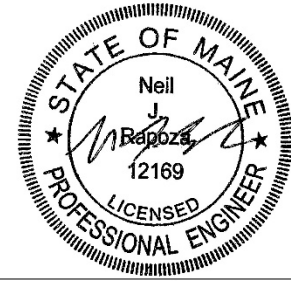


CIVIL CONSULTANTS MEMORANDUM

TO: Town of Kittery Planning Board
FROM: Neil J. Rapoza, P.E.
DATE: April 14, 2022
SUBJECT: Site Plan Modification
PROJECT: When Pigs Fly Pizzeria amendment- (CC Job # 0918504)



Following please find CIVIL CONSULTANTS's responses to the memorandum from

COMMENT	RESPONSE	CC RESPONSE
<u>§16.4.23.D(2)(a)</u> Minimum lot size: [1] Lots with frontage on Route 1: 200,000-sf. [2] Lots without frontage on Route 1: 80,000-sf.	This standard appears to be satisfied.	
<u>§16.4.23.D(2)(b)</u> Minimum street frontage: On Route 1: 250-ft. [1] Other Streets: 150-ft.	This standard appears to be satisfied.	
<u>§16.4.23.D(2)(c)</u> Minimum front setback: 30-ft.	This standard appears to be satisfied.	
<u>§16.4.23.D(2)(d)</u> Minimum rear and side setbacks: 30-ft.	This standard appears to be satisfied.	
<u>§16.4.23.D(2)(e)</u> Maximum building height: 40-ft.	This standard appears to be satisfied.	
<u>§16.4.23.D(2)(f)</u> Maximum height above grade of building-mounted signs: 40-ft.	This standard appears to be satisfied.	
<u>§16.4.23.D(2)(h)</u> Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.9, § 16.3.2.17 and Appendix A, Fee Schedules.	This standard appears to be satisfied.	
<u>§16.4.23.D(2)(i)</u> Buffer to neighboring lot with an existing residence within 100 feet of the lot line: 40-ft.	This standard appears to be satisfied.	
<u>§16.4.23.D(4)</u> Mixed-use requirement. The Mixed-Use Zone is intended for the creation of an area in the Town that has a mix of uses and in which no single type of use predominates. To this end, larger scale projects must incorporate a mix of principal uses into the development. Any new development that creates more than 20,000 square feet of gross floor area must include at least two principal uses as set forth in the list of permitted uses and special exceptions. To fulfill this requirement, the smaller use or combination of smaller uses must contain at least 10% of the gross floor area. The combination	This standard appears to be satisfied.	



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<p>of retail uses that are permitted uses and one larger retail use allowed as a special exception does not fulfill this requirement. This provision does not apply to the development of a single lot of record as of April 1, 2004, that has a lot area of less than 200,000 square feet.</p>		
<p><u>§16.4.23.D(5)</u> All new parking areas must be located at the side of, and/or to the rear of, principal buildings. Where unique circumstances exist and it is demonstrated to the Planning Board that prohibition of parking in front of the principal building is not practicable, with the Board's approval, 10 or fewer parking spaces may be located closer to the front lot line than a principal building. All new or altered parking must be visually screened from U.S. Route 1, Lewis Road, Cutts Road, and Haley Road by extensive landscaping, earthen berms, and/or fencing (see Design Handbook for examples of acceptable screening).</p>	<p>This standard appears to be satisfied.</p>	
<p><u>§16.4.23.D(7)(a)</u> Landscape planter strip. A vegetated landscape planter strip 30 feet in depth (as measured from the edge of the property line) must be provided along the length of all developed portions of a parcel that are adjacent to a street right-of-way. The planter strip must include the following landscape elements:</p>	<p>It is unclear if the outdoor dining area encroaches into the space designated for the planter strip. The applicant should clarify the extent of the outward most edge of the outdoor seating area to determine compliance with this standard.</p>	<p>The front setback/buffer line and description was inadvertently left off of the initial plan. It is now shown on plan sheets C1 and C2 and indicates that all of the outdoor dining area will remain outside of the existing buffer area and planter strip.</p>
<p><u>§16.4.23.D(7)(a)[1]</u> Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways, and screened utility equipment.</p>	<p>Assuming the outdoor seating area does not infringe the landscaping requirements of §16.4.23.D(7)(a), the standard appears to be met.</p>	<p>See above, no infringement proposed.</p>
<p><u>§16.4.23.D(7)(a)[2]</u> Streetside trees. A minimum of one street tree must be planted for each 25 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site (see Design Handbook for examples). The trees must be a minimum 2.5 inch caliper, and be at least 12 feet high at the time of planting. The species should be selected from the list of approved street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.</p>	<p>This standard appears to be satisfied.</p>	



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<p><u>§16.4.23.D(7)(a)3]</u> Planter strip. Shrubs and flowering perennials must be planted at a minimum of 10 plants per 40 linear feet of street frontage unless existing woodlands are being retained or such planting is inconsistent with the retention of rural landscape features. The plant material should be selected from the list of approved materials in the Design Handbook. The plants must be placed within the planter strip to enhance the visual character of the site and augment natural features and vegetation (see Design Handbook for examples of appropriate treatments).</p>	<p>This standard appears to be satisfied.</p>	
<p><u>§16.4.23.D(7)(a)4]</u> [b] Depth of landscape planter strip. In instances where the required average depth of the landscape planter strip is legally utilized, in accordance with previous permits or approval, for parking, display, storage, building, or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street. If providing the required landscape planter strip along with other required landscaping and required vegetated areas in and around wetlands would cause the project to exceed the required open space standards, the depth of the landscape planter strip and the front yard may be reduced by the Planning Board so that the open space standards are not exceeded, but in no case to less than 20 feet for this reason.</p>	<p>It appears that the application would qualify; however, the applicant should provide additional information in order for the Board to determine compliance with this standard.</p>	<p>As noted, there is no change proposed in the front buffer area. The mix of existing maple, spruce and cherry trees will be maintained to meet the intent of the ordinance.</p>
<p><u>§16.4.23.D(7)(b)</u> Buffer area. Where buffering is required, it must provide a year-round visual screen to minimize adverse impacts and screen new development (see Design Guidelines for examples of appropriate buffers for various situations), and may consist of fencing, evergreens, retention of existing vegetation, berms, rocks, boulders, mounds or combinations thereof. Within three growing seasons, the buffer must provide a yearround screen at least eight feet in height or such lower height as determined by the Planning Board to be appropriate for the situation. Buffer areas must be maintained and kept free of all outdoor storage, debris, and rubbish. The width of the buffer area may be reduced by the Planning Board if the function of the buffer is still fulfilled.</p>	<p>More information is required to determine compliance with this standard. May occur during preliminary review.</p>	<p>As noted, there is no change proposed in the front buffer area. The mix of existing maple, spruce and cherry trees will be maintained to meet the intent of the ordinance.</p>
<p><u>§16.4.23.D(7)(d)</u> Lighting. Outdoor lighting must provide the minimum illumination needed for the safe use of the site while enhancing the nighttime visual character of the site. Lighting must conform to the standards for outdoor lighting in Chapter 16.7.11.H.</p>	<p>This standard appears to be satisfied.</p>	



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<p>§16.4.23.D(7)(e) Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping, and/or other treatments (see Design Handbook for examples of appropriate buffering).</p>	<p>This standard appears to be satisfied.</p>	
<p>§16.4.23.D(8) Sidewalks and roadways must be provided within the site to internally join abutting properties that are determined by the Planning Board to be compatible. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move within the site and between the principal customer entrance and the front lot line where a sidewalk exists or will be provided or where the Planning Board determines that such a route is needed for adequate pedestrian safety and movement.</p>	<p>The Board should determine if the proposed path to the new outdoor dining area is in the best location. A redesign of the parking spaces to incorporate a more defined entrance into the outdoor dining area might be possible. Also, a crosswalk should be added connecting the proposed path to the main building.</p>	<p>The optional stone dust path shown on the plan is intended for use as a more stable area for deliveries to the bar, and will be installed only if conditions require. The main path for typical patrons is currently and will continue to be from the brick walk at the east side of the building. A new cross walk is shown on the revised plans to delineate this feature.</p>
<p>§16.4.23.D(9) Open space standards. Open space must be provided as a percentage of the total area of the lot, including freshwater wetlands, water bodies, streams, and setbacks. Thirty-five percent of each lot must be designated as open space. Required open space must be shown on the plan with a note dedicating it as “open space.”</p>	<p>More information is required is to determine compliance with this standard.</p>	<p>The project was originally approved meeting the open space requirements at the time (2010). Notes have been added to demonstrate that the existing development and proposed amendment will meet the current requirements. For the purposes of determining open space, the outdoor dining area has been considered <u>not</u> open to be conservative. Refer to sheet C1 for additional information.</p>
<p>§16.4.23.D(9)(a) An objective of the open space standard is to encourage the integration of open space throughout the entire development and with the open space on adjoining properties in order to alter the pattern of commercial activity along Route 1. To this end, a minimum of 25% of the required open space must be located in the front 50% of the lot area closest to U.S. Route 1, or if not fronting Route 1, closest to the public street used to enter the lot. The Planning Board may modify this requirement when it is demonstrated to the Board's satisfaction that the objective is met to the greatest practicable extent.</p>	<p>The open space equation has been altered with the proposed outdoor seating space. It is unclear if the applicant complies with this standard, as a revised open space equation was not provided. The applicant should provide this information to the Board.</p>	<p>See above.</p>
<p>§16.4.23.D(9)(b) The open space must be located to create an attractive environment on the site, minimize environmental impacts, protect significant natural features or resources on the site, and maintain wildlife habitat. Where possible, the open space must be located to allow the creation of continuous open space networks in conjunction with existing or potential open space on adjacent properties</p>	<p>While most of the open space encloses the developed area (besides the front lawn area where the proposed outdoor seating is located), the applicant is proposing to abandon an overflowing parking area to have it reseeded with Kentucky</p>	<p>The applicant will consider the recommendations of the Board with regard to the method of revegetating the former gravel parking area.</p>



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	bluegrass and perennial rye grass. Considering the applicant is voluntarily revegetating this area, the Board may want to consider having the applicant revegetate the overflow parking area with pollinator friendly plants, which may provide a positive impact not only on lot but also in surrounding area.	
<u>§16.4.23.D(9)(c)</u> 1] Cases where integrating open space would require exceeding the open space standards. In cases where the topography, wetlands, and existing development on the lot dictates that more than 75% of the required open space be located outside the front portion of the lot, a percentage of the open space normally required in the front portion of the lot may be shifted to the rear portion of the lot in order to achieve the required amount of vegetated open space and not reduce the allowable developable area on the lot, provided minimum landscaping standards are satisfied.	More information is required to determine compliance with this standard. If it is the case that the application qualifies, then the landscaping standards under §16.4.23 would only need to be determined as compliant.	This is not necessary, the development as proposed will meet open space requirements.
<u>§16.5.20 Outdoor Dining</u>		
<u>§16.5.20.A(1)(a)</u> Within the buildable lot area in all zoning districts where restaurants are allowed as either a permitted or a special exception use;	This standard appears to be satisfied.	
<u>§16.5.20.A(1)(b)</u> Within the front, side and/or rear yards (setbacks) of the C-1, C-2, C-3, B-L, B-L1, MU, MU-BI, MU-KF and MU-N zones where such a setback does not abut a residential use; and	Applicant has provided engineered and land surveyed quality plat plans. This standard appears to be satisfied.	
<u>§16.5.20.B(1)</u> Outdoor dining on-site must meet all the requirements of the pertinent zone’s buffering and screening requirements.	It is unclear if the applicant meets the landscaping standards under §16.4.24.	The existing street tree buffering and open space provided between Route 1 and the outdoor dining is intended to provide an aesthetically pleasant environment. It is our contention that adding screening items to the existing site will not improve the conditions for patrons or for travelers on Route 1.
<u>§16.5.20.B(2)</u> Proposed outdoor dining on-site must comply with all conditions pertaining to any existing variances, special exceptions or other approvals granted for the property as well as any conditions imposed by the granting of the site plan review approval for the outdoor dining itself.	Again, it is unclear if the landscaping provisions under 16.4.24 have been altered in such a manner to bring the site plan out of compliance with Title 16.	See above.
<u>§16.5.20.B(3)</u> All the proposed outdoor dining activities must be conducted on private property owned, leased or otherwise controlled by the applicant unless	This standard appears to be satisfied.	



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separate approval for the use of any public rights-of-way has been obtained from the Town.		
§16.5.20.B(4) The proposed outdoor dining must not impede a site's internal circulation or its access and egress.	This standard appears to be satisfied.	
§16.5.20.B(5) No additional parking is required for outdoor dining at existing restaurants where onstreet parking is available. For outdoor dining areas in existing restaurants where onstreet parking is not available, if the outdoor dining area is 1,000 square feet or less, no additional parking is required. For outdoor dining areas in existing restaurants over 1,000 square feet but less than 2,000 square feet, one additional parking space is required. Thereafter, one additional parking space is required for every additional 1,000 sf.	This standard appears to be satisfied; however, more information on how much seating will be provided is needed.	The seating will remain similar to that which has been in place. The applicant has reported the following for seating: 16 picnic tables (3-6 seats) 10 – 12 seats at the outdoor bar 4 small party tables (2 – 4 seats)
§16.5.20.C(1) The site plan must be drawn to scale, showing the dimensions of the proposed outdoor dining area, and its location relative to the structure where the restaurant is located.	This standard appears to be satisfied.	
§16.5.20.C(2) The site plan must show the location of any proposed or existing pavement, hardscaping, landscaping, planters, fencing, canopies, umbrellas, awnings or barriers surrounding or delineating the outside dining area	This standard appears to be satisfied.	
§16.5.20.C(3) Calculations demonstrating the number of tables that may be placed within the proposed outdoor dining area according to state and local regulations must be submitted.	This standard appears to be satisfied; however, it is unclear what the maximum capacity of the outdoor dining area will be. Further, it is unclear if seats will be established around the proposed outdoor bar.	The maximum capacity of the entire outdoor dining area is 124 seats. This equates to over 80 sf per seat. There are intended to be 10-12 seats at the outdoor bar.
§16.5.20.C(4) The above submission requirements are all that is required for outdoor dining areas that require Code Enforcement approval under §16.2.6. For outdoor dining areas that must be reviewed under site plan review, the above requirements must be met in addition to the submission requirements of §16.7 unless a submission requirements waiver is granted by the Planning Board.	This standard appears to be satisfied.	
Stormwater and Surface Drainage		
§16.7.11.C Adequate provision must be made for drainage of all stormwater generated with the development and any drained groundwater through a management system of natural and constructed features. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas must be retained to reduce runoff and encourage infiltration of storm waters. Otherwise, drainage may be accomplished by a management system of	It is unclear whether the proposed outdoor dining area will always carry the same infiltration rate as it is currently assigned, considering that the area will become more impervious overtime unless proper maintenance is applied. The applicant should demonstrate how the	This area of outdoor seating will remain lawn, and will be maintained as such in the spring and fall. This will allow the area to be considered lawn, but will slightly less permeability as the season progresses. It was previously discussed with Town staff (Bart) and determined that the most effecting way to take this into account in the



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<p>constructed features such as swales, culverts, underdrains and storm drains</p>	<p>imperviousness and corresponding run-off will change over time, and make proper adjustments to accommodate for any excess flow.</p>	<p>stormwater management plan would be to change the cover type in the analysis from a “GOOD” grass to a “FAIR” grass.</p> <p>The area of the proposed bar structure and optional stone dust walkway have also been included in the updated analysis (refer to updated Stormwater Management Plan included with the application submission, changes to the model are highlighted add described in the HydroCAD printouts).</p> <p>This change only slightly increases flows from the previously approved analysis and maintains flows well below the pre-developed condition.</p> <p>No adjustments to the existing stormwater facilities are needed or proposed.</p>
<p><u>Post-Construction Stormwater Management</u></p>		
<p><u>§16.7.11.D(3)(b)</u> Exception. This section does not apply to new development or redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that has received approval of its post-construction stormwater management plan and stormwater management facilities under the Town's subdivision or other zoning, planning or other land use ordinances; said lot, tract or parcel will not require additional review under this section but must comply with the post-construction stormwater management plan for that approved subdivision.</p>	<p>It appears that the applicant has demonstrated that the proposed development will not exceed the approved post-construction management plan. However, more clarity on how the imperviousness of outdoor dining area will change over time is needed in order to determine compliance.</p>	<p>See response above.</p>
<p><u>Parking and Loading</u></p>		
<p><u>§16.7.11.F(4)(d)</u></p> <ul style="list-style-type: none"> • Retail stores and financial institutions: 1 parking space for each 175 square feet of gross floor area • Restaurant: 1 parking space for each three seats. Seating is calculated by dividing the total floor area with customer access by 15 	<p>It appears that the proposed uses and their corresponding parking requirements are in compliance with the code. However, what is unclear is the amount of outdoor seating tables that will be provided. The Board should consider putting a limitation of the number of seats that may be permitted to be within the outdoor dining area so as to reduce to probability of undue parking and traffic congestion.</p>	<p>It is intended that the proposed parking and outdoor dining layout meet the ordinance requirements. It is unclear what limitations could be included with the approval.</p>
<p><u>Other Issues/Comments</u></p>		



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<ul style="list-style-type: none">• Site Plan: There are a few references to North Berwick that need to be removed and replaced.• Why is the overflow parking are being removed? Is it to accommodate stormwater run-off or is it anticipated it will no longer be needed? If the later, where does the applicant proposed to direct any overflow traffic?		<p>A reference to the Berwick Planning Board was removed on sheet C1. No other instances were found, please advise.</p> <p>The overflow parking was unpermitted and removed to bring the development into compliance with existing permitting. If found to be necessary in the future, another amendment will be submitted for the plan to allow the change.</p>
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