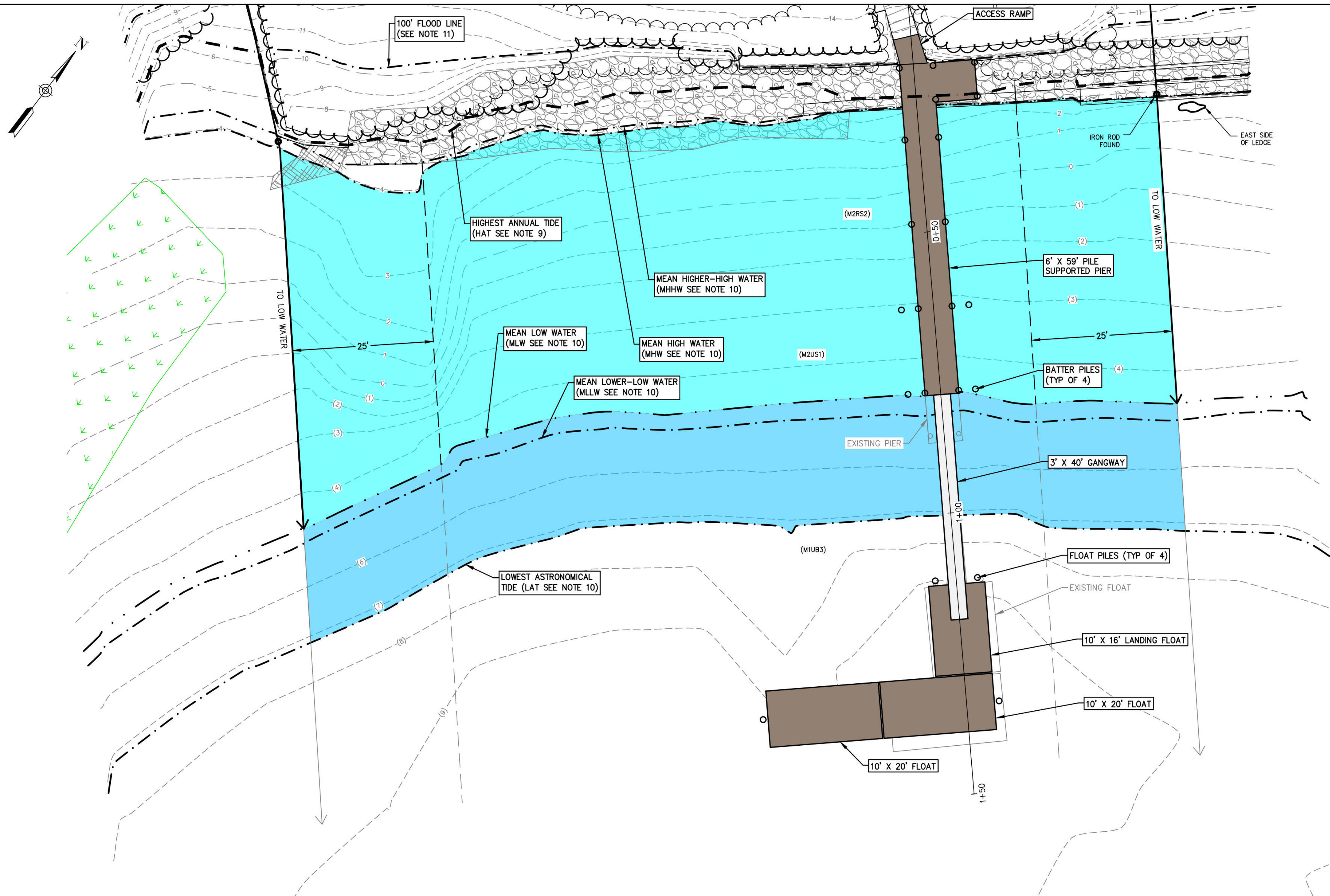
13. THE PROPOSED DEVELOPMENT SHOWN HEREON IS SUBJECT TO REVIEW AND APPROVAL BY THE TOWN OF KITTERY, MAINE DEP AND U.S. ARMY CORPS OF ENGINEERS. OWNER/CONTRACTOR SHALL OBTAIN ALL PERMITS NECESSARY PRIOR TO ANY CONSTRUCTION AND IS RESPONSIBLE FOR COMPLYING WITH ALL CONDITIONS OF SAID PERMITS.

14. REFLECTOR SHALL BE NO LESS THAN 3 INCH DIAMETER AND SHALL BE INSTALLED AS FOLLOWS:

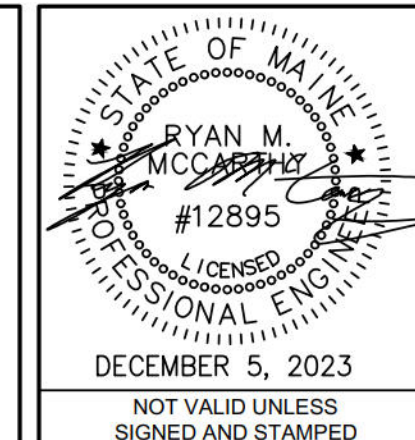
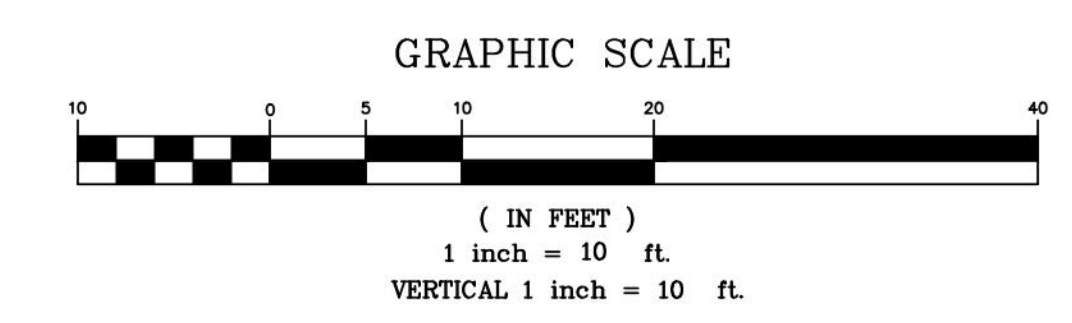
- PIER: EVERY 20 FEET FROM END OF PIER, BOTH SIDES
- FLOATS: WITHIN 12 INCHES OF EACH CORNER

**REFERENCE PLANS:**

1. "TOPOGRAPHIC SITE PLAN" PREPARED BY EASTERLY SURVEYING, INC. DATED JUNE 22, 2005 AND RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS PLAN BOOK 17735 PAGE 0077.



NERRSCS CLASSIFICATION	
M2RS2	MARINE - INTERTIDAL - ROCKY SHORE - RUBBLE
M2U1	MARINE - INTERTIDAL - UNCONSOLIDATED SHORE - COBBLE
M1UB3	MARINE - SUBTIDAL - UNCONSOLIDATED BOTTOM - MUD



NOT VALID UNLESS SIGNED AND STAMPED
DATE: 12/05/2023
NO. 1
EXTENDED RIPARIAN LIMITS PAST MLW
SUBMISSION/REVISION DESCRIPTION

**TIDEWATER**  
ENGINEERING & SURVEYING, INC.  
1021 Goodwin Rd Unit 1, Eliot, ME 03903  
(207)459-2222 • www.tidewatercivil.com

PIER STRUCTURE REPLACEMENT PLAN	
ON LAND LOCATED AT 15 BOWEN ROAD, KITTERY, YORK COUNTY, MAINE	
PREPARED FOR:	RIVERSIDE & PICKERING MARINE CONTRACTORS, 34 PATTERSON LANE, NEWINGTON, NH 03801
JOB #:	23-114
DATE:	SEPT. 11, 2023
SCALE:	1" = 10'
SHEET:	1 OF 2



**LEGEND**

- SUBJECT PARCEL BOUNDARY LINE
- EDGE OF PAVEMENT
- EXISTING STONE WALL
- EXISTING SEWER LINE
- CONTOUR: POSITIVE ELEVATION
- CONTOUR: NEGATIVE ELEVATION
- IRON PIPE, ROD, OR DISK FOUND
- DRILL HOLE FOUND
- GRANITE/CONCRETE BOUND
- UTILITY POLE
- RIPRAP ABOVE H.A.T LINE
- RIPRAP BELOW H.A.T LINE
- UPPER BANK EXTENTS

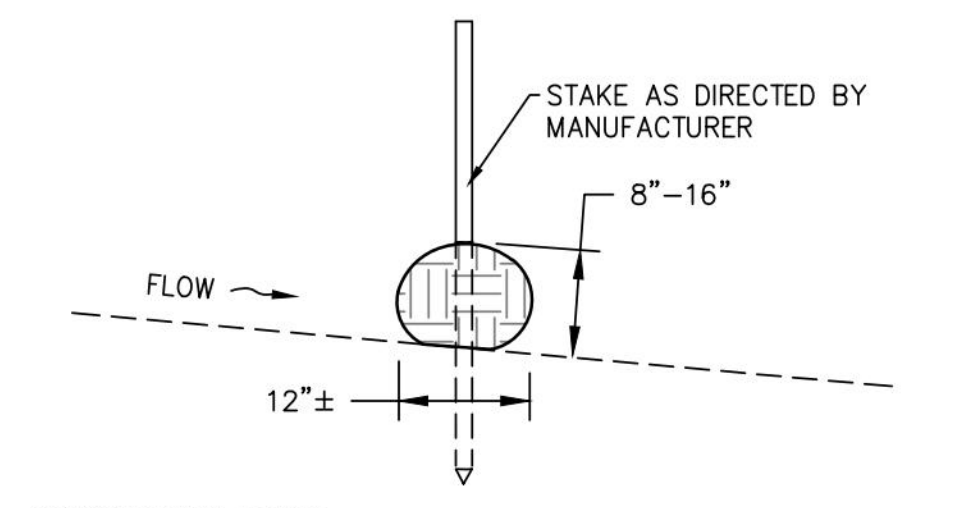
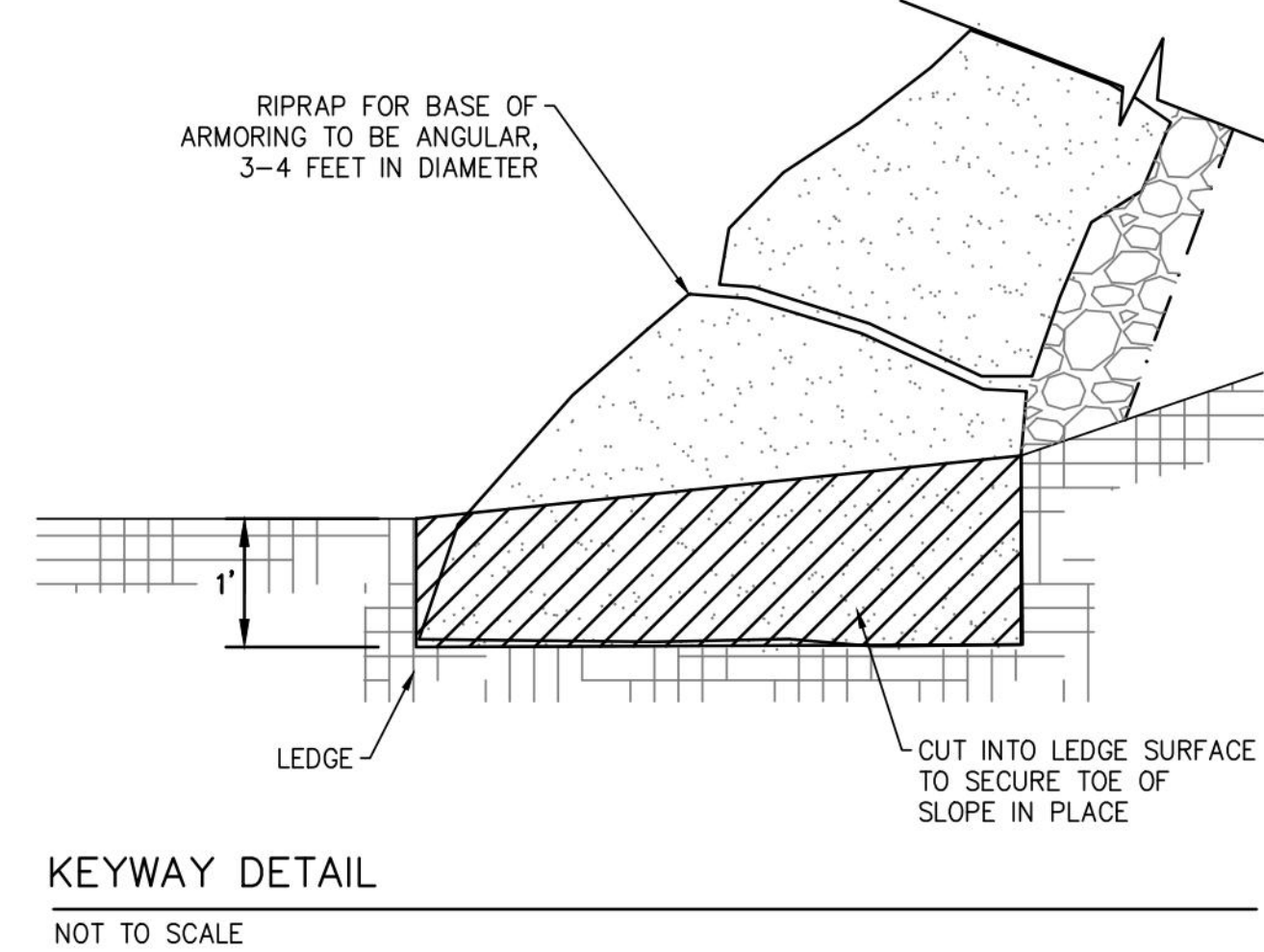
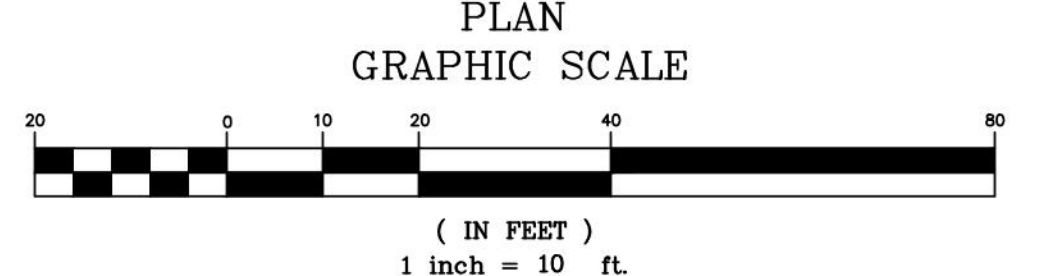
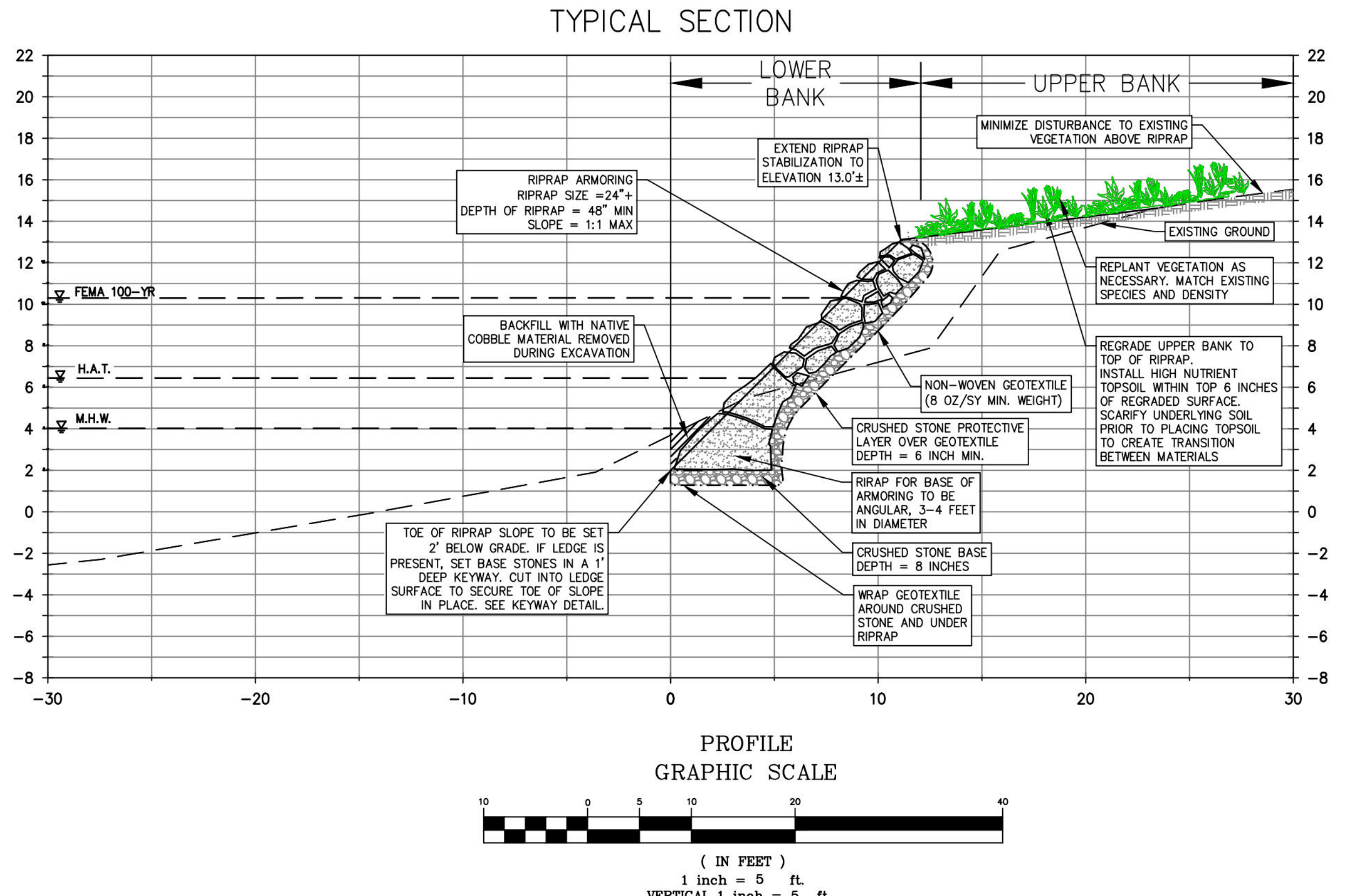
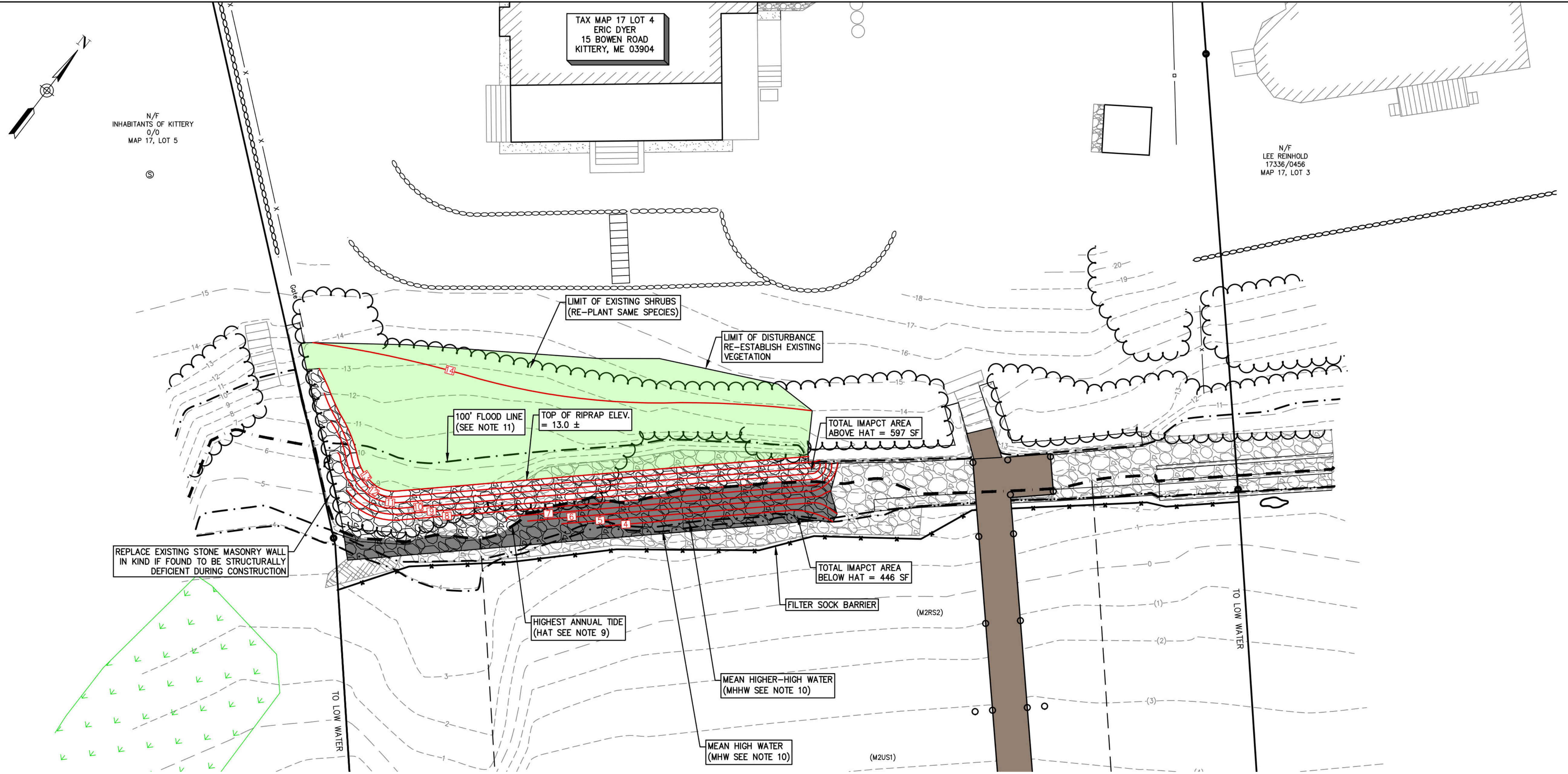
**GENERAL NOTES:**

1. THE PURPOSE OF THIS PLAN IS TO DEPICT A PROPOSED SHORELINE STABILIZATION PLAN ALONG TAX MAP 17 LOT 4 IN KITTERY, ME. SAID PLAN SHALL BE USED FOR APPLYING FOR PERMITS FROM THE TOWN OF KITTERY MAINE DEPT. OF ENVIRONMENTAL PROTECTION AND U.S. ARMY CORPS OF ENGINEERS.
2. OWNER OF RECORD:  
TAX MAP 17 LOT 4  
ERIC DYER  
15 BOWEN ROAD  
KITTERY, MAINE 03904  
Y.C.R.D. BOOK 17735 PAGE 0077
3. THE PROPERTY IS LOCATED WITHIN THE TOWN OF KITTERY RESIDENTIAL-URBAN ZONING DISTRICT AND SHORELAND PROTECTION OVERLAY 250' DISTRICT. ZONING REGULATIONS ARE SUBJECT TO CHANGE. OWNER SHALL CONFIRM ALL ZONING REGULATIONS WITH THE TOWN OF KITTERY PRIOR TO ANY DEVELOPMENT.
4. BASIS OF BEARING IS MAINE STATE PLANE (NAD83) WEST ZONE, US FOOT.
5. ELEVATIONS AND TOPOGRAPHY SHOWN HEREON CORRESPOND TO NAVD88.
6. THE BOUNDARY SHOWN HEREON IS BASED ON REFERENCE PLAN 1.
7. THE RIPARIAN LIMITS SHOWN HEREON WERE CALCULATED USING THE COLONIAL METHOD.
8. UTILITY LOCATIONS SHOWN ON THESE PLANS ARE APPROXIMATE AND MAY NOT BE ENTIRELY ACCURATE OR COMPLETE.
9. THE 2018 HIGHEST ANNUAL TIDE (H.A.T.) ELEVATION PUBLISHED BY MAINE DEP FOR TIDAL STATION 8423898 FORT POINT IS ELEV. = 6.4' (NAVD88). THE H.A.T. ELEVATION IS USED TO DELINEATE THE UPLAND EDGE OF THE COASTAL RESOURCE FOR REGULATORY PURPOSES UNDER THE MANDATORY SHORELAND ZONING ACT.
10. TIDAL ELEVATIONS: THE FOLLOWING TIDAL ELEVATIONS WERE OBTAINED FROM DATA PUBLISHED BY N.O.A.A. FOR TIDE STATION 8423898, FORT POINT. ALL ELEVATIONS CORRESPOND TO NAVD88.
 

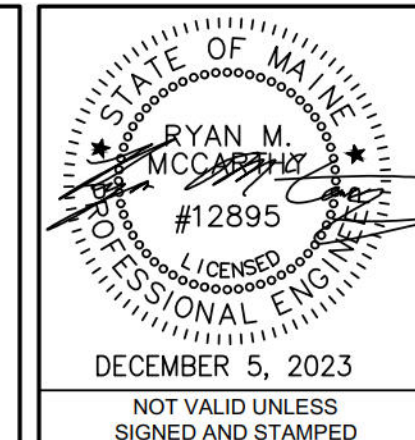
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LOWEST ASTRONOMICAL TIDE (LAT)	-7.14'
11. THE 100-YEAR FLOOD ELEVATION OF THE PISCATAQUA RIVER IS ELEVATION 11.0' (NGVD29) PER FEMA FIRM MAP 230171 00050. THIS ELEVATION CONVERTED TO THE DATUM SHOWN HEREON IS 10.25' (NAVD88).
12. THE CONTRACTOR IS RESPONSIBLE FOR ALL MEANS AND METHODS OF CONSTRUCTION, INSTALLING AND MAINTAINING PROPER EROSION AND SEDIMENT CONTROL MEASURES, IMPLEMENTATION OF A CONSTRUCTION SAFETY PLAN, COMPLYING WITH ALL PERMITTING CONDITIONS.
13. THE EXPANSION OF RIPRAP FOR SHORELINE STABILIZATION IS EXCLUDED FROM DEVEGETATED CALCULATIONS, PER MDEP RULING.

**REFERENCE PLANS:**

1. "TOPOGRAPHIC SITE PLAN" PREPARED BY EASTERLY SURVEYING, INC. DATED JUNE 22, 2005 AND RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS PLAN BOOK 17735 PAGE 0077.



- CONSTRUCTION NOTES:**
1. FILTER SOCKS SHOULD BE INSTALLED PARALLEL TO CONTOURS.
  2. FILTER SOCKS SHALL BE FILLED WITH EROSION CONTROL MIX OR OTHER FINELY SHREDDED ORGANIC MATERIAL (I.E. COCONUT FIBER OR OTHER).
  3. FULL CONTACT WITH THE GROUND IS REQUIRED TO PREVENT SHORT CIRCUITING UNDER THE SOCK. THE GROUND SURFACE MUST BE SMOOTH AND LEVEL. IN WOODED AREAS, PROTRUDING ROOTS AND DEBRIS MAY NEED TO BE REMOVED. IN GRASSED AREAS, THE GRASS NEEDS TO BE EITHER MOWED OR COMPRESSED DOWN.
  4. STAKING MAY BE NECESSARY ON STEEP SLOPES.
  5. UPON FINAL STABILIZATION, THE SOCK SHALL BE EITHER REMOVED OR CUT OPEN AND THE MATERIAL SPREAD OUT ONTO THE GROUND. THE MESH SHOULD BE REMOVED.



NO.	1
DATE:	11/07/2023
ADJUSTED LIMITS OF RIPRAP, AND ADDED IMPACT VALUES	
SUBMISSION/REVISION DESCRIPTION	

**TIDEWATER**  
ENGINEERING & SURVEYING, INC.  
1021 Goodwin Rd Unit 1, Eliot, ME 03903  
(207)459-2222 • www.tidewatercivil.com

SHORELINE STABILIZATION PLAN  
ON LAND LOCATED AT  
15 BOWEN ROAD  
KITTERY, YORK COUNTY, MAINE

PREPARED FOR:  
RIVERSIDE & PICKERING MARINE CONTRACTORS  
34 PATTERSON LANE  
NEWINGTON, NH 03801

JOB #:	23-114
DATE:	SEPT. 11, 2023
SCALE:	1" = 10'
SHEET:	2 OF 2



November 13, 2023

Mr. Maxim Zakian  
Kittery Town Planner  
200 Rogers Road  
Kittery, Maine 03904



Re: Shoreland Application: Proposed Shoreline Stabilization  
15 Bowen Road, Kittery ME 03904 (Tax Map 17 Lot 4)- Reference No. 23-114

Dear Mr. Zakian:

Tidewater Engineering & Surveying, Inc. is pleased to submit the enclosed Shoreland Application on behalf of Eric Dyer. The applicant is seeking to stabilize approximately 86 linear feet of existing eroding shoreline along their property at 15 Bowen Road, Kittery ME 03904 (Tax Map 17 Lot 4).

A Natural Resources Protection Act permit application was submitted to the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers for review on October 6, 2023 and is currently being reviewed. We will submit their determinations to the Town once received.

We respectfully request that the review by the Town occur concurrently with Maine DEP and U.S. Army Corps of Engineers review to expedite the permitting process. Please note, a separate application for the pier replacement has been submitted to the Port Authority.

Thank you for considering this application. Should you have any questions while reviewing the enclosed documents, please do not hesitate to contact me.

Sincerely,

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

Ryan M. McCarthy, P.E., P.L.S.  
President  
Tidewater Engineering & Surveying, Inc.  
(207) 439-2222  
ryan@tidewatercivil.com

Enclosures



KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



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KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



AGENT LETTER OF AUTHORIZATION

September 1, 2023

Re: Letter of Agent Authorization  
Proposed Shoreline Stabilization, Pier & Gangway Replacement, and Float Extension  
15 Bowen Road, Kittery, ME 03904  
Reference Job No. 23-114

To Whom It May Concern:

This letter is to inform the Town of Kittery, the Maine Department of Environmental Protection, and the U.S. Army Corps of Engineers that Tidewater Engineering & Surveying, Inc. and Riverside & Pickering Marine Contractors, Inc. are hereby authorized to represent us as our agents in permitting a proposed shoreline stabilization, pier and gangway replacement, and float extension within the previously developed 100' Tidal Buffer Zone and jurisdictional wetlands on our property. Said property is located at 15 Bowen Road in Kittery, Maine.

Please contact me if there is any question regarding this authorization.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Dyer", is written over a light blue circular stamp.

Eric Dyer  
15 Bowen Road  
Kittery, ME 03904



KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



Property Deed



E  
2p → Return to:  
Eric W. Dyer and Jane S. Dyer  
54 Kingswood Road  
Westwood, MA 02090

MAINE R.E. TRANSFER TAX PAID

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That **Donna Lorange Ruddy**, Trustee of the Donna Lorange Ruddy Revocable Trust and **Mark Sutherland Ruddy**, Trustee of the Mark Sutherland Ruddy Revocable Trust, both of PO Box 513, Portsmouth, NH 03802, for consideration paid grant to **Eric W. Dyer and Jane S. Dyer**, A Married Couple, of 54 Kingswood Road, Westwood, MA 02090, as joint tenants with rights of survivorship, with WARRANTY COVENANTS:

A certain lot or parcel of land, together with the buildings and improvements thereon, situated in Kittery, County of York and State of Maine, being formerly known as the Fernald Homestead, bounded and described as follows:

Southeasterly by the waters of Spruce Creek and the Piscataqua River; Southwesterly by the old road leading to the former landing of the Kittery Point Ferry; Northwesterly by Bowen Avenue, sometimes known as Bowen Road; and Northeasterly by land formerly of Florence Cleaves and now of Andrews.

Said premises being conveyed together with the benefit of the rights and easements granted by the Town of Kittery in the Municipal Easement Deed recorded in the York County Registry of Deeds at Book 15150, Page 180.

Subject to the following:

1. Subject to the Sewer Easement Deed recorded with said Registry at Book 5593, Page 283.
2. Subject to the Town Building Code notice recorded in said Registry at Book 9755, Page 288.
3. Subject to the Municipal Easement Deed recorded with said Registry at Book 15150, Page 180.
4. Rights of upper and lower riparian owners in and to the waters of the Piscataqua River and the natural flow thereof.

Meaning and intending to describe and convey the same premises conveyed to Donna Lorange Ruddy, Trustee of the Donna Lorange Ruddy Revocable Trust and Mark Sutherland Ruddy, Trustee of the Mark Sutherland Ruddy Revocable Trust, by virtue of a Deed from Donna Lorange Ruddy, Trustee of the Donna Lorange Ruddy Revocable Trust, dated November 7, 2016, and recorded in the York County Registry of Deeds in Book 17360, Page 278.

RE: 2018-6759

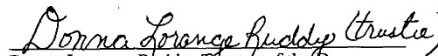
Page 1 of 2

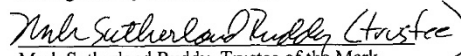
KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



The undersigned are the Trustees individually under **The Donna Lorange Ruddy Revocable Trust**, created under a certain **Declaration of Trust dated May 27, 1999** and **The Mark Sutherland Ruddy Revocable Trust**, created under a certain **Declaration of Trust dated May 27, 1999**, and thereto have full and absolute power in said Trust Agreements to convey any interest in real estate and improvements thereon, and pledge said property as security, held in said Trusts and no purchaser or third party shall be bound to inquire whether the Trustees have said power or is properly exercising said power or to see to the application of any Trusts asset paid to the Trustees as a conveyance thereof.


Executed this 15th day of June 2018.

  
Donna Lorange Ruddy, Trustee of the Donna Lorange Ruddy Revocable Trust

  
Mark Sutherland Ruddy, Trustee of the Mark Sutherland Ruddy Revocable Trust

State of New Hampshire  
County of Rockingham

Then personally appeared before me on this 15th day of June 2018, the said Donna Lorange Ruddy, Trustee of the Donna Lorange Ruddy Revocable Trust and Mark Sutherland Ruddy, Trustee of the Mark Sutherland Ruddy Revocable Trust and acknowledged the foregoing to be their voluntary act and deed.

  
Notary Public/Justice of the Peace  
Commission expiration:





KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #1- PROJECT DESCRIPTION:**

**A. Introduction/Purpose:**

Major weather events have accelerated the erosion process along the shoreline of the property exposing root systems and washing away soil. If the shoreline along the property is left in its current state, the slope will continue to deteriorate putting the vegetation and uplands at risk, therefore the owner is seeking to stabilize the shoreline to help prevent future erosion and protect their property.

**B. Project Summary:**

The owners of the property have witnessed their shoreline erode and degrade over time putting the existing vegetation at risk and exposing root systems. To protect the embankments and uplands along Spruce Creek, approximately 86 linear feet of shoreline will be reconstructed with riprap and vegetative stabilization measures. The riprap will consist of 24" to 36" sized rocks built up at a 1:1 slope from the toe, up to an elevation of 14 feet before transitioning to a vegetated slope. All riprap will be supported by a crushed stone base located 2' below existing grade and underlain with a geo-textile fabric. The vegetative slope will be stabilized with native plants, promoting healthy growth along the shoreline, supporting existing root systems, and preventing further upland soil from eroding into the coastal habitat. The proposed impact below the HAT is approximately 446 sf. See attached plans for additional details.

**C. Historical Knowledge:**

The property was purchased by the applicant in 2018. The previous owners installed the existing pier, gangway, and float in 1995.

**D. Impact Calculations:**

The total permanent impacts below the H.A.T. is estimated as follows...

Total area of rip-rap impact = 446 sf +/- (Below HAT)

Disturbance area of the adjacent uplands are as follows...

Area of rip-rap impact = 853 sf +/-

Graded vegetative slope = 1758 sf +/-

Total Disturbance Area = 2611 sf +/- (Uplands: Above HAT)

KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



E. Location-Based Impact Mitigation:

After thoroughly evaluating the shoreline and intertidal zones along this property, we are recommending the shoreline stabilization location shown on the enclosed plans for the following reasons:

- 1) Reestablishes and re-enforces the existing shape of the edge of shoreline.
- 2) The elevation of the top of the proposed riprap slope will be above the current 100-year flood elevation designated by FEMA to improve protection from erosion during major storm events and wave action.
- 3) The uplands adjacent to the shoreline are developed as shrubs and lawn area and will not require the unnecessary removal of any trees for construction access.

KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #2- ALTERNATIVES ANALYSIS:**

- 1) Vertical Bulkhead: This alternative would provide structural retaining walls between the coastal resource and the uplands. This alternative was not pursued for following reasons:
  - a. Bulkheads reflect wave energy, which can cause unintended impacts to nearby shorelines.
  - b. A timber bulkhead would be built using a pressure treated wood which is treated with chemicals that are harmful to the environment. Riprap stabilization in a marine environment typically has a longer lifespan than timber. The shorter lifespan would increase the impact to the resource by shortening the time span between replacements of the structure.
- 2) Do Nothing: This alternative would be for the applicant to continue to allow the shoreline on their property to erode into the coastal resource, further undermining existing root systems and vegetation. This option was not pursued for the following reasons:
  - a. Storm events and tide fluctuations will continue to erode the shoreline.
  - b. Existing vegetation and root systems will continue to be undermined, exposing soils, and causing additional vegetation and upland soils to fall into the intertidal zone.
  - c. The shoreline will become increasingly unstable, posing a hazard to the owners and the uplands on the property.
- 3) Vegetative Stabilization: This alternative would attempt to utilize solely vegetative measures to stabilize the slope. This alternative was not pursued for the following reasons:
  - a. The existing slope is too steep for vegetation to be used for stabilization.
  - b. The underlying soils will continue to erode and fail under the root systems.
  - c. Vegetative measures are not appropriate for this location due to its direct exposure to wind, wave, and ocean swells. Vegetative measures would not be able to withstand this exposure level.

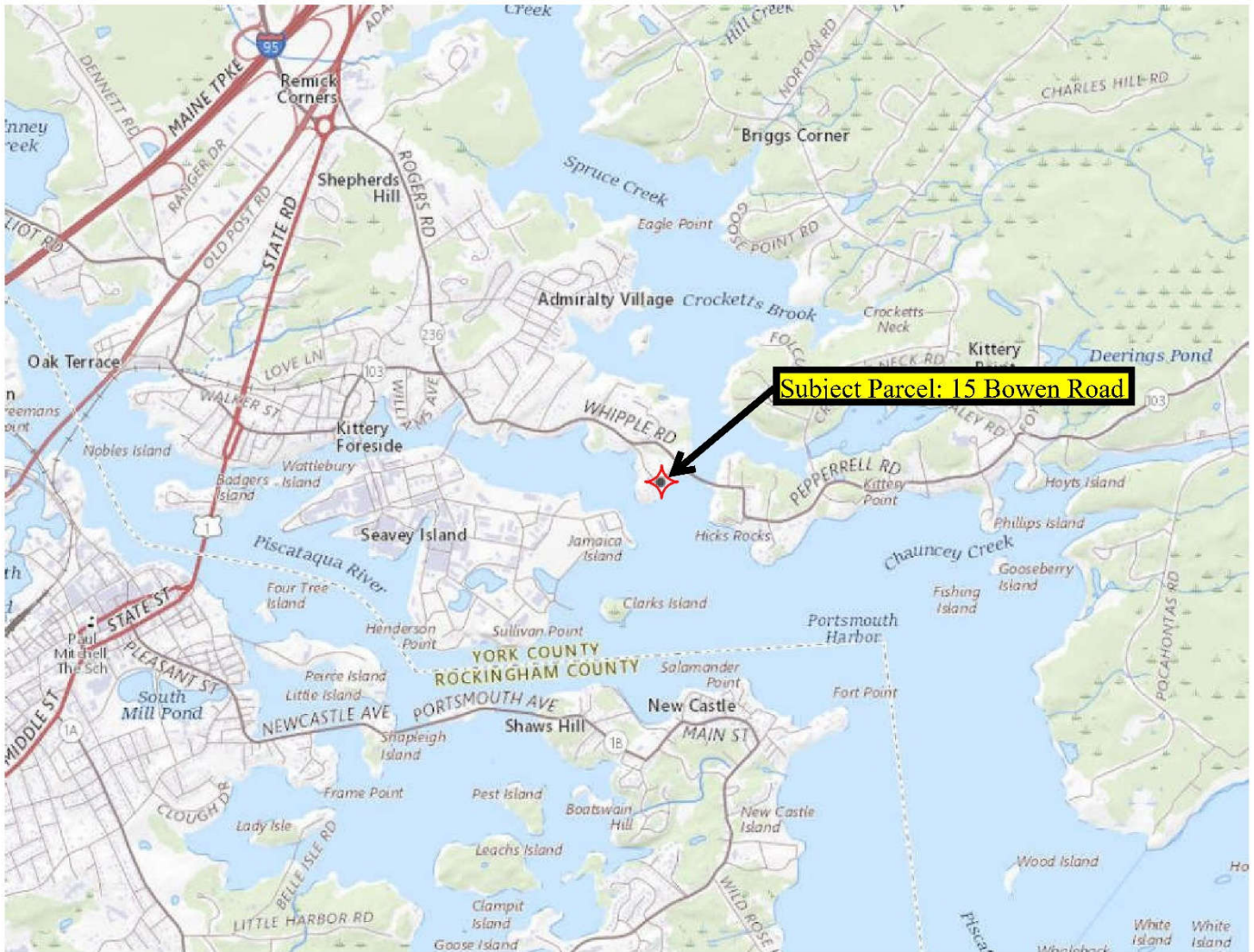


KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #3- LOCATION MAPS:**

**A. USGS Project Location Map**



KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



B. Town GIS Project Location Map





KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #4- PROJECT SITE PHOTOS:**

Photo 1: View showing slope failure, exposed soils, eroding vegetation, and exposed root systems (01/18/2023)





KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
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Photo 2: View showing exposed soils and root systems, shifted riprap, and a broken pipe  
(07/13/2023)



KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #5- SHORELINE STABILIZATION PLAN:**

KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #6- CONSTRUCTION PLAN:**

Approximately 86 linear feet of riprap armoring will be installed along the existing embankment to mitigate further erosion. Prior to any soil disturbing activities, the Contractor shall install all erosion and sediment control measures which includes a filter sock barrier just seaward of the toe of the slope. The Contractor will then proceed with excavating the existing rubble/rocks to dig out a keyway for the toe of the riprap. If ledge is encountered, the keyway shall be cut into the ledge as shown on the plans. The toe of the riprap will then be established using a base of 24"-36" stone that is 3-4 feet wide, supported by an 8" gravel base. When the excavator digs out a keyway toe for the riprap, a non-woven, geo-textile filter fabric will be installed between the exposed soil and the riprap to help prevent erosion of fine particulates from the upland and promote healthy drainage. Once the toe is established, riprap of various sizes will be built up at a 1:1 slope up to an approximate elevation of 14.0'. From there, the slope will transition to a maximum 3:1 graded vegetative slope. After the work is completed and the site is established, the filter sock shall be removed in its entirety. The total time of the site work will be completed from the uplands in approximately three weeks.

KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #7- EROSION CONTROL PLAN:**

Throughout the entire construction period for the slope stabilization a silt sock will be placed seaward of the proposed riprap toe location. This will be in place to reduce sedimentation of the resource during high tide when bare soil may be exposed to the river. After completion of the project the silt sock will be removed completely.



KITTERY SHORELAND PERMIT APPLICATION  
APPLICANT: ERIC DYER  
LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #8- SITE CONDITION REPORT:**

The site plans enclosed as Attachment 5 depicts one-foot contours, existing resource boundaries, the area of the resource to be altered, activity location and dimensions and wetland/waterbody classification. The slope to be stabilized and the proposed docking system to be replaced is located within both upland areas and the intertidal zone.

As this project is associated with a coastal resource subject to tidal action, the upland edge of the resource was delineated by the highest annual tide (HAT) elevation published by Maine DEP for 2018. The HAT for Kittery Point is elevation 6.4' referenced to the North American Vertical Datum of 1988 (NAVD88). This method for delineating the coastal resource is widely accepted by the State of Maine pursuant to the Mandatory Shoreland Zoning Act.

The adjacent uplands are developed with landscaped areas and residential structures. Existing upland vegetation will be impacted by the proposed slope stabilization, however, additional vegetation will be planted to reestablish the disturbed areas to the pre-construction conditions.

The permanent section of the proposed docking system is located within both upland areas and the intertidal zone. The fixed pier is supported on timber pilings and extends approximately 52 feet beyond the highest annual tide line. As depicted in the site plan, the replacement pier does not extend beyond mean low water.

The surface of the resource and intertidal zone within the project limits is comprised primarily of ledge and cobble stones. Large boulders are scattered close to the shoreline embankment and rest on a mixed cobble and gravel surfaces. Extending toward Spruce Creek, large rock becomes less prevalent and a cobble/gravel surface predominates to the low waterline. Beyond low water is primarily mud flat. For more detailed information, please refer to the enclosed *Appendix B: MDEP Coastal Wetland Characterization: Intertidal and Shallow Subtidal Field Survey Checklist*.

A survey conducted by Maine DEP in 2021 discovered the extents of an eelgrass bed. Tidewater Engineering performed a field verification eelgrass survey on 07/13/2023 and discovered no evidence of eelgrass within the survey limits or around the docking structure and mooring system. The survey was completed by snorkeling methods.

KITTERY SHORELAND PERMIT APPLICATION  
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A profile view of the proposed docking system is provided within Attachment 5. This view provides a clear representation of the proposed docking system with respect to the substrate and the tidal elevations experienced at this site, including LAT, MLW, MHW, HAT and the 100-year flood elevation. The 100-year flood elevation published by FEMA is elevation 11' (NGVD29) which corresponds to elevation 10.25' (NAVD88), the elevation datum depicted on the plans. As depicted in the profile view, the bottom surface of the lowest horizontal member of the pier is located approximately 8 inches above the 100-year flood elevation.

KITTERY SHORELAND PERMIT APPLICATION  
 APPLICANT: ERIC DYER  
 LOCATION: 15 BOWEN ROAD, KITTERY, ME 03904



**ATTACHMENT #9- ABUTTERS:**



**50 foot Abutters List Report**

Kittery, ME  
 August 23, 2023

**Subject Property:**

Parcel Number: 17-4  
 CAMA Number: 17-4  
 Property Address: 15 BOWEN ROAD

Mailing Address: DYER, ERIC W. DYER, ERIC W.  
 54 KINGSWOOD ROAD  
 WESTWOOD, MA 02090

**Abutters:**

Parcel Number: 17-3  
 CAMA Number: 17-3  
 Property Address: 9 BOWEN ROAD

Mailing Address: REINHOLD, LEE REINHOLD, LEE  
 PO BOX 752  
 WEST NEWBURY, MA 01985

Parcel Number: 17-44  
 CAMA Number: 17-44  
 Property Address: 8 BOWEN ROAD

Mailing Address: CLAINOS, TR, CYNTHIA K. CLAINOS, TR,  
 CYNTHIA K.  
 PO BOX 219  
 KITTERY, ME 03904

Parcel Number: 17-5  
 CAMA Number: 17-5  
 Property Address: BOWEN ROAD

Mailing Address: INHABITANTS OF KITTERY  
 INHABITANTS OF KITTERY  
 200 ROGERS ROAD  
 KITTERY, ME 03904-1428

Parcel Number: 17-51  
 CAMA Number: 17-51  
 Property Address: 27 OLD FERRY LANE

Mailing Address: HALL, REBECCA HALL, REBECCA  
 140 STATE ROAD  
 KITTERY, ME 03904

Parcel Number: 17-6  
 CAMA Number: 17-6  
 Property Address: 23 BOWEN ROAD

Mailing Address: MCKEON, PAUL J JR MCKEON, PAUL J  
 JR  
 233 VAUGHAN STREET UNIT 402  
 PORTSMOUTH, NH 03801



www.cai-tech.com

8/23/2023

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

Page 1 of 1

Abutters List Report - Kittery, ME

**From:** Kalinich, Jeffrey C <Jeffrey.C.Kalinich@maine.gov>  
**Sent:** Friday, December 1, 2023 9:51 AM  
**To:** ryan; Clark, Colin A  
**Cc:** Nicole Sanborn  
**Subject:** RE: Shoreline Stabilization and Devegetated Coverage

Ryan,

You are correct that the situation you describe is not addressed directly in Chapter 1000 and raises serious questions regarding the implementation of the rule. Typically the lower bank portion of a stabilization project is unvegetated when the application is submitted. There may be a tree or two or some shrubs hanging on but it is just a matter of time before they fall in. For most projects I review the placement of riprap is limited to these areas. For some projects riprap placement is proposed on lower banks where vegetation is still substantially present because it has not gotten to the point where it has all been eroded away yet. As long as the placement of riprap is necessary for bank stabilization, the department's policy is to not count the non-vegetated surface of the riprap for the stabilization project. However, it is part of the non-vegetated surface of the lot for other projects. For example, if the lot owners want to expand a structure in a vegetated area they must include the non-vegetated surface of the riprap above the HAT in the total for the lot.

I agree adding this policy to Chapter 1000 should be considered when it is opened up for review. I'm not aware of any current plans to open up Chapter 1000 for review. My understanding is when that occurs stakeholders are part of the review.

Thanks for reaching out. Let me know if you have any questions.

Jeff

Jeffrey C. Kalinich  
Assistant Shoreland Zoning Coordinator  
Maine Department of Environmental Protection  
312 Canco Road  
Portland, Maine 04103  
Ph. (207) 615-7044  
Fax. (207) 822-6303  
[www.Maine.gov/dep](http://www.Maine.gov/dep)

---

**From:** ryan@tidewatercivil.com <ryan@tidewatercivil.com>  
**Sent:** Wednesday, November 29, 2023 1:06 PM  
**To:** Kalinich, Jeffrey C <Jeffrey.C.Kalinich@maine.gov>; Clark, Colin A <Colin.A.Clark@maine.gov>  
**Cc:** Nicole Sanborn <nicole@tidewatercivil.com>  
**Subject:** Shoreline Stabilization and Devegetated Coverage

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Jeff & Colin,

Hope you are both doing well. This past year Tidewater has been designing more coastal shoreline stabilization projects than ever, mostly due to last year's December 2022 storm. Most of these stabilization projects result in stabilizing what



we call the “lower bank” (areas exposed to flood and wave action) with a 1:1 riprap slope and then stabilizing the “upper bank” (areas above flood and wave action) with a 3:1 vegetated slope. This inevitably results in a portion of the riprapped lower bank being located above the HAT line. The question that we’ve debated here at Tidewater is whether or not the portion of the riprap above the HAT line needs to be included in the 20% non-vegetated coverage on the parcel as a whole. In situations where the existing non-vegetated coverage is far enough below the 20% limit, this hasn’t been an issue so it became a moot point. However we have a couple upcoming projects where the existing non-vegetated coverage is non-conforming and over 20% which means they would need to remove existing coverage somewhere on the property to offset the proposed new coverage due to the riprap. In the simplest form, this may be removing some walkways or some excess driveway area, however in the extreme scenario, this could require someone to choose between removing a portion of their house in order to be able to not increase non-conformance w.r.t. non-vegetated coverage or not stabilizing their shoreline. I assume this must have come up in the past so I scoured Chapter 1000 to try to find an exemption in shoreland regulations but couldn’t find one. The only thing I found was 15.C.(10) pertaining to vegetation removal in excess of Section 15(P) which doesn’t apply to non-vegetated coverage and the exemption for naturally occurring ledge and rock outcropping in 15.B.(4) which doesn’t seem to apply to riprap placed for stabilization purposes either.

What is the Department’s position or recommendation on this? Does the newly placed riprap placed for stabilization purposes need to be included in non-vegetated coverage which in non-conforming situations, require the removal of other structures on the property to offset the added coverage? Are there any exemptions for situations these situations? It’s hard for us as consultants to tell someone that they need to remove existing structures from their property in order for them to be able to improve coastal resiliency of their shoreline. Please let me know your thoughts and if there’s any future consideration to address these situations clearly in the regs.

As always, we appreciate your time and input.

Ryan

Ryan M. McCarthy, P.E., P.L.S.  
*President*



1021 Goodwin Rd Unit 1 | Eliot, ME 03903  
[www.tidewatercivil.com](http://www.tidewatercivil.com) | (207) 439-2222