



**PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

Port Authority Meeting Date: May 4, 2023

Item #: 2

STAFF REPORT – 21 BADGERS ISLAND WEST

Project Name: 21 Badgers Island West
Applicant: David Daniels
Owner: David Daniels
Proposed Development: 8' x 24' float
Waivers: None
Map & Lot Numbers: Map 1 Lot 27
Staff Recommendation: Approval of request

Riparian Line Determination:

No riparian lines were indicated in the application materials.

Site Description:

The property at 21 Badgers Island West contains 6,534 square feet (.15 acres) and is located in the Town's Mixed Use – Badgers Island zone. This zone has a zero-foot setback from waterbodies for water dependent uses.

Description of Request:

The applicant requests the installation of a 8' wide by 24' long moored float to be installed in the place of an existing mooring ball. Per the application, the float will be secured to the river bed with four proper sized moorings with chains to prevent swing. The Float will be used for a commercial fishing vessel.

Performance Standards:

***For the purposes of this report, and the application before the Board, the normal high-water*

*mark referenced in the KPA Rules is equivalent to the mean high-water mark referenced in the application and survey***

- (1) *KPA Rules 4.7.2: The construction of any piers, docks, wharves, and other structures and uses extending over or beyond the normal high-water mark of a water body or within a wetland must comply with all applicable requirements of Town Code Title 16.*
 - **Town Code Title 16 incorporates by reference the 2015 International Residential Building Code. As this is a specialty structure and will not be permanently connected to the mainland, it is exempt from the building code.**
- (2) *KPA Rules 4.7.3: Non-commercial private piers may have a maximum width of 6 feet as measured parallel to the shoreline and be limited to the minimum size necessary to accomplish their purpose. Except for temporary ramps and floats, the total length of a ramp, pier and float structure may not extend more than 150 feet beyond the normal high-water mark and piers not extend more than 100 feet beyond the normal high-water mark nor extend below the mean low water mark, whichever is shorter.*
 - **The proposed development does not include any piers.**
- (3) *KPA Rules 4.7.4: The maximum height of the pier deck may not exceed six (6) feet above the normal high-water mark, and the handrails not exceed 42" without the specific approval of the Port Authority.*
 - **The proposed development does not include any piers or handrails.**
- (4) *KPA Rules 4.7.5: Commercial piers are limited to the minimum size necessary to accomplish their purpose. They may not extend beyond the mean low water mark except with credible proof by the applicant that the extension is necessary for the water-dependent use of the pier. The maximum height of the pier deck may not exceed six (6) feet above mean high water mark and the handrails not exceed 42", without a showing of necessity and specific approval of the Port Authority.*
 - **The proposed development does not include any piers or handrails.**
- (5) *KPA Rules Chapter 4.7.6: Piers, wharves, and pilings must be set back at least 25 feet from property lines and 50 feet from other structures that are fixed in place below the normal high- water mark and not owned or controlled by the applicant unless a letter of permission is granted by abutting or other controlling property owner. If abutting property owners reach a mutual agreement regarding structures which have a lesser setback, which does not interfere with navigation, is practical and is consistent with the intent of these regulations, that setback may be authorized by the Port Authority if the applicant agrees to record any ensuing permit (which will have that agreement as a condition) and the abutters' letters of no objection, with the Registrar of Deeds, or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property in the Town.*

- **The proposed development does not include any piers, wharves or pilings.**

Findings of Fact:

Section 16.9.2.E requires the Kittery Port Authority to use the following process when hearing requests:

Findings of fact. An application shall be approved or approved with conditions if the Port Authority makes a positive finding based on the information presented. The application must be demonstrated that the proposed use will shall:

(1) Maintain safe and healthful conditions;

- **Staff does not believe that any of the development proposed in this application will create any unsafe or unhealthy conditions.**

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

- **Staff does not believe that any of the development proposed in this application will result in water pollution, erosion or sedimentation.**

(3) Adequately provide for the disposal of all wastewater;

- **No wastewater will be created from the use of the proposed development.**

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

- **The proposed development will have an extremely minor impact to the river bed. Staff does not believe that the proposed development will have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.**

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

- **Staff does not believe that the proposed development will negatively impact shore cover, or existing points of access to coastal waters as the float will be permanently moored offshore.**

(6) Protect archaeological and historic resources;

- **No known archaeological or historic resources are within the area of proposed development.**

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

- **The proposed development is located within a commercial fisheries/maritime overlay zone. As the float will be used for a commercial fishing vessel, Staff does not**

believe there will be any negative impacts. Also, the float will eliminate tidal swing and improve navigation in the area.

(8) Avoid problems associated with floodplain development and use; and

- **The proposed development is not located within the floodplain.**

(9) Is in conformance with the provisions of this title.

- **The proposed development is in conformance with all provisions of Town Code Title 16 and the KPA Rules and Regulations.**

Based on the material provided, and a review of Town Code Chapter 16.9 and KPA Rules & Regulations, Staff recommends **APPROVAL** of the application.