



TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

October 28, 2019

Kittery Town Council
Regular Meeting
6:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes –
8. Interviews for the Board of Appeals and Planning Board -
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested offices.
10. PUBLIC HEARINGS
 - a. (100219-1) The Kittery Town Council moves to hold a public hearing on Title 16 - ADU's.
 - b. (100219-2) The Kittery Town Council moves to hold a public hearing on Title 16 – Shoreland Overlay Amendments.
 - c. (100219-3) The Kittery Town Council moves to hold a public hearing on Title 10 – Jake Brakes.
 - d. (100219-4) The Kittery Town Council moves to hold a public hearing for a new Victualer's License application for the 518 Noodle Bar located at 518 US Route 1 Unit 2, Kittery.
 - e. (100219-5) The Kittery Town Council moves to hold a public hearing for a new Liquor License application for the 518 Noodle Bar located at 518 US Route 1 Unit 2, Kittery.
11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
 - b. Response to public comment directed to a particular Councilor
 - c. Chairperson's response to public comments
12. UNFINISHED BUSINESS -
13. NEW BUSINESS
- a. Donations/gifts received for Council disposition.

(100219-6) The Kittery Town Council moves to accept a check in the amount of \$2,010.00 from the Portsmouth Naval Shipyard Naval Civilian Managers Association. To be deposited into the Thresher Memorial account.
 - b. The Kittery Town Council moves to approve the disbursement warrants.
 - c. (100219-7) The Kittery Town Council moves to approve a request from Traip Academy Project Graduation to fund raise at the Resource Recovery Center on November 30th 2019 from 9:00am to 4:00pm.
 - d. (100219-8) The Kittery Town Council moves to schedule a Public Hearing for November 13, 2019 on Title 4 – Board of Library Trustees.
 - e. (100219-9) The Kittery Town Council moves to accept the resignation of Mark Alesse of the Planning Board.
 - f. (100219-10) The Kittery Town Council moves to approve the Project Certification for Emery Field Phase 2 Grant.
 - g. (100219-11) The Kittery Town Council moves to approve a request from the Traip Academy Robotics Team to fund raise at the Resource Recovery Center on November 2nd, 2019 from 9:00am to 4:00pm.
14. COUNCILOR ISSUES OR COMMENTS
15. COMMITTEE AND OTHER REPORTS
- a. Communications from the Chairperson
 - b. Committee Reports
16. EXECUTIVE SESSION
17. ADJOURNMENT

Posted: October 24, 2019



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

kamaral@kitteryme.org

Town Manager's Report to the Town Council October 28, 2019

- 1. Badgers Island Parking and Traffic** – The review of the parking and traffic challenges, identified by businesses and residents on Badgers Island, has been completed. Two solutions are being advanced for Council action. A team of staff members worked with the residents and businesses to understand the shared challenges and evaluate options to address them. The team included the Police Chief, Fire Chief, DPW Commissioner, and Director of Planning and Development. The neighborhood is requesting the Town seek a speed limit reduction on Badgers Island West from 25 to 20 miles per hour; and new parking restrictions on Island Avenue to allow for safe access for vehicles.

Tonight, I am seeking Council consensus to make a request to MDOT to evaluate a speed reduction. We will be advancing the Title 10 amendment for the proposed parking restrictions at a future meeting.

- 2. Regional Climate Adaptation Effort** – With support of the Climate Adaptation Committee, I have been in discussions with other communities regarding energy planning, sustainability and coastal resiliency efforts. Our neighbors share a number of our goals, and the challenge of making progress with limited to no available staff resources. As a group, we agreed shared staff resource, hosted by Southern Maine Planning and Development Commission, is a cost-effective solution. See attached letter from SMPDC.

This approach also provides multiple benefits including creating opportunities to work collaboratively on climate resiliency (not reinventing the wheel), share resources and expertise, and create comparable benchmarking that allows the Town to measure its progress against other similar communities. Engaging in this regional effort will also make us eligible for grants, including the one noted in the attached SMPDC letter, that can further support the town's climate adaptation efforts.

I believe I can accommodate the \$7,500 request in the FY20 budget for this position. However, it would be beneficial to understand the Council's position on this, as additional funding would need to be identified through the FY21 budget, which will be drafted and presented to Council in the spring. It is possible if the EDA grant is awarded, the funding for the position can be counted as part of a grant match.

- 3. Customer Service Center Closed Nov 5 for Election** – We will be closing the Service Counter at Town Hall on November 5, so we can adequately staff the election. Vehicle registration renewals, dog license registrations, and other services are available online. We will reopen for normal business hours on November 6. We apologize for the inconvenience in advance.
- 4. Sidewalks Master Plan** – In the past week, the Town Council has received two separate requests for new sidewalks; one extending the sidewalks on Stevenson Road around the curve to Route 236 and the other on Old Post Road connecting to Memorial Field. I was asked by members of the Council to make a recommendation on how to consider these requests and others, in an actionable and strategic way.

The Town's Comprehensive Plan states as a goal "Improve safety and ease of getting around town and better connect the pieces of Kittery". The need for connecting sidewalks exists throughout town. Determining which to focus time and resources on will be a complex puzzle. Factors such as walking routes to schools, density of adjacent residential and commercial uses, crash hot spots, constructability, and other factors will need to be weighed carefully. DPW is working on the update to the Sidewalks Condition Report (also a Comp Plan goal), and that will add information about what existing sidewalk replacements and upgrades for ADA compliance are also needed.

I recommend that we work on developing a Sidewalks Master Plan that prioritizes projects and identifies funding schedules that can address new connecting sidewalks and maintenance of existing sidewalk infrastructure. The plan will work like the pavement management plan, informing the Capital Improvement funds allocation process each year. This will make sure that resources are wisely spent, that projects are prioritized through a vetted process, and that there is clarity on which projects will be slated for which year based on funding. A committee approach that involves members of the CIP committee and residents may be worthwhile.

5. **Whipple Road Sidewalks** – The utility easements have been resolved for this project. MDOT has been working on the Right of Way process. It is expected to take up to 9 – 12 months to complete. Once the Right of Way phase is completed, the sidewalk design will be finalized and bidding can take place. The estimated project cost is approximately \$1,000,000, with the state funding 80%; and the Town funding the remainder. Estimated construction timeframe is 2021.
6. **88 Pepperrell Cove Project** – Councilor Denault requested information about the project being completed at 88 Pepperrell Cove. Attached please find a separate memo and related materials.
7. **Safe Routes to Schools/Stevenson Sidewalks Project** – Councilor Denault requested information about the 2010 grant/project to build sidewalks around Shapleigh School. The project was completed in 2011. Attached please find the project application and the final report on the implementation of the project.

The State now offers the Bicycle and Pedestrian Program (replaced Safe Routes to Schools). Grants are awarded up to \$400,000 per project, with a 20% municipal match. The next deadline for applications is August 2020. The Sidewalk Master Plan proposed above would be an excellent foundation on which to build grant applications in the future.

Upcoming Dates:

- Pepperrell Cove Float Out – October 28
- Voter Registration Night – October 30, 6PM – 8PM, Town Clerk's Office
- Trick or Treat – October 30, 5PM – 8PM
- Tax Bills Due – October 31
- Absentee Ballot Request Deadline – October 31
- Election and Bond Referendum – November 5, 8AM to 8AM, Kittery Community Center

Respectfully Submitted,



Kendra Amaral
Town Manager



Serving the Municipalities of Southwestern
Maine

October 1, 2019

Dear Kendra,

Over the past couple of months, a group of six towns have been meeting to discuss jointly establishing a position at the Southern Maine Planning and Development Commission (SMPDC) to work on issues related to energy planning, sustainability and coastal resiliency due to the impacts from rising sea levels and more frequent storm events.

As a result of these discussions, the six towns (Kittery, York, Ogunquit, Wells, Kennebunk and Kennebunkport) agreed that pursuing such a position, as a two year pilot program, would be the most cost effective and efficient way to address these issues. SMPDC has worked with the communities and plans to establish a dedicated position which can support the efforts of all the communities. The proposal not only establishes a Sustainability/Coastal Resilience position, it provides cash match for ongoing grant efforts. At the end of two years all communities and SMPDC will assess the results. The proposal is as follows:

Outline of Job

- We would advertise for a full time Sustainability/Coastal Resilience Coordinator with an expertise in energy and sustainability.
- The person would work with all six communities and their various committees dealing with energy, sustainability, climate change and sea level rise. The communities currently are in different places with respect to what has been done or is needed. We are ready to take that into account, so the support will be tailored to each community.
- The Coordinator will work with Abbie Sherwin, our Senior/Coastal Planner who has expertise in sea level rise and resiliency. The position will also be supported by other staff at SMPDC as needed.

SMPDC has put together a job description which is available if desired.

Current Efforts

SMPDC is currently working on coastal issues and hopes to be able to leverage additional dollars for this work. It is important to note that dedicated funds from the towns can be used as match for the following projects:

- SMPDC and three of the towns (York, Wells and Kennebunk) recently received a Maine Coastal Program for \$75,000 to study sea level rise implications for municipal infrastructure and finances. Additional funds though the communities could leverage more research and data for the entire six town region. A \$10,000 match is needed for this project.
- As York County was the only national designated disaster area in Maine for the March 2018 storms, we are eligible and plan to apply for a federal Economic Development



Serving the Municipalities of Southwestern
Maine

Administration grant. We are readying an application for approximately \$100,000 to study business and local economic impacts and detail what actions the communities might take to lessen those impacts. (as an aside, the six communities make up 13% of Maine Restaurant sales tax and 24% of Maine Lodging sales tax). A \$20,000 cash match is required for this project.

Summaries of these grant projects are available if desired. We would also note we hope to leverage additional grants funds as we identify projects and implementation ideas.

Funding

This would be a full time position requiring about \$90,000 for salary, benefits and overhead.

- Funding would be 15,000 per year/per town, of which \$30,000 will go towards matching grant funds as described above.
- As we will be basically half way through a budget year soon, we are asking each town for \$7,500 for this year (FY20) and \$15,000 for a full year (FY21) beginning in July.
- We are looking at this as essentially a pilot program but the understanding through our discussions, is that we would need two years to assess results.

With the increased emphasis on energy, sustainability and resiliency at the state level, this seems to be an opportune time to begin this important regional effort.

Please let me know if you have any questions or if you would like me to attend a meeting.

Sincerely,
Paul Schumacher
Executive Director



TOWN OF KITTERY
Office of the Town Manager
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806
kamaral@kitteryme.org

TO: Town Council
FROM: Kendra Amaral, Town Manager
CC: Dutch Dunkelberger, Planning Board Chair
Adam Causey, Director of Planning and Development
DATE: October 28, 2019
RE: Questions - 88 Pepperrell Cove

Councilor Denault provided a list of questions related to the 88 Pepperrell Cove development at the October 7, 2019 Council meeting. These were handed to me during the Councilor Comments portion of the meeting.

Councilor Denault's questions are best posed to the Planning Board; however, for the Council's convenience I have assembled information from the Planning Board process (see attached). The materials are listed by date, to facilitate your review of the video records of the meetings if so desired.

Questions:

1. *Why does the property owner need to pay for curbing that is on town property.* – This is a component of Title 16.8 Design and Performance Standards of the Built Environment. It has been applied to consistently to multiple projects in town for many years. Title 16 also sets out a process to seek relief from the Design and Performance Standards, which is also handled consistently for applicants.

For questions 2 – 4, please see attached.

5. *Where in the code does it require “extra things” to be done to a property when it complies with the code* – Title 16 requires certain standards associated with the built environment and include sidewalks.

6. *Who designed the intersection* – The intersection is existing. The parking layout, flow, and sidewalks were designed by the project applicant's engineer with input from DPW relative to federal and state sidewalk design requirements and standards.

Question 7 did not identify a question.

8. *Is there anything that can be done* – The development of the site was approved by the Planning Board with relief as requested from the Board of Appeals. In both cases, the applicant was notified of their right to appeal the decisions in accordance with Title 16.

9. *Are the property owners being treated fairly* – Yes. The project applicant has been required to follow Title 16 and all of the applicable processes and standards.

10. *Is this how Kittery defines business friendly* – This development was processed consistent with Title 16. The Town staff do not have the ability to waive requirements of Title 16 for politically supported projects. The Planning Board and Board of Appeals are bound by law to follow Title 16 as well.

11. *Who pays for the sidewalk when damaged* – the sidewalk becomes public infrastructure, consistent with other sidewalks installed by project developers elsewhere in town. Liability for injuries is in accordance with state law relative to municipal liability for public infrastructure.

12. *Who is responsible for damages and injuries* – see 11.

13. *How does a trolley or shuttle work with this setup* – see attached.

14. *How do delivery trucks drop their deliveries* – see attached.

Attached:

- July 27, 2017: Staff Report and Planning Board Minutes
- October 26, 2017: Business Use Change Application, Staff Report and Planning Board Minutes
- February 8, 2018: Shoreland Development Application, Staff Report, Planning Board Minutes
- April 26, 2018: Planning Board Minutes
- October 4, 2018: Compliance Reminder Letter
- December 5, 2018: Code Enforcement Officer Review
- December 13, 2018: Letter from Attar Engineering, Staff Report, Planning Board Minutes
- December 27, 2018: Site Walk Attendee List, Minutes, Response Letter from Attar Engineering
- **January 8, 2019: Board of Appeals Minutes**
- January 10, 2019: Waiver Request, Staff Report, Planning Board Minutes
- January 15, 2019: Board of Appeals Notice of Decision
- February 12, 2019: Board of Appeals Request for Reconsideration
- February 26, 2019: Board of Appeals Materials and Minutes
- February 28, 2019: Staff Report, Planning Board Minutes
- May 16, 2019: Temporary Certificate of Occupancy
- May 23, 2019: Planning Board Minutes
- June 6, 2019: Recorded Parking Plan

Town of Kittery Maine
Town Planning Board Meeting
July 27, 2017

88 Pepperrell Cove – Special Exception Use

Action: Review Application. Approve or deny special exception request. Owner, Chatham Street, LLC, and applicant, Ann Kendall, requests consideration of a special exception use to operate a small store and take-out ice cream restaurant located at 88 Pepperrell Cove (Tax Map 27 Lot 49A) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Background

The proposed development is part of a property-wide redevelopment effort that consists of the interior renovation of the three existing buildings, “The View” (previously Captain Simeons), “The Bistro” (previously Frisbee’s Market), and “Frisbee’s Wharf” (previously Lobster in the Rough), located at 88 Pepperrell Cove. The existing/previous uses on site were retail, residential, storage, office and restaurant.

The proposed development being considered by the Board is the conversion of existing office and storage space located in the lower level of the proposed “The View” building to a small store and take-out ice cream restaurant to be named “Provisions”. Both retail businesses and restaurants are special exception uses in the Shoreland Overlay Zone. Planning Board review and approval of a special exception use within the Shoreland Overlay Zone is required per 16.6.4.4.

The applicant is proposing to maintain the existing uses, within the first and second floor of “The View” building, as well as the remaining two other buildings, “The Bistro” and “Frisbee’s Wharf”. Therefore, a special exception review and approval by the Planning Board is not required for these portions of the property.

The purpose of this review is to review the Special Exception Use, retail and take-out ice cream restaurant, as requested in the Business Use Change (BUC) application dated July 6, 2017. Per 16.6.4.4.B, the Planning Board must find the proposed uses meet the criteria set forth in 16.6.6, Basis for Decision.

Staff Review

1. No exterior development or land disturbances are requested or proposed. The proposed development will not impact the lot’s existing devegetated area or building coverage.
2. The applicant is under a 2-year lease agreement from the current owner, with the intent to purchase the property at the terminus of the lease. The business use change application on file is signed by both the property owner and applicant.
3. The proposed uses currently exist on the first floor of “The Bistro” (Frisbee’s Market) building. Therefore, the proposed use will not alter or have an adverse impact on the existing character of the property, adjacent properties, or properties in adjacent zones. Additionally, the proposed use will not create a substantial increase in traffic or congestion than what currently exists.

4. The proposed uses estimate an average of 10-20 customers a day. It is not likely the proposed will not incur any excessive nuisances, including obnoxious odors or gasses, noise or other disturbances.
5. The applicant has proposed operating hours of 6:30 am – 8:30 pm. The Town does not have an ordinance restricting operating hours for commercial businesses. However, any business operations that occur outside of the building are subject to the noise abatement limitations as outlined in 16.9.1.9.
6. The applicant is providing three off-street parking spaces. Per the off-street parking requirements outlined in 16.8.9.4, four parking spots are required (where the proposed ice cream restaurant requires 1 space per each 3 seats, seating determined by the total floor area / 15; and the retail space requires 1 space for each 175 sf of gross floor area). The applicant must provide four off-street parking spots, and submit an amended BUC application to the Town.

Action

With consideration of Staff comment #6, it appears the proposed uses are consistent with the character of the existing neighborhood and will not prevent the orderly and reasonable use of any adjacent properties or zones. A special exception use request does not require a public hearing, however, as the proposed use is located within the Shoreland Overlay Zone, the Board should discuss whether one is warranted. If the Board determines a public hearing is not warranted and has no further questions or comments for the applicant, the Board may move to approve the special exception use request (suggested motion provided below).

Move to approve the Special Exception Use Request dated July 6, 2017 from owner Chatham Street, LLC and applicant Ann Kendall for 88 Pepperrell Cove (Tax Map 27 Lot 49A) in the Business Local and Shoreland Overlay Zones upon the reading and voting, in the affirmative, on the Findings of Fact.

<After an affirmative vote, proceed to reading and voting on the Findings of Fact>

Kittery Planning Board
FINDINGS OF FACT

For
88 Pepperrell Cove
Special Exception Use Request

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, Chatham Street, LLC, and applicant, Ann Kendall, requests consideration of a special exception use to operate a small store and take-out ice cream restaurant located at 88 Pepperrell Cove in the Business Local and Shoreland Overlay Zones, hereinafter the “Development,”

And pursuant to the Plan Review meetings conducted by the Planning Board as noted ; *in the Plan Review Notes prepared for 7/27/2017*

Planning Board Review	Approved	7/27/2017
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And pursuant to the application, plans and other documents considered to be a part of the plan approval by the Planning Board in this finding consist of the following ; *as noted in the Plan Review Notes prepared for 7/27/2017* (hereinafter the “Plan”):

1. Business Use Change Application, received 7/6/2017
2. Building / Regulated Activity Permit Application, dated 5/25/2017
3. “The View at Pepperrell Cove” floor plans, CJ Architects, dated 7/6/2017
4. “Frisbee’s Wharf” first floor & roof plans, CJ Architects, dated 7/6/2017
5. “The Bistro at Pepperrell Cove” floor plans, CJ Architects, dated 7/6/2017
6. Plan of Land of Frisbee’s Holdings II, LLC & Frisbee’s Holdings, LLC, boundary survey, Civil Consultants, dated 3/8/2010

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 16.6.4.4 and as recorded below:

FINDINGS OF FACT Action by the Planning Board must be based upon findings of fact which certify or waive compliance with all the required standards of this Code, and which certify the development meets the following requirements:
16.6.4.4 Special Exception Use Request.
<i>B. The Planning Board will review, decide and may approve an applicant’s Special Exception Use request where the proposed project requires Planning Board review as defined in Section 16.10.3.2 or is located in a Shoreland or Resource Protection Overlay Zone. The Planning Board must find the proposed project and use meets the criteria set forth in Section 16.10.8.3.4 and 16.6.6.</i>
Finding: The proposed use of a retail business and take-out ice cream restaurant appears to have no adverse impact with consideration of the conditions and factors outlined in 16.6.6, including:

**Kittery Planning Board
FINDINGS OF FACT**

**For
88 Pepperrell Cove
Special Exception Use Request**

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.

Conclusion:

The requirement appears to be 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 that the proposed use will have no significant detrimental impact, and the Kittery Planning Board hereby grants approval for a Special Exception Use Request for a retail business and restaurant in the B-L and OZ-SL-250' zones, including any waivers granted or conditions as noted.

Waivers:

None

Conditions of Approval:

None

The Planning Board authorizes the Planning Board Chairperson, or Vice Chair, to sign 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 July 27, 2017

Ann H. 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.

MEETING MINUTES

1. CALL TO ORDER; INTRODUCTORY; ROLL CALL

Secretary April Timko called the meeting to order at 6:35 PM and asked that the roll be called.

Board Members Present: Charles Denault, Louis Leontakianakos, Vern Gardner, April Timko, Barry Fitzpatrick, Suzanne Dwyer-Jones

Board Member Absent: Jeff Brake, Chair

Staff Present: Stephen Wilson, Code Enforcement Officer

2. PLEDGE OF ALLEGIANCE

3. AGENDA AMENDMENT AND ADOPTION

4. EXECUTIVE SESSION

5. PUBLIC HEARINGS

- a. **Chatham Street, LLC, Owner, Ann Kendall, Applicant, 88 Pepperrell Road, Business – Local & Shoreland Overlay zones, requesting Special Exception Request regarding off street parking standards in Land Use Code sections 16.8.9.4.G and Article XVIII & 16.8.9.4.K.4 and Article XXIV.**

April Timko opened the public hearing. Vern Gardner stated an objection to this item being heard due to a lack of jurisdiction, citing Town of Kittery Land Use & Development Code Section 16.1.5B(6)(e). Mr. Gardner stated that the Planning Board has considered this project to include the parking requirements. Ms. Timko agreed that the Board of Appeals should determine if they have standing to hear the project, and she understood that the Planning Board did not address the details of the parking standards being heard tonight and asked to hear from the Code Enforcement Officer, Stephen Wilson. Mr. Wilson stated that the reason for the project's hearing at the meeting was to request waivers from certain parking regulations in Title 16 that can only be granted by the Board of Appeals. Ms. Timko asked the Board for input. Mr. Gardner stated that he believed the plans as considered by the Planning Board included the deviation in parking lot design standards. CEO Wilson pointed out that the applicant's parking plan submittal did change from the original plan approved by the Planning Board. Ms. Timko stated she did not see where the Planning Board could approve deviations from code related to parking design. CEO Wilson stated that those powers are held exclusively by the Board of Appeals, per 16.9.8.4.L. Mr. Gardner suggested that the Board of Appeals decide if they have jurisdiction on the matter.

Motion by Barry Fitzpatrick that the Board of Appeals has jurisdiction to hear this case, per Title 16.8.9.4.L. and 16.6.4.C.(2). Second by Charles Denault. Motion passes 5-1 by voice vote. [Aye: Timko, Fitzpatrick, Leontakianakos, Denault; Dwyer-Jones; Nay: Gardner; Abstain: none]

Ms. Timko invited CEO Wilson to begin his presentation. Mr. Wilson laid out the purpose of the hearing and noted a typo in the applicant's original application that was amended and submitted to the Board in the meeting materials. Mr. Wilson explained the site in question, its historical use, and the proposed uses and improvements. Ms. Timko invited the applicant to present the project. Ken Wood, of Attar Engineering, approached the podium to represent the applicant and the project. Ms. Timko asked what specific items the applicant wishes the Board of Appeal to consider waiving. The applicant further explained what items in the parking lot would require relief prior to Planning Board approval, but believed they met certain aspects of the code already. Board member Louis Leontakianakos asked if this project had approval from the Commissioner of Public Works. CEO Wilson explained that Public Works was working with the applicant to design appropriate sidewalks along Pepperrell Road. Mr. Wood asked a clarifying question whether the Board would deliberate on groups of standards or each item identified in the code as requiring waivers. Mr. Timko responded that the Board would deliberate on each item in the code and attempted to clarify what items the Board was considering in this hearing. The Board discussed the application and the addresses of the property to make it clear that the restaurant uses at 88 Pepperrell Road and the parking lot at 87 Pepperrell Road were tied together as one project for the purposes of this hearing.

Mr. Wood explained the project's request for miscellaneous variation requests for parking lot design standards 16.8.9.4.K.(2), (3), and (4), which includes standards for lighting, subgrade materials, surface drainage, and asphalt resurfacing. Mr. Gardner referenced Title 16.8.9.4.L and noted that the BOA can grant relief in specific cases of "hardship," and asked the applicant to describe the hardship. Mr. Wood stated that upgrading the parking lot per the code would detract from the values of adjacent lots. Mr. Wood also stated that applying the standards would reduce the number of parking spaces available and put more pressure for parking on the neighborhood. Mr. Gardner summarized that the imposition of code standards would reduce the number of parking spaces and thus impact the operations of the restaurant use. Mr. Wood agreed.

Ms. Timko invited members of the public to approach the podium to participate in the public hearing. Faith Harrington of Gerrish Island rose to provide comment. Keith Frisbee of Pepperrell Road rose to provide comment. Brian Rodonets of Pepperrell Road rose to provide comment. Durward Parkinson of Kennebunk, an attorney representing the Pepperrell Terrace abutter Driscoll Realty Inc., rose to provide comment. Wendy Turner of Haley Road, representing the abutter Elizabeth Segers of Pepperrell Road, rose to provide comment. Steve Graves of Kittery Point rose to provide comment. Barbara MacLeod of Kittery Point rose to provide comment and read a letter from Pepperrell Road resident Jan Lamont. Melissa Paley of Kittery rose to provide comment. Michael Humiston of Picott Road rose to provide comment. Sarah Brewer of Pepperrell Road rose to provide comment. Debbie Driscoll of Pepperrell Terrace rose to provide comment. Clint Reed of Pepperrell Terrace rose to provide comment. Peter Drummond of Moores Island Lane rose to provide comment. Craig Gossard of Pepperrell Road rose to provide comment. Donna Ryan, applicant, rose to provide comment. Eides Ares, applicant, rose to provide comment. Ms. Timko closed the public hearing so the Board could deliberate on the application.

Ms. Timko stated that the Board decided earlier in the meeting that they have jurisdiction to hear the application and reviewed the criteria for the Board under Section 16.6.6. Basis for Decision. Ms. Timko also listed out the factors for consideration outlined in 16.6.6.B.

Barry Fitzpatrick discussed the history of the project and asked the applicant, Ms. Kendall, about the relationship of the LLC listed on the application. Ann Kendall rose to clarify the name and relationship of the ownership entity. Mr. Fitzpatrick complimented the applicant on the revitalization of the property. Mr. Fitzpatrick stated he thought the parking lot was grandfathered and any required parking lot upgrades would detract from the aesthetic of the nearby Pepperrell Tomb.

Mr. Leontakianakos asked Ms. Timko how they would deliberate on the miscellaneous variation requests. Ms. Timko stated that they should take each request separately. Mr. Gardner stated that those that live closer to the project are more sensitive to it and there appears to be general acceptance from those in attendance, with appropriate conditions. Mr. Gardner proposed conditions that isolate the parking lot from Pepperrell Terrace, the Tomb, and other abutters, such as low-growing foliage for screening and something more permanent than concrete wheel stops. Mr. Gardner also suggested a full-time parking attendant located at a central spot to manage parking. Mr. Gardner stated that lower levels of lighting and the gravel parking lot could also be supported. Mr. Gardner stated his concern for a lack of evidence of a hardship for the applicant requests. Mr. Denault agreed with Mr. Gardner and also stated that not granting the requests would detract from neighborhood values and increase congestion on public streets. CEO Wilson clarified that

if the Board grants the waivers as requested, then Section 16.8.9.4.L. would not be applicable. Ms. Timko returned to the applicant's request for variation from 16.8.9.4.G. and asked the Board for input, highlighting some of the proposed conditions heard from the public. The Board discussed landscaping and buffering options for the parking lot.

Motion by Vern Gardner to condition a four feet high evergreen barrier along the north, east, and west sides of the property, to be maintained by the property owner. Second by Charles Denault. Motion failed on voice vote 1-5. [Aye: Gardner; Nay: Fitzpatrick, Leontakianakos, Denault; Dwyer-Jones, Timko]

Motion by Charles Denault to grant request from 16.8.9.4.G. with condition that arborvitae plantings no shorter than 4' in height are installed along the eastern and western property lines of the parking lot located at 87 Pepperell Road. Motion second by Suzanne Dwyer-Jones Motion passes on voice vote 5-1 [Aye: Denault, Timko, Leontakianakos, Dwyer-Jones; Gardner; No: Fitzpatrick]

Ms. Timko reminded the Board that the applicant stated they do not feel they need to request relief from Section 16.8.9.4.K(1) but that relief from subsections K(2), (3), and (4) were still being requested.

Motion by Charles Denault to grant the request for relief from 16.8.9.4.K.(2) with condition that the existing subgrade and compaction level are to be maintained. Motion second by Vern Gardner. Motion passes by voice vote 6-0 [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner]

Mr. Gardner inquired about the surface drainage on the site. Mr. Fitzpatrick pointed out where water had historically drained. CEO Wilson identified the existing catch basin that connects to the public storm sewer system. Mr. Wood further clarified the location of catch basins and how the lot drains and testified that there are no downstream impacts from the lot.

Motion by Suzanne Dwyer-Jones to grant the request for relief from 16.8.9.4.K.(3). Motion second by Charles Denault. Motion passes by voice vote 6-0 [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner]

Ms. Timko discussed the previous testimony from the applicant that they plan to provide screened or shaded lighting. Mr. Leontakianakos suggested further discussion since abutters frequently mentioned lighting. CEO Wilson clarified his understanding of the applicants' request is that it involves an existing light along with some landscaping lights,

but that the Planning Board would still need to review a lighting plan as part of the overall plan review. CEO Wilson said granting the request would give the Planning Board more flexibility in approving the proposed lighting plan.

Motion by Barry Fitzpatrick to grant the request for relief from 16.8.9.4.K.(4) with the condition that any lighting plan be approved by the Planning Board. Motion second by Charles Denault. Motion passes by voice vote 5-1 [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones; No: Gardner]

Motion by Suzanne Dwyer-Jones to grant the request for relief from 16.8.9.4.K.(5) with the condition that existing pavement is to remain as-is. Motion second by Barry Fitzpatrick. Motion passes by voice vote 6-0 [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner]

Ms. Timko stated that the Board has 10 days to reconsider any of the above decisions and the public has 45 days to appeal. Ms. Timko read the following Findings of Fact:

- Chatham Street, LLC, Owner, Ann Kendall, applicant, for business located 88 Pepperrell Road. Property is located in the Business-Local & Shoreland Overlay zones.
- Requesting variation regarding off-street parking standards in Land Use Code Section 16.8.9.4 and through subsections G & K.
- The applicant gave a presentation about the reasons they were seeking relief including a description of a specific hardship that would be caused to the applicant by strict enforcement of the requirements.
- There were a number of members of the public speak, largely in favor of the overall proposal, however, raising some concerns and requesting certain conditions.
- There would be a negative impact to the environment by requiring paving of the parking lot and potentially could be negative impacts based on the decisions around lighting.
- There are no safety issues associated with granting these particular requests for relief.
- There are no current violations for this property.

The Board moved to accept the Findings of Fact. Motion passes by voice vote 6-0. [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner]

Ms. Timko recited the following Conclusions of Law:

- The Board has the authority to hear this Miscellaneous Variation Request pursuant to Title 16.6.4.C.2.

- The Board considered the basis for decision the conditions set forth in 16.6.6.A & also considered the factors for consideration in making its determination set forth in 16.6.6.B, inclusive.
- The Board determined specifically that due to the size and layout of the existing lot, meeting the particular landscaping requirements set forth in 16.8.9.4.G would cause a loss of required parking, create additional issues with congestion in the area, and could impact the historic nature of the parking lot and the grave site to the north of the lot.
- The Board determined that waiving the particular requirements of landscaping was appropriate but did include requirements that evergreen plantings be placed on the east and west borders of the lot located at 87 Pepperrell Road.
- Related to sections 16.8.9.4.K, the applicant withdrew their request for relief relative to subsection 1. Relative to subsection 2., the Board found, considering the factors set forth in the basis for decision in 16.6.6.A & 16.6.6.B, that the requests to section K.2-5 were appropriately granted with the condition for section K.4. that the lighting plan be approved by the Planning Board.

Ms. Timko stated that a written record of the above would be made available to the applicant and the public within seven days.

6. UNFINISHED BUSINESS

7. NEW BUSINESS

a. ELECT NEW OFFICERS

Motion by April Timko to defer this item to the next regular meeting. Motion second by Louis Leontakianakos. Motion passes by voice vote 6-0. [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner]

8. ACCEPTANCE OF PREVIOUS MINUTES - 1/9/18, 2/27/18, 3/27/18, 6/12/18, 6/26/18, 9/25/18, 10/15/18

Motion by April Timko to postpone the meeting minutes to the next regular meeting. Motion second by Charles Denault. Motion passes by voice vote 6-0. [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner]

9. BOARD MEMBER OR CEO ISSUES OR COMMENT

Mr. Wilson stated his appreciation for the work of the Board.

10. ADJOURNMENT

Motion by Louis Leontakianakos to adjourn the meeting. Second by Suzanne Dwyer-Jones. The motion carried 6-0 by voice vote. [Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner]

The Kittery Board of Appeals meeting of January 8, 2019 adjourned at 9:16 PM.

Submitted by Adam Causey, Director of Planning & Development.

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



TOWN OF KITTEERY MAINE

TOWN PLANNING DEPARTMENT

200 Rogers Road, Kittery, Maine 03904
 Phone: (207) 475-1323
 Fax: (207) 439-6806
www.kittery.org

APPLICATION: BUSINESS USE CHANGE

THIS REVIEW PROCESS REQUIRES APPROVAL FROM BOTH THE TOWN PLANNER AND THE CODE ENFORCEMENT OFFICER	FEE	<input type="checkbox"/> \$100.00 plus	Amount Paid: \$ _____ Date Submitted:
--	------------	--	---

PROPERTY DESCRIPTION	Parcel ID	Map	26 & 27	Lot	2A,50,51 A,49,48 / 49,50,51A	Zone: Base Overlay	B-L BASE OZ-RP OVERLAY OZ-SL - 250' OVERLAY	Total Land Area	45,678
	Physical Address: 88 Pepperrell Cove								

PROPERTY OWNER'S INFORMATION	Name	CHATHAM STREET, LLC	Mailing Address	5 MILANO DRIVE SAUGUS MASS 01906
	Phone			
	Fax			
	Email			

APPLICANT INFORMATION	Name	ANN KENDALL	Mailing Address	1828 Pepperrell Cove LLC
	Phone	603-475-1010		
	Fax			
	Email	annkendall8.01@gmail.com		

PROJECT DESCRIPTION

See sections below regarding information to be provided.

Existing or previous use(s):	STORAGE, OFFICE, RESTAURANT(ASSEMBLY)
Other on site use(s):	MERCANTILE, RESIDENTIAL, STORAGE, OFFICE, RESTAURANT(ASSEMBLY), SEASONAL RESTAURANT

Proposed Business Name:	PROVISIONS AT PEPPERRELL COVE	Proposed Hours of Operation	6:30AM - 8:30PM
Proposed Use or Uses:	PROPOSED NEW MERCANTILE LOCATION IN LOWER LEVEL OF "THE VIEW" (NOTE: MERCANTILE CURRENTLY EXISTS IN "THE BISTRO")		

Please provide a brief narrative of the proposed project:	THE SITE CONTAINS THREE BUILDINGS: "THE VIEW" (CAPTN SIMEONS) - "THE BISTRO" (FRISBEE'S MARKET) - "FRISBEE'S WHARF" (LOBSTER IN THE ROUGH)
--	--

500 SQUARE FEET OF EXISTING OFFICE AND STORAGE SPACE IN THE LOWER LEVEL OF "THE VIEW" BUILDING WILL BE CONVERTED TO A SMALL STORE SELLING SUPPLIES, COFFEE, BAKED GOODS AND CONTAIN TAKE OUT ICE CREAM SERVICE. THIS USE CURRENTLY EXISTS ON THIS SITE IN "THE BISTRO" (FRISBEE'S MARKET) BUILDING

Describe all land or structural modifications that will be made on the property:	STRUCTURAL BRACING WILL BE ADDED AS REQ'D.
---	--

Number of people that will work, reside or visit the property during a typical weekday and weekend?		2 EMPLOYEES	
SUMMER & WINTER AVERAGE OVERALL CUSTOMER EXPECTATION 10-20			
Number of off-street parking spaces that will be provided:		3	
If the property will be used for storage, what, how and where will it be stored? (Also place on site plan)			
EXISTING STORAGE AREAS TO REMAIN OR TO BE REDUCED IN SIZE - CURRENT AND PROPOSED STORAGE TO CONTAIN RESTAURANT SUPPLIES.			
Describe any foreseeable odor, smoke, gases, light, dust, vibrations or noise omitted beyond the property's boundaries:			
EXISTING TO REMAIN			
Describe any improvements (buffering, vegetation, permeable surfaces, ect...) that will be made to the property that will enhance the surrounding environment: (Also place on site plan)			
SITE PLAN ATTACHED			
I certify that, to the best of my knowledge, the information provided in this application is true and correct and I will not deviate from the plans submitted without notifying the Kittery Planning Department of any changes.			
Applicant's Signature:	_____	Owner's Signature:	_____
Date:	_____	Date:	_____

Minimum Submission Requirements

1) Application and Payment of Fee(s)

2) Site Plan (see minimum plan requirements below)

3) Floor Plan (include dimensional figures and label what areas will be used for)

4) Mail Copy of Plans to:

Office of the State Fire Marshall
 Inspections / Plans Review Division
 52 State House Station
 Augusta, Maine 04333-0052

Make sure to sure to obtain a packing slip or proof of mailing and include the slip or a copy of the with your application submission.

5) Completed Building Permit Application

Minimum Plan Requirements

Related Kittery Land Use Code Requirements:

16.4.3.5 5387 Business Use Changes.

The Planner and the Code Enforcement Officer are to review and approve, or refer to the Planning Board for action, all business use changes which occur that fall below Planning Board review thresholds as outlined in Sections 16.10.3.2 and 16.10.3.6.

Approval must be based on compliance with all requirements of this Code.

16.10.3.6 Business Use Review.

All business use including the following must be reviewed by the CEO and Town Planner to ensure compliance with the requirements of this Code including:

1. Movement of an existing commercial or business entity from like to like facilities/use where major building/site modifications are not made;
2. Movement of an existing commercial or business use into related facility/use buildings;
3. Establishment of new commercial or business entity in an existing facility where intensity of use is not significantly different.

IT IS THE RESPONSIBILITY OF THE APPLICANT TO PRESENT A CLEAR UNDERSTANDING OF THE PROJECT.

- A) Show location and description of:
 All structures Floor plans
 Elevations of principle structures
 All structures and accesses within 100 feet
- B) Show parcel data:
 Total parcel area Building setbacks
 Wetland setbacks Length of street frontage
- C) Show names and addresses of all owners of record on abutting parcels and the assessor's map and lot numbers.
- D) Label all zoning districts abutting the property boundaries.
- E) Show locations of natural physical features such as water bodies,
Water courses, forest cover, and ledge outcroppings.
- F) Provide description of these materials stored on the property:
 Hazardous Toxic Raw Waste
- G) Show parking calculations:
 Existing parking Proposed parking spaces
 Handicapped spaces
- H) Submit a narrative of proposed use of the property for categorization purposes: (i.e. retail, wholesale, restaurant, video rental, office, auto repair, etc. The narrative must include:
 any assigned numbers from the tenant roster for the space that will be occupied
 the business hours
 Estimated number of customers or clients per day
Size of lots and/ or buildings
 proposed public improvements
- I) Describe any development constraints such as:
 Wetlands Shoreland Floodplains
 Existing structures Existing Uses
 Lack of utilities , public private

ANY SUBMITTAL DEEMED SUFFICIENTLY LACKING IN CONTENT WILL BE RETURNED WITHOUT REVIEW.



**BUILDING / REGULATED ACTIVITY
PERMIT APPLICATION**

Town of Kittery – Code Enforcement
200 Rogers Road Kittery, ME 03904
(207) 475-1308 www.kitteryme.gov

MAP 27 LOT 51A

PERMIT # _____

DATE 05/25/2017

PLEASE NOTE: Permit Fee MUST BE PAID and Permit MUST BE RECEIVED by Applicant BEFORE work may commence. REV12/2015

<p>PROPERTY LOCATION: ADDRESS <u>889 PEPPERELL ROAD</u> BASE ZONE _____ R-RL/R-S/R-KPV/R-U/R-V/R-RC/CON/B-L/B-L1/B-P/C-1/C-2/C-3/MU/ MU-BI/MU-KF OVERLAY ZONE OR IN FLOODPLAIN AREA _____ OZ-SL/OZ-RP/OZ-CFMU</p>	<p>TYPE OF PERMIT REQUESTED: (CHECK ALL THAT APPLY)</p> <table style="width:100%;"> <tr> <td><input type="checkbox"/> NEW STRUCTURE</td> <td><input type="checkbox"/> ACCESSORY BUILDING</td> </tr> <tr> <td><input type="checkbox"/> ADDITION</td> <td><input type="checkbox"/> ELECTRICAL</td> </tr> <tr> <td><input type="checkbox"/> DEMOLITION</td> <td><input type="checkbox"/> SWIMMING POOL</td> </tr> <tr> <td><input checked="" type="checkbox"/> RENOVATION INTERIOR</td> <td><input type="checkbox"/> MOVE STRUCTURE(S)</td> </tr> <tr> <td><input checked="" type="checkbox"/> RENOVATION EXTERIOR</td> <td><input checked="" type="checkbox"/> COMMERCIAL</td> </tr> <tr> <td><input type="checkbox"/> CHANGE IN USE OR NEW BUSINESS OCCUPANCY</td> <td></td> </tr> <tr> <td><input type="checkbox"/> INSTALLATION, REPLACEMENT OR EXPANSION OF PIERS & DOCKS</td> <td></td> </tr> <tr> <td><input type="checkbox"/> REMOVAL OF VEGETATION IN SHORELAND OVERLAY ZONE</td> <td></td> </tr> </table>	<input type="checkbox"/> NEW STRUCTURE	<input type="checkbox"/> ACCESSORY BUILDING	<input type="checkbox"/> ADDITION	<input type="checkbox"/> ELECTRICAL	<input type="checkbox"/> DEMOLITION	<input type="checkbox"/> SWIMMING POOL	<input checked="" type="checkbox"/> RENOVATION INTERIOR	<input type="checkbox"/> MOVE STRUCTURE(S)	<input checked="" type="checkbox"/> RENOVATION EXTERIOR	<input checked="" type="checkbox"/> COMMERCIAL	<input type="checkbox"/> CHANGE IN USE OR NEW BUSINESS OCCUPANCY		<input type="checkbox"/> INSTALLATION, REPLACEMENT OR EXPANSION OF PIERS & DOCKS		<input type="checkbox"/> REMOVAL OF VEGETATION IN SHORELAND OVERLAY ZONE	
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<p>PROPERTY OWNER INFORMATION: NAME <u>1829 PEPPERELL (OVERL)</u> MAILING ADDRESS <u>PO BOX 67 KITTERY POINT</u> PHONE NUMBER <u>603-431-8808</u> E-MAIL <u>Carla@cjarchitects.net</u> <input type="checkbox"/> MUST PROVIDE COPY OF DEED, PURCHASE & SALES AGREEMENT OR OTHER DOCUMENTATION OF RIGHT, TITLE OR INTEREST.</p>	<p>APPLICANT/CONTRACTOR INFORMATION (IF APPLICABLE): NAME _____ MAILING ADDRESS _____ PHONE NUMBER _____ E-MAIL _____ CERTIFICATION # _____</p>
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<p>PROPERTY INFORMATION: <u>DIMENSIONAL STANDARDS</u> <u>PROPOSED BUILDING SETBACKS</u> FRONT YARD _____ FRONT YARD _____ SIDE/REAR YARD ____/____ SIDE/REAR YARD ____/____ FRESH/COASTAL WETLAND: <u>100'</u> FRESH/COASTAL WETLAND ____ <input checked="" type="checkbox"/> CHECK IF NON-CONFORMING</p>	<p>LOT INFORMATION AND BUILDING COVERAGE (BC): LOT SIZE _____ Sq. Ft. _____ Acres EXISTING BC _____ % (_____ Sq. Ft. / LOT SIZE _____ X 100) ALLOWED BC _____ % (_____ Sq. Ft. / LOT SIZE _____ X 100) STREET FRONTAGE _____ SHORE FRONTAGE _____ <input type="checkbox"/> CHECK IF NON-CONFORMING</p>
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WILL THIS PROJECT CREATE ONE ACRE OR MORE OF DISTURBED AREA? YES NO
IF YES, YOU WILL BE REQUIRED TO FILE A MDEP NOTICE OF INTENT TO COMPLY WITH THE MAINE GENERAL CONSTRUCTION PERMIT.

COMPLETE DESCRIPTION OF PROJECT, INCLUDING DIMENSIONS OF ANY PROPOSED STRUCTURES:
RENOVATION OF THE BASEMENT LEVEL ONLY - OF "THE VIEW AT PEPPERELL COVE" EXISTING BATHROOMS TO BE MADE ADA COMPLIANT. SMALL MERCANTILE AREA TO BE CONSTRUCTED IN EXISTING SPACE, DIMENSIONS OF EXISTING STRUCTURES ATTACHED

EROSION CONTROL REQUIRED? YES - Disturbing 1 cu.yd. or more of soil in Shoreland Overlay Zone NO
ESTIMATED VALUE OF WORK \$ 40,000 (FAIR MARKET VALUE INCLUDING MATERIALS & LABOR)
PRIOR TO ANY GROUND DISTURBANCE, PROPER EROSION AND SEDIMENT CONTROL MEASURES MUST BE IN PLACE PER MDEP GUIDELINES.

THE FOLLOWING ARE REQUIRED TO BE SUBMITTED WITH THIS BUILDING PERMIT APPLICATION:

- ONE SET OF FULL CONSTRUCTION DOCUMENTS (PREPARED BY A REGISTERED DESIGN PROFESSIONAL WHERE APPLICABLE) INCLUDING FOUNDATION PLAN WITH CROSS SECTION, FLOOR PLAN OF EACH FLOOR AND CROSS SECTION OF BUILDING WITH DESCRIPTION OF MATERIALS TO BE USED. *Requirements may be less for minor interior alterations as determined by the CEO.*
- SITE PLOT PLAN DRAWN TO SCALE TO SHOW LOCATION OF ALL EXISTING AND PROPOSED STRUCTURES, PARKING AREAS, SEPTIC SYSTEM INCLUDING TANK AND LEACH FIELD, WELL, EASEMENTS, DRIVEWAYS, AND DISTANCE TO PROPERTY LINES AND WETLANDS/WATERBODIES.
- THREE (3) SIGNED COPIES OF HHE-200 SEPTIC DESIGN FORM BY LICENSED SITE EVALUATOR (WHERE APPLICABLE).
- STANDARD EROSION AND SEDIMENT CONTROL MEASURES AGREEMENT FORM WHEN DISTURBING 1 CU.YD. OR MORE OF SOIL IN OZ-SL.
- PRIOR TO OCCUPANCY NEED VERIFICATION FROM CENTRAL MAINE POWER WITH A COMPLETED FORM-1190 (WHERE APPLICABLE).

PLEASE NOTE: Permit Fee MUST BE PAID and Permit MUST BE RECEIVED by Applicant BEFORE work may commence. REV12/2015

WHERE APPLICABLE AND PRIOR TO ISSUANCE OF BUILDING PERMIT, APPLICANT MUST SECURE APPROVALS FOR THE FOLLOWING SERVICES:

NEW CONNECTION TO PUBLIC WATER SUPPLY PRIVATE SUPPLY (NO SIGNATURE REQUIRED)

KITTERY WATER DISTRICT SUPERINTENDENT'S APPROVAL DATE

NEW CONNECTION TO PUBLIC SEWER SEPTIC SYSTEM (NO SIGNATURE REQUIRED)*
* Attach copy of HHE-200 Subsurface Wastewater Disposal System application if proposal increases usage

KITTERY SEWER DEPARTMENT SUPERINTENDENT'S APPROVAL DATE

NEW DRIVEWAY ENTRANCE EXISTING DRIVEWAY (NO SIGNATURE REQUIRED)

KITTERY PUBLIC WORKS COMMISSIONER'S APPROVAL DATE

CERTIFICATION:

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND ANY RELATED SUBMISSIONS TO BE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT I AM RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE TOWN, STATE AND FEDERAL REGULATIONS AND THAT FAILURE TO COMPLY MAY RESULT IN THE IMPOSITION OF FINES, LEGAL FEES, AND THE ABATEMENT OF ANY VIOLATIONS TO INCLUDE ABANDONMENT OF USE AND OCCUPANCY AND CORRECTIVE ACTION SUCH AS THE REMOVAL OR MODIFICATION OF IMPROVEMENTS IF SETBACKS OR OTHER REQUIREMENTS HAVE NOT BEEN MET AND SATISFIED. I UNDERSTAND THAT THIS IS AN APPLICATION AND THAT I SHALL NOT BEGIN ANY IMPROVEMENTS UNTIL THE APPROPRIATE PERMIT(S) IS/ARE ISSUED NOR WILL I MAKE USE OF THE IMPROVEMENTS WITHOUT FIRST HAVING OBTAINED AN OCCUPANCY PERMIT. I WILL NOTIFY THE CODE ENFORCEMENT OFFICER OF ANY CHANGES TO THIS APPLICATION. A PERMIT ISSUED IS SUBJECT TO APPLICABLE ORDINANCES AND MUBEC AS ADOPTED BY THE STATE OF MAINE AND TOWN OF KITTERY AND IS ONLY VALID FOR WORK AS DESCRIBED ON THIS PERMIT APPLICATION.

PROPERTY OWNER SIGNATURE DATE APPLICANT/CONTRACTOR SIGNATURE DATE

PRINT NAME PRINT NAME

A PERMIT IS EXPIRED IF SUBSTANTIAL WORK HAS NOT COMMENCED WITHIN SIX MONTHS FROM DATE OF ISSUE AND SUBSTANTIALLY COMPLETED WITHIN TWO YEARS PER TITLE 16.5.2.4.

APPROVED DENIED

TOWN CODE APPENDIX A FOR FULL FEE SCHEDULE
Residential \$25 plus \$12/\$1,000 value of work
Commercial \$100 plus \$15/\$1,000 value of work

APPLICATION BASE FEE: _____

BUILDING PERMIT FEE: _____

PUBLIC IMPACT FEE: _____

SEPTIC SYSTEM FEE: _____

TOTAL FEE: _____

RECEIPT #: _____

CEO SIGNATURE: _____

DATE: _____

INSPECTION SIGN-OFF:

Approved by _____ Date _____
ELECTRICAL ROUGH

Approved by _____ Date _____
ELECTRICAL FINAL

Approved by _____ Date _____
PLUMBING ROUGH

Approved by _____ Date _____
PLUMBING FINAL

Approved by _____ Date _____
SEPTIC SCARIFICATION

Approved by _____ Date _____
SEPTIC FINAL

Approved by _____ Date _____
OTHER:

Approved by _____ Date _____
FINAL OCCUPANCY

**FOR OFFICE
USE ONLY**

NEW DWELLING UNIT

- | | |
|--|--|
| <input type="checkbox"/> SINGLE FAMILY | <input type="checkbox"/> ACCESSORY DWELLING UNIT (ADU) |
| <input type="checkbox"/> DUPLEX | <input type="checkbox"/> CONDOMINIUM CONVERSION |
| <input type="checkbox"/> THREE OR FOUR UNIT BUILDING | <input type="checkbox"/> PART OF AN APPROVED SUBDIVISION |
| <input type="checkbox"/> FIVE OR MORE UNIT BUILDING | <input type="checkbox"/> OTHER: |



BUILDING / REGULATED ACTIVITY PERMIT APPLICATION

Town of Kittery – Code Enforcement
200 Rogers Road Kittery, ME 03904
(207) 475-1308 www.kitteryme.gov

MAP 27 LOT 51A

PERMIT # _____

DATE 05/25/2017

PLEASE NOTE: Permit Fee MUST BE PAID and Permit MUST BE RECEIVED by Applicant BEFORE work may commence. REV12/2015

<p>PROPERTY LOCATION: ADDRESS <u>888 PEPPERRELL ROAD</u> BASE ZONE _____ R-RL/R-S/R-KPV/R-U/R-V/R-RC/CON/B-L/B-L1/B-P/C-1/C-2/C-3/MU/ MU-BI/MU-KF OVERLAY ZONE OR IN FLOODPLAIN AREA _____ OZ-SL/OZ-RP/OZ-CF MU</p>	<p>TYPE OF PERMIT REQUESTED: (CHECK ALL THAT APPLY)</p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> NEW STRUCTURE</td> <td><input type="checkbox"/> ACCESSORY BUILDING</td> </tr> <tr> <td><input type="checkbox"/> ADDITION</td> <td><input type="checkbox"/> ELECTRICAL</td> </tr> <tr> <td><input type="checkbox"/> DEMOLITION</td> <td><input type="checkbox"/> SWIMMING POOL</td> </tr> <tr> <td><input checked="" type="checkbox"/> RENOVATION INTERIOR</td> <td><input type="checkbox"/> MOVE STRUCTURE(S)</td> </tr> <tr> <td><input checked="" type="checkbox"/> RENOVATION EXTERIOR</td> <td><input checked="" type="checkbox"/> COMMERCIAL</td> </tr> <tr> <td><input type="checkbox"/> CHANGE IN USE OR NEW BUSINESS OCCUPANCY</td> <td></td> </tr> <tr> <td><input type="checkbox"/> INSTALLATION, REPLACEMENT OR EXPANSION OF PIERS & DOCKS</td> <td></td> </tr> <tr> <td><input type="checkbox"/> REMOVAL OF VEGETATION IN SHORELAND OVERLAY ZONE</td> <td></td> </tr> </table>	<input type="checkbox"/> NEW STRUCTURE	<input type="checkbox"/> ACCESSORY BUILDING	<input type="checkbox"/> ADDITION	<input type="checkbox"/> ELECTRICAL	<input type="checkbox"/> DEMOLITION	<input type="checkbox"/> SWIMMING POOL	<input checked="" type="checkbox"/> RENOVATION INTERIOR	<input type="checkbox"/> MOVE STRUCTURE(S)	<input checked="" type="checkbox"/> RENOVATION EXTERIOR	<input checked="" type="checkbox"/> COMMERCIAL	<input type="checkbox"/> CHANGE IN USE OR NEW BUSINESS OCCUPANCY		<input type="checkbox"/> INSTALLATION, REPLACEMENT OR EXPANSION OF PIERS & DOCKS		<input type="checkbox"/> REMOVAL OF VEGETATION IN SHORELAND OVERLAY ZONE	
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<p>PROPERTY INFORMATION: <u>DIMENSIONAL STANDARDS</u> <u>PROPOSED BUILDING SETBACKS</u> FRONT YARD _____ FRONT YARD _____ SIDE/REAR YARD ____/____ SIDE/REAR YARD ____/____ FRESH/COASTAL WETLAND: <u>100'</u> FRESH/COASTAL WETLAND _____ <input checked="" type="checkbox"/> CHECK IF NON-CONFORMING</p>	<p>LOT INFORMATION AND BUILDING COVERAGE (BC): LOT SIZE _____ Sq. Ft. _____ Acres EXISTING BC _____ % (_____ Sq. Ft. / LOT SIZE _____ X 100) ALLOWED BC _____ % (_____ Sq. Ft. / LOT SIZE _____ X 100) STREET FRONTAGE _____ SHORE FRONTAGE _____ <input type="checkbox"/> CHECK IF NON-CONFORMING</p>																
<p>WILL THIS PROJECT CREATE ONE ACRE OR MORE OF DISTURBED AREA? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, YOU WILL BE REQUIRED TO FILE A MDEP NOTICE OF INTENT TO COMPLY WITH THE MAINE GENERAL CONSTRUCTION PERMIT.</p>																	
<p>COMPLETE DESCRIPTION OF PROJECT, INCLUDING DIMENSIONS OF ANY PROPOSED STRUCTURES: <u>RENOVATION & STABILIZATION OF EXISTING STRUCTURES - FRISEBEE'S</u> <u>WHALE & BAR</u> <u>SEE ATTACHED PLAN FOR DIMENSIONS OF EXISTING STRUCTURES</u></p>																	
<p>EROSION CONTROL REQUIRED? <input type="checkbox"/> YES – Disturbing 1 cu.yd. or more of soil in Shoreland Overlay Zone <input checked="" type="checkbox"/> NO ESTIMATED VALUE OF WORK \$ <u>60,000</u> (FAIR MARKET VALUE INCLUDING MATERIALS & LABOR) PRIOR TO ANY GROUND DISTURBANCE, PROPER EROSION AND SEDIMENT CONTROL MEASURES MUST BE IN PLACE PER MDEP GUIDELINES.</p>																	
<p>THE FOLLOWING ARE REQUIRED TO BE SUBMITTED WITH THIS BUILDING PERMIT APPLICATION:</p> <ul style="list-style-type: none"> <input type="checkbox"/> ONE SET OF FULL CONSTRUCTION DOCUMENTS (PREPARED BY A REGISTERED DESIGN PROFESSIONAL WHERE APPLICABLE) INCLUDING FOUNDATION PLAN WITH CROSS SECTION, FLOOR PLAN OF EACH FLOOR AND CROSS SECTION OF BUILDING WITH DESCRIPTION OF MATERIALS TO BE USED. <i>Requirements may be less for minor interior alterations as determined by the CEO.</i> <input type="checkbox"/> SITE PLOT PLAN DRAWN TO SCALE TO SHOW LOCATION OF ALL EXISTING AND PROPOSED STRUCTURES, PARKING AREAS, SEPTIC SYSTEM INCLUDING TANK AND LEACH FIELD, WELL, EASEMENTS, DRIVEWAYS, AND DISTANCE TO PROPERTY LINES AND WETLANDS/WATERBODIES. <input type="checkbox"/> THREE (3) SIGNED COPIES OF HHE-200 SEPTIC DESIGN FORM BY LICENSED SITE EVALUATOR (WHERE APPLICABLE). <input type="checkbox"/> STANDARD EROSION AND SEDIMENT CONTROL MEASURES AGREEMENT FORM WHEN DISTURBING 1 CU.YD. OR MORE OF SOIL IN OZ-SL. <input type="checkbox"/> PRIOR TO OCCUPANCY NEED VERIFICATION FROM CENTRAL MAINE POWER WITH A COMPLETED FORM-1190 (WHERE APPLICABLE). 																	

PLEASE NOTE: Permit Fee MUST BE PAID and Permit MUST BE RECEIVED by Applicant BEFORE work may commence. REV12/2015

WHERE APPLICABLE AND PRIOR TO ISSUANCE OF BUILDING PERMIT, APPLICANT MUST SECURE APPROVALS FOR THE FOLLOWING SERVICES:

- NEW CONNECTION TO PUBLIC WATER SUPPLY PRIVATE SUPPLY (NO SIGNATURE REQUIRED)

KITTERY WATER DISTRICT SUPERINTENDENT'S APPROVAL DATE

- NEW CONNECTION TO PUBLIC SEWER SEPTIC SYSTEM (NO SIGNATURE REQUIRED)*
* Attach copy of HHE-200 Subsurface Wastewater Disposal System application if proposal increases usage

KITTERY SEWER DEPARTMENT SUPERINTENDENT'S APPROVAL DATE

- NEW DRIVEWAY ENTRANCE EXISTING DRIVEWAY (NO SIGNATURE REQUIRED)

KITTERY PUBLIC WORKS COMMISSIONER'S APPROVAL DATE

CERTIFICATION:

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND ANY RELATED SUBMISSIONS TO BE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT I AM RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE TOWN, STATE AND FEDERAL REGULATIONS AND THAT FAILURE TO COMPLY MAY RESULT IN THE IMPOSITION OF FINES, LEGAL FEES, AND THE ABATEMENT OF ANY VIOLATIONS TO INCLUDE ABANDONMENT OF USE AND OCCUPANCY AND CORRECTIVE ACTION SUCH AS THE REMOVAL OR MODIFICATION OF IMPROVEMENTS IF SETBACKS OR OTHER REQUIREMENTS HAVE NOT BEEN MET AND SATISFIED. I UNDERSTAND THAT THIS IS AN APPLICATION AND THAT I SHALL NOT BEGIN ANY IMPROVEMENTS UNTIL THE APPROPRIATE PERMIT(S) IS/ARE ISSUED NOR WILL I MAKE USE OF THE IMPROVEMENTS WITHOUT FIRST HAVING OBTAINED AN OCCUPANCY PERMIT. I WILL NOTIFY THE CODE ENFORCEMENT OFFICER OF ANY CHANGES TO THIS APPLICATION. A PERMIT ISSUED IS SUBJECT TO APPLICABLE ORDINANCES AND MUBEC AS ADOPTED BY THE STATE OF MAINE AND TOWN OF KITTERY AND IS ONLY VALID FOR WORK AS DESCRIBED ON THIS PERMIT APPLICATION.

PROPERTY OWNER SIGNATURE DATE APPLICANT/CONTRACTOR SIGNATURE DATE

PRINT NAME PRINT NAME

A PERMIT IS EXPIRED IF SUBSTANTIAL WORK HAS NOT COMMENCED WITHIN SIX MONTHS FROM DATE OF ISSUE AND SUBSTANTIALLY COMPLETED WITHIN TWO YEARS PER TITLE 16.5.2.4.

- APPROVED DENIED

TOWN CODE APPENDIX A FOR FULL FEE SCHEDULE
Residential \$25 plus \$12/\$1,000 value of work
Commercial \$100 plus \$15/\$1,000 value of work

APPLICATION BASE FEE: _____

BUILDING PERMIT FEE: _____

PUBLIC IMPACT FEE: _____

SEPTIC SYSTEM FEE: _____

TOTAL FEE: _____

RECEIPT #: _____

CEO SIGNATURE: _____

DATE: _____

INSPECTION SIGN-OFF:

Approved by _____ Date _____
ELECTRICAL ROUGH

Approved by _____ Date _____
ELECTRICAL FINAL

Approved by _____ Date _____
PLUMBING ROUGH

Approved by _____ Date _____
PLUMBING FINAL

Approved by _____ Date _____
SEPTIC SCARIFICATION

Approved by _____ Date _____
SEPTIC FINAL

Approved by _____ Date _____
OTHER:

Approved by _____ Date _____
FINAL OCCUPANCY

**FOR OFFICE
USE ONLY**

NEW DWELLING UNIT

- | | |
|--|--|
| <input type="checkbox"/> SINGLE FAMILY | <input type="checkbox"/> ACCESSORY DWELLING UNIT (ADU) |
| <input type="checkbox"/> DUPLEX | <input type="checkbox"/> CONDOMINIUM CONVERSION |
| <input type="checkbox"/> THREE OR FOUR UNIT BUILDING | <input type="checkbox"/> PART OF AN APPROVED SUBDIVISION |
| <input type="checkbox"/> FIVE OR MORE UNIT BUILDING | <input type="checkbox"/> OTHER: |

Regulatory Licensing & Permitting



FIRE MARSHAL'S OFFICE CONSTRUCTION
45 COMMERCE DR STE 1, AUGUSTA, ME 04333-0001

Transaction Type: **Renovation Project with Barrier-Free** | License: **CONSTRUCTION PERMIT WITH BARRIER FREE**

Transaction Receipt

Attachments/Documentation Needed

Attachments/Documentation Needed: Your application cannot be processed until you have provided the required documentation described in the Supporting Information section(s) for the following items. **Please include the transaction number listed below on all correspondence to expedite the processing of your permit.**

- Site Plan
- Elevations
- Floor Plans

Transaction Details

- Date of Transaction: 05/25/2017 03:21 PM
- Transaction Number: 1822994-1954304
- Transaction Type: **Renovation Project with Barrier-Free**
- License Type: **CONSTRUCTION PERMIT WITH BARRIER FREE**
- License: **CBF**
- Regulator:

FIRE MARSHAL'S OFFICE CONSTRUCTION
45 COMMERCE DR STE 1, AUGUSTA, ME 04333-0001

- Fee Paid:
Fees are nonrefundable.

APPLICATION FEE: \$100.00
BARRIER FREE FEE: \$25.00
Total: \$125.00

Fees are nonrefundable.

Application Instructions

To apply for a permit, please complete this online application and submit online with your credit card payment. If you do not wish to pay by credit card, you may download a [permit application form](#) here, then print, complete, and mail the application with your check.

Project Name

Status: **Edited**
PROJECT NAME: **THE VIEW AT PEPPERRELL COVE**

Project Location

This address will be displayed on the State's Web Site.

Address: **88 PEPPERRELL ROAD, KITTELY PONT, ME 03905 US (New)**
Address Type: **Street Location**

Project Contact Information

Owner

Status: **New**
Name: **1828 PEPPERRELL COVE LLC**
Address: **PO BOX 67, KITTELY PONT, ME 03905-0067 US**
Phone: **+1 (603) 475-1010**

Design Professional

A design professional is required for projects with cost exceeding \$75,000 and for construction of a brand new building.

Status: **New**

Name: **CJ ARCHITECTS**

ME Registration Number: **3699**

Address: **233 VAUGHAN STREET - SUITE 101, PORTSMOUTH, NH 03801 US**

Phone: **+1 (603) 431-2808**

Renovation Project Information

Project Information

Status: **New**

Construction Mode

- Renovation: **Yes**
- Addition: **No**

Systems

- Sprinkler Installation Type: **Sprinkler System**
- Fire Alarm Installation Type: **Fire Alarm System**

Dates

- Projected Start Date: **06/01/2017**
- Projected End Date: **08/01/2017**

Cost Factors

- Project Cost: **95000**
- Renovation Sq Footage: **5755**
- New Construction Sq Footage: **0**
- Total Sq Footage: **5755**

Number of Stories

- Original Number Stories: **2**
- Affected Number Stories: **2**
- Final Number Stories: **2**

Occupancy Classification

- Building Use Layout: **Mixed Use**
- Primary Building Use: **Assembly Class <300**
- Secondary Building Use: **Mercantile Class C**

Additional Information

- Construction Type: **Unprotected Wood Frame: Type V (000)**
- Code Edition: **2009 Code Edition**

Construction Plans

Most projects require a site plan, elevations, and floorplan. For this project, are you able to provide this information to the Fire Marshal's Office by mail or email?: **Yes**

Supporting Information: Construction Plans

A request for a permit shall be accompanied by a true copy (an accurate representation by dimensioned plans and specifications of the final construction documents) of the plans and specifications for that construction, reconstruction, or change of use. The Commissioner shall issue a permit only if the plans comply with statutes and lawful regulations promulgated to reduce fire hazards.

Submit blueprints/plans that are clear, legible, accurate, and complete. A design professional such as an architect or engineer may be required. Call and ask if you are not sure. Either way, the office must obtain for the plan review (1) copy of each of the following:

Site Plan showing relationship to adjacent buildings, roads, and hazards. Indicate which building or part thereof is the one requesting a permit. Indicate true north. The site plan must be to an indicated scale or have measurements.

You have agreed to provide this information by email or mail.

Elevations showing the side view of the building from each side. Label each elevation. (The south elevation is the side of the building that faces south). If the building is existing and the renovations to the exterior are minor, then a snapshot of each side view of the building may suffice.

You have agreed to provide this information by email or mail.

Floor Plans of every level of the building, including the basement, (and parts that are not being renovated if this is an existing building).

You have agreed to provide this information by email or mail.

Building Code Surcharge

Your project may be subject to a surcharge on plan review for the Uniform Building Codes and Standards Fund. Please review the [Building Code Surcharge document](#) to determine whether your project will require this surcharge.

Attention To (OPTIONAL):

If you are already working with a specific plan reviewer, please indicate that here:

Other comments:

Attest & Agree

You cannot submit this request unless you attest to the accuracy of the information provided within this application.

I hereby certify that the information provided on this application is true and accurate to the best of my knowledge and belief.

Questions about this service? Contact FIRE MARSHAL'S OFFICE CONSTRUCTION at: (207) 826-3880 or email: constructionfmo.mdps@maine.gov

Credits



Copyright © 2016
All rights reserved.

Information

[Maine.gov](#)

[Site Policies](#)

[Contact technical support](#)

Transaction Security



Regulatory Licensing & Permitting



FIRE MARSHAL'S OFFICE CONSTRUCTION
45 COMMERCE DR STE 1, AUGUSTA, ME 04333-0001

Transaction Type: **Renovation Project** | License: **CONSTRUCTION PERMIT**

Transaction Receipt

Attachments/Documentation Needed

Attachments/Documentation Needed: Your application cannot be processed until you have provided the required documentation described in the Supporting Information section(s) for the following items. **Please include the transaction number listed below on all correspondence to expedite the processing of your permit.**

- Site Plan
- Elevations
- Floor Plans

Transaction Details

- Date of Transaction: 05/25/2017 02:56 PM
- Transaction Number: 1822983-1954298
- Transaction Type: **Renovation Project**
- License Type: **CONSTRUCTION PERMIT**
- License: **CON**
- Regulator:

FIRE MARSHAL'S OFFICE CONSTRUCTION
45 COMMERCE DR STE 1, AUGUSTA, ME 04333-0001

- Fee Paid:
Fees are nonrefundable.

APPLICATION FEE: \$100.00
Total: \$100.00

Fees are nonrefundable.

Application Instructions

To apply for a permit, please complete this online application and submit online with your credit card payment. If you do not wish to pay by credit card, you may download a [permit application form](#) here, then print, complete, and mail the application with your check.

Project Name

Status: **Edited**
PROJECT NAME: **FRISBEE'S WHARF AT PEPPERRELL COVE**

Project Location

This address will be displayed on the State's Web Site.

Address: **88 PEPPERRELL ROAD, KITTERY POINT, ME 03905 US** (New)
Address Type: **Street Location**

Project Contact Information

Owner

Status: **New**
Name: **1828 PEPPERRELL COVE LLC**
Address: **PO BOX 67, KITTERY POINT, ME 03905-0067 US**
Phone: **+1 (603) 475-1010**

Design Professional

A design professional is required for projects with cost exceeding \$75,000 and for construction of a brand new building.

Status: **New**
Name: **CJ ARCHITECTS**
ME Registration Number: **3699**
Address: **233 VAUGHAN STREET SUITE 101, PORTSMOUTH, NH 03801 US**
Phone: **+1 (603) 431-2808**
Email: **carla@cjarchitects.net**

Renovation Project Information

Project Information

Status: **New**

Construction Mode

- Renovation: **Yes**
- Addition: **No**

Systems

- Sprinkler Installation Type: **No Sprinkler System**
- Fire Alarm Installation Type: **No Fire Alarm System**

Dates

- Projected Start Date: **06/01/2017**
- Projected End Date: **06/30/2017**

Cost Factors

- Project Cost: **60000**
- Renovation Sq Footage: **180**
- New Construction Sq Footage: **0**
- Total Sq Footage: **180**

Number of Stories

- Original Number Stories: **1**
- Affected Number Stories: **1**
- Final Number Stories: **1**

Occupancy Classification

- Building Use Layout: **Single Use**
- Primary Building Use: **Business**
- Secondary Building Use:

Additional Information

- Construction Type: **Unprotected Wood Frame: Type V (000)**
- Code Edition: **2009 Code Edition**

Construction Plans

Most projects require a site plan, elevations, and floorplan. For this project, are you able to provide this information to the Fire Marshal's Office by mail or email?: **Yes**

Supporting Information: Construction Plans

A request for a permit shall be accompanied by a true copy (an accurate representation by dimensioned plans and specifications of the final construction documents) of the plans and specifications for that construction, reconstruction, or change of use. The Commissioner shall issue a permit only if the plans comply with statutes and lawful regulations promulgated to reduce fire hazards.

Submit blueprints/plans that are clear, legible, accurate, and complete. A design professional such as an architect or engineer may be required. Call and ask if you are not sure. Either way, the office must obtain for the plan review (1) copy of each of the following:

Site Plan showing relationship to adjacent buildings, roads, and hazards. Indicate which building or part thereof is the one requesting a permit. Indicate true north. The site plan must be to an indicated scale or have measurements.
You have agreed to provide this information by email or mail.

Elevations showing the side view of the building from each side. Label each elevation. (The south elevation is the side of the building that faces south). If the building is existing and the renovations to the exterior are minor, then a snapshot of each side view of the building may suffice.
You have agreed to provide this information by email or mail.

Floor Plans of every level of the building, including the basement, (and parts that are not being renovated if this is an existing building).
You have agreed to provide this information by email or mail.

Building Code Surcharge

Your project may be subject to a surcharge on plan review for the Uniform Building Codes and Standards Fund. Please review the [Building Code Surcharge document](#) to determine whether your project will require this surcharge.

Attention To (OPTIONAL):

If you are already working with a specific plan reviewer, please indicate that here::

Other comments::

Attest & Agree

You cannot submit this request unless you attest to the accuracy of the information provided within this application.

I hereby certify that the information provided on this application is true and accurate to the best of my knowledge and belief.

Questions about this service? Contact FIRE MARSHAL'S OFFICE CONSTRUCTION at: (207) 626-3880 or email: constructionfmo.mdps@maine.gov

Credits



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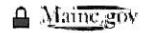
Information

[Maine.gov](#)

[Site Policies](#)

[Contact technical support](#)

Transaction Security



183 Map 58 Lots 55-2, 55-3 and 55-4 only. Florence Lane does not provide legal frontage for Map
184 58 Lot 55.

185

186 **The motion carried 7-0-0.**

187

188 **ITEM 5 – Seward Farm Lane – Major Subdivision Completeness Review**

189 Action: Accept or deny application. Schedule a public hearing. Owner/Applicant Gary Seward,
190 Gregg Seward and Patti Parsons request consideration of a 14-lot conventional subdivision on
191 remaining land along a previously approved private Right-of-Way (Seward Farm Lane) located
192 at Picott Road (Tax Map 46 Lot 4) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-
193 SL-250) Zones. Agent is Stephen Haight, Civilworks New England.

194

195 Stephen Haight, Civil Works of New England, reviewed the facts from the preliminary hearing.
196 The 14 lots will have town water and individual septic. The Maine DEP has given a previous
197 permit. so, the road does not need further DEP approval. A topographical study should be
198 included in the packet. Mr. Haight pointed out the stormwater analysis was for 12 lots not 14,
199 which does not change the analysis data because the same area is being proposed. The drainage
200 memo was updated to 14.

201

202 **Mr. Dunkelberger moved to accept the application for the subdivision plan dated 6/22/2017**
203 **for owner/applicant Gary Seward, Gregg Seward and Patti Parsons request consideration**
204 **of a 14-lot conventional subdivision on remaining land along a previously approved private**
205 **Right-of-Way (Seward Farm Lane) located at Picott Road (Tax Map 46 Lot 4) in the**
206 **Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250) Zones.**

207 **Ms. Driscoll Davis seconded the motion.**

208

209 **The motion carried 7-0-0.**

210

211 **Mr. Dunkelberger moved to schedule a public hearing for the subdivision plan dated**
212 **6/22/2017 for owner/applicant Gary Seward, Gregg Seward and Patti Parsons request**
213 **consideration of a 14-lot conventional subdivision on remaining land along a previously**
214 **approved private Right-of-Way (Seward Farm Lane) located at Picott Road (Tax Map 46**
215 **Lot 4) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250) Zones for**
216 **August 10, 2017.**

217 **Ms. Driscoll-Davis seconded the motion.**

218

219 **The motion carried 7-0-0.**

220

221 **Item 6 – 88 Pepperrell Cove – Special Exception Use**

222 Action: Review Application. Approve or deny special exception request. Owner, Chatham
223 Street, LLC, and applicant, Ann Kendall, requests consideration of a special exception use to
224 operate a small store and take-out ice cream restaurant located at 88 Pepperrell Cove (Tax Map
225 27, Lot 49A) in the Business Local (B-I.) and Shoreland Overlay (OZ-SL-250) zones.

226

227 Donna Ryan, one of the partners of the project, explained the plan to open a small provisions
228 store on the bottom floor of the Captain Simeon, building. They will sell coffee, tea, muffins and

229 other small items including boater items. The Ms. Ryan handed out a picture she received from
230 Mr. Frisbee showing a store existed in the building in the past.

231

232 **Mr. Dunkelberger moved to approve special exception request dated July 6, 2017 for**
233 **owner, Chatham Street, LLC, and applicant, Ann Kendall, requests consideration of a**
234 **special exception use to operate a small store and take-out ice cream restaurant located at**
235 **88 Pepperrell Cove (Tax Map 27, Lot 49A) in the Business Local (B-I.) and Shoreland**
236 **Overlay (OZ-SL-250) zone.**

237 **Mr. Alesse seconded the motion.**

238

239 Ms. Driscoll-Davis expressed her pleasure that they are in Kittery Point and on this project. The
240 applicant has negotiated a long-term lease a parking lot less than a mile away and is considering
241 bringing valet service. Septic has been looked at and has been approved for what they are
242 planning. Trash will be located in a small shed.

243

244 **The motion carried 7-0-0.**

245

246 **Findings of Fact**

247

248

249

250

251 **Item 7 – Town Code Amendment – 16.2.2 Definitions, 16.3.2.15 Mixed use Kittery Foreside**
252 **Zone, 16.3.2.17 Shoreland Overlay Zone.**

253 Action: Discussion. Nor forma action. Applicant, Wallingford Square, LLC, requests consider
254 of an amendment to Title 16, land use and Development Code to allow hotels in the Mixed-Use
255 Kittery Foreside Zone.

256

257 Chair Grinnell stated the Board had a workshop on this item in June. The Applicant is asking to
258 have the code changed to allow a 35-room hotel in the foreside zone.

259

260 Ms. Driscoll-Davis asked if there was a determination of how many B & B's and accessory
261 dwelling in the foreside now. Mr. Di Matteo replied the applicant indicated they would be
262 willing to provide the information. Vice Chair Kalmar stated her concern with the residential
263 quality of the foreside and would like to know how they will mitigate the impact to the
264 residential character of the area. Mr. Dunkelberger suggested first determining if they want
265 hotels in the foreside.

266

267 Ms. Driscoll-Davis stated she has not heard any residents from the foreside in favor. She
268 reviewed the current and upcoming accommodations in the area and questioned the need for
269 hotels in the foreside. She has heard from residents they do not want Kittery to be a tourist town.
270 Mr. Alesse is in favor of organic and slow growth. He would like to hear from the applicant
271 what the minimum number of rooms could be.

272

273 Mr. Harris is not in favor and believes there would be traffic and parking issues.

274

Town of Kittery Maine
Town Planning Board Meeting
October 26, 2017

88 Pepperrell Road – The Bistro - Business Use Change Review

Action: Approve or deny plan. Owner, Chatham Street, LLC, and applicant, Ann Kendall, are establishing a new business entity in an existing facility where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Background

The proposed development is part of a property-wide redevelopment effort that consists of the interior renovation of the three existing buildings, “The View” (previously Captain Simeons), “The Bistro” (previously Frisbee’s Market), and “Frisbee’s Wharf” (previously Lobster in the Rough), located at 88 Pepperrell Cove. The existing/previous uses on site were retail, residential, storage, office and restaurant.

The proposed development being considered by the Board is the conversion of existing Frisbee market space listed on the town’s Tax Card (attached) as *stores* or retail space along with an apartment. The Board reviewed this property earlier in the year for the applicant’s proposed renovations to the lower level of the existing restaurant (The View) building, a small store and take-out ice cream restaurant to be named “Provisions”. Both retail businesses and restaurants needed a special exception use approval by the Board since it’s located in the Shoreland Overlay Zone, which the Board approved.

Staff Review

1. The purpose of this review is to consider if the proposed change from *retail* (the Frisbee Store) to *restaurant* (the Bistro) is significantly different in *intensity* of use. The applicable provision in the Town Code is 16.10.3.6.3 below:

16.10.3.6 Business Use Review.

All business use including the following must be reviewed by the CEO and Town Planner to ensure compliance with the requirements of this Code including:

1. *Movement of an existing commercial or business entity from like to like facilities/use where major building/site modifications are not made;*
2. *Movement of an existing commercial or business use into related facility/use buildings;*
3. *Establishment of new commercial or business entity in an existing facility where intensity of use is not significantly different.*

2. A business use review that conforms to this provision is not subject to Planning Board Review per 16.10.3.2:

16.10.3.2 Other Development Review.

Unless subject to a Shoreland Development Plan Review per 16.10.3.4, the following do not require Planning Board approval:

- A. *Single and duplex family dwellings.*
- B. *Expansion of existing use where the expanded use will require fewer than six additional parking spaces.*
- C. *Division of land into lots (i.e., two lots) which division is not otherwise subject to Planning*

Board review as a subdivision.

D. *Business use as provided in Section 16.4.3.5.*

3. Per Title 16.4.3.5 below, Staff may refer to Planning Board a business use change application for their consideration.

16.4.3.5 Business Use Changes.

The Planner and the Code Enforcement Officer are to review and approve, or refer to the Planning Board for action, all business use changes which occur that fall below Planning Board review thresholds as outlined in Sections 16.10.3.2 and 16.10.3.6. Approval must be based on compliance with all requirements of this Code.

4. The applicant has submitted a parking summary that demonstrates the sites existing 108 parking spaces is adequate for all the proposed uses of the four new businesses (Provisions, The Wharf, The View and The Bistro). The summary has some minor inaccuracies that need correcting, however, the total still appears to be sufficient. The changes include:
 - a. adding the ice cream take-out area in the proposed Provisions to the total gross retail square area, resulting in 500 s.f. rather than 475. The number of parking spaces incurred still remains the same.
 - b. revise the totals to conform to the method for calculating parking per 16.8.9.4.D:
When determination of the number of parking spaces required results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half is counted as one parking space.

Recommendation

The Board needs to determine the following:

1. When considering the proposed change of use, is the *intensity of use is not significantly different*? Staff considers change is more intensive and since the property, though zoned Business Local, is located in close proximity of a residential community.
2. If the Board determines it is not significantly different then, the Board may refer it back Staff to review it as a business use change review **or** decide to review it and take action, per 16.4.3.5 that is needed to be in compliance with the Code.
3. If the Board determines it is significantly different then the Board can review it as a Site Plan and would follow the appropriate review and noticing/public hearing requirements in Title 16.

Staff recommends the Board reviews it as a business use change with the following considerations:

- a) The customer access area for the restaurant, The Wharf, which is the outdoor seating area that includes the former picnic tables, is reduced in size so that new area can only accommodate the proposed 51 seats and corresponding 17 parking spaces (765 square feet).
- b) As a condition of approval the applicant prepares a revised site plan that demonstrates the current outdoor seating area for The Wharf, approximately 1900 square feet, reduced to 765 square feet.

Action

With consideration of Staff comments and recommendation #2 and other requirements the Board may determine, the Planning Board may conditionally approve the Business Use Change application (suggested motion provided below).

Move to approve with conditions the Business Use Change Application dated September 21, 2017 from owner Chatham Street, LLC and applicant Ann Kendall for 88 Pepperrell Cove (Tax Map 27 Lot 49) in the Business Local and Shoreland Overlay Zones upon the reading and voting, in the affirmative, on the Findings of Fact.

< draft findings of fact will be provide at the meeting >

The applicant stated they would like to get on the December 14, 2017 meeting agenda. Mr. Di Matteo stated this would be within the 21-day requirement from applying.

The motion carried 5-0-1.

NEW BUSINESS

ITEM 3 – 88 Pepperrell Road – The Bistro - Business Use Change Review

Action: Approve or deny plan. Owner, Chatham Street, LLC, and applicant, Ann Kendall, are establishing a new business entity in an existing facility where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49A) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Carla Goodnight, CJ Architects and representing the applicants, explained the renovation began in May with the building permit application for the Wharf. She explained in order to open as soon as possible, the applicants do not want to pursue any changes to the property that would require extensions and are not requesting variances or relief. Ms. Goodnight described the current structures and their uses. She added no footprint or volume changes are being proposed. The uses will stay the same but in different locations on the property. They have met with the planning and code departments to determine allowable areas for those uses. She went over the assignment of parking for each business and added the parking calculations are in the board packets. The calculations were based on the parking plan approved by the Planning Board in 2010 for 108 spaces.

Mr. Di Matteo explained a plan from 2012 that is in the Board's packet is for reference use only. He added this plan was submitted by a prior owner.

Vice Chair Kalmar requested documentation demonstrating there are 108 spaces for parking. Ms. Goodnight replied they were given the last official finding from the Planning Board and no surveys had been done with other changes of use since then. Vice Chair Kalmar stated she is certain the applicant will succeed, however, she reiterated the need for the applicant to demonstrate there is sufficient parking for what they are proposing. Ms. Goodnight explained it would take time to commission a site plan survey and she would like to use the present standard for parking. Chair Grinnell agreed with the Vice Chair for the need to have documentation of parking. Donna Ryan, applicant, explained they did not submit a parking site plan because they were given a map from the September 9, 2010 Planning Board meeting when the prior owner requested to add 20 picnic tables. Ms. Ryan added they were led to believe there was no requirement for a parking plan because they are working with the existing plan. Their uses have been based on that 2010 document. Chair Grinnell stated the Board agrees but they need to have a site plan for parking.

Mr. Dunkelberger questioned why this issue of a large change is before them based on previous use. Vice Chair Kalmar pointed out the documents in their packets stated this will be a more intense business use. Ms. Ryan commented the Frisbee store had an intense use in the past and the parking was sufficient. Chair Grinnell commented she wants this project to succeed but is concerned with future parking issues since the location is in in the middle of a residential area.

Ms. Ryan added her goal is to bring the property back to what it was when it was a very joyful place to go. She added they have support of the community and submitted the support letters.

Extensive discussion of significant change of use ensued. Mr. Dunkelberger suggested the Board send this back to the town planner and code enforcement officer, with the knowledge of the Board's thoughts, in order to move the project forward. Mr. Di Matteo suggested the applicant seek approval for three of the four businesses now, since the Wharf cannot open until May of 2018. Parking would not be an issue for three businesses and this would give them more time to come back to the Board to present a parking site plan. Ms. Ryan added they have the opportunity to lease two properties for valet service to avoid parking issues.

Mr. Harris commented he does not see what the problem is and they should move ahead on this.

Ms. Ryan reported she and board member, Debbie Driscoll-Davis, walked the property and Ms. Driscoll-Davis' concerns were eased. Mr. Di Matteo confirmed that Ms. Driscoll-Davis did meet on the property and she was satisfied. Chair Grinnell would like to see the email from Ms. Driscoll-Davis regarding this.

Mr. Di Matteo reiterated his proposal of having the Board determine this is a business use change for the planner and code enforcement officer and send it to them with the provision that, prior to the occupancy of the Wharf, the applicant return and show sufficient parking. Ms. Goodnight and the applicant agreed.

Mr. Dunkelberger moved that the Board return this applicant to the Planner and Code Enforcement Officer as a business use change but not of such an intensity that requires Planning Board purview with the condition that applicant, prior to opening the final project the Wharf, come back with a detailed plan for parking for the entire project. Vice Chair Kalmar seconded the motion.

The motion carried 6-0-0.

Chair Grinnell stated the 2012 map will be officially taken out of the packet.

Earldean Wells, Conservation Committee, commented the two septic systems should be looked at to ensure they are adequate and in working order. Mr. Di Matteo replied that will be part of the building permit.

ITEM 4 - Board Member Items/ Discussion

a. Workforce Housing

Chair Grinnell requested to have this item on tonight's agenda because she has read workforce and affordable housing are important to communities and helps them to stay together. Mr. Di Matteo suggested holding a workshop in January with the Economic Development Committee for discussion. Mr. Dunkelberger believes having incentives created would encourage this to take place. Vice Chair Kalmar commented there are advantages but Kittery is small town and they need to be careful when deciding where to maximize density. Mr. Dunkelberger suggested locating in a mixed-use zone. Ms. Day reported the Seacoast Housing Coalition is interested in having a workforce housing Charette, potentially in the spring. If this were to happen, Chair Grinnell would like to include the business owners in the outlet area.

The Board agreed to hold a joint workshop for the first meeting in January at 5:00 p.m. The Chair commented she would like this keep topic at the top of their list. Mr. Dunkelberger added having the definitions of workforce and affordable housing is important.

b. Board Updates

Ms. Day informed the Board she is moving to Portsmouth and will not be able to remain a member. The Board wished her the best. Mr. Dunkelberger will take her spot on the Foreside Working Group.

ITEM 5 - Town Planner Items

Mr. Di Matteo reviewed an email he sent to the Board to grant a one-year extension for 24 Williams Avenue to applicant and owner Doug and Karen Beane.

Vice Chair Kalmar moved grant a one-year extension for the shoreland development plan located at 24 Williams Avenue, applicant and owner Doug and Karen Beane. approved on April 14, 2016, with a new expiration date of April 14, 2019 for completion.

Mr. Alesse seconded the motion.

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>27 LOT 49</u>
DATE: <u>1/18/18</u>
FEE: <u>\$ 200.00</u>
ASA*: _____

PROPERTY DESCRIPTION	Physical Address	The Bistro/The View/Frisbee's Wharf 88 Pepperrell Road, Kittery, Maine		
	Base Zone	B-L	Overlay Zone (s)	Shoreland Water Body / Wetland Protection Area Overlay
OWNER INFORMATION	Name	Chatham Street LLC		Mailing Address 5 Milano Drive Saugus, MA 01906
	Phone			
	Email			
AGENT INFORMATION	Name	Carla Goodknight		Company CJ Architects
	Phone	(603) 431-2808		
	Email	carla@cjarchitects.net		Mailing Address 233 Vaughan Street Suite 101 Portsmouth, NH 03801
	Fax			
APPLICANT INFORMATION	Name	1828 Pepperrell Cove LLC		Mailing Address PO Box 67 Kittery, ME 03905 Attn: Ann Kendall
	Phone	(603) 475-1010		
	Email	annkendall8-01@gmail.com		

PROJECT DESCRIPTION	<p><u>Existing Use:</u> The View: Basement = Accessory Storage and previously approved Mercantile business use change granted 7/27/2017. First & Second Floors = Restaurant and Function Space with First Floor Kitchen.</p>
	<p><u>Proposed Use</u> (describe in detail): No change</p>

PROJECT DESCRIPTION	Please describe any construction constraints (wetlands, shoreland overlay zone, flood plain, non-conformance, etc.)
	This application is to request approval to remove the existing eave overhangs and entry vestibule as indicated on plan #2 and construct a new open porch roof.

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: 1.18.18	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	
<input checked="" type="checkbox"/>	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	
<input type="checkbox"/> Under 10 acres: no greater than 1" = 30'	
<input type="checkbox"/> 10 + acres: 1" = 50'	
C) Title Block	
<input type="checkbox"/> Title: Shoreland Development Plan	
<input type="checkbox"/> Applicant's name and address	
<input type="checkbox"/> Name of preparer of plan with professional information	
<input type="checkbox"/> Parcel's Kittery tax map identification (map – lot) in bottom right corner	
<input type="checkbox"/> Vicinity Map or aerial photo showing geographic features 5,000 feet around the site.	
D) Signature Block	
<input type="checkbox"/> Area for signature by Planning Board Chair and Date of Planning Board Approval	

Development Plan must include the following existing and proposed information:	
Existing: <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	Proposed: (Plan must show the lightened existing topography under the proposed project plan for comparison.) <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 Distance to: <input type="checkbox"/> Nearest driveways and intersections <input type="checkbox"/> Nearest fire hydrant <input type="checkbox"/> Nearest significant water body; ocean, wetland, stream

Shelly Bishop

From: ALPHONSE DAMICO <damic522@comcast.net>
Sent: Wednesday, January 31, 2018 3:52 PM
To: Shelly Bishop
Subject: application for 88-90 Pepperrell Road

I Alphonse D'Amico approve of the application before the Planning Board for the buiding at 88-90 Pepperrell road, Kittery Point, Maine om February 1 2018

**Town of Kittery
 Planning Board Meeting
 February 8, 2018**

88 Pepperrell Road – Shoreland Development Plan Review

Action: Accept or deny application; approve or deny plan: Owner, Chatham Street LLC, and Applicant, 1828 Pepperrell Cove LLC, requests consideration of a plan to remove existing overhangs and entry vestibule and construct a new porch overhang at 88 Pepperrell Road, Tax Map 27 Lot 49, in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL-250') Zones.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Shoreland Development Plan Review Completeness/Acceptance	Scheduled for February 8, 2018	PENDING
NO	Site Walk		TBD
NO	Public Hearing		TBD
YES	Shoreland Development Plan Review Plan Approval	Possible for February 8, 2018	TBD

Applicant: 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, when applicable, 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 proposed development is part of a property-wide redevelopment effort that consists of the interior renovation of the three existing buildings, “The View” (previously Captain Simeons), “The Bistro” (previously Frisbee’s Market), and “Frisbee’s Wharf” (previously Lobster in the Rough), located at 88 Pepperrell Cove. The Board considered the proposed renovations to the lower level of the building now known as the View in July of last year and a use-intensity increase in October, also last year. Both were approved.

The current proposed development concerns the renovation of The Bistro building (formerly Frisbee’s Market) which requires approval by the Board since it is located in the Shoreland Overlay Zone. Specifically, the Applicant wishes to construct a new porch overhang along the front of the Bistro building while removing the existing vestibule and overhang currently on the front of the building as well as removing an existing overhang on the Bellamy Lane side of the building that encroaches on the public way. See photographs included in the application submission.

Staff Review

The plan includes the information required under 16.10.7.2 as may be applicable to the project, including an aerial map, drawings of the building under consideration and photographs.

Staff has the following comments:

1. Page 3 of the Shoreland Development Plan application shows that the total square footage of the building as it currently exists is 2,249 sf. With the removal of the two specified overhangs and the vestibule, together with the addition of the proposed overhang, the building will be 2,214 sf. There is no proposed increase, instead there is a proposed decrease of 35 sf of structure within the 100-foot setback.
2. The building drawings show the square footage for each portion (either vestibule or overhang) proposed for removal within the Shoreland Overlay as well as the square footage of the portions

that are not. The portion of the proposed new overhang within the 100-foot setback is shown as being 80.6 sf. Adding up the proposed removals: 18.5 sf, 59 sf and 38.3 sf equals 115.8 sf. Subtracting the proposed overhang from the total of the proposed vestibule and overhang removals (115.8 - 80.6) = 35.2 square feet.

3. It appears the proposed plan makes the building known as The Bistro less non-conforming by removing about 35 square feet of structure from within the 100-foot setback.

Recommendations:

With consideration of the above Staff comments, the proposed development appears to be in general conformance with the standards of Title 16.

Staff recommends that the Board decide whether to conduct a site walk and set a date if so.

Staff recommends that the Board decide whether to hold a public hearing (motion below if a public hearing is desired). If no site walk will be held and no public hearing is set to be held, the Board may approve the final plan with any conditions (motion to approve is below).

Action

Move to schedule a public hearing on the Shoreland Development Plan dated January 18, 2018 from owner Chatham Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones for March 8, 2018

or

*•
Move to approve with conditions the Shoreland Development Plan dated January 18, 2018 from owner Chatham Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones, upon the review and voting in the affirmative on the Findings of Fact.*

M27 L49

Kittery Planning Board
Findings of Fact
For 88 Pepperrell Road
Shoreland Development Plan Review

UNAPPROVED

WHEREAS: Owner, Chatham Street LLC, and Applicant, 1828 Pepperrell Cove LLC requests consideration of a plan to remove existing overhangs and entry vestibule and construct a new porch overhang at 88 Pepperrell Road, Tax Map 27 Lot 49, in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL-250') Zones, hereinafter the "Development" and Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes prepared for 2/8/2018.

Shoreland Development Plan Review	2/8/2018	HELD
Site Walk		TBD
Public Hearing		TBD
Shoreland Development Plan Approval		PENDING

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"):

1. Shoreland Development Plan Application dated 1/18/18
2. Shoreland Development Plan

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

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...

Finding: This property is fully developed with previously existing structures, travel ways and parking areas.

Conclusion: This standard 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 condition must not be permitted to become more nonconforming.

Finding: The plan as proposed makes one of the existing buildings less non-conforming by removing 35 sf of structure from within the 100-foot setback.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

16.7.3.3.2 Nonconforming Structure Repair and/or Expansion

E. In addition to the standards in the above subsections 16.7.3.3.2.A-D, the expansion of nonconforming structures located in the Shoreland or Resource Protection Overlay Zone must meet the following:

1. *Wherever a new, enlarged, or replacement foundation is constructed under a nonconforming structure the structure and new foundation must be placed such that setback requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Title 16.7.3.3.1.B, Nonconforming Structure Relocation.*

2. *Expansion of any portion of a structure that is located within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland is prohibited.*

3. *Notwithstanding Title 16.7.3.3.2.E.2 above, if a legally existing nonconforming principal structure is entirely located less than 25-feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland, that structure may be expanded as follows,*

a. the maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

4. *Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or coastal or freshwater wetland setback requirement. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or coastal or freshwater wetland setback requirements may be expanded or altered as follows:*

a. For structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet, or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

b. For structures that are located within the Resource Protection Overlay Zone, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet, or 30% larger than the footprint that existed at the time the Resource Protection Overlay Zone was established, whichever is greater. The maximum height of any structure may not be greater than 25 feet, or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet from the normal high water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland must meet the footprint, roof pitch and height limits in 16.7.3.3.2.E.4.a, above.

Finding: The proposed removal of the vestibule and two overhangs together with the addition of a new overhang results in a decrease in the square footage of the structure within the Shoreland Overlay Zone.

Conclusion: This standard appears to be met.

Vote: in favor against abstaining

16.7.3.3.3 Nonconforming structure reconstruction

A. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and which is removed, damaged or destroyed, by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or coastal or freshwater wetland setback requirement to the greatest practical extent as determined by the Planning Board. In determining whether the structure reconstruction meets the setback to the greatest practical extent the Planning Board must consider, in addition to the criteria in Section 16.7.3.3.1,B Nonconforming Structure Relocation, the physical condition and type of foundation present, if any.

B. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and removed, damaged or destroyed by any cause by 50% or less of the market value of the structure before such damage, destruction or removal, may be reconstructed in-place if a permit is obtained from the Code Enforcement Officer within twelve (12) months of the established date of damage or destruction.

C. Outside of the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is removed, damaged or destroyed by any cause may be restored or reconstructed in-place if a permit is obtained from the Code Enforcement Officer within eighteen (18) months of the date of said removal, damage or destruction. Such restoration or reconstruction must not make the structure more nonconforming than the prior nonconforming structure.

D. Nothing in this section prevents the demolition of the remains of any structure damaged or destroyed. Application for a demolition permit for any structure that has been partially damaged or destroyed must be made to the Code Enforcement Officer.

E. In the Shoreland or Resource Protection Overlay Zone(s), if the total footprint of the original structure can be reconstructed beyond the required setback area, no portion of the reconstructed structure may be reconstructed at less than the setback requirement for a new structure. If the reconstructed or replacement structure is less than the required setback, it may not be any larger than the original structure, except as allowed in Title 16.7.3.3.2, Nonconforming Structure Repair and Expansion.

F. When it is necessary to remove vegetation to reconstruct a structure, vegetation will be replanted in accordance with Section 16.7.3.3.1.C, Nonconforming Structure Relocation.

G. Except where expressly permitted in this code, in no case may a structure be reconstructed or replaced so as to increase its non-conformity.

Finding: The building is being renovated with small portions proposed for removal and a new overhang proposed to be added which will decrease the square footage within the Shoreland Overlay Zone.

Conclusion: This standard 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 as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

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

Finding: The proposed development will have little impact on surface waters.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development will not affect the existing wastewater disposal system.

Conclusion: This standard 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: The proposed development does not appear to have an adverse impact.

Conclusion: 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: Because the property is already fully developed, shore cover is not adversely impacted

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

6. Protect archaeological and historic resources;

Finding: The building under consideration is part of the historical fabric of Kittery Point.

Conclusion: This standard 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 does not adversely impact existing commercial fishing or maritime activities.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

8. Avoid problems associated with floodplain development and use;

Finding: The property is already fully developed. The proposed changes do not appear to have an impact on a floodplain or flood-prone area.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

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

Finding: The proposed development complies with the applicable standards of Title 16.

Conclusion: This standard 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 will be prepared.

Conclusion: As stated in the Notices to Applicant contained herein, Shoreland Development plans must be recorded with the York County Registry of Deeds within 90 days of approval prior to the issuance of a building permit.

Vote: __ 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 depicted on final plan notes 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. All Notices to Applicant contained herein (Findings of Fact dated 02/8/2018).

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

3. 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.
 - a. Change title of plan from “Shoreline” to “Shoreland”.

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

Vote: __ in favor __ against __ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON _____

Ann Grinnell, Planning Board Chair

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as required by Planning Board 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 and a paper 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.

Item 6 - 88 Pepperrell Road - Shoreland Development Plan Review

Action: Accept or deny application. Approve or deny plan. Owner/Applicant, 1828 Pepperrell Cove LLC requests consideration of the removal of a vestibule and two overhangs and the addition of a new overhang on a building located on 58 Pepperrell road (Tax Map 27, Lot 49) in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL) Zones. Agent is Carla Goodknight, CJ Architects.

Carla Goodknight explained the changes requested exist partially within the 100-ft. offset line from the highest annual tide. She referred to Page 3 of the submittal picturing the overhangs and vestibule that are proposed to be removed. She added on Page 2 the square footages have been quantified and the proposed new overhang represented shows a 9-sq. ft. reduction overall to the impact. The area within the 100 ft. zone is reduced to 35 sq. ft.

The Board was in consensus this item does not need to go to a public hearing.

**Mr. White moved the application for Shoreland Development Plan dated January 18, 2018 from owner Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones, is complete.
Mr. Ledgett seconded the motion.**

The motion carried 7-0-0.

**Vice Chair Kalmar moved to approve with conditions the Shoreland Development Plan dated January 18, 2018 from owner Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones, upon the review and voting in the affirmative on the Findings of Fact.
Mr. Dunkelberger seconded the motion.**

The motion carried 7-0-0.

KITTERY PLANNING BOARD

APPROVED

FINDINGS OF FACT

88 Pepperrell Road

Shoreland Development Plan Review

WHEREAS: Owner, Chatham Street LLC, and Applicant, 1828 Pepperrell Cove LLC requests consideration of a plan to remove existing overhangs and entry vestibule and construct a new porch overhang at 88 Pepperrell Road, Tax Map 27 Lot 49, in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL-250') Zones, hereinafter the “Development” and Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes prepared for 2/8/2018.

Shoreland Development Plan Application Completeness Review	2/8/2018	HELD
Site Walk		TBD
Public Hearing		TBD
Shoreland Development Plan Approval	2/8/2018	APPROVED

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”):

1. Shoreland Development Plan Application dated 1/18/18
2. Shoreland Development Plan

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>
Finding: This property is fully developed with previously existing structures, travel ways and parking areas.
Conclusion: This standard appears to be met.
Vote: <u>7</u> in favor <u>0</u> against <u>0</u> 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 condition must not be permitted to become more nonconforming.

Finding: The plan as proposed makes one of the existing buildings less non-conforming by removing 35 sf of structure from within the 100-foot setback.

Conclusion: This standard appears to be met.

Vote: 7 in favor 0 against 0 abstaining

16.7.3.3.2 Nonconforming Structure Repair and/or Expansion

E. In addition to the standards in the above subsections 16.7.3.3.2.A-D, the expansion of nonconforming structures located in the Shoreland or Resource Protection Overlay Zone must meet the following:

1. *Wherever a new, enlarged, or replacement foundation is constructed under a nonconforming structure the structure and new foundation must be placed such that setback requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Title 16.7.3.3.1.B, Nonconforming Structure Relocation.*

2. *Expansion of any portion of a structure that is located within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland is prohibited.*

3. *Notwithstanding Title 16.7.3.3.2.E.2 above, if a legally existing nonconforming principal structure is entirely located less than 25-feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland, that structure may be expanded as follows,*
a. the maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

4. *Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or coastal or freshwater wetland setback requirement. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or coastal or freshwater wetland setback requirements may be expanded or altered as follows:*

a. For structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for

all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet, or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

b. For structures that are located within the Resource Protection Overlay Zone, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet, or 30% larger than the footprint that existed at the time the Resource Protection Overlay Zone was established, whichever is greater. The maximum height of any structure may not be greater than 25 feet, or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet from the normal high water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland must meet the footprint, roof pitch and height limits in 16.7.3.3.2.E.4.a, above.

Finding: The proposed removal of the vestibule and two overhangs together with the addition of a new overhang results in a decrease in the square footage of the structure within the Shoreland Overlay Zone.

Conclusion: This standard appears to be met.

Vote: 7 in favor 0 against 0 abstaining

16.7.3.3.3 Nonconforming structure reconstruction

A. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and which is removed, damaged or destroyed, by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or coastal or freshwater wetland setback requirement to the greatest practical extent as determined by the Planning Board. In determining whether the structure reconstruction meets the setback to the greatest practical extent the Planning Board must consider, in addition to the criteria in Section 16.7.3.3.1,B Nonconforming Structure Relocation, the physical condition and type of foundation present, if any.

B. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and removed, damaged or destroyed by any cause by 50% or less of the market value of the structure before such damage, destruction or removal, may be reconstructed in-place if a permit is obtained from the Code Enforcement Officer within twelve (12) months of the established date of damage or destruction.

C. Outside of the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is removed, damaged or destroyed by any cause may be restored or reconstructed in-place if a

permit is obtained from the Code Enforcement Officer within eighteen (18) months of the date of said removal, damage or destruction. Such restoration or reconstruction must not make the structure more nonconforming than the prior nonconforming structure.

D. Nothing in this section prevents the demolition of the remains of any structure damaged or destroyed. Application for a demolition permit for any structure that has been partially damaged or destroyed must be made to the Code Enforcement Officer.

E. In the Shoreland or Resource Protection Overlay Zone(s), if the total footprint of the original structure can be reconstructed beyond the required setback area, no portion of the reconstructed structure may be reconstructed at less than the setback requirement for a new structure. If the reconstructed or replacement structure is less than the required setback, it may not be any larger than the original structure, except as allowed in Title 16.7.3.3.2, Nonconforming Structure Repair and Expansion.

F. When it is necessary to remove vegetation to reconstruct a structure, vegetation will be replanted in accordance with Section 16.7.3.3.1.C, Nonconforming Structure Relocation.

G. Except where expressly permitted in this code, in no case may a structure be reconstructed or replaced so as to increase its non-conformity.

Finding: The building is being renovated with small portions proposed for removal and a new overhang proposed to be added which will decrease the square footage within the Shoreland Overlay Zone.

Conclusion: This standard appears to be met.

Vote: 7 in favor 0 against 0 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 as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This standard appears to be met.
Vote: <u> 7 </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>
Finding: The proposed development will have little impact on surface waters.
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>3. Adequately provide for the disposal of all wastewater;</i>
Finding: The proposed development will not affect the existing wastewater disposal system.
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i>
Finding: The proposed development does not appear to have an adverse impact.
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;</i>
Finding: Because the property is already fully developed, shore cover is not adversely impacted
Conclusion: This standard appears to be met.
Vote: <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining
<i>6. Protect archaeological and historic resources;</i>

Finding: The building under consideration is part of the historical fabric of Kittery Point.

Conclusion: This standard appears to be met.

Vote: _7_ 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 does not adversely impact existing commercial fishing or maritime activities.

Conclusion: This standard appears to be met.

Vote: _7_ in favor _0_ against _0_ abstaining

8. Avoid problems associated with floodplain development and use;

Finding: The property is already fully developed. The proposed changes do not appear to have an impact on a floodplain or flood-prone area.

Conclusion: This standard appears to be met.

Vote: _7_ in favor _0_ against _0_ abstaining

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

Finding: The proposed development complies with the applicable standards of Title 16.

Conclusion: This standard appears to be met.

Vote: _7_ in favor _0_ against _0_ abstaining

10. Be recorded with the York County Registry of Deeds.

Finding: A plan suitable for recording will be prepared.

Conclusion: As stated in the Notices to Applicant contained herein, Shoreland Development plans must be recorded with the York County Registry of Deeds within 90 days of approval prior to the issuance of a building permit.

Vote: 7 in favor 0 against 0 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 depicted on final plan notes 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. All Notices to Applicant contained herein (Findings of Fact dated 02/8/2018).

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

3. 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.
 - a. Change title of plan from "Shoreline" to "Shoreland".

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

Vote: 7 in favor 0 against 0 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON _____

Ann Grinnell, Planning Board Chair

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as required by Planning Board 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 and a paper 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.

ITEM 7 - BOARD MEMBER ITEMS/DISCUSSION

Chair Grinnell requested the Board review their "to do list" once staff is in place.

Vice Chair Kalmar explained the requirement in their Bylaws of members attending MMA training. Board members will find out when the next training occurs.

The Board was in consensus to have Mr. White as the representative on the Comprehensive Planning Committee. Mr. White informed the Board they have shrunk down the executive summary from feedback of the workshops. They will have a public hearing and it will be sent to the State for another review.

ITEM 8 -TOWN PLANNER ITEMS

Ms. Connor has spoken with Jeff Clifford from Altus Engineering regarding extending the Betty Welch Road subdivision. Vice Chair Kalmar acknowledged that the time since August 24, 2017 should not be counted as the six-month deadline because another agency was stalling them.

Vice Chair Kalmar moved that the Board formally acknowledge the time for the Huntington Run Subdivision since August 24, 2017 has not counted towards the six-month deadline of the Huntington Run Subdivision application in accordance with 16.10.7.1.3.A

Mr. Dunkelberger seconded the motion.

A. York River Watershed Study

Ms. Connor explained the information from the York River Water Shed study will be presented to the Board on May 24th. She gave a background of the study and explained four communities are looking to have the river designated as a wild and scenic river. She added they would also like to produce a water shed stewardship plan. She listed the surveys and the studies the YRWS has done. The watershed stewardship plan includes a grant of a build out analysis for the four communities which will be shown on the 24th. Ms. Connor pointed out she included a link of the study on the agenda.

Ms. Connor looked into the parking requirement for 88 Pepperrell Cove. She explained the Minutes from July 27, 2017 covered the special exception granted for the ice cream shop and included discussion of a parking lot less than a mile away with valet parking. The October 26, 2017 Minutes reflected a condition in the motion that the owners need to come back to staff prior to the last business being opened with a detailed plan for parking. Ms. Connor reported this is happening. She added there are 26 parking spaces across the street from the businesses and she described the other parking areas. She explained the way the Code Enforcement Office is proceeding before a permit is given. After discussion, it was decided that the owners of 88 Pepperrell will go through the staff not the Board regarding the parking plan and staff will keep the Board informed.

Mr. Ledgett referred to discussion in Item 4B and commented on the increased interest in ADU's. He suggested being cautious and pointed out there have been problems. He referred to a past issue of an attempt to sell and ADU as a separate parcel. He pointed out there is a requirement to change the deed before an occupancy permit is granted. Mr. Fitch commented that is a valid point and he would like to see the regulation include no short-term rentals for ADU's.

Item 7 - Adjournment

Mr. Alesse moved to adjourn the meeting.

Mr. Dunkelberger seconded the motion.

The motion carried 7-0-0.



Adam Causey
Director

TOWN OF KITTERY
Planning & Development Department
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1307 Fax: 207-439-6806
acausey@kitteryme.org

October 4, 2018

Donna Ryan
Chatham Street LLC
5 Milano Drive
Saugus, MA 01906

RE: 88 Pepperrell Cove
Kittery Point, ME
Tax Map 27 Lot 49

Dear Ms. Ryan,

This letter is to provide you with direction on Town requirements to complete permitting for the 88 Pepperrell Cove project.

Per the October 26, 2017, Planning Board meeting minutes (enclosed), the Board requested final approval of the project plans prior to the opening of the final phase. At that October 2017 meeting, your project team explained the proposal for four uses on the site. Parking was a main topic of conversation at that meeting given the increased intensity of uses proposed. The Town Planner at the time suggested the Board allow the Town Planner and CEO to review the project but have the applicant return to the Board prior to the occupancy of the final business use.

Three of the four proposed uses in the project are now open (The Wharf, The View, and Provisions) and have generated significant activity creating parking, public safety, and access concerns to the adjacent residential areas – especially Pepperrell Terrace – and to the Town Wharf at Pepperrell Cove. At some point between October 26, 2017 and the present, the order of phasing the final project was switched from The Wharf to The Bistro. This should not change the requirement that prior to the final project opening the applicant return to the Planning Board with a detailed plan for entire project.

In order to satisfy that condition, you must submit plans indicating the parking provided for each use in the project. The submitted plans must satisfy the requirements contained in Title 16 – Land Use & Development Code, and must show all proposed on-site parking with dimensions and traffic circulation, and all proposed off-site parking with agreements from

those property owners providing off-site parking. Please be aware that there are restrictions for the provision of off-site parking. The Town Planner and CEO will review submitted plans for compliance and then place this item on the next available Planning Board meeting. Staff is willing to meet with you and your designer to ensure all understand the level of detail required on the plans.

The Planning Board has the option to request a Public Hearing for this project per Section 16.10.5.3.B.(3), and could also opt for a site walk if deemed necessary to understand the implications of the proposal.

Please keep in mind that there may be other requirements related to a victualer's license or alcoholic beverages licenses that have separate processes and review timeframes.

To review:

1. Applicant must revise site plan with all required elements, to include traffic circulation, the provision of parking required for each use via on-site and off-site parking, loading zones, and other site requirements from Title 16.
2. Town Planner & CEO will review plans for compliance.
3. Upon compliance review, plans will be placed on the next available Planning Board meeting.
4. Planning Board may decide for public hearing/site walk during plan review.

If you have any questions, please do not hesitate to contact me at 207-475-1307 or at acausey@kitteryme.org

Sincerely,



Adam Causey
Planning & Development Director

CC: Ann Grinnell, Chair, Planning Board
Stephen Wilson, Code Enforcement Officer
Jamie Steffen, Town Planner

The applicant stated they would like to get on the December 14, 2017 meeting agenda. Mr. Di Matteo stated this would be within the 21-day requirement from applying.

The motion carried 5-0-1.

NEW BUSINESS

ITEM 3 – 88 Pepperrell Road – The Bistro - Business Use Change Review

Action: Approve or deny plan. Owner, Chatham Street, LLC, and applicant, Ann Kendall, are establishing a new business entity in an existing facility where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49A) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Carla Goodnight, CJ Architects and representing the applicants, explained the renovation began in May with the building permit application for the Wharf. She explained in order to open as soon as possible, the applicants do not want to pursue any changes to the property that would require extensions and are not requesting variances or relief. Ms. Goodnight described the current structures and their uses. She added no footprint or volume changes are being proposed. The uses will stay the same but in different locations on the property. They have met with the planning and code departments to determine allowable areas for those uses. She went over the assignment of parking for each business and added the parking calculations are in the board packets. The calculations were based on the parking plan approved by the Planning Board in 2010 for 108 spaces.

Mr. Di Matteo explained a plan from 2012 that is in the Board's packet is for reference use only. He added this plan was submitted by a prior owner.

Vice Chair Kalmar requested documentation demonstrating there are 108 spaces for parking. Ms. Goodnight replied they were given the last official finding from the Planning Board and no surveys had been done with other changes of use since then. Vice Chair Kalmar stated she is certain the applicant will succeed, however, she reiterated the need for the applicant to demonstrate there is sufficient parking for what they are proposing. Ms. Goodnight explained it would take time to commission a site plan survey and she would like to use the present standard for parking. Chair Grinnell agreed with the Vice Chair for the need to have documentation of parking. Donna Ryan, applicant, explained they did not submit a parking site plan because they were given a map from the September 9, 2010 Planning Board meeting when the prior owner requested to add 20 picnic tables. Ms. Ryan added they were led to believe there was no requirement for a parking plan because they are working with the existing plan. Their uses have been based on that 2010 document. Chair Grinnell stated the Board agrees but they need to have a site plan for parking.

Mr. Dunkelberger questioned why this issue of a large change is before them based on previous use. Vice Chair Kalmar pointed out the documents in their packets stated this will be a more intense business use. Ms. Ryan commented the Frisbee store had an intense use in the past and the parking was sufficient. Chair Grinnell commented she wants this project to succeed but is concerned with future parking issues since the location is in the middle of a residential area.

Ms. Ryan added her goal is to bring the property back to what it was when it was a very joyful place to go. She added they have support of the community and submitted the support letters.

Extensive discussion of significant change of use ensued. Mr. Dunkelberger suggested the Board send this back to the town planner and code enforcement officer, with the knowledge of the Board's thoughts, in order to move the project forward. Mr. Di Matteo suggested the applicant seek approval for three of the four businesses now, since the Wharf cannot open until May of 2018. Parking would not be an issue for three businesses and this would give them more time to come back to the Board to present a parking site plan. Ms. Ryan added they have the opportunity to lease two properties for valet service to avoid parking issues.

Mr. Harris commented he does not see what the problem is and they should move ahead on this.

Ms. Ryan reported she and board member, Debbie Driscoll-Davis, walked the property and Ms. Driscoll-Davis' concerns were eased. Mr. Di Matteo confirmed that Ms. Driscoll-Davis did meet on the property and she was satisfied. Chair Grinnell would like to see the email from Ms. Driscoll-Davis regarding this.

Mr. Di Matteo reiterated his proposal of having the Board determine this is a business use change for the planner and code enforcement officer and send it to them with the provision that, prior to the occupancy of the Wharf, the applicant return and show sufficient parking. Ms. Goodnight and the applicant agreed.

Mr. Dunkelberger moved that the Board return this applicant to the Planner and Code Enforcement Officer as a business use change but not of such an intensity that requires Planning Board purview with the condition that applicant, prior to opening the final project the Wharf, come back with a detailed plan for parking for the entire project. Vice Chair Kalmar seconded the motion.

The motion carried 6-0-0.

Chair Grinnell stated the 2012 map will be officially taken out of the packet.

Town of Kittery Maine Planning Board Meeting December 13, 2018

ITEM 3 - 88 Pepperrell Road – The Bistro - Business Use Change Review

Action: Approve or deny plan. Owner, Chatham Street, LLC, and applicant, Ann Kendall, are establishing a new business entity in an existing facility where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Background

The proposed development is part of a property-wide redevelopment effort that consists of the interior renovation of the three existing buildings, “The View” (previously Captain Simeons), “The Bistro” (previously Frisbee’s Market), and “The Wharf” (previously Lobster in the Rough), located at 88 Pepperrell Cove. The existing/previous uses on site were retail, residential, storage, office and restaurant.

The proposed development being considered by the Board is the conversion of existing Frisbee’s Market space listed on the town’s tax card as stores or retail space along with an apartment. The Board reviewed this property last year for the applicant’s proposed renovations to the lower level of the existing restaurant (The View) building, a small store and take-out ice cream restaurant to be named “Provisions”. Both retail businesses and restaurants needed a special exception use approval by the Board since it’s located in the Shoreland Overlay Zone, which the Board approved.

The review of “The Bistro” was to consider if the proposed change from *retail* (the Frisbee’s Market) to *restaurant* (the Bistro) is significantly different in *intensity* of use. The applicable provision in the Town Code is 16.10.3.6.3 below:

16.10.3.6 Business Use Review.

All business use including the following must be reviewed by the CEO and Town Planner to ensure compliance with the requirements of this Code including:

- 1. Movement of an existing commercial or business entity from like to like facilities/use where major building/site modifications are not made;*
- 2. Movement of an existing commercial or business use into related facility/use buildings;*
- 3. Establishment of new commercial or business entity in an existing facility where intensity of use is not significantly different.*

A business use review that conforms to this provision is not subject to Planning Board Review per 16.10.3.2:

16.10.3.2 Other Development Review.

Unless subject to a Shoreland Development Plan Review per 16.10.3.4, the following do not require Planning Board approval:

- A. Single and duplex family dwellings.*
- B. Expansion of existing use where the expanded use will require fewer than six additional parking spaces.*
- C. Division of land into lots (i.e., two lots) which division is not otherwise subject to Planning Board review as a subdivision.*
- D. Business use as provided in Section 16.4.3.5.*

Per 16.4.3.5 below, Staff may refer to Planning Board a business use change application for their consideration.

16.4.3.5 Business Use Changes.

The Planner and the Code Enforcement Officer are to review and approve, or refer to the Planning Board for action, all business use changes which occur that fall below Planning Board review thresholds as outlined in Sections 16.10.3.2 and 16.10.3.6. Approval must be based on compliance with all requirements of this Code.

The applicant had submitted a parking summary that demonstrated the site's existing 108 parking spaces were adequate for all the proposed uses of the four new businesses (Provisions, The Wharf, The View and The Bistro). The summary had some minor inaccuracies that needed correcting but the total still appeared to be sufficient. The changes included:

- A. adding the ice cream take-out area in the proposed Provisions to the total gross retail square area, resulting in 500 sf rather than 475. The number of parking spaces incurred still remained the same.
- B. revising the total to conform to the method for calculating parking per 16.8.9.4.D:
When determination of the number of parking spaces required results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half is counted as one parking space.

After considerable discussion regarding the business use change at the October 26, 2017 meeting, the Board voted to return the applicant to the Town Planner and the Code Enforcement Officer as a business use change but not of such an intensity that requires Planning Board purview with the condition that the applicant prior to opening the final project the Wharf come back with a detailed plan for parking for the entire project. Since that time, the applicant has changed the order of the opening of the new businesses with the Bistro now being the final project.

Staff Review

The applicant has submitted a parking plan with associated parking calculations for the use changes. The parking plan submitted, dated 6/28/2018 with revisions dated 11/27/2018 shows eighty (80) parking spaces allotted to existing and proposed businesses:

- 1. The Bistro at 115 seats would require 1 space / 3 seats or 38.3 spaces.
- 2. The View (function hall) has a total of 2093 sf which would require 20.93 spaces (1 space / 100sf). 10 spaces are provided on-site with 11 proposed to be off-site, though no off-site location is given on the plans.
- 3. The store (Provisions) has a total of 425 sf which would require 1 space / 175 sf or 2.42 spaces.
- 4. The Wharf contains 42 outdoor seats which would require 1 space / 3 seats or 14 spaces. Note: Previously, the applicant had calculated twenty-four (24) parking spaces to accommodate seventy (72) outdoor seats.
- 5. There is an existing dwelling unit which would require 2 spaces and an unassigned unit which they are allocating 2 spaces toward.

Based upon 16.8.9.4 Off-street parking standards, the total required on-site parking for all of the uses is 79.65 or eighty (80) spaces. Eighty (80) parking spaces are shown to be provided for on the plan.

Also, per 16.8.9.4, there are minimum off-street parking and loading requirements that must be provided and maintained in the case of new construction, alterations and changes of use. Staff notes that the plans do not show compliance with the parking requirements as follows:

- 1. Parking landscaping is required for parking areas containing 10 or more spaces and must have at least one tree per eight spaces. Such trees are to be located either within the lot or within five feet of it. In addition, for any parking area having 25 or more spaces at least 10% of the interior of the parking area is to be maintained with landscaping, including trees in plots of at least five feet in width.

2. Where off-street parking for more than six vehicles is required or provided there are certain construction requirements that need to be met.
 - a. The surface of driveways, maneuvering areas and parking areas must be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well-compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.
 - b. A system of surface drainage must be provided in such a way that the water runoff does not run over or across any public sidewalk or street or adjacent property. Where catch basins are required, oil traps are to be provided.
 - c. Where artificial lighting is provided, it must be shaded or screened so that no light source is visible from outside the area and its access driveways.

The ordinance does allow, in specific cases of hardship, the Board of Appeals to reduce the requirements for off-street parking where it is clearly demonstrated that such reduction will not detract from neighborhood values, inconvenience the public or increase congestion in the streets, per 16.8.9.3.D via 16.6.4.C(2).

Staff has reviewed the proposal and although we generally concur with the parking calculations, we have concerns with what is presented on the parking plan for numbers, layout and improvements. Specifically:

1. The spaces next to the Bistro and in front of The View will need to be verified. The parking area has recently been repaved and contains no striping. The existing parking layout does not appear to work for flow through travel to Bellamy Lane. The existing deck / stair structure to the rear of the Bistro building further constricts flow through traffic. The plan needs to show more detailed dimensions to ensure proper clearances are met for public safety. There is also a concern for pedestrian safety due to the proposed traffic flow and the constrained spaces of the development area.
2. It is noted that at the July 27, 2017 Planning Board meeting, applicant Ann Kendall requested review and approval for a Special Exception use for Provisions retail and Annabelle's take-out ice cream restaurant. The approval required four (4) parking spaces for the uses. The applicant is calculating 2.42 spaces with the current plan.
3. Dwelling units. There is a separate structure, a 3-bedroom single-family dwelling that requires 2 parking spaces. The parking plan submitted has a note on the single-family dwelling, "split level, wood framed house (4BR)." There doesn't appear to be permits to convert the 3-bedroom dwelling to a 4 bedroom. This needs clarification.
Per the applicant, the second-floor apartment between the two floors of the Bistro will be converted to storage only. An application for a change of use is required to convert the second floor to storage. Storage would require one (10 parking space per 500 sf of gross floor area. The submitted parking plan identifies this area as a 115 seat Bistro and 2BR apartment. This needs clarification / correction. Code Department is requiring that an "as built" plan for basement, dormers, uses & parking be submitted.
4. The outdoor service area is listed as containing 51 seats yet the plan notes indicate the outdoor seats at 42. Per 16.9.2.2.A in a Shoreland Overlay Zone cutting of vegetation is prohibited within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere in the Shoreland Overlay Zone, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in the zone. The exterior seating area had previous partial vegetation and partial crushed stone. The entire exterior seating area now has crushed sea shells. The area of vegetation that was removed and replaced with sea shells must be replanted with grass. The area that was previously crushed stone that is now sea shells should have been a request to the Planning Board to keep sea shells in the unvegetated area instead of crushed stone. See aerial photos, attached.

5. There is no indication of the traffic flow for the 66-space parking lot to the north nor the location of the proposed on-site parking attendant. Per 16.8.9.1.E, all traffic flow is to be clearly marked with signs and/or surface directions at all times.
6. The parking plans should provide more information relative to off-site impacts, i.e., sight distances along Pepperrell Road, impact upon adjacent access points and intersections like Pepperrell Terrace, turning movements of vehicles entering and existing the site, snow removal and the general condition and capacity of the public streets serving the development.
7. Per 16.8.8.1 Stormwater drainage, previously, there were two (2) storm drains existing in the north parking lot. Both drains have been covered up and don't appear to be functioning and/or existing. The plan should reflect stormwater drainage construction consistent with 16.8.8.1 Stormwater Drainage. Hydrologic analysis may be required. In addition, per 16.8.8.2 Post-construction stormwater management, a post stormwater management plan may be required and engineering review.
8. The submitted parking plan shows an area across Bellamy Lane from The Wharf and View that is designated for six (6) spaces. It is our understanding that these are leased spaces to the owner for kayak parking and cannot be counted towards parking for the uses on this site. The parking calculations in the general notes don't include these spaces but they are shown on the parking plan.
9. Off-site parking for 11 spaces is noted on the plans, however there is no information about their location, any required agreements, or other parking management concerns. Town Code allows off-site parking subject to approval by the Board of Appeals per 16.8.9.4.J.

Recommendation

The Board needs to determine if a site walk and public hearing are warranted. Code Enforcement staff has prepared a report regarding the current uses of the site, proposed parking plan and the development's compliance with local codes that is attached for your review as well.

There is a lot for the Board to consider and due to several discrepancies between the existing approvals, the uses on-site and the current parking plan dated 11/27/18 Staff does not recommend approval of the parking plan at this time.

MEMORANDUM

TO: JAMIE STEFFEN, TOWN PLANNER

FROM: STEVE WILSON, JESSA KELLOGG, SHELLY BISHOP – CODE/SHORELAND OFFICERS

SUBJECT: 88 – 90 PEPPERELL ROAD – MAP 27 LOT 49

DATE: DECEMBER 5, 2018

CC:

We have reviewed the plan for 88 Pepperrell Road and have the following comments.

§ 16.8.8.1 Stormwater drainage.

There was a storm drain existing in the north parking lot. It appears to be covered up and not functioning. The plan should reflect stormwater drainage construction consistent with 16.8.8.1 Stormwater Drainage. Hydrologic analysis may be required.

§ 16.8.8.2 Post-construction stormwater management.

A post stormwater management plan may be required and require engineer review and compliance with this section.

Article IX: Parking, Loading and Traffic

§ 16.8.9.1 General standards.

Applicant see A-F. Need to show traffic flow on plan, and parking areas should be clearly marked with signs and/or surface directions at all times. Off street parking must be constructed in accordance with Table 2 of this chapter.

The plan does not reflect the following:

- Sight distances
- Existence and impact upon adjacent access points and intersections
- Turning movements of vehicles entering and leaving public streets
- Snow removal
- General condition of public street serving the facility

The submitted cover letter explains that no changes to the parking lots are proposed with the exception of re-striping asphalt areas and providing signage to identify individual parking spaces in the gravel area of the north lot. It also states that during the summer season and events, the owner provides an on-site parking attendant to assist patrons and verify that all vehicles accessing the lots are customers. Wheel stops with signs are shown to delineate the individual parking spaces.

The ordinance requires traffic flow and parking spaces to be clearly marked to maintain safety and acceptable level of service throughout the impact area of the facility.

The ordinance does not allow for an on-site attendant in lieu of clearly identified traffic flow and parking areas. The site should be marked appropriately so it is clear to anyone accessing the parking lot how to maneuver the layout and where to park. It is unclear how a gravel lot would achieve this function.

A note on the plan references “access to the tomb is provided at the northern end of the parking lot”. Clarification is needed to show how access to the tomb is achieved by showing traffic flow. The area by the shed & to the rear of *The Bistro* in the south parking lot has been narrowed by stairs for decks.

§ 16.8.9.3 Off-street loading standards.

Plan omits off-street loading bay. Board of Appeals has authority to waive the requirements of this section. A formal request by application must be made to request a waiver on this section.

§ 16.8.9.4 Off-street parking standards.

7/27/17, Planning Board meeting, applicant Ann Kendall, requested review and approval for special exception use for *Provisions* retail and *Annabelle's* take-out ice cream restaurant. Both located in the same area, lower floor of *The View*. The approval appears to require 4 parking spaces for these uses.

The View was approved requiring 21 parking spaces.

In 2010, Planning Board approved the outdoor seating for 80 seats (20, 4-person picnic tables) requiring 27 parking spaces.

Outdoor seating proposal for *The Wharf* is 72 seats, shown on submitted Parking Plan A1.0 dated 10/18/18, as 1,080 sf. Where seating is limited to a specific, designated area, landscaping is proposed to control customer access areas. 1,080 sf of customer access area requires 24 parking spaces.

The Bistro is proposed to have 1,634 net sf floor area with customer access which requires 37 parking spaces, per submittal. The Town has not received a detailed floor plan with dimensions and customer access areas for *The Bistro*. This is required to determine gross floor area for parking requirements. This needs to be submitted and determined.

Dwelling units. There is a separate structure, 3-bedroom single family dwelling that requires 2 parking spaces. The parking plan submitted has a note on the single-family dwelling, “split level, wood framed house (4 BR)”. There does not appear to be permits to convert the 3-bedroom dwelling to a 4-bedroom dwelling. This area needs clarification and verification of septic capacity.

The second-floor apartment between the 2 floors of *The Bistro* will be converted to storage only, per applicant. A change of use application is required to convert the second floor to storage. Storage will require 1 parking space per 500sf gross floor area. The parking plan submitted identifies this area as a 115 seat Bistro and 2BR apartment building. This area needs clarification/correction. An “as built” plan for basement, dormers, uses & parking must be submitted.

Parking plan dated 11/27/18 submitted for review and scheduled for the Planning Board 12/13/18 reflects the following parking calculations and notes –

- | | |
|-----------------------|--|
| 1. 115 seat Bistro | 38.3 parking spaces |
| Dwellings – 1 Unit | 2 parking spaces |
| Unassigned – 1 unit | 2 parking spaces |
| Function Hall | 20.93 parking spaces |
| | 10 spaces on-site |
| | 11 spaces off-site |
| Provisions store | 2.42 parking spaces |
| 42 outdoor seats | 14 parking spaces |
| Total spaces required | 79.65 (80) parking spaces with 80 spaces provided. |
2. Deliveries shall primarily occur during non-working hours.
 3. Dumpster removal shall primarily occur during non-working hours.

16.8.9.4 requires Board of Appeals review and approval for off-site parking requests.

Other comments regarding proposed parking plan.

1. The south side parking area that designates 12 spaces shall be revised to show the existing deck/stair structure and the clearances for the drive thru area to Bellamy Lane. The plan shall show detail and dimensions to ensure proper clearances are met for public safety.
2. The “kayak area” shows 6 parking spaces. The status of these 6 parking spaces are unknown. The Town’s understanding is that these are leased spaces for the kayaks and the leaseholders are Al Damico & R.J. Allister. It appears these parking spaces are already designated and cannot be counted towards parking for other uses on the site, and are only for the kayaks. If there is documentation that states otherwise, please provide it.

There are various discrepancies between the existing approvals, uses on the site, and current parking plan dated 11/27/18 proposed. There should be a clear layout of all the uses, approvals, requests/proposals, and parking requirements in order to review the parking plan proposal.

Parking calculations for all uses, existing and proposed per Town records and requirements-

<i>Provisions & Annabelle’s</i>	4* parking spaces
<i>The View</i>	21 parking spaces
<i>The Wharf</i>	24 parking spaces
<i>The Bistro</i>	37 parking spaces (proposed - not verified)
<i>Storage – 2nd floor of The Bistro</i>	2 parking spaces
<i>Single family dwelling</i>	2 parking spaces
Total parking spaces required	90 parking spaces

*Provisions retail & Anabelle’s ice cream special exception use request to the Planning Board dated 7/17/17 stated – “The applicant is providing three off-site parking spaces. Per the off-street parking requirements outlined in 16.8.9.4, four parking spots are required (where the proposed ice cream restaurant requires 1 space for each 175 sf gross floor area). The applicant must provide four off-street parking spots, and submit an amended BUC application to the Town”.

The parking plan submitted for review states the parking requirement for Provisions store is 2.42 spaces. This area needs clarification.

Article XVIII: Landscaping

§ 16.8.18.1 General.

Landscaping may be required by Planning Board.

Article XXIV: Exterior Lighting

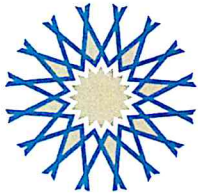
Exterior lighting may be required and demonstrate compliance with this section.

§ 16.9.2.2 Clearing or removal of vegetation for uses other than timber harvesting in Resource Protection or Shoreland Overlay Zone.

A. In a Resource Protection or Shoreland Overlay Zone, cutting of vegetation is prohibited within the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere in a Resource Protection or Shoreland Overlay Zone, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in the Resource Protection or Shoreland Overlay Zone.

Aerial imagery reflects a walk-way from the south parking lot down to *The Wharf* area, installed in approximately 2012. It is unclear when/if this walk-way was approved. This area may require vegetation.

The exterior seating area previously had partial vegetation and partial crushed stone. The entire exterior seating now has crushed sea shells. The area of vegetation that was removed and replaced with sea shells must be replanted with grass.



ATTAR

ENGINEERING, INC

CIVIL ♦ STRUCTURAL ♦ MARINE

Adam Causey, Planning Director
Jamie Steffen, Town Planner
P.O. Box 808
Town of Kittery
Kittery, Maine 03904

November 27, 2018
Project No. C054-18

**RE: The Bistro, The View, Frisbees Wharf
88 Pepperrell Road –Plan Revision**

Dear Mr. Causey and Mr. Steffen;

Thank you and other code enforcement staff members for meeting with representatives of the referenced project and me on November 13, 2018. As always the meeting was informative and provided details for our final submittal which is attached.

At their October 26, 2017 meeting, the Planning Board requested that “applicant, prior to opening the final project, the Wharf, come back with a detailed plan for parking for the entire project.” This plan and supporting documents are enclosed.

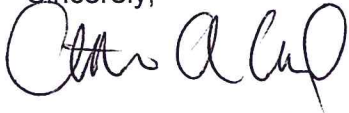
The parking area consists of two lots on the north and south side of Pepperrell Road; these lots have historically been used for parking for Cap’n Simeon’s Galley, Captain and Pattys and Frisbee’s Supermarket. No changes to the lots are proposed with the exception of re-striping asphalt areas and providing signage to identify individual parking spaces in the gravel areas of the north lot. I have attached a legal opinion letter from Dean K. Bouffard verifying the past use of the parcels and also historical aerial photographs depicting the parking areas.

A parking plan is also attached, specific notes also summarize the following;

1. Parking calculations (Note 1) have been updated to reflect existing and proposed uses for the venues on site.
2. The 40’ setback from the tomb to the north of the property has been shown, access to this area is provided through the north parking area.
3. Signs and wheel stops have been added to the parking spaces on the existing gravel portion of the lot.
4. Commercial traffic is restricted (Note 2) - “Deliveries shall primarily occur during non-working hours.”
5. Note 3 restricts dumpster maintenance - “Dumpster removal shall primarily occur during non-working hours.”
6. During the summer season and events the owner provides an on-site parking attendant to assist patrons and verify that all vehicles accessing the lots are customers.
7. Visual screening is provided along the westerly sideline with a vegetative buffer.

I believe this addresses all review and meeting comments; please contact me for any additional information or clarifications required. We look forward to meeting with you at the next available meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Wood". The signature is written in a cursive, flowing style.

Kenneth A. Wood, P.E.
President

2018-11-27 – The View C054-18 Plan Revision.doc

DEAN K. BOUFFARD, P. C.
Attorney-at-Law

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Post Office Box 30
Kittery, Maine 03904-0030
Telephone: (207) 439-6377

Admitted in Maine and New Hampshire

Facsimile: (207) 439-5794
Email: dean@dbouffardlaw.com

Dean K. Bouffard

November 1, 2018

Ms. Donna Ryan
Post Office Box 67
Kittery Point, ME 03905

Re: **Parking at 87 Pepperrell Road, Kittery Point, Maine**

Dear Ms. Ryan:

I have reviewed a certain letter dated October 4, 2018 from Adam Causey, Director of the Planning & Development Department of the Town of Kittery. The letter addresses a requirement of the Planning Board from its October 26, 2017 meeting that “. . . prior to the opening of the final project the Wharf, (sic) [the applicant] come back with a detailed plan for parking for the entire project.” This motion was unanimously adopted by the Board. Mr. Causey’s letter indicates that the

“[a]pplicant must revise [the] site plan with all required elements, to include traffic circulation, the provision of parking required for each use via on-site and offsite parking, loading zones, and other site requirements from Title 16.”

Mr. Causey’s letter also indicates that the staff of the Department is willing to meet with you to ensure the level of detail required on the plans is understood. If your engineer has not already met with the staff, I would recommend that such a meeting be scheduled.

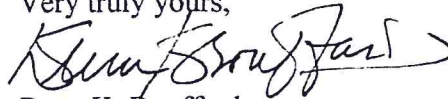
While I have not been involved in the planning or permitting process with the Town of Kittery, it seems pertinent to address the status of the parking for the development. In context, the primary parking area for the former Frisbee’s Supermarket and Cap’n Simeon’s Galley was always the undeveloped property known as 87 Pepperrell Road. This property is shown on tax map 27 as lot 2A. The property was originally acquired by the late Solon Frisbee in 1961 and subsequently conveyed to Frisbee’s Supermarket, Inc. (predecessor in title to the current owner) in 1976 by Edith Frisbee Emery, widow of Solon Frisbee. The lot has been used exclusively for parking and is, in fact, restricted by deed to use as a parking lot. During much of that time both Frisbee’s Supermarket and Cap’n Simeon’s Galley used the parking lot for their operations.

Ms. Donna Ryan
November 1, 2018
Page Two

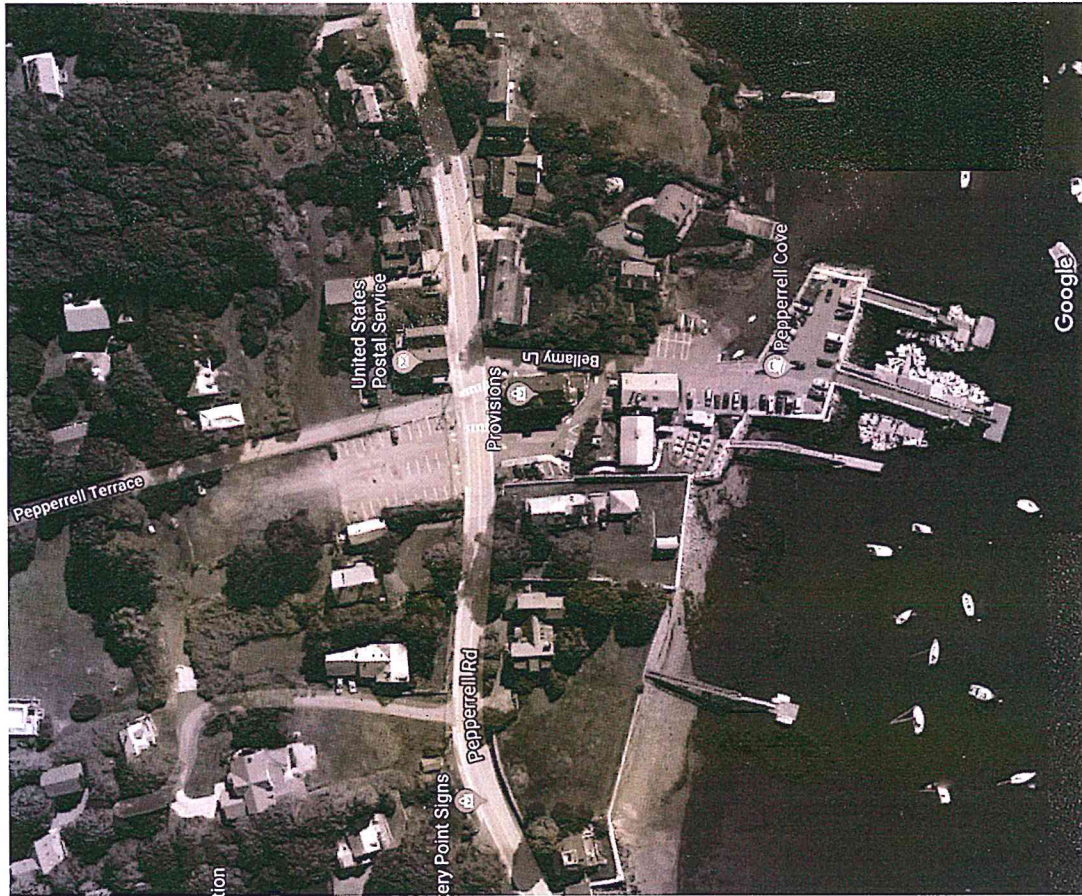
While the intensity of the use of the parking lot may have waned somewhat in recent years, it has continuously been used as the primary parking area for the businesses operated across Pepperrell Road. As part of the site approval process in 2017, plans showing the parking were presented to the Planning Board with plans for the businesses to be operated at 90 Pepperrell Road. Site approval was granted for three (3) of the four (4) businesses originally proposed and those businesses have all received building permits and subsequently commenced operations.

Given the grandfathered status of the parking lot, as well as the approvals already granted by the Planning Board and the issuance of building permits, it is my opinion that parking plans already submitted should be sufficient for final approval of the fourth and final phase of the project. Furthermore, the more recent requirements of Title 16 concerning parking are improvements should not be applicable. Since the vote of the Planning Board at its October 26, 2017 meeting does require that a plan be presented to the Planning Board, I would recommend that you coordinate presentation of the existing plans with the staff of the Planning & Development Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dean K. Bouffard", written in a cursive style.

Dean K. Bouffard



88 PEPPERRELL ROAD
KITTERY, MAINE

GOOGLE EARTH
IMAGES
NOT TO SCALE

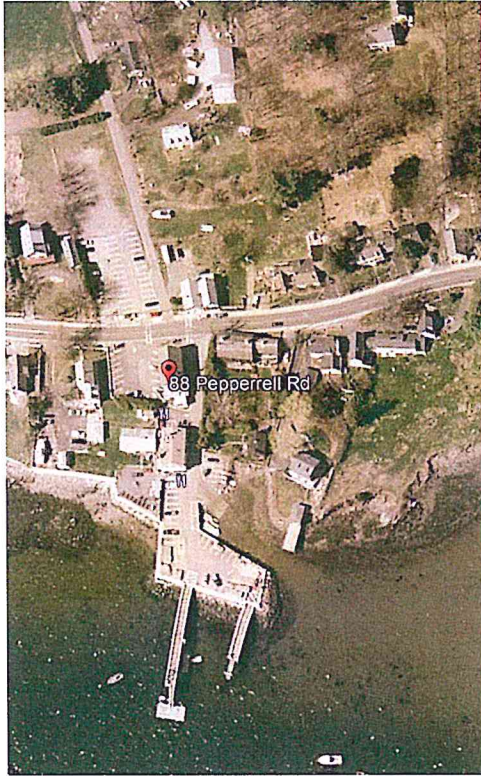


CJ ARCHITECTS
www.cjarchitects.net

233 VAUGHAN ST, SUITE 101
PORTSMOUTH, NH 03801
(603) 431-2808

1

11/26/18

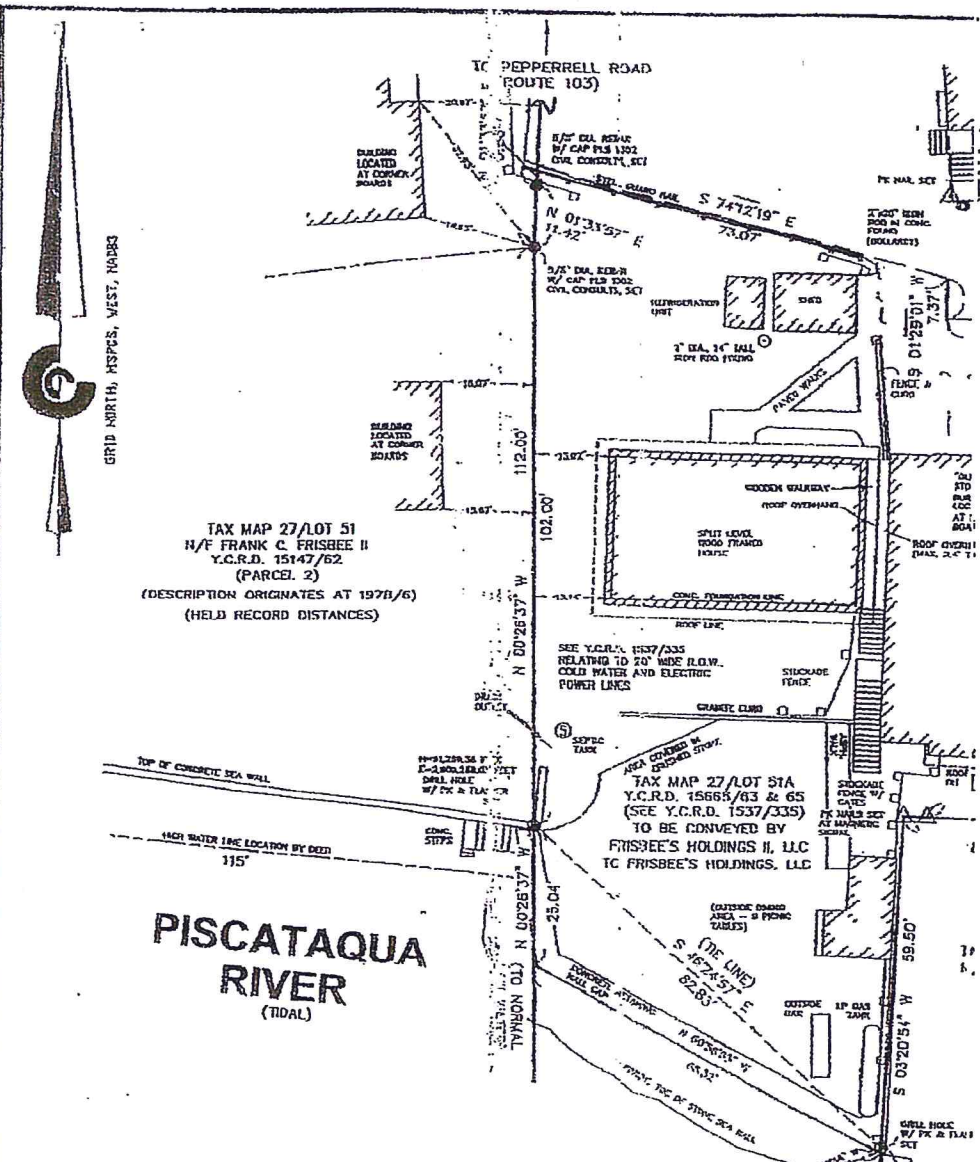


2003 AERIAL PHOTOGRAPH



2013 AERIAL PHOTOGRAPH

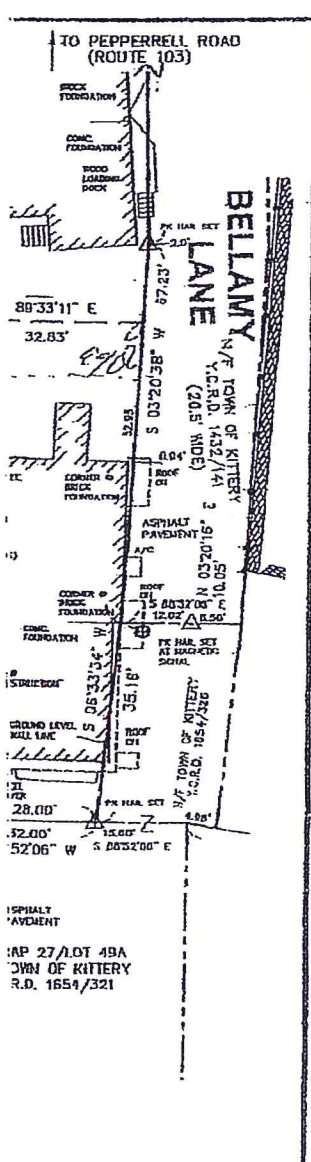
FRISBEE'S PARCELS – 88 PEPPERRELL RD, KITTERY PT, MAINE



TAX MAP 27/LOT 51
 N/F FRANK C. FRISBEE II
 Y.C.R.D. 15147/62
 (PARCEL 2)
 (DESCRIPTION ORIGINATES AT 1978/6)
 (HELD RECORD DISTANCES)

PISCATAQUA RIVER
 (TIDAL)

- PLAN REFERENCES:**
1. "PLAN OF LAND OF FRISBEE'S HOLDINGS, LLC SHOWING LOT MERGER OF TAXMAP 27, LOTS 49, 50 & 51A". BY CIVIL CONSULTANTS, DATED: JULY 15, 2010. PLAN TAKEN FROM CIVIL CONSULTANTS OFFICE FILES JOB NUMBER 10-110.00.
 2. "PLAN OF LAND OF FRISBEE'S HOLDINGS II, LLC & FRISBEE'S HOLDINGS, LLC, PEPPERRELL ROAD, KITTERY, YORK COUNTY, MAINE - SHEETS 1 & 2". BY CIVIL CONSULTANTS, DATED: MARCH 10, 2010. PLAN RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS IN PLAN S: K 342 PAGES 12 & 13.



CIVIL CONSULTANTS
 Engineers
 Planners
 Surveyors
 170 July 6th
 207-212-2331

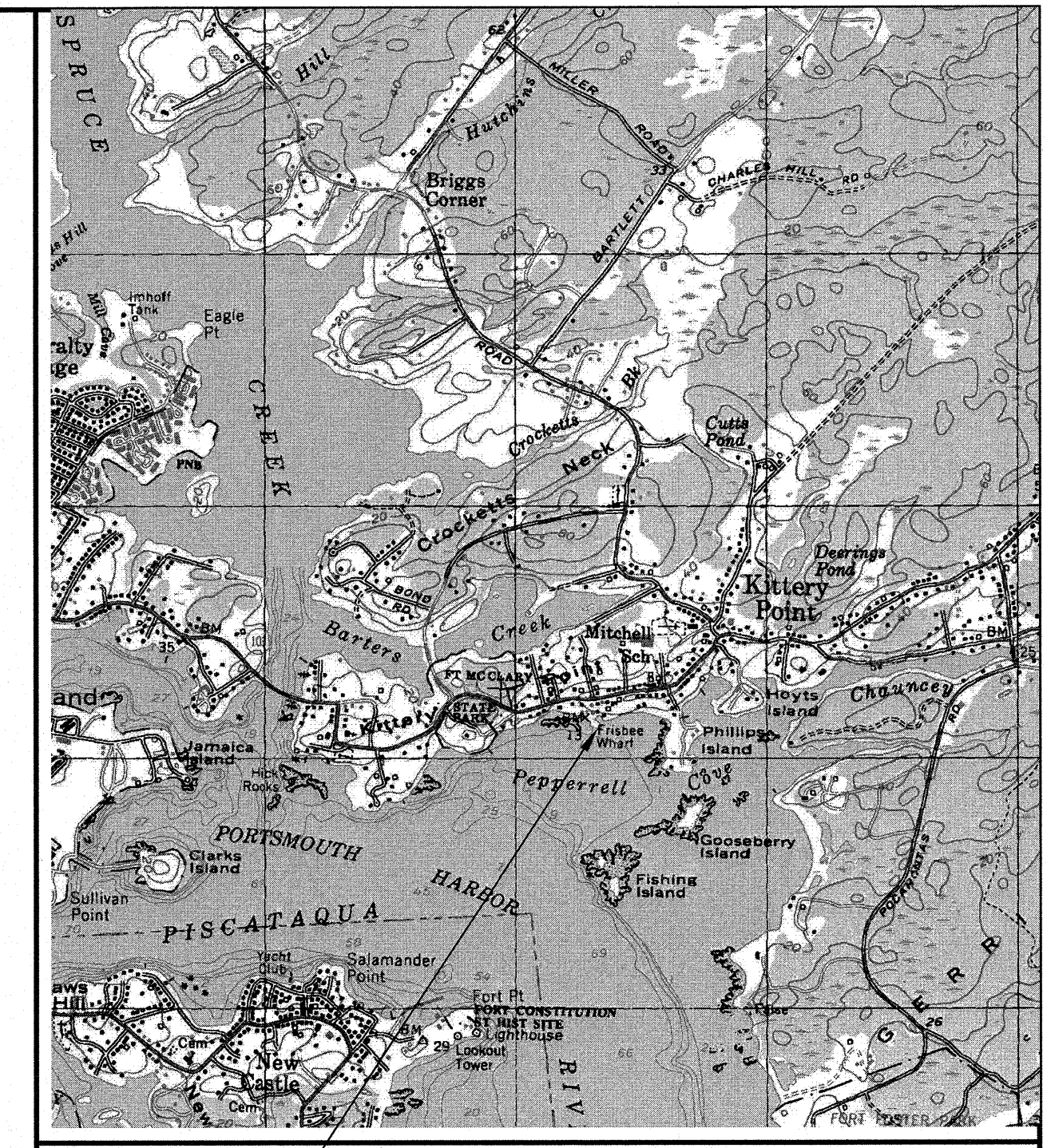
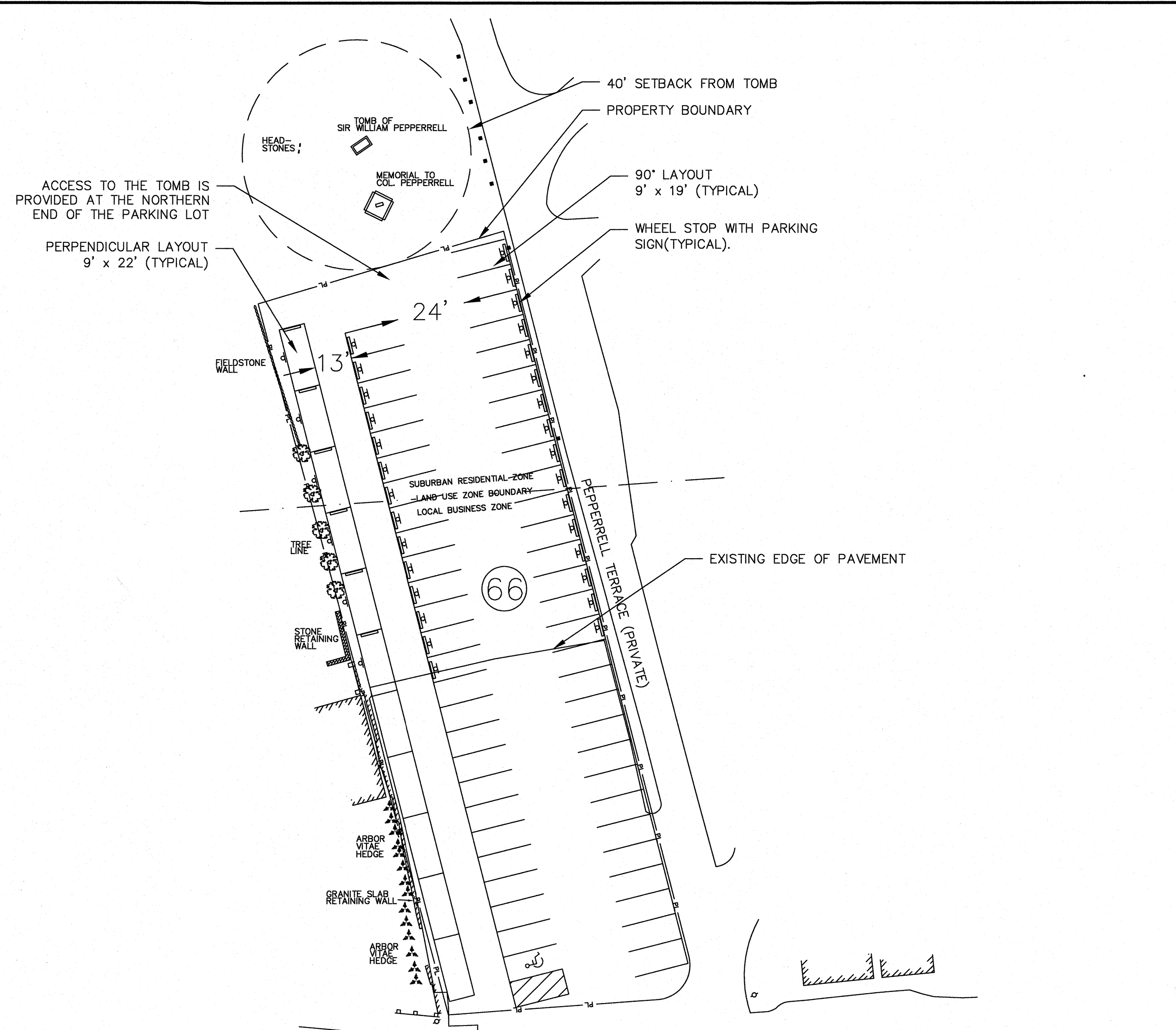
PROPOSED LEASE AREA
FRISBEE HOLDINGS, LLC
PEPPERRELL ROAD
KITTERY, MAINE
 PREPARED FOR:
ALPHONSE DAMICO
 MAILING ADDRESS: 5 MILANO DRIVE, SAUGUS, MA 01906

DRAWN: JAA
 DATE: 26 AUGUST
 APPROVED: [Signature]
 SCALE: 1"=30'

SHEET NUMBER:
 1
 SHEET 1 of 1
 PROJECT # 10-110.00

AME: 1010000E-PT-5D

Handwritten initials



LOCATION MAP
APPROXIMATE SCALE: 1"=2000'

GENERAL NOTES

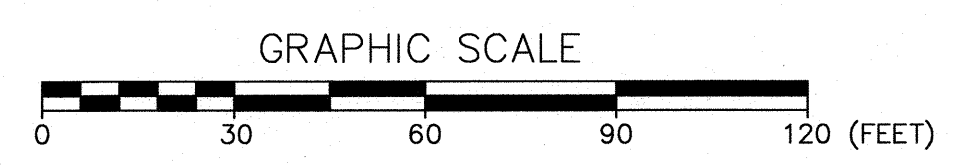
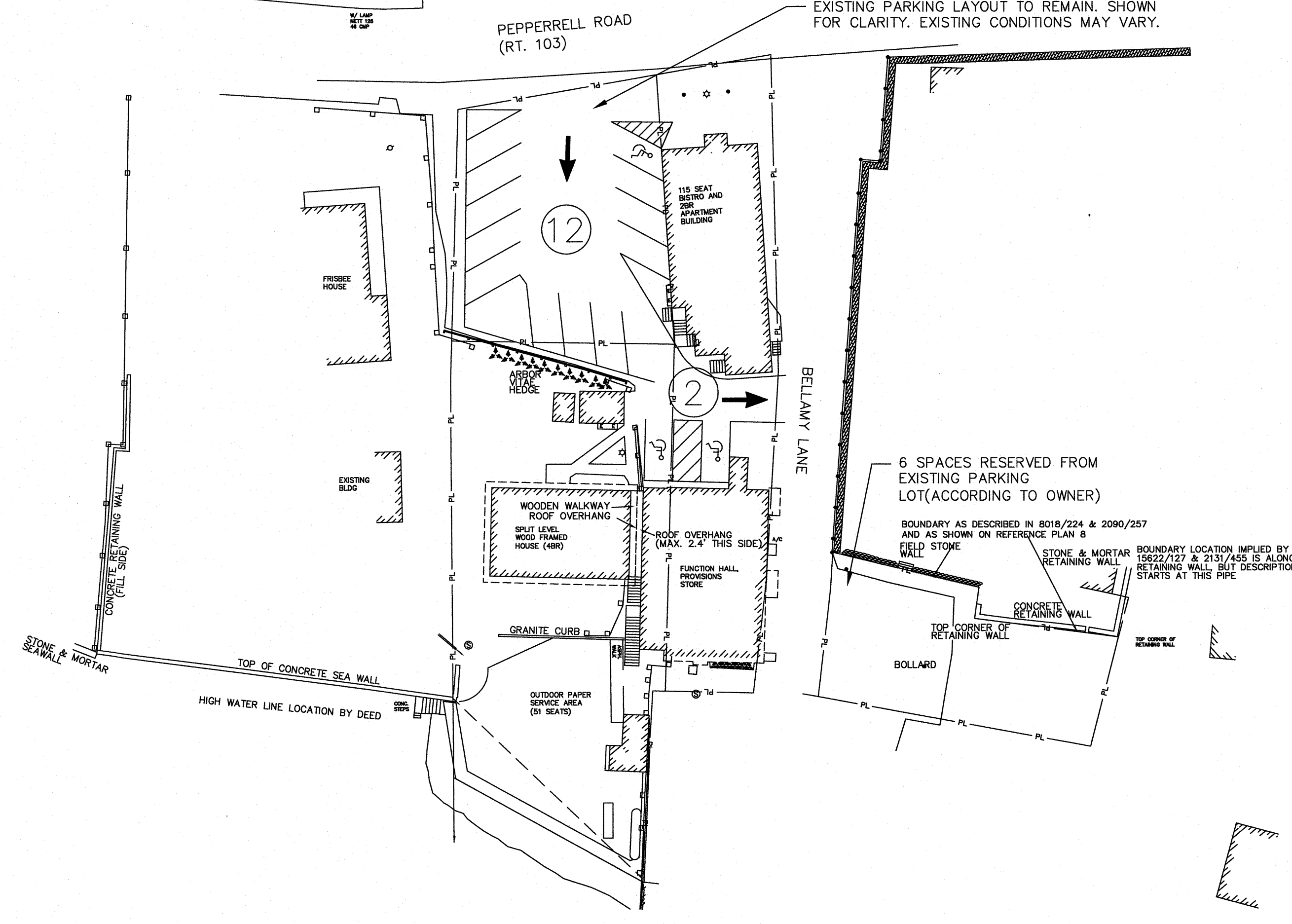
THIS PLAN PROVIDES A PARKING LAYOUT AT 88 PEPPERRELL ROAD, KITTERY, MAINE. LOTS ARE LOCATED ON TAX MAP 27 LOTS 2A AND 49

1. PARKING IS CALCULATED AS FOLLOWS:

UNIT TYPE	NO. OF UNITS/SF	SPACES/UNIT	SF/UNIT	REQUIRED
115 SEAT BISTRO	N/A	1 SPACE/3 SEATS	N/A	115/3 = 38.3
DWELLINGS	1 UNIT	2 SPACES/ UNIT	N/A	2 x 1 = 2
UNASSIGNED	1 UNIT	2 SPACES	N/A	2 x 1 = 2
FUNCTION HALL	1 SPACE/ 100 S.F.	N/A	2,093 S.F.	2,093/100 = 20.93
10 SPACES ON-SITE				
11 SPACES OFF-SITE				
PROVISIONS STORE	1 SPACE/ 175 S.F.	N/A	N/A	425/175 = 2.42
42 OUTDOOR SEATS	N/A	1 SPACE/3 SEATS	N/A	42/3 = 14

TOTAL SPACES REQUIRED = 79.65(80) WITH 80 SPACES PROVIDED

2. DELIVERIES SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS.
3. DUMPSTER REMOVAL SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS.



REFERENCES

1. "PLAN OF LAND OF FRISBEE'S HOLDINGS, LLC, SHOWING LOT MERGER OF TAX MAP 27, LOTS 49, 50 & 51A" PREPARED BY CIVIL CONSULTANTS DATED JULY 15, 2010, AND RECORDED AT YCRD BK 344 P 28.

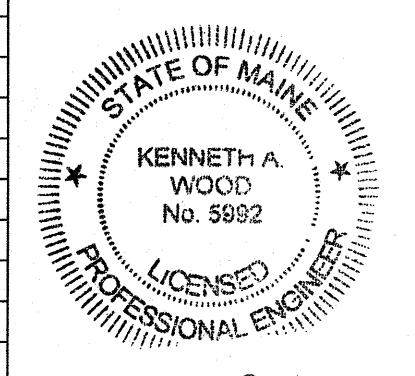
OWNER: CHATHAM STREET LLC
5 MILANO DRIVE
SAUGUS, MA 01906

LEGEND	
PROPERTY LINE	PL
EXT. BUILDING	[Hatched Box]

PARKING PLAN
PARKING LAYOUT
88 PEPPERRELL ROAD (ROUTE 103)
KITTERY POINT, MAINE

FOR: 1828 PEPPERRELL COVE LLC
88 PEPPERRELL RD PO BOX 67
KITTERY POINT, ME 03905

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128



SCALE: 1" = 30'	APPROVED BY: <i>[Signature]</i>	DRAWN BY: BRN
DATE: 6/28/2018		REVISION : DATE B:11/27/2018
JOB NO: C054-18	FILE: THE VIEW PARKING PLAN.DWG	SHEET 1 OF 1

NO.	DESCRIPTION	DATE
B	PARKING CHANGES	11/27/2018
A	PARKING CHANGES	10/24/2018
	REVISIONS	

comments must be addressed to their satisfaction. Mr. Ledgett seconded the motion.

The motion carried 5-0-0.

OLD BUSINESS

ITEM 3 – 88 Pepperrell Road – The Bistro – Parking Plan Review for Business Use Change

Action: Approve or deny plan. Owner, Chatham Street, LLC, and applicant, Ann Kendall are establishing a new business entity in an existing facility, where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Ken Wood, Attar Engineering, gave an overview of the redevelopment of the site and the proposed parking plan. He discussed working with the previous Code Enforcement Officer on getting each venue open. He discussed what has occurred since the Board saw the request back in October of 2017. He noted that he has worked closely with the Town Planner and the Director of Planning on the developing the parking plan that he has brought forward to the Board. He discussed the details of the proposed parking plan.

The Board reviewed and discussed the following:

- Mr. Dunkelberger asked how many parking spaces they needed. Mr. Wood responded 80. Mr. Dunkelberger noted the Staff indicated 90 spaces were required. Mr. Dunkelberger also asked how they would define the parking spaces in the unimproved portion of the parking lot. Mr. Wood answered by using wheel stops and signage. They would also be utilizing a parking attendant but not year round.
- There was discussion about the number of spaces shown on the plans.
- Mr. Steffen discussed that there was confusing information shown on the plan for parking space numbers. He commented that the plans had changed several time since they were first submitted for the November meeting. He stated Staff was still trying to get a handle on actual numbers for all of the venues. He noted the discrepancy between what was listed in the parking calculations and what was shown on the plan for the outdoor seating area. In response, Carla Goodnight, CJ Architects, discussed the square footages and parking calculations for new venues and clarified the ice cream take-out window use. She stated that she wished to stay within the limits of the ordinance.

- Vice Chair Kalmar asked if they were still proposing off-site parking. Mr. Wood responded that they still do have an opportunity for off-site parking.
- Mr. Allese discussed the seating at The Wharf and commented that they could put more seating out there but were voluntarily reducing it.
- Mr. White stated that it was important that the applicant and staff get on the same page regarding the parking calculations and documents for review. He discussed year round use of the site and commented that it doesn't appear that they would maximum use of the site for a majority of the year.
- Vice Chair Kalmar commented that she would like to have Staff and the applicant work together to address the discrepancies in the plan and then have the Board view the site. Ms. Goodnight commented that her concern was that there was no definition in the ordinance for outdoor seating for restaurants.

Donna Ryan, Business partner and Kittery resident, commented that they were proposing a parking plan that works for the amount of spaces they have. She discussed their business success, commitment to staff and the goodwill they have tried to show the community.

Adam Causey, Director of Planning and Development, spoke to the Department's side of the issue. He explained that the code says when someone changes, alters and expands a use they need to comply with the parking standards. Staff cannot waive those requirements.

There was further discussion amongst the Board regarding prior plan reviews and the actual parking numbers previously approved. Vice Chair Kalmar stated she would like see an adequate plan developed with the detail required so that the Board has a better understanding of how they arrived at the number of spaces provided. At the suggestion of the Vice Chair, the Board decided to schedule a site walk.

**Mr. Dunkelberger moved to schedule a site walk for December 27th at 10:00 am.
Seconded by Mr. Ledgett.**

Motion carried 5-0-0.

ITEM 4 - 25 Pinkham's Lane – Major Subdivision Sketch Plan Review

Action: Accept or deny application; Approve or deny sketch plan Owners Rudy E.

Shayganfar & Mahni Shayganfar request consideration of a 8-lot residential subdivision with access along an existing private right-of-way (Pinkham's Lane), (Tax Map 62 Lots



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

Ann Grinnell
Chairman, Planning Board
Adam Causey, Planning Director
Jamie Steffen, Town Planner
P.O. Box 808
Kittery, Maine 03904

December 27, 2018
Project No. C054-18

**RE: Parking Plan
The Bistro, The View, Provisions, Frisbees Wharf
88 Pepperrell Road**

Dear Chair Grinnell, Mr. Causey and Mr. Steffen;

I have enclosed a revised plan for the referenced project for your review and consideration.

This project involves the re-development of the former Frisbee's Supermarket, Captain Simeon's Galley and Captain and Pattys into similar uses; The Bistro, The View, Provisions and The Wharf. The parking area consists of two existing lots on the north and south side of Pepperrell Road; these lots have historically been used for parking for Cap'n Simeon's Galley, Captain and Pattys and Frisbee's Supermarket. No substantive changes to the lots are proposed with the exception of re-stripping asphalt areas and providing signage to identify individual parking spaces in the gravel areas of the north lot.

Revisions have been made to address comments received at the Planning Board meeting of December 13, 2018 and also from the site walk held this morning. Specifically;

- 1) Added a split rail fence along Pepperrell Terrace.
- 2) Added directional signage for traffic movement at the entrance of both lots.
- 3) Added the parking attendant schedule.
- 4) Added references which reflect monumentation of both parcels.

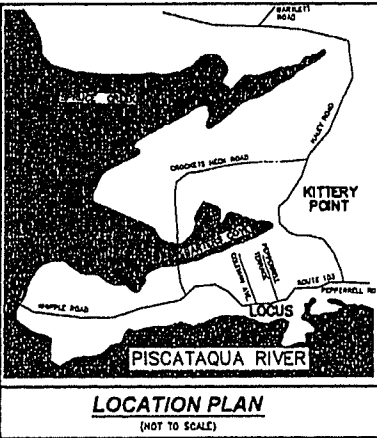
I have attached the revised parking plan and reduced boundary plans. Please contact me for any additional information. Thank you, again, for visiting the site this morning; we all look forward to meeting with you on January 10, 2019. My best for the New Year.

Sincerely,

Kenneth A. Wood, P.E.
President

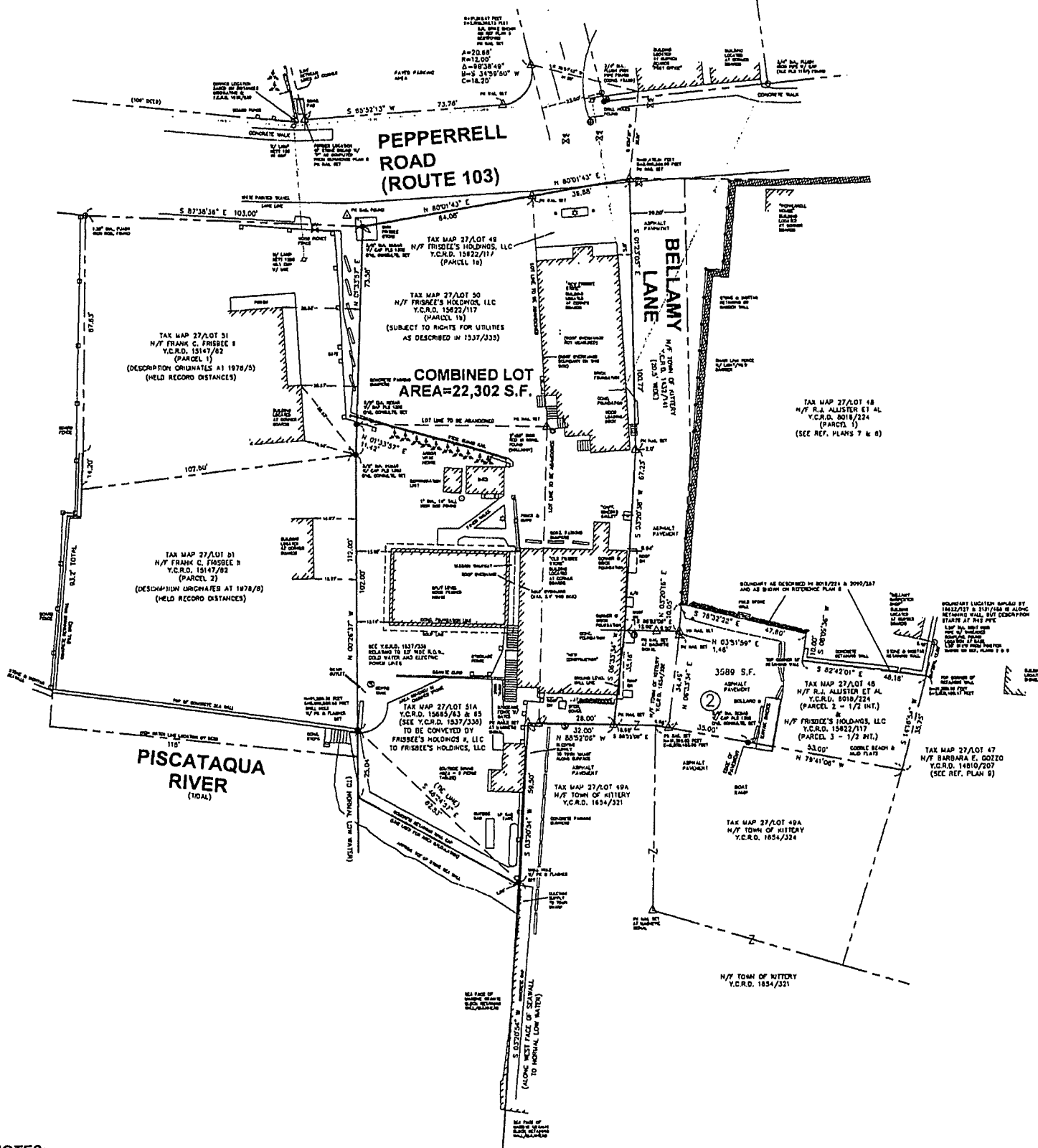
cc: Donna Ryan, Carla Goodknight

The View C054-18 PBoard



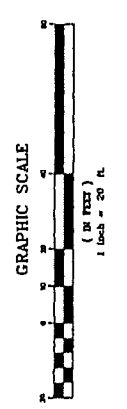
LEGEND:

- MET 1/4" DIA. IRON N/ CH PILE MARK
- FOUND IRON PIPE
- FOUND IRON ROD
- FOUND EARTH OR CONCRETE ROUND
- FOUND/SET SMALL HOLE AS NOTED
- FOUND/SET PE HOLE AS NOTED
- HOLE OR MARK AS NOTED
- NERVE HOLE
- WATER GATE OR VALVE
- UTILITY POLE AND NUMBER
- AIR CONDITON
- ELECTRIC PANEL/TRANSFORMER/BOX
- SEWER MAN HOLE
- BOLLARD
- PARKING BLIMP
- LAMP POLE
- W/ OR UNDER GRADE ELECTRIC
- OVERHEAD WIRE
- ROOF OVERHANG
- FENCE OVERHANG
- FENCE OVERHANG
- APPROXIMATE PARCEL LINE
- LOCAL BOUNDARY LINE



CIVIL CONSULTANTS
 Engineers
 Planners
 Surveyors
 P.O. Box 100
 South Berwick
 Maine
 03258
 207-344-2550
 cchap@ccvnet.com

NO.	DATE	REVISIONS

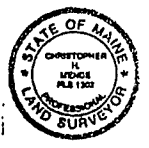


**PLAN OF LAND OF FRISBEE'S HOLDINGS, LLC
 SHOWING LOT MERGER OF TAX MAP 27, LOTS 49, 50 & 51A**
 PEPPERRELL ROAD, KITTEHY, YORK COUNTY, MAINE
 PREPARED FOR:
 ALPHONSE DAMICO
 MAILING ADDRESS: 3 BIRCHWOOD DRIVE, SAUNDERS, MA 01876

NOTES:
 1) SEE NOTES ON REFERENCE PLAN 1 FOR DETAILS RELATING TO FIELD SURVEY AND BOUNDARY HISTORY.
 2) THIS PLAN HAS BEEN PREPARED IN ASSOCIATION WITH A DRAFT FOR A LEGAL DESCRIPTION OF PARCEL 5 SHOWN ON REFERENCE PLAN 1. IT IS THE INTENTION OF FRISBEE'S HOLDINGS, LLC AND FRISBEE'S HOLDINGS II, LLC TO NOTICE THE THREE PARCELS IDENTIFIED AS TAX MAP 27, LOTS 49, 50 AND 51A UNDER ONE OWNER, FRISBEE'S HOLDINGS, LLC.

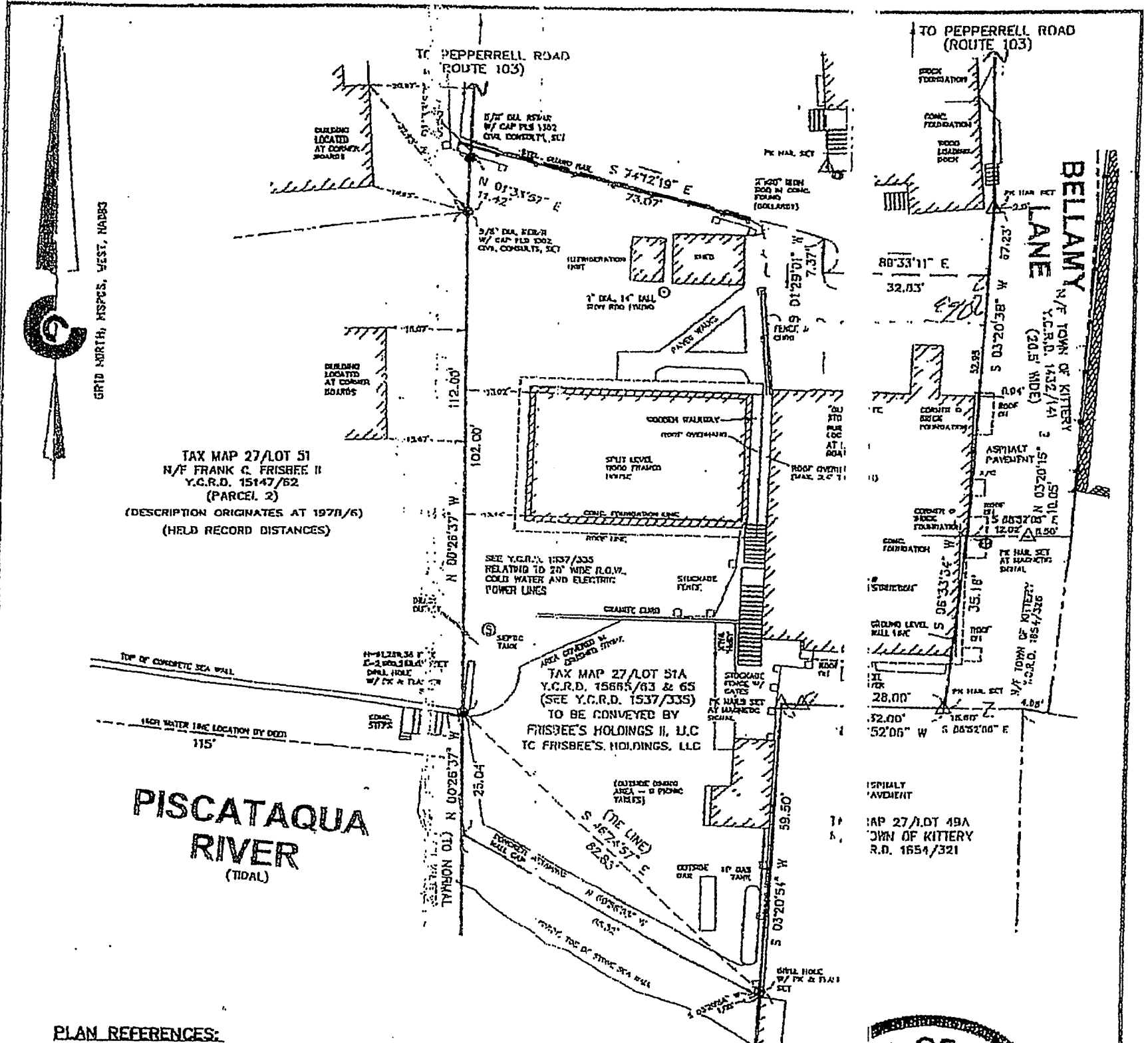
REFERENCE PLANS:
 1) PLAN OF LAND OF FRISBEE'S HOLDINGS II, LLC & FRISBEE'S HOLDINGS, LLC, PEPPERRELL ROAD, KITTEHY, YORK COUNTY, MAINE, PREPARED FOR ALPHONSE DAMICO, SHEETS 1 & 2, BY CIVIL CONSULTANTS, DATED MARCH 10, 2010, RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 343, PAGES 12 & 13.

000183
 STATE OF MAINE
 YORK COUNTY - REGISTRY OF DEEDS
 RECEIVED JULY 21, 2010
 AT 11:41 AM, AND RECORDED IN
 PLAN BOOK 344, PAGE 42
 ATTEST *Charles O. [Signature]* REGISTER



CERTIFICATION:
 THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH THE STANDARDS OF PRACTICE ESTABLISHED BY THE MAINE BOARD OF LICENSING FOR PROFESSIONAL LAND SURVEYORS (02-380 CMR CHAPTER 90, PART I & PART II - SEE NOTES HEREON FOR EXCEPTIONS, IF ANY).
 CHRISTOPHER H. NENDE
 MAINE PROFESSIONAL LAND SURVEYOR #1302
 CIVIL CONSULTANTS
 SOUTH BERWICK, MAINE 03906
 DATE: JULY 15, 2010

DRAWN CHW	CALC. CHW
DATE JULY 15, 2010	
CHECKED LPP	
APPROVED CHW	
SCALE 1"=20'	
FIELD BOOK NE 387, PAGE 63	
SHEET TITLE: BOUNDARY	
TAX MAP 27, LOTS 49, 50, & 51A	
SHEET 1 OF 1	
PROJECT # 10-110.00	

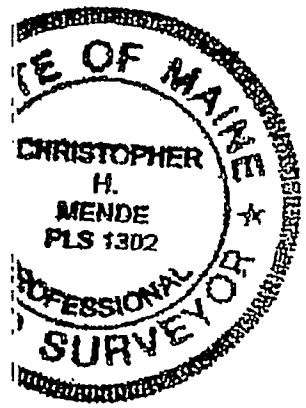


TAX MAP 27/LOT 51
N/F FRANK C. FRISBEE II
Y.C.R.D. 15147/62
(PARCEL 2)
(DESCRIPTION ORIGINATES AT 1971/6)
(HELD RECORD DISTANCES)

PISCATAQUA RIVER
(TIDAL)

PLAN REFERENCES:

1. "PLAN OF LAND OF FRISBEE'S HOLDINGS, LLC SHOWING LOT MERGER OF TAXMAP 27, LOTS 49, 50 & 51A", BY CIVIL CONSULTANTS, DATED: JULY 15, 2010. PLAN TAKEN FROM CIVIL CONSULTANTS OFFICE FILES JOB NUMBER 10-110.00.
2. "PLAN OF LAND OF FRISBEE'S HOLDINGS II, LLC & FRISBEE'S HOLDINGS, LLC, PEPPERRELL ROAD, KITTERY, YORK COUNTY, MAINE - SHEETS 1 & 2", BY CIVIL CONSULTANTS, DATED: MARCH 10, 2010. PLAN RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS IN PLAN 51 K 342 PAGES 12 & 13.



CIVIL CONSULTANTS
170 Main St
South Portland
ME 04106
603.883.2222

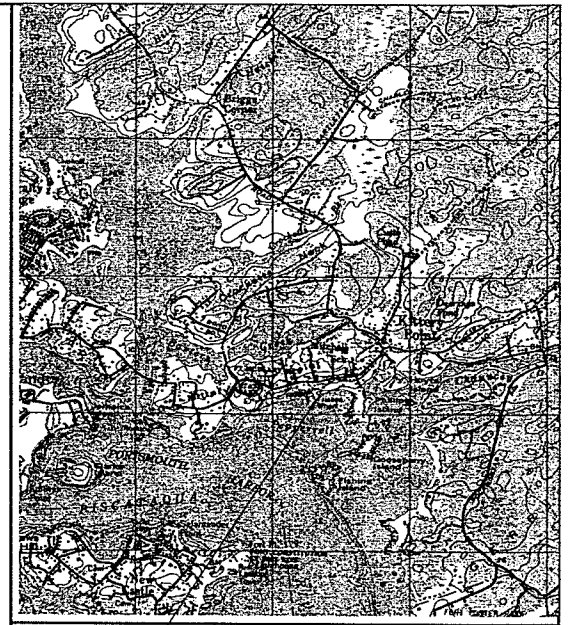
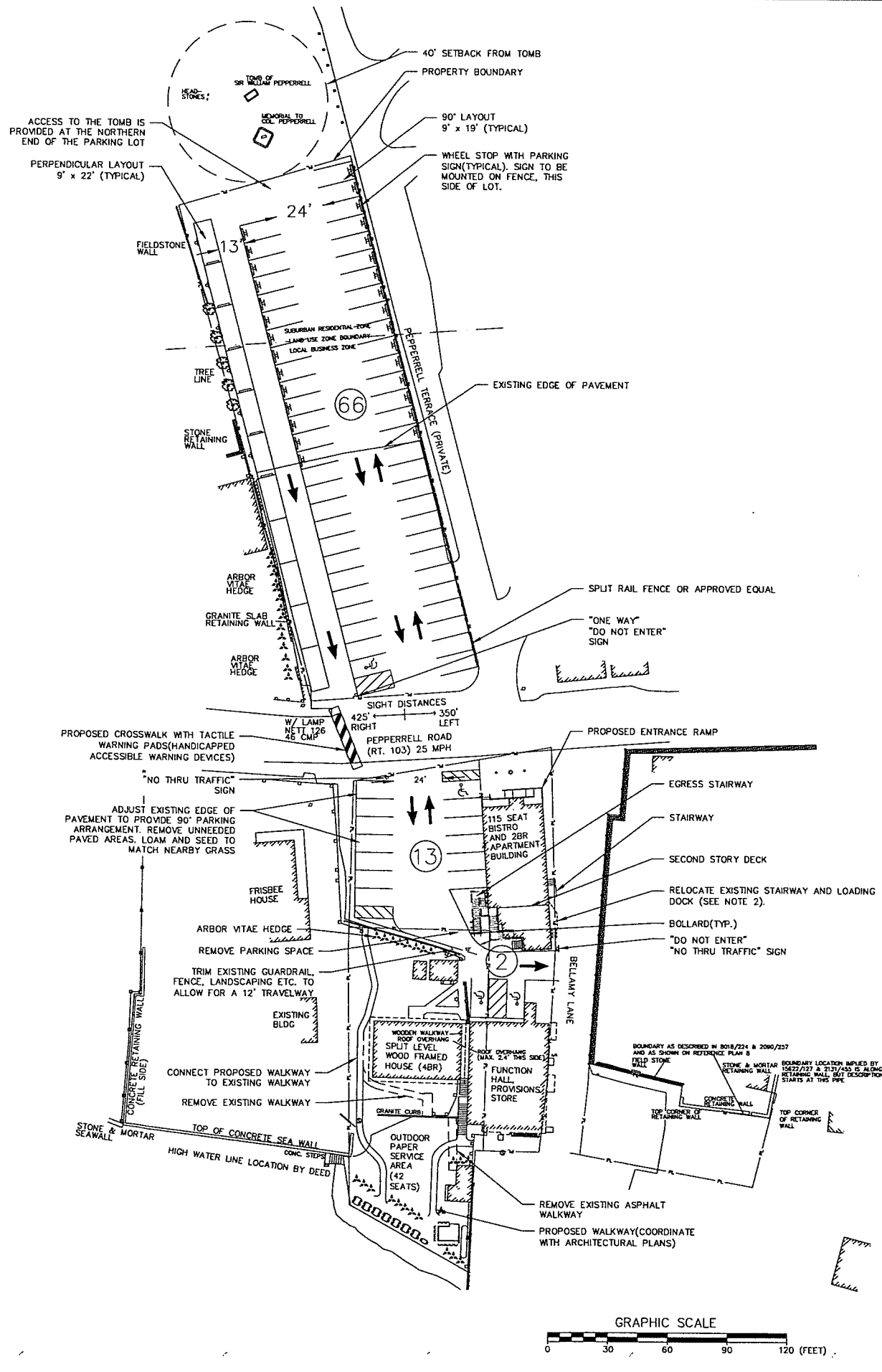
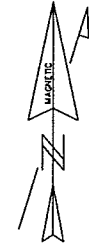
PROPOSED LEASE AREA
FRISBEE HOLDINGS, LLC
PEPPERRELL ROAD
KITTERY, MAINE
PREPARED FOR:
ALPHONSE DAMICO
MAILING ADDRESS: 5 MILANO DRIVE SAUGUS, MA 01906

DRAWN JAA
DATE 26 AUGUST
APPROVED
SCALE 1"=30'

SHEET NUMBER:
1
SHEET 1 of 1
PROJECT #
10-110.00

Ref 2

all



LOCATION MAP
APPROXIMATE SCALE: 1"=2000"

GENERAL NOTES

- THIS PLAN PROVIDES A PARKING LAYOUT IN BOTH THE SUBURBAN RESIDENTIAL AND LOCAL BUSINESS ZONES AT 88 PEPPERRELL ROAD, KITTERY, MAINE. LOTS ARE LOCATED ON TAX MAP 27 LOTS 2A AND 49
- PARKING IS CALCULATED AS FOLLOWS:
- | UNIT TYPE | NO. OF UNITS/SF | SPACES/UNIT | SF/UNIT | REQUIRED |
|---|-------------------|-----------------|------------|-------------------|
| 115 SEAT BISTRO AND SKI CLUB BAR AND DECK | N/A | 1 SPACE/3 SEATS | N/A | 115/3 = 38.3 |
| DWELLINGS | 1 UNIT | 2 SPACES/ UNIT | N/A | 2 x 1 = 2 |
| FUTURE DWELLING | 1 UNIT | 2 SPACES | N/A | 2 x 1 = 2 |
| FUNCTION HALL | 1 SPACE/ 100 S.F. | N/A | 2,093 S.F. | 2,093/100 = 20.93 |
| PROVISIONS STORE AND ICE CREAM WINDOW | 1 SPACE/ 175 S.F. | N/A | N/A | 623/175 = 3.56 |
| WHARF 42 OUTDOOR SEATS | N/A | 1 SPACE/3 SEATS | N/A | 42/3 = 14 |
- TOTAL SPACES REQUIRED = 80.79(81) WITH 81 SPACES PROVIDED
- DELIVERIES SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS. LOADING DOCK NOT REQUIRED IN THIS DISTRICT.
 - DUMPSTER REMOVAL SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS.
 - IF SNOW STORED ON SITE SHOULD BLOCK ANY PARKING SPACES THE SNOW SHALL BE REMOVED FROM THE SITE.
 - PARKING ATTENDANT TO BE ON-SITE FROM MEMORIAL DAY TO LABOR DAY, THURSDAY THROUGH SUNDAY, 12 P.M. TO 7 P.M.
 - SEE REFERENCES 1-3 FOR MONUMENTATION.
 - SEE REFERENCE 4 FOR COVERAGE WITHIN THE SHORELAND ZONE.

REFERENCES

- "PLAN OF LAND OF FRISBEE'S HOLDINGS, LLC, SHOWING LOT MERGER OF TAX MAP 27, LOTS 49, 50 & 51A" PREPARED BY CIVIL CONSULTANTS DATED JULY 15, 2010, AND RECORDED AT YCRD BK 344 P 28.
- "PROPOSED LEASE AREA, FRISBEE HOLDINGS", PREPARED FOR: ALPHONSE DAMICO" PREPARED BY CIVIL CONSULTANTS DATED AUGUST 26TH, (YEAR UNKNOWN).
- "PLAN OF LAND OF FRISBEE'S HOLDINGS II, LLC & FRISBEE'S HOLDINGS, LLC" PREPARED BY CIVIL CONSULTANTS DATED MARCH 2010.
- "THE VIEW PARCEL 27-50" PREPARED BY ATTAR ENGINEERING DATED SEPTEMBER 19, 2017

LEGEND	
PROPERTY LINE	PL
EXT. BUILDING	[Hatched Box]

OWNER: CHATHAM STREET LLC
5 MILAND DRIVE
SAUGUS, MA 01906

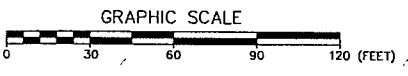
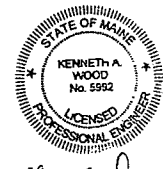
PARKING PLAN
88 PEPPERRELL ROAD (ROUTE 103)
KITTERY POINT, MAINE

FOR: 1828 PEPPERRELL COVE LLC
88 PEPPERRELL RD PO BOX 67
KITTERY POINT, ME 03905

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-8023 FAX: (207)439-2128

SCALE: 1" = 30"
DATE: 6/28/2018
APPROVED BY: [Signature]
DRAWN BY: BRN
REVISION : DATE
D:12/27/2018
JOB NO: C054-18 FILE: THE VIEW PARKING PLAN.DWG SHEET 1 OF 1

NO.	DESCRIPTION	DATE
D	SITE REVIEW	12/27/2018
C	BUILDING CHANGES	12/24/2018
B	PARKING CHANGES	11/27/2018
A	PARKING CHANGES	10/24/2018



1 Town of Kittery Planning Board
2 Site Walk Meeting Minutes

3 **88 Pepperrell Road Parking Plan Site Walk**

4 Purpose: To inspect the property located at 88 Pepperrell Road, Tax Map 27 Lots 2A/49
5 Thursday, December 27, 2018 – 10:00 am

6 **Attendees**

7 Planning Board Members: Ann Grinnell, Karen Kalmar, Ron Ledgett, Mark Alesse, Dutch Dunkelberger, Russell
8 White

9 Planning Staff: Adam Causey, Jamie Steffen, Stephen Wilson

10 Applicant: Ken Wood, Attar Engineering, Carla Goodnight, CJ Architects, Al Damico, Owner, Donna Ryan,
11 Partner, Henry Ares, Partner, Eides Ares, Partner

12 Abutters: Nanci Lovett, Kate Johnston, Keith Frisbee, Clint Reed

13 Other: John Brosnihan, Harbormaster, Kelly Philbrook, KPA, Earldean Wells, Conservation Commission, Shaye
14 Robbins, Economic Development Committee member

15
16 **Meeting**

17 Ms. Grinnell called the meeting to order at 10:03 am.

18 Ken Wood led the site walk and gave a brief overview of the proposal. He presented the revised parking plan
19 and explained the redesign and realignment of the parking spaces for the main parking lot. The paved portion
20 would be lined/striped to delineate the spaces and the traffic flow. For the gravel/grassed portion signed
21 wheel stops would be utilized. He noted that they had made an appeal to the Board of Appeals (BOA) for relief
22 from the landscaping and lighting standards of the off-street parking standards. He noted that he would be
23 filing the revised plans for the Board's review later that day. Chair Grinnell discussed the Board possibly
24 holding a public hearing on the proposal.

25 Mr. Dunkelberger asked about the discrepancies in the parking calculations. Staff noted that after meeting
26 with applicant's representatives the uses and their square footages have been clarified. The parking
27 calculations on the revised plans reflect what current / proposed uses are and the 81 spaces complies with
28 ordinance requirements.

29 Ms. Kalmar asked about the unimproved portion of the main parking lot. Mr. Causey responded that the
30 parking lot is split zoning. Most of the lot is in the Business – Local (B-L) zone but there is a portion of the lot to
31 the rear which is in the Residential - Kittery Point Village (R-KPV) zone. He explained that the parking lot in the
32 R-KPV zone is a legal, non-conforming use but the regulations state that any change or alteration to the use
33 requires that the site be brought up the current standards. He further explained that the Planning Board could
34 not approve waivers to these requirements, which necessitated the appeal to the BOA.

35 Mr. Dunkelberger asked about what improvements were proposed for the parking lot. Ms. Ryan responded
36 that they would prefer to not have to pave the unimproved portion of the lot instead utilize signage and wheel
37 stops. Ms. Grinnell asked about the boundaries of the lot. Mr. Wood pointed out the limits and noted the 40-
38 foot setback required for the Pepperrell tomb. Ms. Grinnell noted the potential existence of slave burials
39 outside tomb area. Mr. Causey noted State limitations for known burial sites that restricts construction or
40 excavation to within 25 feet. More information would be necessary for a determination on the slave burials.

41 There was discussion by the group regarding the boundaries of the parking lot and Pepperrell Terrace. Ms.
42 Grinnell asked for a better demarcation between the two. Ms. Philbrook asked if the applicant would consider

43 flipping the parking arrangement so that vehicles would not overhang into Pepperrell Terrace. Ms. Goodnight
44 explained that it would not be feasible to flip the parking because the lot is not rectangular shaped. Mr. Reed
45 (4 Pepperrell Terrace) asked if they could install a split-rail fence along Pepperrell Terrace the length of the lot.
46 Ms. Grinnell read comments received from Debbie Driscoll Davis, a resident of Pepperrell Terrace, which
47 stated "Would the applicant consider installing a split-rail fence along Pepperrell Terrace to keep vehicles and
48 pedestrians on their own property? There was fence along Pepperrell Terrace when Cap'n Simeon's was in full
49 swing, 70-80's."

50 Ms. Kalmar asked about the proposed traffic flow and how would it be controlled on the unimproved portion.
51 Mr. Wood responded that signage would be installed at the end of each aisle. A one way, do not enter sign
52 would be placed at the entrance/exit to the lot. There was discussion amongst the group regarding the site's
53 drainage. Mr. Wilson confirmed the existence of open catch basins in the parking lot. Buffers were discussed
54 and it was confirmed that salt would not be utilized on the unpaved portion. Ms. Wells mentioned possible
55 rain garden utilization. Jessa Kellogg, the Town's Stormwater Coordinator should be consulted on the
56 stormwater requirements. Mr. Ledgett asked about winter storage of dock floats in back portion of the
57 parking lot and not restricting the necessary parking requirements for the year round uses.

58 Ms. Grinnell asked about the location of the corner pins at the Pepperrell Terrace entrance. There was
59 discussion regarding the DPW request for a raised section of sidewalk with tip downs and a handicap
60 accessible crosswalk to break up the large expanse of pavement in front. Ms. Robbins commented the current
61 striped pedestrian crossing was easy to walk and to put in the raised sections was not necessary.

62 Ms. Kalmar mentioned the concern about the current wheel stops located at the end of Pepperrell Terrace.
63 Ms. Grinnell read the comments from Ms. Driscoll Davis "Would the applicant consider removing the parking
64 bumpers at the end of Pepperrell Terrace? This would allow much easier movement of post office customers
65 that have utilized the 4 spaces at the end of the road for decades. It would also allow folks to turn around at
66 the end of Pepperrell Terrace without driving up a private road to turn around. At present, the parking
67 bumpers are a hazard." Ms. Philbrook asked if the parking lot attendant could be moved to the middle of the
68 lot as people pull into Pepperrell Terrace now then have to drive all the way the private road to turn around.
69 Ms. Ryan addressed the parking bumpers. She said they were placed in those spaces for residents to use when
70 getting mail at the post office. Ms. Kalmar commented that sight lines should be taken into account with the
71 placement of the attendant. Ms. Goodnight responded that the best location for them would be where he has
72 been. It was suggested that DPW be consulted for input on access and traffic movement.

73 There was discussion amongst the group regarding the Town parking lot. Mr. Wilson noted that these spaces
74 could not be counted toward satisfying the ordinance requirement. Mr. Brosnihan explained the public
75 parking arrangement. The spaces are open to the public but some are allotted to Town residents on a first-
76 come, first-served basis. Ms. Ryan commented that they have told their customers and employees not to park
77 in those space out of courtesy.

78 Ms. Kalmar asked the new stairway at the Bistro building and its impact on traffic and pedestrian flow through
79 the area. Ms. Goodnight explained that the stairs were for emergency egress only and that people would not
80 be restricted from going up them. There was discussion regarding the uses in the building and the required
81 parking spaces. The Bistro would have seating for 115 people. Mr. Wilson noted that a future apartment in
82 the building is accounted for. He further noted that the existing single-family residential use has a CO for 3
83 bedrooms but is now 4. Verification of septic system capacity needs to be submitted to the CEO before any CO
84 could be issued for the apartment in the Bistro building.

85 There was discussion amongst the group about traffic flow to the rear of the Bistro building. Mr. Wood noted
86 that the aisle width was 12 feet and that the traffic would be one way only. Ms. Ryan explained that it is a

87 private lane that is not for public use. Mr. Ledgett asked how that would be designated. Mr. Wood stated that
88 they would utilize pavement markings and signage on Bellamy Lane stating Do Not Enter and No Thru Traffic.
89 There was a brief discussion regarding the parking spaces on the lot that houses the kayak storage. The owner
90 has leased spaces for kayak storage that will not counted in the parking calculations.

91 The group viewed and discussed the outdoor seating area for the Wharf. The seating calculation for the area is
92 based upon 1 space for every 3 seats. 42 seats are proposed. The crushed seashell area was discussed. A
93 portion of the area will need to be restored and revegetated to the satisfaction of the Shoreland Resource
94 Officer. Mr. Wood stated that the site plan would be revised to show the removal and re-vegetation. Ms.
95 Grinnell stated that the Board's vote on the parking plan will not affect the restoration of the seashell area.
96 Mr. White commented that he thought the applicant could work with staff on the restoration prior to opening
97 of the area in the spring. Ms. Grinnell stated she was sympathetic to their opening all of the development but
98 there were still issues that needed be addressed.

99 There was discussion regarding the parking plan approval and future use of the outdoor service area. Ms.
100 Goodnight explained that they were utilizing the strictest interpretation for the required number of spaces for
101 the outdoor seating so that they can open the Bistro but they would like to better address the outdoor seating
102 after they open next spring. Ms. Kalmar stated she would like to have the BOA decision transmitted to the
103 Planning Board as soon as possible.

104 **Ms. Kalmar moved to adjourn.**

105 **Mr. Dunkelberger seconded the motion.**

106 **Vote: 6-0-0.**

107 **The meeting was adjourned at 11:15 am.**

**Town of Kittery Maine
Planning Board Meeting
January 10, 2019**

ITEM 3 - 88 Pepperrell Road – The Bistro – Parking Plan Review for Business Use Change
Action: Approve or deny plan. Owner, Chatham Street, LLC, and applicant, Ann Kendall, are establishing a new business entity in an existing facility where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Background

The proposed development is part of a property-wide redevelopment effort that consists of the interior renovation of the three existing buildings, “The View” (previously Captain Simeons), “The Bistro” (previously Frisbee’s Market), and “The Wharf” (previously Lobster in the Rough), located at 88 Pepperrell Cove. The existing/previous uses on site were retail, residential, storage, office and restaurant.

The proposed development being considered by the Board is the conversion of existing Frisbee’s Market space listed on the town’s tax card as stores or retail space along with an apartment. The Board reviewed this property last year for the applicant’s proposed renovations to the lower level of the existing restaurant (The View) building, a small store and take-out ice cream restaurant to be named “Provisions”. Both retail businesses and restaurants needed a special exception use approval by the Board since it’s located in the Shoreland Overlay Zone, which the Board approved.

The review of “The Bistro” was to consider if the proposed change from retail (the Frisbee’s Market) to restaurant (the Bistro) is significantly different in intensity of use. The applicable provision in the Town Code is 16.10.3.6.3 below:

16.10.3.6 Business Use Review.

All business use including the following must be reviewed by the CEO and Town Planner to ensure compliance with the requirements of this Code including:

- 1. Movement of an existing commercial or business entity from like to like facilities/use where major building/site modifications are not made;*
- 2. Movement of an existing commercial or business use into related facility/use buildings;*
- 3. Establishment of new commercial or business entity in an existing facility where intensity of use is not significantly different.*

A business use review that conforms to this provision is not subject to Planning Board Review per 16.10.3.2:

16.10.3.2 Other Development Review.

Unless subject to a Shoreland Development Plan Review per 16.10.3.4, the following do not require Planning Board approval:

- A. Single and duplex family dwellings.*
- B. Expansion of existing use where the expanded use will require fewer than six additional parking spaces.*
- C. Division of land into lots (i.e., two lots) which division is not otherwise subject to Planning Board review as a subdivision.*
- D. Business use as provided in Section 16.4.3.5.*

Per 16.4.3.5 below, Staff may refer to Planning Board a business use change application for their consideration.

16.4.3.5 Business Use Changes.

The Planner and the Code Enforcement Officer are to review and approve, or refer to the Planning Board for action, all business use changes which occur that fall below Planning Board review thresholds as outlined in Sections 16.10.3.2 and 16.10.3.6. Approval must be based on compliance with all requirements of this Code.

The applicant had submitted a parking summary that demonstrated the site's existing 108 parking spaces were adequate for all the proposed uses of the four new businesses (Provisions, The Wharf, The View and The Bistro). The summary had some minor inaccuracies that needed correcting but the total still appeared to be sufficient. The changes included:

A. adding the ice cream take-out area in the proposed Provisions to the total gross retail square area, resulting in 500 sf rather than 475. The number of parking spaces incurred still remained the same.

B. revising the total to conform to the method for calculating parking per 16.8.9.4.D: *When determination of the number of parking spaces required results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half is counted as one parking space.*

After considerable discussion regarding the business use change at the October 26, 2017 meeting, the Board voted to return the applicant to the Town Planner and the Code Enforcement Officer as a business use change but not of such an intensity that requires Planning Board purview with the condition that the applicant prior to opening the final project the Wharf come back with a detailed plan for parking for the entire project. Since that time, the applicant has changed the order of the opening of the new businesses with the Bistro now being the final project.

At the December 13, 2018, Planning Board meeting, the Board considered the proposed parking plan. Concerns were raised about the parking calculations relative to the existing and proposed uses, possible shoreland development violations and required parking standards. The Board voted to continue the review to the next meeting and scheduled a site walk for December 27, 2018.

The site walk was held on Thursday, December 27, 2018. A copy of the draft minutes from that site walk is attached to this report.

Staff Review

This staff review has been amended as of Thursday, January 10, 2019. All new comments in this analysis are underlined. Information no longer pertaining to the project is removed by strikethrough (like this).

After the December 13, 2018 meeting staff met with the applicant representatives to address the discrepancies in the parking calculations and try to get a plan that conforms to the Title 16 parking requirements. It was determined at that meeting that the if the applicant could not meet Title 16 parking requirements, they would need to seek relief from those parking standards from the Board of Appeals, as allowed per Section 16.6.4.C.(2). Specifically,

1. Parking landscaping is required for parking areas containing 10 or more spaces and must have at least one tree per eight spaces. Such trees are to be located either within the lot or within five feet of it. In addition, for any parking area having 25 or more spaces at least 10% of the interior of the parking area is to be maintained with landscaping, including trees in plots of at least five feet in width.

2. Where off-street parking for more than six vehicles is required or provided there are certain construction requirements that need to be met (16.8.9.4.K.):
 - a. The surface of driveways, maneuvering areas and parking areas must be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well-compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.
 - b. A system of surface drainage must be provided in such a way that the water runoff does not run over or across any public sidewalk or street or adjacent property. Where catch basins are required, oil traps are to be provided.
 - c. Where artificial lighting is provided, it must be shaded or screened so that no light source is visible from outside the area and its access driveways.

The ordinance does allow, in specific cases of hardship, the Board of Appeals to reduce the requirements for off-street parking where it is clearly demonstrated that such reduction will not detract from neighborhood values, inconvenience the public or increase congestion in the streets, per 16.8.9.4.L. An appeal to the Board of Appeals has been made seeking relief from the above-mentioned standards. **The Board of Appeals met on Tuesday, January 8, 2019, and heard the miscellaneous variation requests from the applicant regarding the parking lot design standards. The results of that meeting are included in the analysis below and attached to the end of this document, which include the Board of Appeals findings of fact.**

The meeting with applicant at the December 27th site walk clarified and addressed a number of the issues outlined below:

1. The spaces next to the Bistro and in front of The View will need to be verified. The parking area has recently been repaved and contains no striping. The existing parking layout does not appear to work for flow through travel to Bellamy Lane. The existing deck / stair structure to the rear of the Bistro building further constricts flow through traffic. The plan needs to show more detailed dimensions to ensure proper clearances are met for public safety. There is also a concern for pedestrian safety due to the proposed traffic flow and the constrained spaces of the development area. The parking spaces in this area have been redesigned with thirteen (13) spaces now shown and a 12-foot-wide travelway in the rear out to Bellamy Lane. The plan has been revised to show signage and surface markings indicating one-way travel.
2. It is noted that at the July 27, 2017 Planning Board meeting, applicant Ann Kendall requested review and approval for a Special Exception use for Provisions retail and Annabelle's take-out ice cream restaurant. The approval required four (4) parking spaces for the uses. The applicant is calculating 2.42 spaces with the current plan. The parking plan has been revised to indicate 3.56 spaces will be provided for the total calculation.
3. Dwelling units. There is a separate structure, a 3-bedroom single-family dwelling that requires 2 parking spaces. The parking plan submitted has a note on the single-family dwelling, "split level, wood framed house (4BR)." There doesn't appear to be permits to convert the 3-bedroom dwelling to a 4 bedroom. This needs clarification. Verification of septic system capacity needs be submitted to the CEO before a Certification of Occupancy can be issued for the apartment in the Bistro building.
4. Per the applicant, the second-floor apartment between the two floors of the Bistro will be **constructed at a later date.** ~~converted to storage only. An application for a change of use is required to convert the second floor to storage. Storage would require one (1) parking space per 500-sf of gross floor area.~~ The submitted parking plan identifies this area as a 115-seat Bistro and

a 2BR apartment. ~~This needs clarification / correction.~~ Code Department is requiring that an “as built” plan for basement, dormers, uses & parking be submitted. **The future dwelling unit does identify the required parking in the parking calculations on the plan. The dwelling unit will require a certificate of occupancy separate from the business uses.**

5. Per 16.9.2.2.A in a Shoreland Overlay Zone cutting of vegetation is prohibited within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere in the Shoreland Overlay Zone, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in the zone. The exterior seating area had previous partial vegetation and partial crushed stone. The entire exterior seating area now has crushed sea shells. The area of vegetation that was removed and replaced with sea shells must be replanted with grass. The area that was previously crushed stone that is now sea shells should have been a request to the Planning Board to keep sea shells in the unvegetated area instead of crushed stone. See aerial photos, attached. The plan has been revised to show 42 seats in the outdoor service area. Restoration of the crushed seashell area to its previous limit must be performed to the satisfaction of Shoreland Resource Officer prior to the opening of the Wharf in the spring.
6. Per 16.8.9.1.E, all traffic flow is to be clearly marked with signs and/or surface directions at all times. The plan has been revised to show signage and surface direction for traffic flow. **The plan proposes a two-way drive aisle for the 90-degree angle parking areas and a one-way exit drive aisle along the parallel parking spaces at the western property boundary.**
7. The parking plans should provide more information relative to off-site impacts, i.e., sight distances along Pepperrell Road, impact upon adjacent access points and intersections like Pepperrell Terrace, turning movements of vehicles entering and existing the site, snow removal and the general condition and capacity of the public streets serving the development. The plans have been revised to show sight distances along Pepperrell Road and a note has been added to the plan for snow removal.
8. Per 16.8.8.1 Stormwater drainage, previously, there were two (2) storm drains existing in the north parking lot. Both drains have been covered up and don't appear to be functioning and/or existing. The plan should reflect stormwater drainage construction consistent with 16.8.8.1 Stormwater Drainage. Hydrologic analysis may be required. In addition, per 16.8.8.2 Post-construction stormwater management, a post stormwater management plan may be required and engineering review. The storm drains are found to be open and no new impervious surfaces are proposed. **The Board of Appeals approved a miscellaneous parking variation of Section 16.8.9.4.K(3) to waive the requirements for additional storm water infrastructure.**
9. **Town Code allows off-site parking subject to approval by the Board of Appeals per 16.8.9.4.J. The applicant is not proposing off-site parking for their required parking space count.**
10. Kittery Department of Public Works submitted two comments on the submitted plans: 1) that the applicant constructs ADA compliant sidewalks on either side of Pepperrell Road along the property lines of the subject parcels and 2) that reflective markers be added to any protrusion into the public right-of-way from buildings or equipment along Bellamy Lane to aid in visibility to vehicles. **The Department of Public Works requests the applicant construct ADA-compliant, raised sidewalks with granite curbs on Pepperrell Road along each frontage of commercial property for the businesses (88 Pepperrell Road) and parking lot (87 Pepperrell Road). Any work within the Pepperrell Road right-of-way will require coordination and permitting through Department of Public Works. The applicant has submitted a written waiver request to not install the sidewalk, per 16.7.4.1.**

11. Archaeological/historical site to the north: Town code section 16.9.2.5.B. requires projects “involving structural development or soil disturbance” to submit to the Maine Historic Preservation Commission for review. Since this project does not involve structural development nor soil disturbance, there is no requirement for MHPC review. Town staff did reach out to MHPC to confirm there were no other issues related to parking in proximity to the Pepperrell Tomb. **Staff has requested that the site engineer investigate the existence of unmarked remains buried beneath the parking lot to determine any impacts to the adjacent historic tomb.**
12. **The parking at Town wharf at the end of Bellamy Lane features parking spaces open to the public and spaces reserved for Town residents. The Town Harbormaster has authority to enforce parking regulations at this location and has issued tickets for those that violate parking regulations. At the December 27, 2018 site walk, the applicant indicated they advise customers and employees not to park in these parking spaces but Staff emphasizes that there are parking spaces available to the general public.**
13. **The Kittery Fire Department has no comments on the parking lot as all portions of the site and businesses are accessible from a public way. The Kittery Fire Chief will continue to coordinate with Code Enforcement staff on necessary inspections to issue certificates of occupancy if the plan is approved and once the applicant has satisfied any applicable conditions.**

Board of Appeals Meeting – Tuesday, January 8, 2019

A public hearing was held on Tuesday, January 8, 2019, by the Board of Appeals to hear the applicant’s request for miscellaneous parking variation on certain parking lot standards contained in the code. The Board of Appeals voted on the following motions:

- **Motion to grant request from 16.8.9.4.G. with condition that arborvitae plantings no shorter than 4’ in height are installed on the eastern and western property lines of the parking lot located at 87 Pepperrell Road. Passed 5-1**
- **Motion to grant request from 16.8.9.4.K.(2) with condition that the existing subgrade and compaction level are to be maintained. Passed 6-0**
- **Motion to grant request from 16.8.9.4.K.(3) Passed 6-0**
- **Motion to grant request from 16.8.9.4.K.(4) with condition that no light spill onto neighboring properties and that fixtures are shaded or screened. Passed 5-1**
- **Motion to grant request from 16.8.9.4.K.(5) with condition that existing pavement is to remain as-is. Passed 6-0**

Staff Recommendation – *updated Thursday, January 10, 2019*

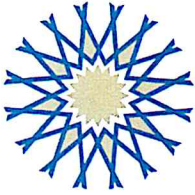
Because the applicant has requested miscellaneous parking variations from the Board of Appeals on various parking lot design, landscaping, and lighting standards, staff is unable to recommend approval of the parking plan as submitted. The Board of Appeals will hear the applicant’s request on Tuesday, January 8th at 6pm at Town Hall. Any decision rendered by the Board of Appeals will be reviewed by staff and presented as an update to this report at the Planning Board meeting on January 10th.

~~If the Planning Board were to approve of the plan as submitted, staff offers the following conditions of approval and provided on the final plan:~~

- ~~1. A split rail fence shall be installed along the length of the parking lot property line adjacent to Pepperrell Terrace.~~
- ~~2. Curb stops must be in place for each parking space and securely anchored in place.~~
- ~~3. Parking signs shall be affixed to the split rail fence to designate each space.~~
- ~~4. Any parking signs placed in the interior of the parking lot must be affixed to a wooden post — no metal sign posts are allowed.~~
- ~~5. The existing street light will be upgraded to an LED cut-off fixture.~~
- ~~6. Any new permanent lighting added will be LED cut-off fixtures with adequate shielding to direct light down and away from adjacent properties.~~
- ~~7. Food and beverage service for The Wharf will be restricted only to the area designated and approved by the Town for outdoor seating.~~
- ~~8. Restoration of the crushed seashell area to its previous limit must be performed to the satisfaction of Shoreland Resource Officer prior to the opening of the Wharf in the spring.~~

Upon consideration of the Board of Appeals decisions and the comments from abutters at the public hearing on Tuesday, January 8, 2019, staff recommends approval of the plan as amended, with the following conditions provided on the final plan:

- 1. A wooden split-rail fence shall be installed along the length of the parking lot property line adjacent to Pepperrell Terrace.**
- 2. Curb stops must be installed for each parking space and securely anchored in place.**
- 3. Parking signs shall be affixed to the split-rail fence to designate each space.**
- 4. The applicant shall construct ADA-compliant, raised sidewalks with granite curbs on Pepperrell Road along each frontage of commercial property for the businesses (88 Pepperrell Road) and parking lot (87 Pepperrell Road), subject to review by the Department of Public Works.**
- 5. Any parking signs placed in the interior of the parking lot must be affixed to a wooden post — no metal sign posts are allowed.**
- 6. The applicant shall work with CMP to install adequate screening or shielding on any existing street pole mounted lights utilized by the businesses. Any new permanent lighting added will be LED cut-off fixtures with adequate shielding to direct light down and away from adjacent properties.**
- 7. Food and beverage service for The Wharf is restricted only to the area designated and approved by the Town for outdoor seating.**
- 8. Restoration of the crushed seashell area to its previous limit must be performed to the satisfaction of Shoreland Resource Officer prior to the opening of the Wharf in the spring.**
- 9. A parking attendant contracted from a professional parking management firm shall be in place from 12 noon to 9:00PM from May 15th to October 1st of each year.**



ATTAR

ENGINEERING, INC

CIVIL ♦ STRUCTURAL ♦ MARINE

Ann Grinnell
Chairman, Planning Board
Adam Causey, Planning Director
Jamie Steffen, Town Planner
P.O. Box 808
Kittery, Maine 03904

January 10, 2019
Project No. C054-18

**RE: Waiver Request
The Bistro, The View, Provisions, Frisbees Wharf
88 Pepperrell Road**

Dear Chair Grinnell, Mr. Causey and Mr. Steffen;

Section 16.7.4.1 of the Kittery Town Code, Title 16 "Land Use and Development" allows the Planning Board to grant waivers when conditions "substantially meet the objectives of the requirements so waived or modified".

Section 16.8.4.13.A specifies "Where required, sidewalks must be installed to meet the minimum requirements as specified in Table 1 of Chapter 16.8. Section 16.8.4.13.B notes that "The position of any sidewalks within the street ROW in relation to pavement surface is to be determined by the Planning Board."

David Rich, Director of DPW has reviewed the Parking Plan for the referenced project and has suggested elevated sidewalks along the northerly and southerly sides of Pepperrell Road along the parcel's frontage and restriping a crosswalk (See the sketch, attached). Currently a concrete sidewalk exists along the northerly side of Pepperrell Road in front of adjacent parcels.

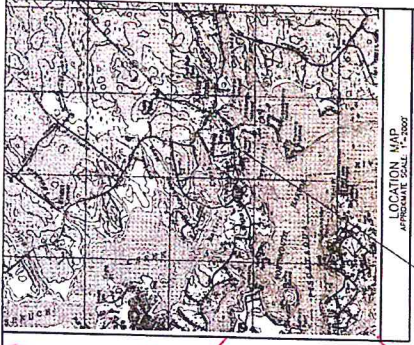
I am respectfully requesting a waiver to install sidewalks along the project's frontage; installing the sidewalk sections as suggested and proposing pavement striping in these areas. The crosswalk will be installed with tactile warning pads as suggested by Mr. Rich. Installing the sidewalk sections will result in 5 different sections with ADA curb ramps; pedestrians accessing the 88 Pepperrell Road venues would then need to ramp up and down 4 times. Also, the addition of these sidewalk sections will result in a hazard to snow plowing operations as they directly abut 2 open parking areas.

Thank you for your consideration; we look forward to discussing this item at the next Planning Board meeting.

Sincerely,

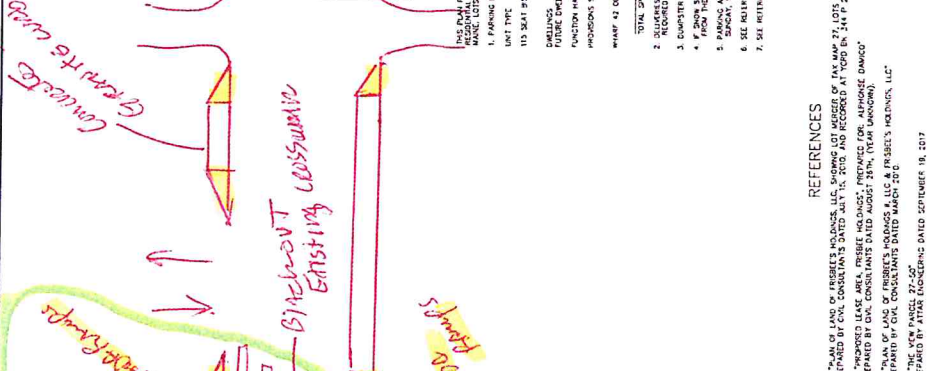
Kenneth A. Wood, P.E.
President

cc: Donna Ryan, Carla Goodknight
The View C054-18 PBoard



GENERAL NOTES
 1. PARKING IS CALCULATED AS FOLLOWS:
 UNIT TYPE NO. OF UNITS/SPACES/STAIR SPACES/STAIRS N/A/NT REQUIRED
 115 SEAT RESTROOM AND CLUB BAR AND 150 SEAT/10 SEAT N/A 115/3 = 35.3
 2. CHAIRS TO BE PROVIDED FOR 115 SEAT/10 SEAT N/A 115/2 = 57.5
 FUTURE EMELING 1 UNIT N/A 2 SPACES/UNIT N/A 2 x 1 = 2
 2 SPACES
 FUNCTION HALL 1 SPACE/100 SF N/A 2000/100 = 20.00
 PROPOSERS STORE AND JET CREAM MAKING 1 SPACE/100 SF N/A 2000/100 = 20.00
 2 SPACES/100 SF N/A
 WHARF AS OUTDOOR SEATS N/A N/A 632/100 = 6.32
 1 SPACE/20 SEATS N/A 42/3 = 14

TOTAL SPACES REQUIRED = NO. UNITS WITH SPACES PROVIDED
 2. BUILDINGS SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS, LEAVING ROOM 101
 3. COMPLETE RECORD SHALL PRESENTLY OCCUR DURING NON-WORKING HOURS
 4. 6" DIA. RISERS ON SITE SHOULD BELOCATED FROM ANY PARKING SPACES THE SIGN SHALL BE RELOCATED FROM THE SITE.
 5. PARKING ATTENDANT TO BE ON-SITE FROM 8:00AM, SAT TO 4:00PM, SUN, THURSDAY THROUGH
 6. SEE REVISIONS 1-3 FOR MODIFICATIONS.
 7. SEE REVISION 4 FOR COVERAGE WITHIN THE SHORTLAND ZONE.



PARKING PLAN
 88 PEPPERELL ROAD (ROUTE 103)
 KITTEER POINT, MAINE

FOR: 1828 PEPPERELL COVE LLC
 88 PEPPERELL RD PO BOX 67
 KITTEER POINT, ME 03905

ATTAR ENGINEERING, INC.
 1828 PEPPERELL COVE LLC, 88 PEPPERELL ROAD, PO BOX 67, KITTEER POINT, ME 03905
 SCALE: AS SHOWN
 DATE: 01/27/2018
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]
 JOB NO.: 03041-15
 DATE OF SET: 01/27/2018
 SHEET 1 OF 1

REFERENCES
 1. PLAN OF LAND OF FRIBBER'S HOLDINGS, LLC, SHOWING LOT 101, 102 & 103, AND RECORDS AT TOP OF 34 P. 26
 2. RECORDS OF CITY OF PEPPERELL DATED JULY 15, 2016, AND RECORDS AT TOP OF 34 P. 26
 3. PLAN OF LAND OF FRIBBER'S HOLDINGS & LLC & FRIBBER'S HOLDINGS, LLC
 4. THE VOW PARCEL 27-50"
 PREPARED BY: ATTAR ENGINEERING DATED SEPTEMBER 16, 2017

NO.	REVISION	DATE	BY
1	ISSUE FOR PERMIT	01/27/2018	[Signature]
2	REVISED PER CITY COMMENTS	01/27/2018	[Signature]
3	REVISED PER CITY COMMENTS	01/27/2018	[Signature]
4	REVISED PER CITY COMMENTS	01/27/2018	[Signature]

OWNER: CHATHAM STREET LLC, 5400 W. W. 03041

ARE THESE ABOVE GROUND?
 MAY NEED MANDATES FOR PLOWING
 TO SEE AT NIGHT.



©2019 Microsoft Corporation | 7/2/2015

FIXTURE TO
BE REPLACED



LED STREET LIGHT

LED Street Light - 240W - Outdoor LED Luminaire Slip Fitter Mount

These lights are the top of the line in quality and price. With LUMILEDs and a Meanwell Driver, the fixtures are guaranteed up to 5 years. The lights produce over 140 lumens per watt and start from 150 watts and can go up to 300 watts. The lights also have adjustable mounting functions which consist of a shoebox, yoke, slip fitter, and typical street light horizontal mount.

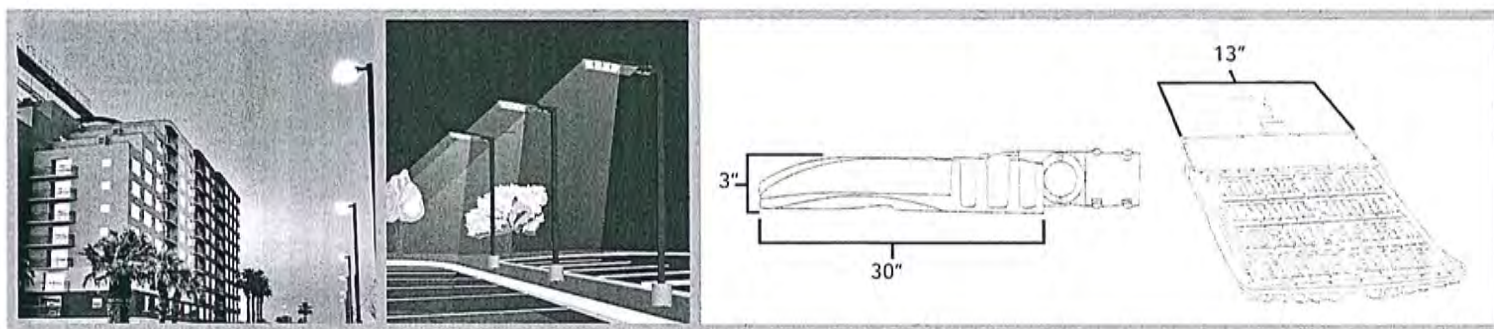
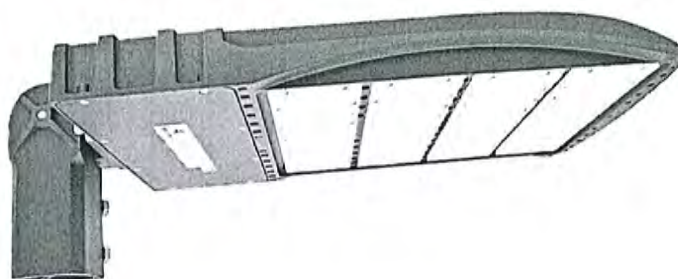
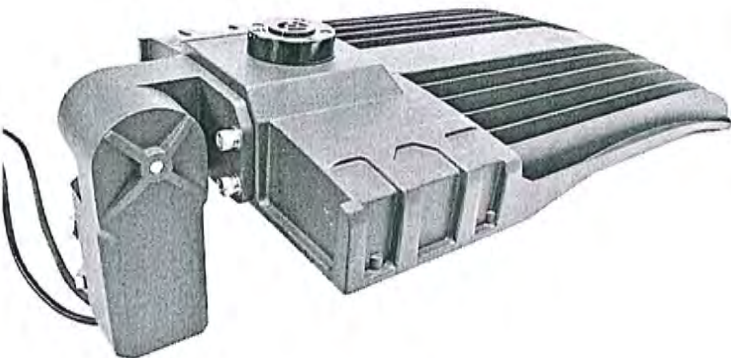
Suitable for use in the following locations:

Ambient Temp: -4°F to 113°F

Wet Locations

WARRANTY

This product has a warranty for a period of 5 years from the date of purchase. The warranty is invalid in the case of improper installation, tampering, or removal of the Q.C. date label. Installation in an improper working environment or installation not according to the current edition of the National Electric Code also invalidates the warranty. Should this product fail during the warranty period, it will be replaced free of charge, subject to correct installation and return of the faulty unit. Greentek Energy Systems does not accept responsibility for any installation costs associated with the replacement of this product. This warranty is in addition to the statutory rights in the country of purchase. Greentek Energy Systems reserves the right to alter specifications without prior notice.



SKU	GT-S240WAT3AMA1	Color	4000K, 5700K	Lifespan	50,000 hours
Certification:	UL (E479499), DLC, CE, FCC	CRI	>72	Weight	20 lbs
Watts	240W	Distribution	Type III	Warranty	5 years
Lumens	34,000 LM (140 lm/w)	Input Voltage	100-277	Power Factor (PF)	>0.9

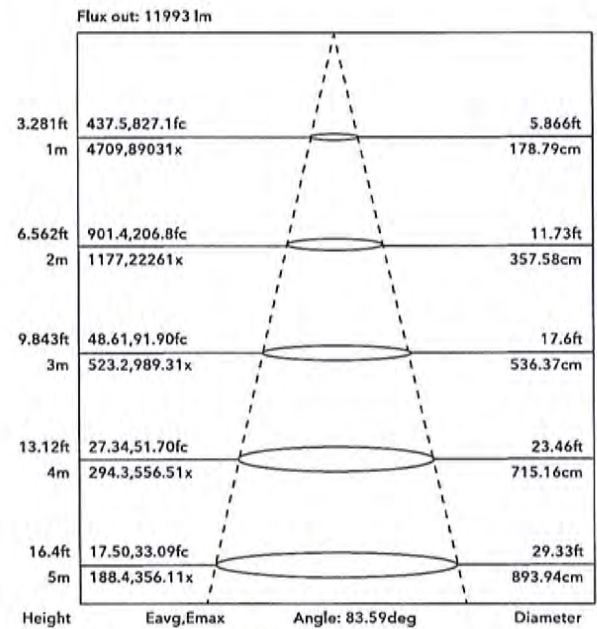
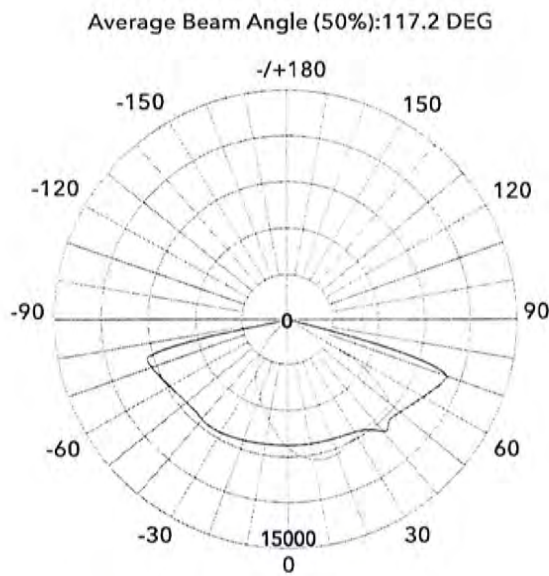
LED STREET LIGHT

LED Street Light - 240W - Outdoor LED Luminaire Slip Fitter Mount

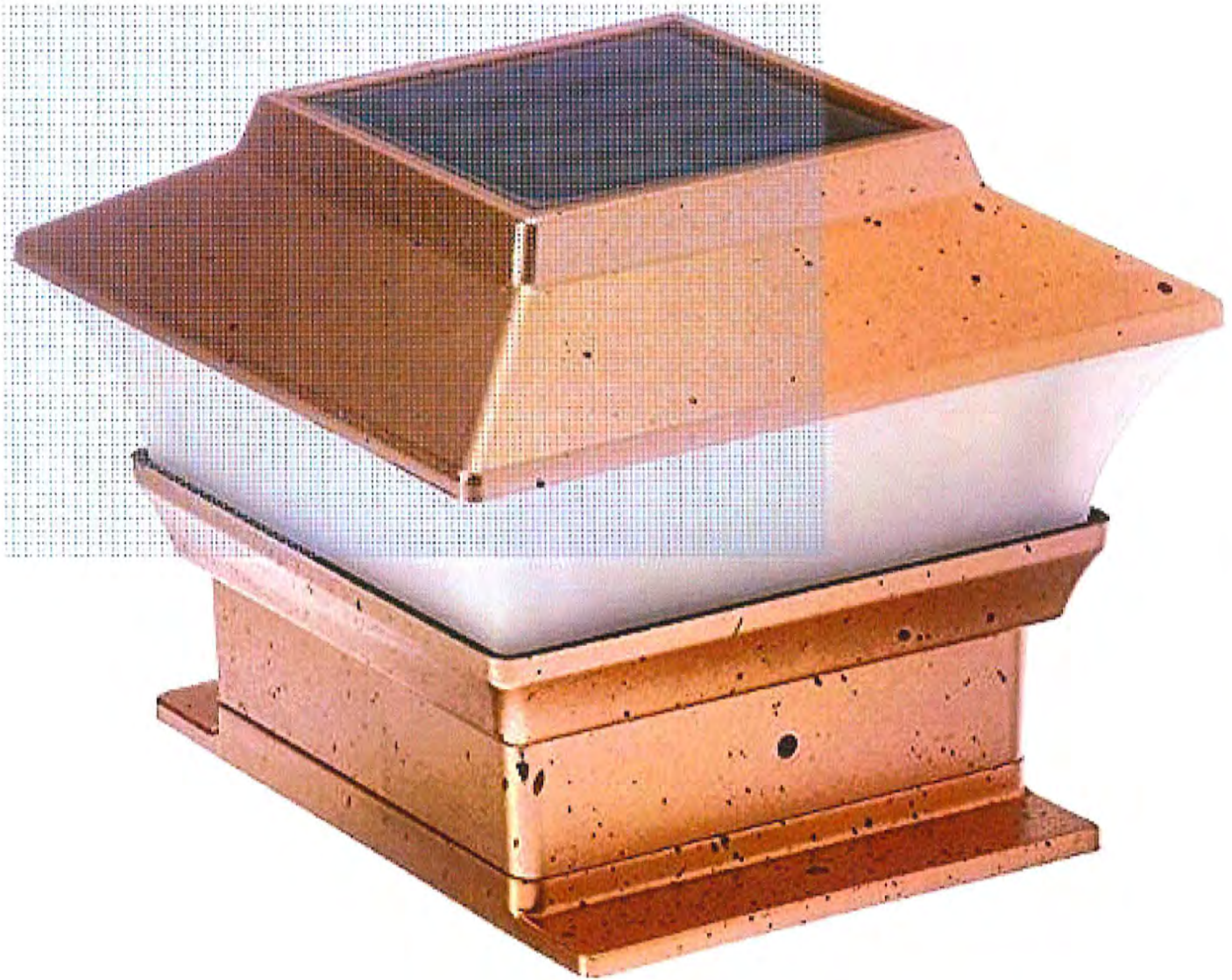
PRODUCT SPECIFICATIONS

Driver	HLG-320H-48B (1-10Vdc Dimmer) - Meanwell Driver	Operating Temperature	-4°F to 113°F
LED Type	LUXEON 3030 2D (1.5W)	Replaces	up to 1000W MH/HPS
LED	PHILIPS LUMILEDS	Dimension	30" x 13" x 3"
Housing	Aluminum Alloy	IP Grade	IP65
Efficacy (Lm/W)	140lm/w	Pole Diameter	2' 3/8"

LUMINOUS INTENSITY DISTRIBUTION DIAGRAM: PHOTOMETRICS

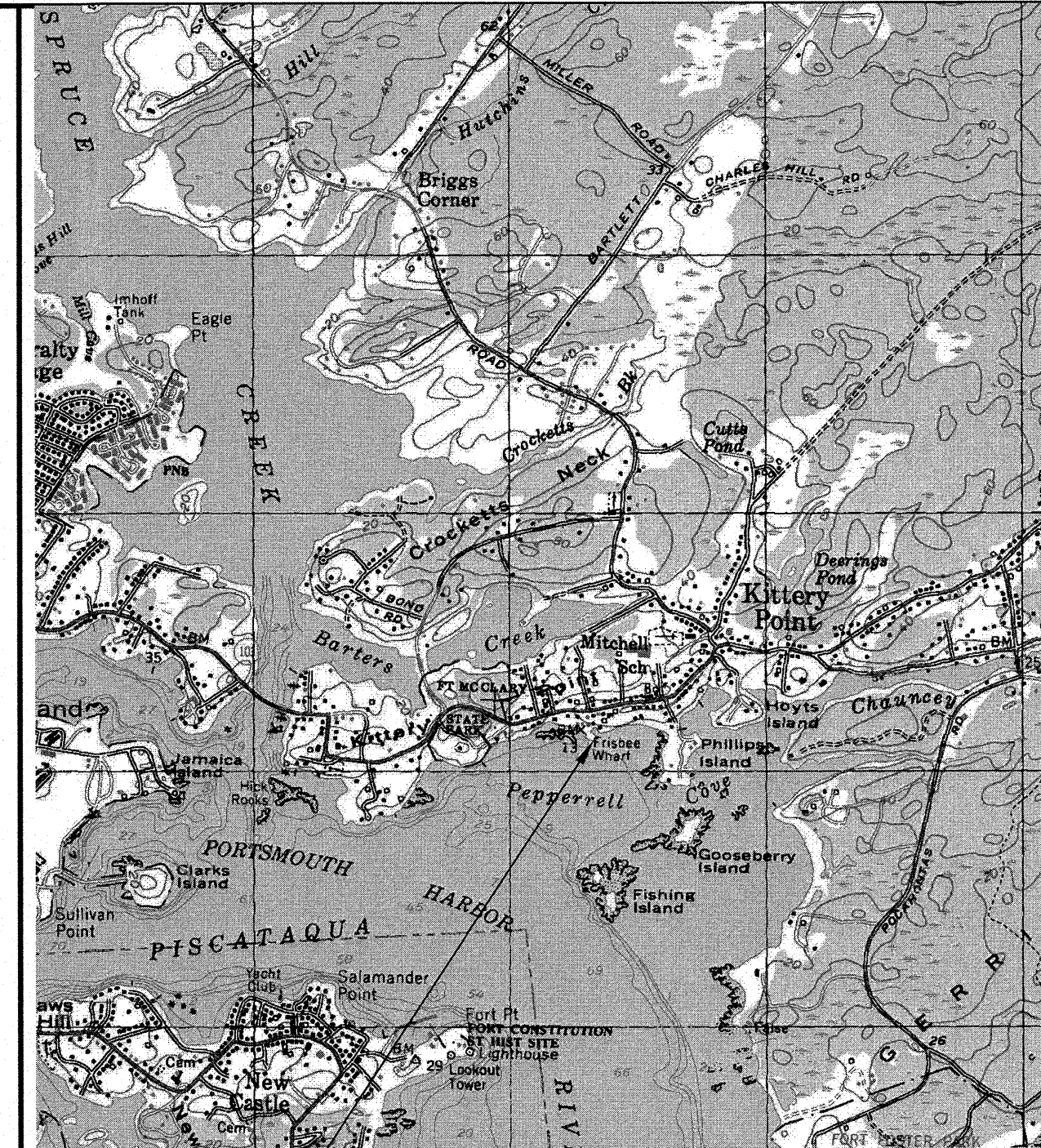
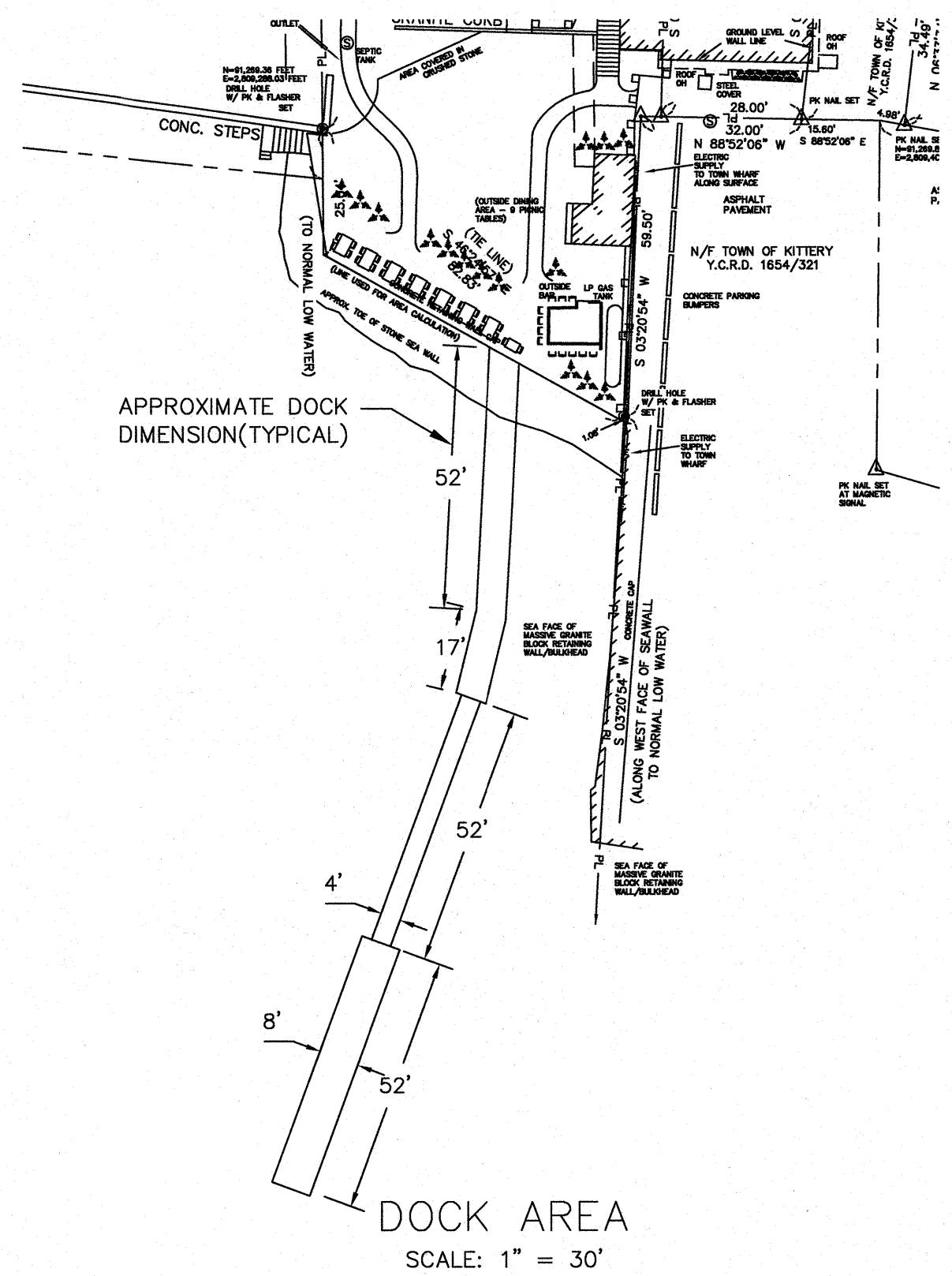
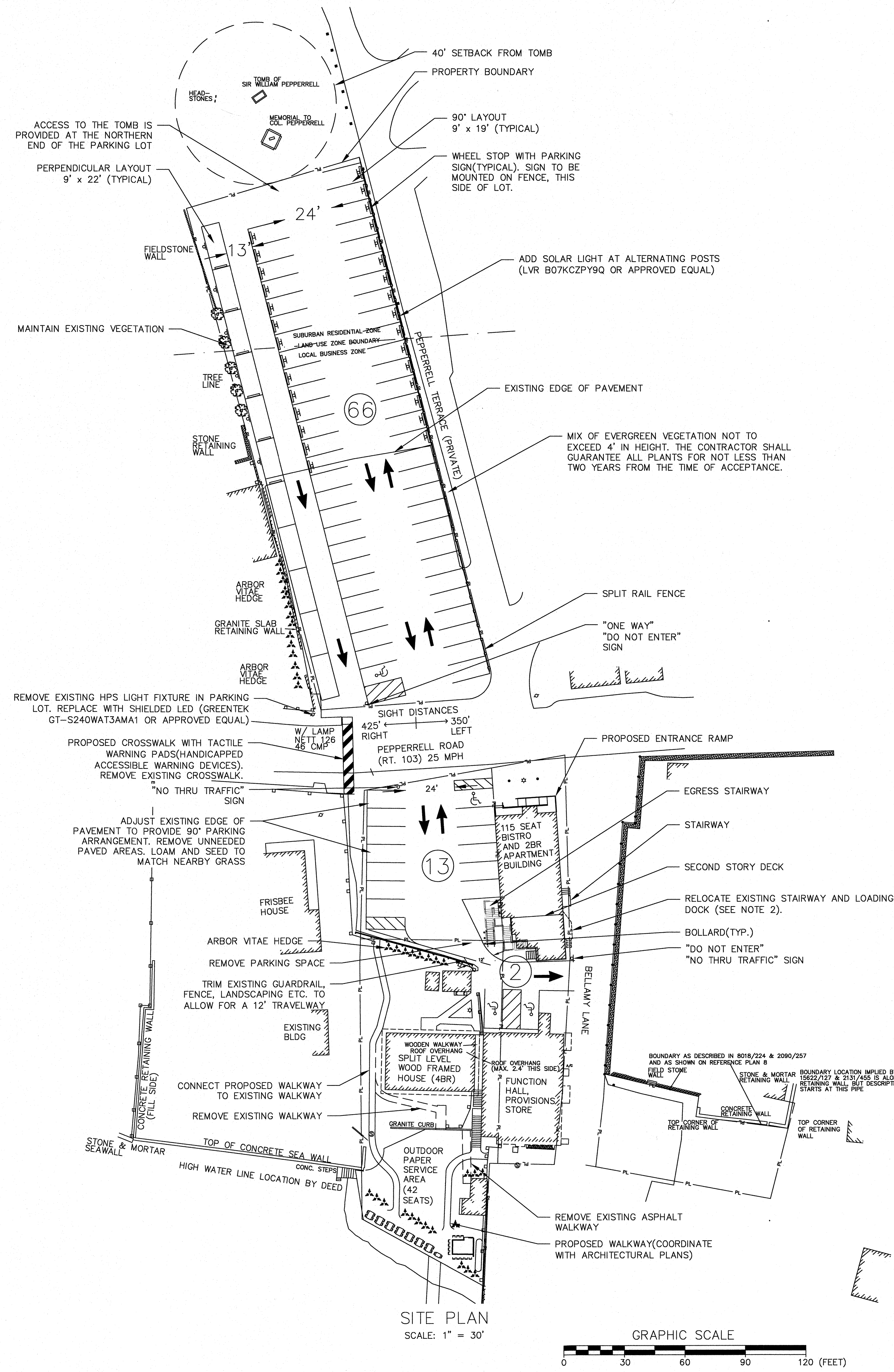
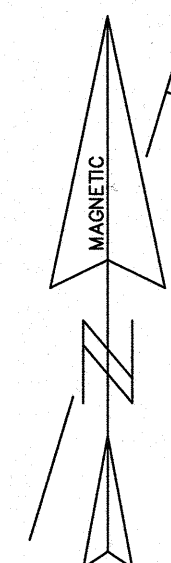


Note: The Curves indicate the illuminated area and the average illumination when the luminaire is at different distance.



[Click image to open expanded view](#)

-
- 1 Ultra Bright White LED. Last up to 100,000 hours. Pre-installed Rechargeable AA Battery, Last up to 2 Years Before Replacing.
 - Automatic Sensor Activates at Dusk with NEW and IMPROVED Solar Panel for Superior Charging Performance
 - Weatherproof – Designed to Protect the Lights from Natural Elements. Easy to Install. No Wiring Required. All Fence Post Attachments and Parts are Included.
 - Dimensions: 5.75" (L) x 5.75" (W) x 4.5" (H). Base Dimensions: 4" (L) x 4" (W).
 - Post Size Fitting: For Wood Posts (Nominal 4" x 4") or Composite Posts ONLY. The Post Size Must Be SMALLER Than 3-13/16" Square. The Bottom Opening of the Post Cap which Fits over the Top of the Post is Exactly 3-13/16" x 3-13/16". These Post Caps are NOT designed for Plastic, Vinyl, or PVC posts. (Tips: Please Measure your Posts before Purchase)



LOCATION MAP
APPROXIMATE SCALE: 1"=2000'

GENERAL NOTES

- THIS PLAN PROVIDES A PARKING LAYOUT IN BOTH THE SUBURBAN RESIDENTIAL AND LOCAL BUSINESS ZONES AT 88 PEPPERRELL ROAD, KITTERY, MAINE. LOTS ARE LOCATED ON TAX MAP 27 LOTS 2A AND 49
1. PARKING IS CALCULATED AS FOLLOWS:
- | UNIT TYPE | NO. OF UNITS./SF | SPACES/UNIT | SF/UNIT | REQUIRED |
|---|-------------------|-----------------|------------|-------------------|
| 115 SEAT BISTRO AND SKI CLUB BAR AND DECK | N/A | 1 SPACE/3 SEATS | N/A | 115/3 = 38.3 |
| DWELLINGS | 1 UNIT | 2 SPACES/ UNIT | N/A | 2 x 1 = 2 |
| FUTURE DWELLING | 1 UNIT | 2 SPACES | N/A | 2 x 1 = 2 |
| FUNCTION HALL | 1 SPACE/ 100 S.F. | N/A | 2,093 S.F. | 2,093/100 = 20.93 |
| PROVISIONS STORE AND ICE CREAM WINDOW | 1 SPACE/ 175 S.F. | N/A | N/A | 623/175 = 3.56 |
| WHARF 42 OUTDOOR SEATS | N/A | 1 SPACE/3 SEATS | N/A | 42/3 = 14 |
- TOTAL SPACES REQUIRED = 80.79(81) WITH 81 SPACES PROVIDED
2. DELIVERIES SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS. LOADING DOCK NOT REQUIRED IN THIS DISTRICT.
3. DUMPSTER REMOVAL SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS.
4. IF SNOW STORED ON SITE SHOULD BLOCK ANY PARKING SPACES THE SNOW SHALL BE REMOVED FROM THE SITE.
5. PARKING ATTENDANT TO BE ON-SITE FROM MEMORIAL DAY TO LABOR DAY, THURSDAY THROUGH SUNDAY, 12 P.M. TO 7 P.M.
6. SEE REFERENCES 1-3 FOR MONUMENTATION.
7. SEE REFERENCE 4 FOR COVERAGE WITHIN THE SHORELAND ZONE.

REFERENCES

- "PLAN OF LAND OF FRISBEE'S HOLDINGS, LLC, SHOWING LOT MERGER OF TAX MAP 27, LOTS 49, 50 & 51A" PREPARED BY CIVIL CONSULTANTS DATED JULY 15, 2010, AND RECORDED AT YCRD BK 344 P 28.
- "PROPOSED LEASE AREA, FRISBEE HOLDINGS", PREPARED FOR: ALPHONSE DAMICO" PREPARED BY CIVIL CONSULTANTS DATED AUGUST 26TH, (YEAR UNKNOWN).
- "PLAN OF LAND OF FRISBEE'S HOLDINGS II, LLC & FRISBEE'S HOLDINGS, LLC" PREPARED BY CIVIL CONSULTANTS DATED MARCH 2010.
- "THE VIEW PARCEL 27-50" PREPARED BY ATTAR ENGINEERING DATED SEPTEMBER 19, 2017

LEGEND	
PROPERTY LINE	PL
EXT. BUILDING	[Hatched Box]

OWNER: CHATHAM STREET LLC
5 MILANO DRIVE
SAUGUS, MA 01906

PARKING PLAN
PARKING LAYOUT
88 PEPPERRELL ROAD (ROUTE 103)
KITTERY POINT, MAINE

FOR: 1828 PEPPERRELL COVE LLC
88 PEPPERRELL RD PO BOX 67
KITTERY POINT, ME 03905

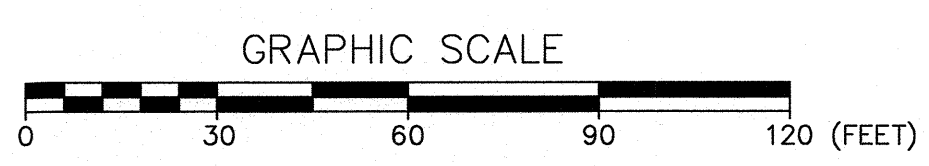
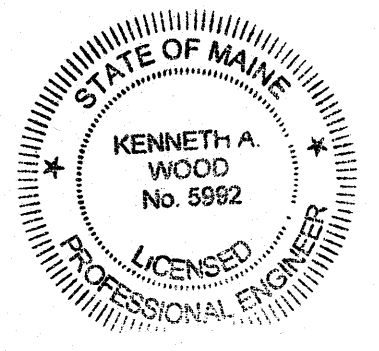
ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 30'
DATE: 6/28/2018
JOB NO: C054-18

APPROVED BY: [Signature]
DRAWN BY: BRN
REVISION : DATE
E:01/10/2019

FILE: THE VIEW PARKING PLAN.DWG
SHEET 1 OF 1

NO.	DESCRIPTION	DATE
E	PLANNING REVIEW	01/10/2019
D	SITE REVIEW	12/27/2018
C	BUILDING CHANGES	12/24/2018
B	PARKING CHANGES	11/27/2018
A	PARKING CHANGES	10/24/2018
NO.	DESCRIPTION	DATE



SITE PLAN
SCALE: 1" = 30'

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:

Finding: The Planning Board made a positive finding on Criteria 1-10 with all of the criteria appearing to be met.

Vote of 6 in favor 0 against 0 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 subject to any conditions or waivers, as follows:

Waivers: None

Conditions of Approval (to be included 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. A replanting plan conforming to 16.9.2.2 will need to be approved by the Shoreland Resource Officer and/or the Code Enforcement Office prior to any excavation work.
4. All Notices to Applicant contained herein (Findings of Fact dated 12/13/18).

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

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 on final Mylar.

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

Vote of 6 in favor 0 against 0 abstaining

ITEM 1 – 88 Pepperrell Road – The Bistro – Parking Plan Review for Business Use Change

Action: Approve or deny plan. Owner, Chatham Street, LLC, and applicant, Ann Kendall are establishing a new business entity in an existing facility, where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lot 49) in the Business Local (B-L) and Shoreland Overlay (OZ-SL-250') Zones.

Adam Causey, Director of Planning and Development, discussed the redevelopment effort on this property consisting of four businesses; The View, The Wharf, and Provisions which have all received approvals for building permits and certificates of occupancy and are currently in operation. On October 26, 2017 there was a vote for the applicant to return with its fourth use to finalize the parking plan that would meet the requirements for every use in operation.

A site walk was done on December 27, 2018, and members of the staff, public, planning board and board of appeals were in attendance, minutes of the site walk were provided for reference. It is being discussed with the applicant that the amount of parking they are requesting to satisfy the needs for each use, with the current calculations, is met in their plan but that plan is not sufficient in meeting the requirements in the code for parking lots with regard to landscaping, pavement, buffering, and a host of things that must be met when building out a parking lot and increasing the number of spaces.

The applicant was sent to the Board of Appeals to see if there was an option to allow for a parking miscellaneous variation request for parking standards. A draft notice of decision from the Board of Appeals was provided to Planning Board members and was reviewed in length including changes that have occurred since the draft was submitted. (A draft copy of the Board of Appeals notice of decisions has been submitted into record)

Ken Wood, Attar Engineering, spoke on behalf of the applicants. He stated that the Board of Appeals approved the five waivers in support of what both abutters and applicants were looking for in that the lot remained as is with a few improvements. Mr. Wood presented the revised plan with the waiver requests as a result of the Board of Appeals meeting with the minor adjustments, dated 01/10/2019. The changes included:

- the addition of the dock on the waterfront, with the dimensions of dock including floats;
- CMP's recommendation of a 250 watt, high pressure sodium fixture facing down illuminating the parking lot;
- the sidewalk was straightened out as suggested by Dave Rich, Public Works Commissioner, and now runs perpendicular to Pepperrell Road.

Mr. Wood spoke on the suspected tomb of slave remains under the gravel parking lot and stated the tombs were a supposed 40 feet away where nothing could be disturbed within that distance. Mr. Wood continued conversation regarding the suggestion of having a parking lot attendant onsite when the businesses are in use. He asked the board to consider two things:

1. That the plan being submitted meets the ordinance requirements and believes from his experience that any project that met the ordinance did not require an attendant;
2. Suggested instead that a parking lot attendant be provided by the applicants when all three of the public venues are in operation or when The View (the function facility) has an event that has 75 or more people in attendance.

The applicants submitted a waiver request for sidewalks, justification for the waiver was written into the request. Dave Rich, Public Works Commissioner, suggested five sections of sidewalks on both sides of Pepperrell Road which was submitted in the memo along with the waiver. Mr. Wood does not believe the sidewalks are necessary and thinks it would be an engineering disaster. Mr. Wood & Mr. Rich agreed to remove the crosswalk near the Kittery Point Post Office and placed it into position as suggested by Mr. Rich.

Chair Grinnell, stated that it was her understanding that a conditional approval does not pass as an approval for a Certificate of Occupancy, allowing the business to open. Adam Causey, Director of Planning and Development, clarified what was agreed to with a conditional approval. He stated that due to seasonal conditions the applicants would not be able to meet certain conditions, but the Planning Board can place time restraints on those conditions that would allow the applicants to meet those conditions at a later date. The applicants would then agree to finalize those conditions set forth in the conditional approval allowing for a Certificate of Occupancy to be signed off on.

Mr. White gave his suggestion that dependent upon the season, weather and construction realities they would ask the applicants for a reasonable timeframe for them to meet the conditions for things such as plantings and for them to be put into place at those dates set by the conditional approval.

Chair Grinnell agreed stating they could put a date certain on things.

Mr. Fitch asked a couple questions: 1) Was there a particular reason that the applicant had a handicap or ADA parking spot on the parking lot as opposed to up against the restaurant? Mr. Wood answered saying that he felt it was a more central location to

access each business. Mr. Fitch suggested it would alleviate concerns and the necessity for the ADA ramps and sidewalks; 2) In the waiver were they proposing any sidewalks in front of the Bistro. Mr. Wood stated no, but they are more than agreeable to stripe it.

Mr. Ledgett asked about the curb stops and why they were in the unpaved portion of the parking lot, but not in the paved portion. His concerns laid with the exit passage way of the parking lot where he felt having curb stops would assist in not allowing a vehicle to obstruct the passage way. Mr. Wood agreed that in retrospect they should have the curb stops there allowing for back passage out of the parking lot.

Vice Chair Kalmar asked to place a condition on the applicants' waiver request for sidewalks to have Mr. Rich, sign off and approve their plan. Mr. Wood agreed. Karen Kalmar restated that she would prefer to see him submit a plan and have Mr. Rich sign off on it. Mr. Wood said that would be satisfactory.

Mr. Ledgett spoke to the recommendations made by staff, Mr. Causey, under number four and asked Mr. Causey to comment. Mr. Causey stated that his recommendations were made after speaking with Mr. Rich. Mr. Causey gave his opinion that when commercial development happens that it come with new infrastructure, and it is his recommendation and opinion that the sidewalks be addressed.

Earledean Wells commented regarding the staff notes that two drains in the parking lot had been covered and were unknown to be draining, and that the applicants intended to store snow on site and wanted clarity as to where they were planning to store snow. Mr. Wood stated the drain is working and that snow would be in the parking lot or they would be able to transport offsite.

PUBLIC COMMENT:

- (1) Durward Parkinson, representing Driscoll Realty Inc., an abutter to the project, agreed that the landscaping could start between the two zoning districts and wrap up around the gravesite area. They would like to see a parking lot attendant on site, but would like the time changed from 12-7 to 12-8, and have the attendant be available through to Columbus Day weekend. They would also like to see a police officer available for events with 100 people or more. Last was a condition for the applicant to provide offsite parking when all venues are open. They would like to see these suggestions written into the applicants' plan.

- (2) Clint Reed, 4 Pepperrell Terrace, spoke regarding plantings being stated as arborvitae which moved to evergreens with a minimum of four foot, and a maximum of six foot. He would like to see plantings that are done tastefully that will allow for visibility and access to the tomb.
- (3) Jim McPherson, member of the Board of Wood Island, spoke on behalf of the character of the applicants, thanking them for what they are doing for the community and enriching the town. He spoke of their generosity in feeding over 60 National Guardsmen who were working on Wood Island.
- (4) Tom Philbrook, 27 Cutts Island Lane, spoke regarding what he felt was being overlooked, which is the congestion on the Town wharf. He was concerned with residents who were parking down at the town dock to access the venues. He thought there should be some stipulations and that the owner should be more proactive in curbing customer parking down at the dock.
- (5) Nikolas Franks, 72 Foyes Lane, said how great of an opportunity it has been to be able to walk down to the Wharf with his family and enjoy the area and is thankful to have the opportunity.
- (6) Wendy Turner, 621 Haley Road, representing Elizabeth Segers, an abutter to the project, asked to not plant arborvitae along the parking lot as she does not see it needed and instead to place them on Mrs. Segers property between the fence and the bollards to help block noise from the parking lot. The applicants have agreed to assist in the planting on Mrs. Segers property, she believed it is placed wrong on the plan and asked them to consider placing it over by the post office and not in front of people's private homes.

End of Public Comment

Vice Chair Kalmar asked a question of staff regarding the Planning Board having the authority to change a Board of Appeals decision which specifically called out arborvitae in a certain location. Mr. Causey stated, no, the Planning Board cannot preempt the Board of Appeals. He clarified that the Board of Appeals condition was only of location and not of the specificity of the number or density. Mr. Causey stated that it was only the intent of the Board of Appeals to protect the abutters with plantings that would offer some buffering. He asked the Planning Board to permit him to reach out to April Timko on the Board of Appeals to discuss what actions might be available to change the condition of the arborvitae. The Planning Board agreed and asked Mr. Causey to contact Ms. Timko to discuss options.

Chair Grinnell asked if the Board of Appeals conditions were going to be added to the plan. Mr. Causey answered that it was not stipulated at the meeting but he thought it was a good idea to place all conditions on the plan.

Chair Grinnell stated that there are things she would like to see included on the plan. On the parking lot by the post office she would like to see the plan read "wooden split rail fence". On the staircase coming down from second story of bistro she would like signage at the top and bottom that it is only egress. She would like to add on the plan that no portable lighting will be allowed on the site, ever.

Chair Grinnell requested discussion and a vote on the waiver request for the sidewalks. She suggested to move forward with casting a vote for having the plan, set forth by the DPW, and be put into the final plan for the applicant. Mr. Wood said that he would as submit a plan to the Public Works Commissioner for approval.

Vice Chair Kalmar moved to deny the applicants waiver request for sidewalks. Seconded by Mr. Ledgett. : 6 in favor 0 opposed. The waiver request was denied.

Curb stops were agreed to be placed on all parking spots except the parallel spaces in the paved portion.

It was requested that the applicants submit a landscape design for consideration by the Board of Appeals.

The Planning Board moved forward with voting on the conditions on page 6.

#4 was replaced with. The applicant shall design and construct pedestrian improvements subject to DPW review and approval. Vice Chair Kalmar moved to approve condition #4 as modified by the Director of Planning and Development. Seconded by Mr. White. 6 in favor 0 opposed.

#1 was approved as shown on the plan

#2 The Board voted that curb stops be placed and anchored in all parking spots except for the parallel spaces in the paved portion of the lot located at 87 Pepperrell. Chair Grinnell moved and Mr. Ledgett seconded. 6 ayes. Condition was approved.

#3 was approved as shown on the plan.

#5 any parking signs place on the interior parking lot must be affixed on a wooden post, no metal posts were allowed. Moved by Chair Grinnell seconded by Mr. Ledgett. 6 ayes. Condition was approved.

#6 was moved to remove LED from the condition. Moved by Ann Grinnell. Seconded by Mr. Ledgett. 6 ayes. Condition was approved.

#7 was amended to read, food and beverage service for the Wharf is restricted to the area designated in the approved liquor license. Moved by Mr. White, seconded by Vice Chair Kalmar. 5 ayes 1 no (Chair Grinnell)

#8 approved on the plan.

#9 motion was made to amend it to include, a parking management plan shall be developed in conjunction with staff which will be reviewed annually, and certified as to compliance, by April 1st of every year.

Mr. Ledgett moved to extend the meeting by 10 minutes. Seconded by Russell White. All in favor. 6 ayes.

#10 was approved as shown on the plan.

Vice Chair Kalmar, proposed a motion that the land owner and applicant shall employ qualified professionals, using minimally disruptive techniques to determine whether unmarked grave sites exist in close proximity to the gravel portion of the parking area, tax map 27-2A. Seconded by Chair Grinnell.

Applicants agreed and stated they are willing to commit to a phase-1 archeological survey within the next year.

Mr. White motioned to approve the parking plan with a revision date of January 10, 2019 as it abides by the conditions discussed and voted on by the Planning Board. Seconded by Mr. Ledgett.

Vote of 5 in favor 1 (Chair Grinnell) against 0 abstaining

ITEM 8 – Board Member Items/Discussion

A. Election of Officers postponed until the January 10, 2019 meeting.



TOWN OF KITTERY, MAINE

200 Rogers Road – Kittery, ME 03904

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KITTERY BOARD OF APPEALS

January 15, 2019

Chatham Street, LLC
5 Milano Drive
Saugus, MA 01906

Ann Kendall
P.O. Box 67
Kittery, ME 03904

Dear Chatham Street, LLC & Ann Kendall,

Your application requesting variations regarding off-street parking standards in Land Use Code Section 16.8.9.4. & through subsections G & K, located at 88 Pepperrell Road, in the Business-Local & Shoreland Overlay zones, was heard Tuesday evening, January 8, 2019.

Motions were made as follows:

- Motion to grant request from 16.8.9.4.G. with condition that arborvitae plantings no shorter than 4' in height are installed along the eastern and western property lines of the parking lot located at 87 Pepperrell Road.
Passed 5-1 (*Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones; No: Gardner*)
- Motion to grant request from 16.8.9.4.K.(2) with condition that the existing subgrade and compaction level are to be maintained.
Passed 6-0 (*Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner*)
- Motion to grant request from 16.8.9.4.K.(3)
Passed 6-0 (*Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner*)
- Motion to grant request from 16.8.9.4.K.(4) with condition that any lighting plan be approved by the Planning Board.
Passed 5-1 (*Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones; No: Gardner*)

- Motion to grant request from 16.8.9.4.K.(5) with condition that existing pavement is to remain as-is.
Passed 6-0 (*Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner*)

FINDINGS OF FACT

- Chatham Street, LLC, Owner, Ann Kendall, applicant, for business located 88 Pepperrell Road. Property is located in the Business-Local & Shoreland Overlay zones.
- Requesting variation regarding off-street parking standards in Land Use Code Section 16.8.9.4 and through subsections G & K.
- The applicant gave a presentation about the reasons they were seeking relief including a description of a specific hardship that would be caused to the applicant by strict enforcement of the requirements.
- There were a number of members of the public speak, largely in favor of the overall proposal, however, raising some concerns and requesting certain conditions.
- There would be a negative impact to the environment by requiring paving of the parking lot and potentially could be negative impacts based on the decisions around lighting.
- There are no safety issues associated with granting these particular requests for relief.
- There are no current violations for this property.

The Board moved to accept the Findings of Fact.

Motion passes 6-0 (*Aye: Denault, Fitzpatrick, Timko, Leontakianakos, Dwyer-Jones, Gardner*)

CONCLUSIONS OF LAW

The Board has the authority to hear this Miscellaneous Variation Request pursuant to Title 16.6.4.C.2. In addition, the Board considered the basis for decision the conditions set fourth in 16.6.6.A & also considered the factors for consideration in making its determination set forth in 16.6.6.B, inclusive.

The Board determined specifically that due to the size and layout of the existing lot, meeting the particular landscaping requirements set forth in 16.8.9.4.G would cause a loss of required parking, create additional issues with congestion in the area, and could impact the historic nature of the parking lot and the grave site to the north of the lot. The Board determined that waiving the particular requirements of landscaping was appropriate but did include requirements that evergreen plantings be placed on the east and west borders of the lot located at 87 Pepperrell Road.

Related to sections 16.8.9.4.K, the applicant withdrew their request for relief relative to subsection 1. Relative to subsection 2., the Board found, considering the factors set forth in the basis for decision in 16.6.6.A & 16.6.6.B, that the requests to section K.2-5 were appropriately granted with the condition for section K.4. that the lighting plan be approved by the Planning Board.

This approval is not the granting of a building/regulated activity permit, and any aggrieved party may appeal this decision to Superior Court within 45 days.

Signed by:

A handwritten signature in blue ink, appearing to be "April 12" followed by a stylized flourish.

Board of Appeals, Town of Kittery

From: [debi](#)
To: [Stephen Wilson](#); jeffbrake@comcast.net; apriltimko@gmail.com
Cc: [Adam Causey](#); [Shelly Bishop](#); annhgrinnell@icloud.com; karen@kalhill.com
Subject: Request for Reconsideration by Kittery Board of Appeals of January 8, 2019
Date: Thursday, January 17, 2019 4:40:01 PM

Dear Steve, C.E.O. and Kittery Board of Appeals,

I would like to formally request a motion for reconsideration of the landscaping around the parking lot for 87-88 Pepperrell Road project heard by the Board of Appeals on January 8, 2019.

We, myself and the other abutters listed below, would like to request the Board of Appeals reconsider their condition of approval for plantings around the parking lot at 87 Pepperrell Road to state the following, *that neighbor's parking lot planting requests be represented on the final plan.*

There were inconsistencies between the Board of Appeals findings and the Planning Boards findings on the landscaping issue, such as, type of plantings, how many and where they will be planted. We do not feel this represents what we were asking for.

Since these plantings will likely not be planted until Spring. We would ask that the applicant or their representative meet with the abutters and come up with an agreed upon list of plantings and where they will be planted.

It should also be noted that the abutters on Pepperrell Terrace do not feel the plantings need to go along the entire length of the east side of the parking lot, which is a benefit to the applicant. We would however like to see plantings along the east side of the "Pepperrell Tomb" lot, which the applicant is responsible for maintaining. The deed recorded in Book 1450 page 577 states in part, "This conveyance is made upon the express condition that said Grantee, his heirs and assigns will keep the Pepperrell Tomb, situated northerly of the within granted premises, in repair and see that the remaining land of said Tomb Lot is properly mowed and ornamented with suitable trees and shrubbery."

The fence that used to run along the east side of Pepperrell Terrace ran from a large hemlock tree where the tomb lot meets 9 Pepperrell Terrace down to the Pepperrell Terrace, Private Way sign.

The west side of the parking lot has a fair amount of vegetation already and I believe they were looking for a fence to keep parking lot debris and people from falling onto their property.

To make this more clear you may want to schedule a site walk or visit the site prior to the next meeting.

Please let us know if this request for reconsideration regarding plantings

will be considered and next steps.

The following abutters were present at the January 8, 2019 public hearing and are in support of this request:

Craig Gossard, 2 Pepperrell Terrace

Clint Reed, 4 Pepperrell Terrace

Kelly Philbook, 8 Pepperrell Terrace

Debbie Driscoll Davis, 9 Pepperrell Terrace

Durward Parkinson, representing Driscoll Realty, Inc., 10 Pepperrell Terrace

Nanci Lovett, 11 Pepperrell Terrace

Thank you for your consideration,

Debbie Driscoll Davis

9 Pepperrell Terrace

Kittery Point, Maine

(207)439-0449 h

(207)451-4021 c

MEETING MINUTES

1. CALL TO ORDER; INTRODUCTORY; ROLL CALL

Chair Jeff Brake called the meeting to order at 6:30PM and asked that the roll be called.

Board Members Present: Jeff Brake; Charles Denault III; Louis Leontakianakos; April Timko; Vern Gardner; Suzanne Dwyer-Jones

Board Members Absent: Barry Fitzpatrick

Staff Present: Adam Causey, Planning & Development Department Director

2. PLEDGE OF ALLEGIANCE

3. AGENDA AMENDMENT AND ADOPTION

4. EXECUTIVE SESSION – None held.

5. PUBLIC HEARINGS

- a. **Pamela Gray, Owner, 35 Sterling Road, Urban Residential zone, requesting Miscellaneous Variation Request to the terms of 16.3.2.4.D., seeking relief on the side yard setback for a mobile home.**

Adam Causey presented for the Town, and read from the prepared staff report. Pamela Gray, the owner, presented her request. Karen Benoit, an abutter to the property, rose to ask questions of the Board.

Motion by Charles Denault to approve the Miscellaneous Variation Request for 35 Sterling Road. Second by Louis Leontakianakos. Motion carried 5-0-1 by roll call vote. [Aye: Brake, Leontakianakos, Timko, Denault, Dwyer-Jones; No: ; Abstain: Gardner]

April Timko read the Findings of Fact and the Conclusions of Law into the record.

6. UNFINISHED BUSINESS – None

7. NEW BUSINESS

- a. **VOTE TO RECONSIDER – MISCELLANEOUS VARIATION REQUEST GRANTED JANUARY 8, 2019, 88 PEPPERRELL ROAD**

Since Chair Jeff Brake was not in attendance at the January 8 BOA meeting, he turned the gavel over to April Timko, who presided over that meeting.

Adam Causey, Director of Planning & Development, began by explaining that staff received a request via email from an abutter for the Board of Appeals to reconsider a previous decision concerning a Miscellaneous Variation Request granted on January 8, 2019, for the property at 87/88 Pepperrell Road. Mr. Causey said a reconsideration is a two-step process. First, the Board must vote whether to reconsider the previous decision. Per the Board's by-laws, a motion for reconsideration must be moved by a member who voted on the prevailing side on the original motion, which would be a member present on January 8, 2019 that voted in favor of granting the miscellaneous variation for landscaping standards. If the Board votes to reconsider at this meeting, the second part of the process would be to schedule a public hearing for the reconsideration at a future Board of Appeals meeting, at which time staff will properly notice the public, abutters, and any who spoke at the January 8, 2019 meeting. Board members discussed the process of reconsideration, what changes to the landscape plan are necessary, and whether reconsideration would involve members of the public who attended the January meeting. Mr. Causey stated that after the January meeting, the abutters and the developer met to discuss more specific landscape plantings that could satisfy neighbors' concerns. Staff is awaiting an updated landscape plan that would include the changes that the abutters are requesting.

Motion by Vern Gardner to annul or rescind the granting of all motions of January 8, 2019. Second by Charles Denault. Motion failed 1-4-1 by roll call vote. [Aye: Gardner; Nay: Leontakianakos, Timko, Denault, Dwyer-Jones Gardner; Abstain: Brake]

April Timko asked if any members of the public wanted to address the Board. Debbie Driscoll, 9 Pepperrell Terrace, and Clinton Reed, 4 Pepperrell Terrace, gave comments on the revised landscape plan. Debbie Driscoll asked that her request for a vote to reconsider be withdrawn. The Board took no further action.

b. ELECT NEW OFFICERS

Chair Jeff Brake opened the floor to nominations for Chair, Vice Chair, and Secretary.

Motion by Suzanne Dwyer-Jones to postpone this item to the next meeting. Second by Charles Denault. Motion carried 5-0-1 by voice vote. [Aye: Brake, Leontakianakos, Timko, Denault, Dwyer-Jones; Nay: ; Abstain: Gardner]

8. ACCEPTANCE OF PREVIOUS MINUTES - 1/9/18, 2/27/18, 3/27/18, 6/12/18, 6/26/18, 9/25/18, 10/15/18

**Town of Kittery
 Planning Board Meeting
 February 8, 2018**

88 Pepperrell Road – Shoreland Development Plan Review

Action: Accept or deny application; approve or deny plan: Owner, Chatham Street LLC, and Applicant, 1828 Pepperrell Cove LLC, requests consideration of a plan to remove existing overhangs and entry vestibule and construct a new porch overhang at 88 Pepperrell Road, Tax Map 27 Lot 49, in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL-250') Zones.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Shoreland Development Plan Review Completeness/Acceptance	Scheduled for February 8, 2018	PENDING
NO	Site Walk		TBD
NO	Public Hearing		TBD
YES	Shoreland Development Plan Review Plan Approval	Possible for February 8, 2018	TBD

Applicant: 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, when applicable, 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 proposed development is part of a property-wide redevelopment effort that consists of the interior renovation of the three existing buildings, “The View” (previously Captain Simeons), “The Bistro” (previously Frisbee’s Market), and “Frisbee’s Wharf” (previously Lobster in the Rough), located at 88 Pepperrell Cove. The Board considered the proposed renovations to the lower level of the building now known as the View in July of last year and a use-intensity increase in October, also last year. Both were approved.

The current proposed development concerns the renovation of The Bistro building (formerly Frisbee’s Market) which requires approval by the Board since it is located in the Shoreland Overlay Zone. Specifically, the Applicant wishes to construct a new porch overhang along the front of the Bistro building while removing the existing vestibule and overhang currently on the front of the building as well as removing an existing overhang on the Bellamy Lane side of the building that encroaches on the public way. See photographs included in the application submission.

Staff Review

The plan includes the information required under 16.10.7.2 as may be applicable to the project, including an aerial map, drawings of the building under consideration and photographs.

Staff has the following comments:

1. Page 3 of the Shoreland Development Plan application shows that the total square footage of the building as it currently exists is 2,249 sf. With the removal of the two specified overhangs and the vestibule, together with the addition of the proposed overhang, the building will be 2,214 sf. There is no proposed increase, instead there is a proposed decrease of 35 sf of structure within the 100-foot setback.
2. The building drawings show the square footage for each portion (either vestibule or overhang) proposed for removal within the Shoreland Overlay as well as the square footage of the portions

that are not. The portion of the proposed new overhang within the 100-foot setback is shown as being 80.6 sf. Adding up the proposed removals: 18.5 sf, 59 sf and 38.3 sf equals 115.8 sf. Subtracting the proposed overhang from the total of the proposed vestibule and overhang removals (115.8 - 80.6) = 35.2 square feet.

3. It appears the proposed plan makes the building known as The Bistro less non-conforming by removing about 35 square feet of structure from within the 100-foot setback.

Recommendations:

With consideration of the above Staff comments, the proposed development appears to be in general conformance with the standards of Title 16.

Staff recommends that the Board decide whether to conduct a site walk and set a date if so.

Staff recommends that the Board decide whether to hold a public hearing (motion below if a public hearing is desired). If no site walk will be held and no public hearing is set to be held, the Board may approve the final plan with any conditions (motion to approve is below).

Action

Move to schedule a public hearing on the Shoreland Development Plan dated January 18, 2018 from owner Chatham Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones for March 8, 2018

or

*•
Move to approve with conditions the Shoreland Development Plan dated January 18, 2018 from owner Chatham Street LLC and applicant 1828 Pepperrell Cove LLC (Tax Map 27 Lot 49) in the Business – Local and Shoreland Overlay Zones, upon the review and voting in the affirmative on the Findings of Fact.*

M27 L49

**Kittery Planning Board
Findings of Fact
For 88 Pepperrell Road
Shoreland Development Plan Review**

UNAPPROVED

WHEREAS: Owner, Chatham Street LLC, and Applicant, 1828 Pepperrell Cove LLC requests consideration of a plan to remove existing overhangs and entry vestibule and construct a new porch overhang at 88 Pepperrell Road, Tax Map 27 Lot 49, in the Business - Local (B-L) and the Shoreland Overlay (OZ-SL-250') Zones, hereinafter the "Development" and Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes prepared for 2/8/2018.

Shoreland Development Plan Review	2/8/2018	HELD
Site Walk		TBD
Public Hearing		TBD
Shoreland Development Plan Approval		PENDING

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"):

1. Shoreland Development Plan Application dated 1/18/18
2. Shoreland Development Plan

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

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...

Finding: This property is fully developed with previously existing structures, travel ways and parking areas.

Conclusion: This standard 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 condition must not be permitted to become more nonconforming.

Finding: The plan as proposed makes one of the existing buildings less non-conforming by removing 35 sf of structure from within the 100-foot setback.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

16.7.3.3.2 Nonconforming Structure Repair and/or Expansion

E. In addition to the standards in the above subsections 16.7.3.3.2.A-D, the expansion of nonconforming structures located in the Shoreland or Resource Protection Overlay Zone must meet the following:

1. *Wherever a new, enlarged, or replacement foundation is constructed under a nonconforming structure the structure and new foundation must be placed such that setback requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Title 16.7.3.3.1.B, Nonconforming Structure Relocation.*

2. *Expansion of any portion of a structure that is located within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland is prohibited.*

3. *Notwithstanding Title 16.7.3.3.2.E.2 above, if a legally existing nonconforming principal structure is entirely located less than 25-feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland, that structure may be expanded as follows,*

a. the maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

4. *Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or coastal or freshwater wetland setback requirement. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or coastal or freshwater wetland setback requirements may be expanded or altered as follows:*

a. For structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet, or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

b. For structures that are located within the Resource Protection Overlay Zone, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet, or 30% larger than the footprint that existed at the time the Resource Protection Overlay Zone was established, whichever is greater. The maximum height of any structure may not be greater than 25 feet, or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet from the normal high water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland must meet the footprint, roof pitch and height limits in 16.7.3.3.2.E.4.a, above.

Finding: The proposed removal of the vestibule and two overhangs together with the addition of a new overhang results in a decrease in the square footage of the structure within the Shoreland Overlay Zone.

Conclusion: This standard appears to be met.

Vote: in favor against abstaining

16.7.3.3.3 Nonconforming structure reconstruction

A. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and which is removed, damaged or destroyed, by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or coastal or freshwater wetland setback requirement to the greatest practical extent as determined by the Planning Board. In determining whether the structure reconstruction meets the setback to the greatest practical extent the Planning Board must consider, in addition to the criteria in Section 16.7.3.3.1,B Nonconforming Structure Relocation, the physical condition and type of foundation present, if any.

B. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and removed, damaged or destroyed by any cause by 50% or less of the market value of the structure before such damage, destruction or removal, may be reconstructed in-place if a permit is obtained from the Code Enforcement Officer within twelve (12) months of the established date of damage or destruction.

C. Outside of the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is removed, damaged or destroyed by any cause may be restored or reconstructed in-place if a permit is obtained from the Code Enforcement Officer within eighteen (18) months of the date of said removal, damage or destruction. Such restoration or reconstruction must not make the structure more nonconforming than the prior nonconforming structure.

D. Nothing in this section prevents the demolition of the remains of any structure damaged or destroyed. Application for a demolition permit for any structure that has been partially damaged or destroyed must be made to the Code Enforcement Officer.

E. In the Shoreland or Resource Protection Overlay Zone(s), if the total footprint of the original structure can be reconstructed beyond the required setback area, no portion of the reconstructed structure may be reconstructed at less than the setback requirement for a new structure. If the reconstructed or replacement structure is less than the required setback, it may not be any larger than the original structure, except as allowed in Title 16.7.3.3.2, Nonconforming Structure Repair and Expansion.

F. When it is necessary to remove vegetation to reconstruct a structure, vegetation will be replanted in accordance with Section 16.7.3.3.1.C, Nonconforming Structure Relocation.

G. Except where expressly permitted in this code, in no case may a structure be reconstructed or replaced so as to increase its non-conformity.

Finding: The building is being renovated with small portions proposed for removal and a new overhang proposed to be added which will decrease the square footage within the Shoreland Overlay Zone.

Conclusion: This standard 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 as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

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

Finding: The proposed development will have little impact on surface waters.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development will not affect the existing wastewater disposal system.

Conclusion: This standard 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: The proposed development does not appear to have an adverse impact.

Conclusion: 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: Because the property is already fully developed, shore cover is not adversely impacted

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

6. Protect archaeological and historic resources;

Finding: The building under consideration is part of the historical fabric of Kittery Point.

Conclusion: This standard 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 does not adversely impact existing commercial fishing or maritime activities.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

8. Avoid problems associated with floodplain development and use;

Finding: The property is already fully developed. The proposed changes do not appear to have an impact on a floodplain or flood-prone area.

Conclusion: This standard appears to be met.

Vote: __ in favor __ against __ abstaining

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

Finding: The proposed development complies with the applicable standards of Title 16.

Conclusion: This standard 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 will be prepared.

Conclusion: As stated in the Notices to Applicant contained herein, Shoreland Development plans must be recorded with the York County Registry of Deeds within 90 days of approval prior to the issuance of a building permit.

Vote: __ 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 depicted on final plan notes 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. All Notices to Applicant contained herein (Findings of Fact dated 02/8/2018).

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

3. 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.
 - a. Change title of plan from “Shoreline” to “Shoreland”.

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

Vote: __ in favor __ against __ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON _____

Ann Grinnell, Planning Board Chair

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as required by Planning Board 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 and a paper 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.

Chair Dunkelberger opened the public comment segment of the meeting. There being no comments, Chair Dunkelberger closed the public comment.

OLD BUSINESS

ITEM 1 - 88 Pepperrell Road – The Bistro – Parking Plan Review for Business Use Change

Action: Approve Findings of Fact. Owner, Chatham Street, LLC, and applicant, Ann Kendall are establishing a new business entity in an existing facility, where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lots 2A & 49) in the Business Local (B-L), Residential – Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SL- 250') Zones.

Vice Chair Kalmar stated she had a couple of revisions that she wanted made to the Findings-of-Fact. 1) on page 2, add O to the Finding exceptions, and 2) at Finding O add the end of the sentence “within one year of the approval”. She also noted that her name was misspelled at the signature line but it will now be for Chair Dunkelberger’s signature.

Ms. Wells asked about the snow removal note on the plans. That will be double-checked. Mr. Fitch asked about directional signage for parking. Mr. Causey responded that it would be part of the parking management plan review which still needs to be completed. Mr. Ledgett asked about the status of the BOA reconsideration. Mr. Causey responded that the amended site plan has more landscape plantings that were added after the owners / applicants met with several of the abutters. He noted that the abutter rescinded her request for reconsideration at the last BOA meeting.

FINDINGS OF FACT

The Planning Board made the following factual findings and conclusions:

A. Development Conforms to Local Ordinances

Finding: The proposed redevelopment does not meet the off-street parking standards outlined in 16.8.9. The Board of Appeals has approved miscellaneous variations from the off-street parking standards, specifically 16.8.9.4.G, 16.8.9.4.K (2), 16.8.9.4.K (3), 16.8.9.4.K (4) and 16.8.9.4.K (5).

Conclusion: This standard appears to be met.

Vote of 7 in favor 0 against 0 abstaining

B. Standards B – O.

Finding: The Board finds that the standards B-N, excepting K, M, and O are not applicable to the proposed parking plan.

Vote of 7 in favor 0 against 0 abstaining

K. Stormwater Managed.

M. Traffic Managed.

O. Aesthetic, Cultural, and Natural Values Protected.

Finding K: There is one open storm drain existing in the north parking lot that appears to be functioning properly. The Board of Appeals approved miscellaneous parking variations of Section 16.8.9.4.K (3) to waive the requirements for additional storm water infrastructure.

Finding M: The proposed redevelopment requires eighty-one (81) parking spaces which is satisfied by the proposed parking layout. The plan proposes a two-way drive aisle for the 90-degree angle parking areas and a on-way exit drive aisle along parallel parking spaces at the western property boundary. The parking plan shows that traffic flow is to be clearly marked with signs and surface directions at all times. Site distances at the parking lot entrance/exit are shown to be 425' to the west and 350' to the east.

A parking management plan will be developed in conjunction with staff which will be reviewed and certified as to compliance by April 1st of every year.

Finding O: The applicant has agreed to conduct a Phase I Archaeology Survey to investigate the existence of unmarked remains beneath the parking lot adjacent to the Pepperrell tomb within one (1) year of approval.

Conclusion: These standards appear to be met.

Vote of 7 in favor 0 against 0 abstaining

P. Developer Financially and Technically Capable

Finding: The developer has successfully redeveloped three-fourths of the property to date.

Conclusion: The applicant appears to meet this standard.

Waivers: Waiver requested for sidewalks, specifically Sections 16.8.4.13. A & B is denied. Vote 6-0-0.

Conditions of Approval:

1. Curb stops must be installed for each parking space and securely anchored in place except in the parallel spaces in the paved portion of the lot.
2. Any parking signs placed in the interior of the parking lot must be affixed to a wooden post – no metal sign posts are allowed.
3. The applicant shall design and construct pedestrian improvements subject to Department of Public Works review and approval.
4. The applicant shall work with CMP to install adequate screening or shielding on any existing street pole mounted lights utilized by the businesses. Any new permanent lighting added will be CMP approved cut-off fixtures with adequate shielding to direct light down and away from adjacent properties.
5. Food and beverage service for The Wharf is restricted to the area designated in the approved license.
6. Restoration of the crushed sea shell area to its previous limit must be performed to the satisfaction of the Shoreland Resource Officer prior to the opening of The Wharf in the spring.
7. A parking management plan shall be developed in conjunction with staff which will be reviewed annually and certified as to compliance by April 1st of every year.

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these findings determines the proposed parking plan will have no significant detrimental impact, and the Kittery Planning Board hereby grants final

approval for the parking plan at the above referenced property with the above noted waivers and conditions.

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

Vote of 7 in favor 0 against 0 abstaining

ITEM 2 – Accessory Dwelling Units (ADU) Regulations

Action: Review draft amendments and schedule a Public Hearing.

Mr. Causey discussed the questions that were posed at the previous meeting.

Chair Dunkelberger commented that the Board needed to separate the ADU regulation from the short term rental (STR) issue. Mr. Ledgett spoke to the connection between the two and agreed that they weren't connected as long as the proposed wording is clarified that neither the principal structure nor the ADU may be rented for less than 30 days.

The Board discussed ADUs vs STRs. Mr. Causey clarified the thinking of Housing Working Group in developing the regulations. He explained that the intent was to restrict ADUs from becoming STRs. Mr. Alesse expressed his concern that the proposed regulations were a ban on STRs. The Board discussed advertising the public hearing for the amendments and including in the notice the specific wording on the 30 day rental restriction.

After motion by Mr. White and second Mr. Ledgett the Board scheduled a public hearing on the proposed ADU regulation amendments for March 28, 2019.

The motion carried 7-0-0.

NEW BUSINESS

ITEM 3 – Sandwich Board Sign Regulations

Action: Review draft amendments and schedule a Public Hearing



Town of Kittery, Maine
200 Rogers Road Extension, Kittery, Maine
(207) 439-6807

Certificate of Occupancy

This Certificate of Occupancy is being issued to:

Chatham Street, LLC

For property located at:

88 Pepperell Road, Map-27 Lot-49

Project description:

The Bistro Building, except the second floor dwelling, The View/Provisions, The Wharf, the 3 bedroom home, and parking areas as approved by the Kittery Board of Appeals and Kittery Planning Board.

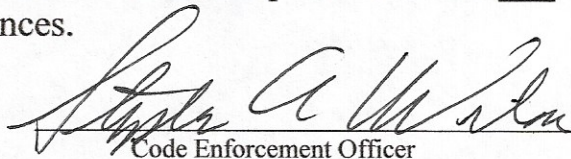
Conditions of Approval:

This Certificate of Occupancy does not apply to the second floor dwelling unit. Prior to July 1, 2019, the property/business owner shall install the required pedestrian/parking improvements shown on the approved plan, subject to permitting by Kittery Department of Public Works.

This Certificate will expire July 1, 2019 at which time if all required improvements have been completed the Code Officer will issue a new unconditional C of O for the project excepting the second floor apartment area if it is still not complete.

All work except, as listed in the above conditions, for permit number 237 has been completed per local ordinances.

5-15-2019
Date


Code Enforcement Officer

D. It was also noted that there would be a Joint Workshop with the Kittery Town Council on June 10th at 5 pm to discuss the proposed ADU ordinance.

Mr. Fitch inquired about the parking management plan for 88 Pepperrell Road redevelopment. He noted that he had not seen a sign yet in Pepperrell Cove instructing customers to park in the lot across the street for the businesses. Mr. Causey addressed his concern and gave the Board a brief summary of the other elements in the plan.

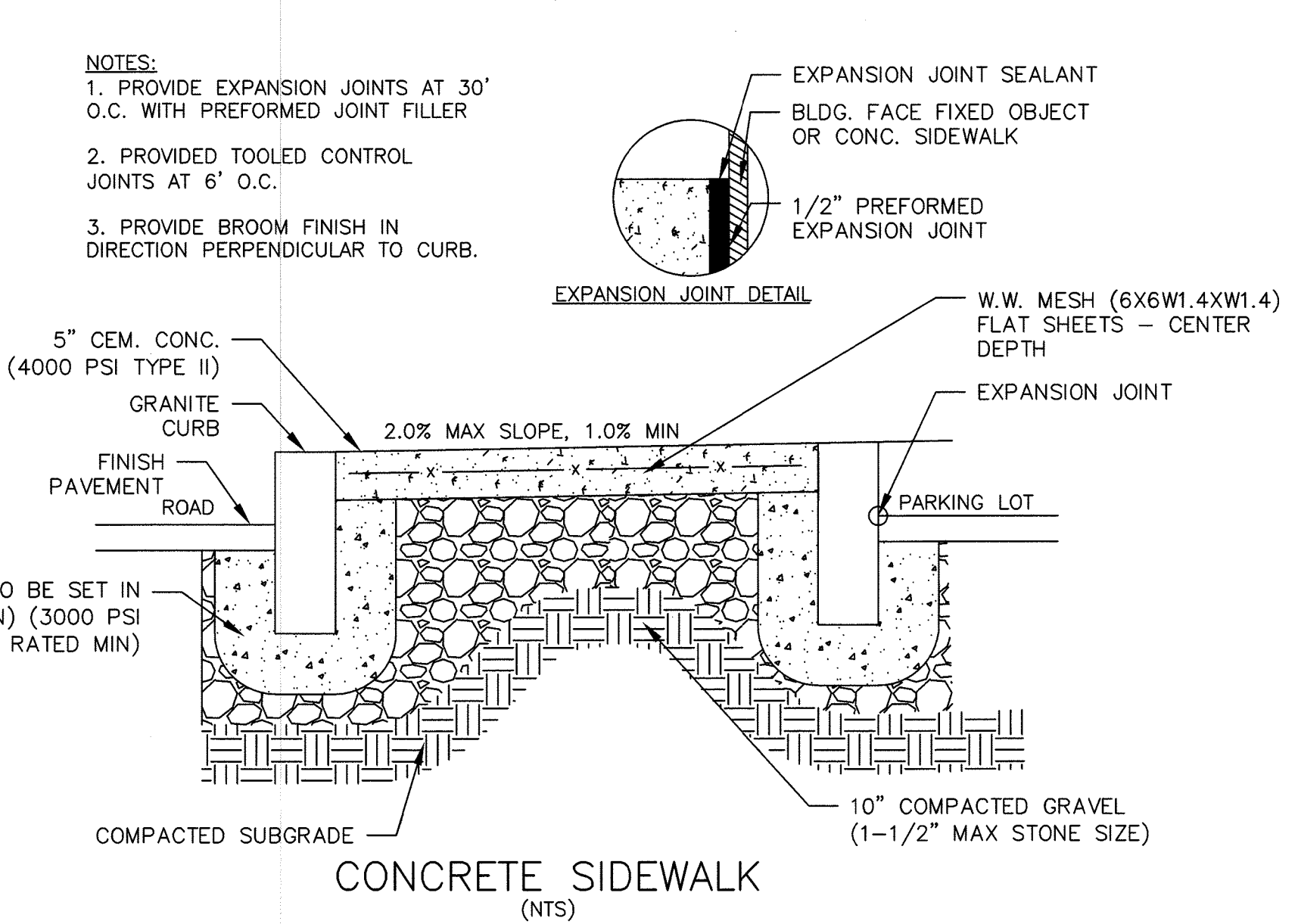
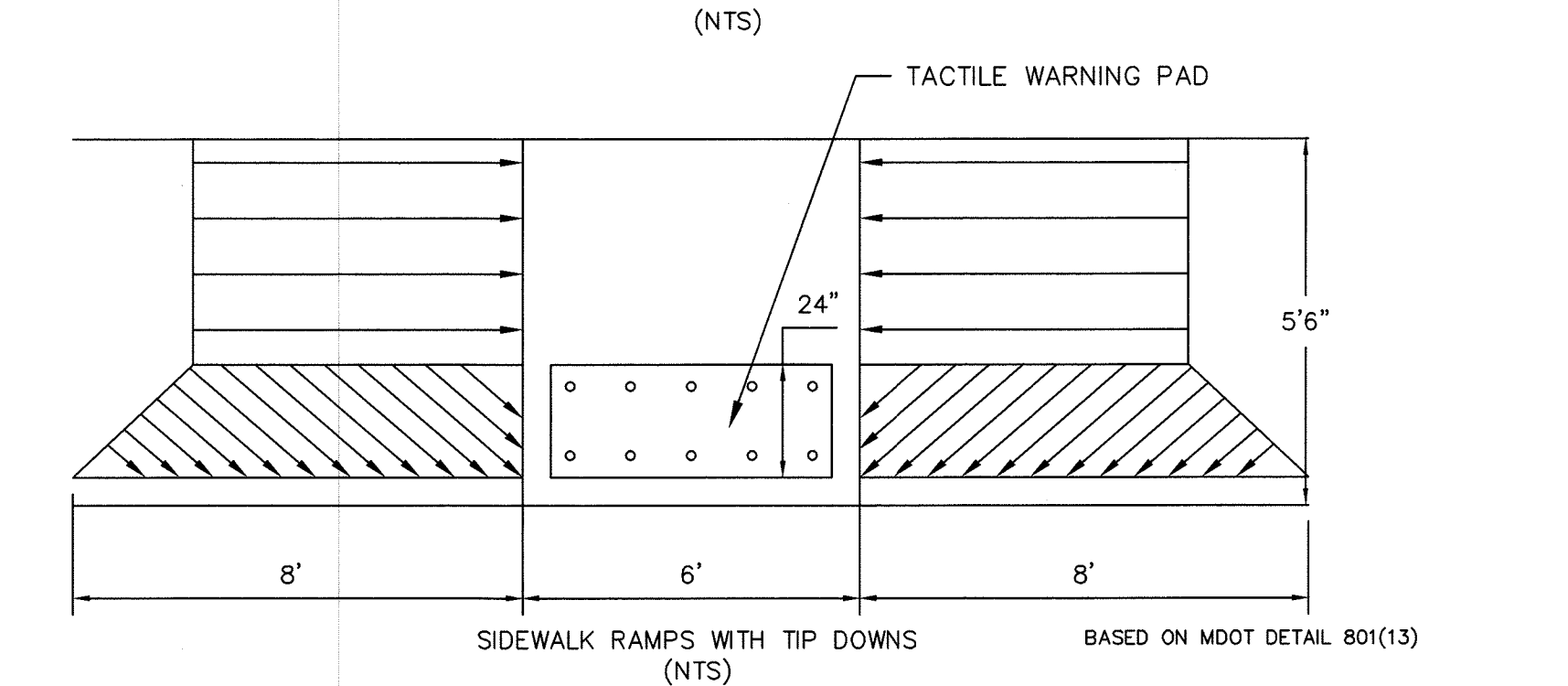
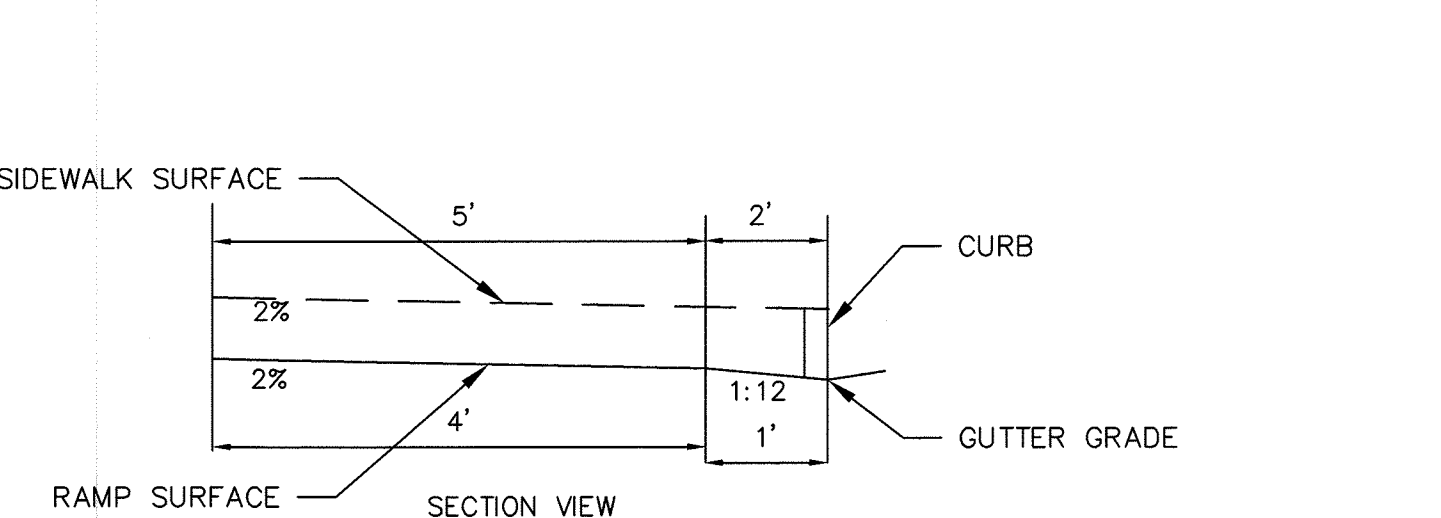
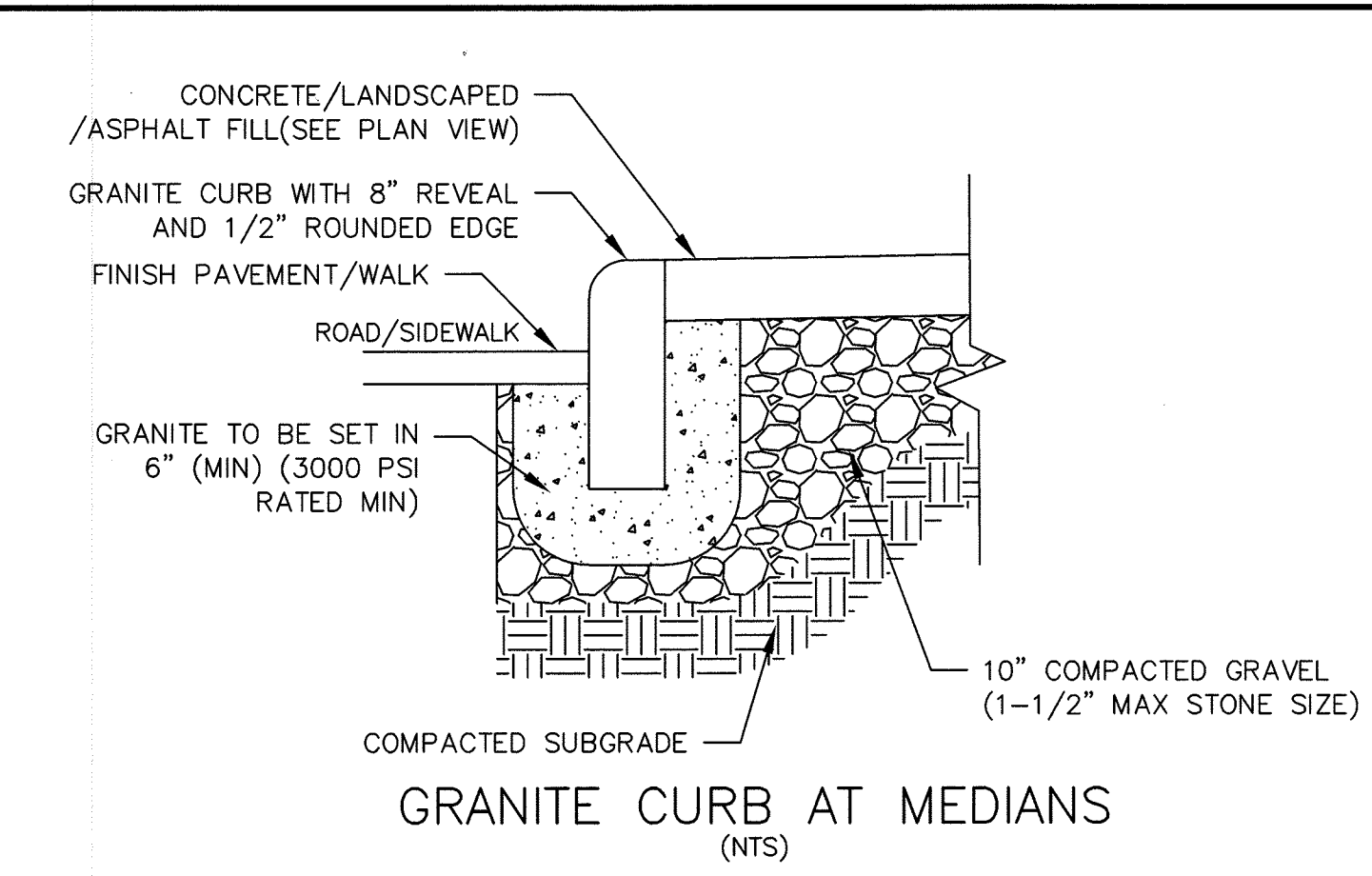
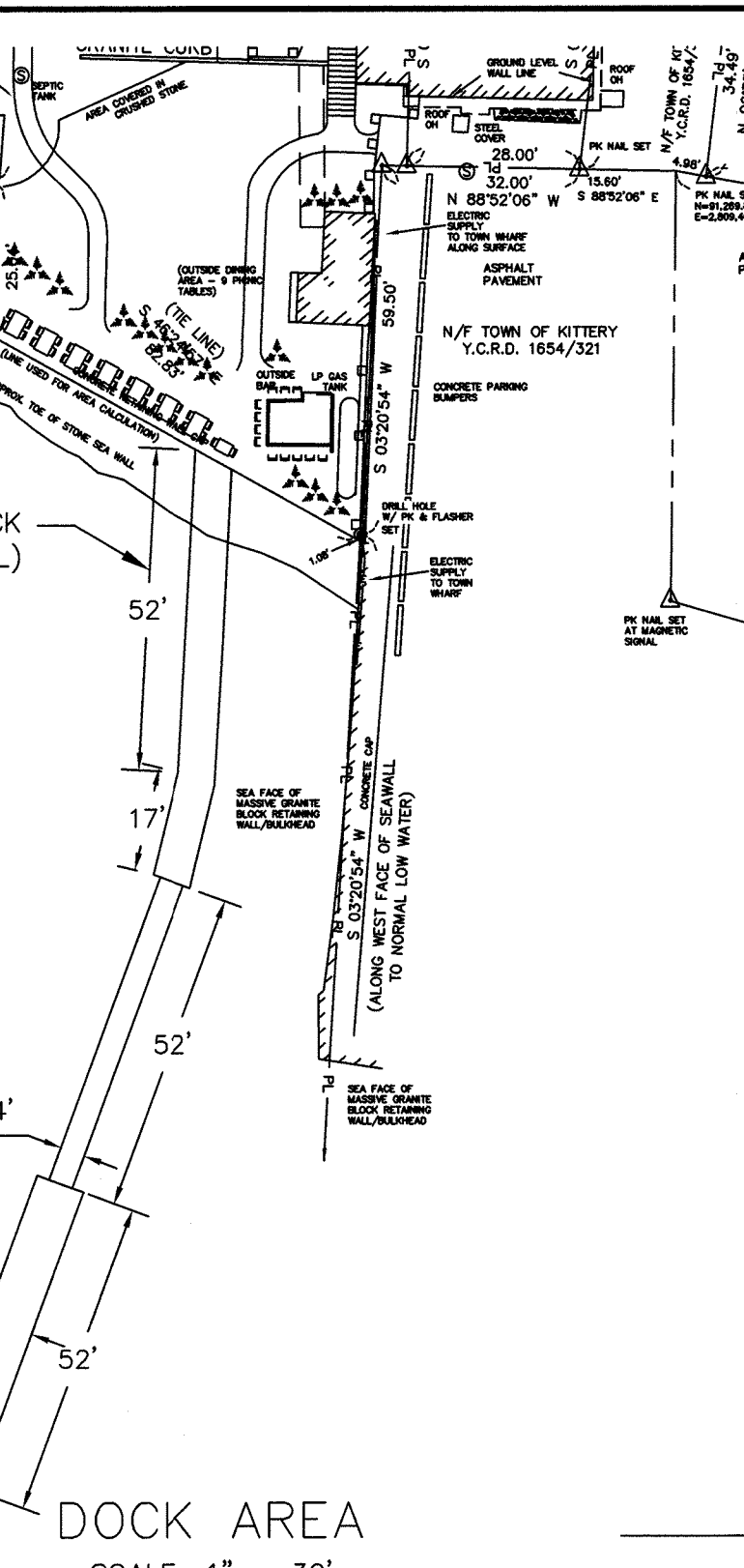
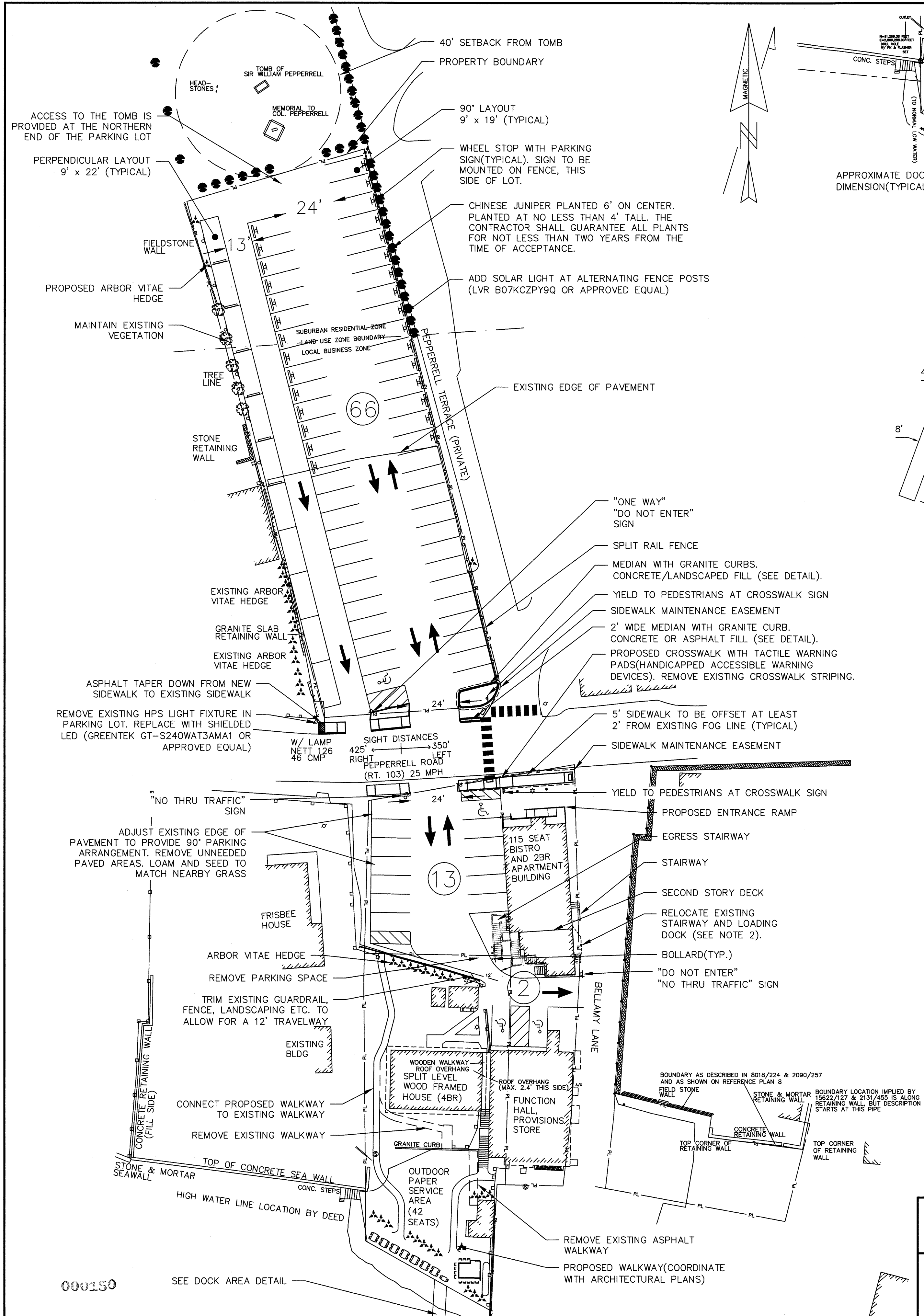
Mr. Alesse moved to adjourn the meeting.
Mr. White seconded the motion.

The motion carried 7-0-0.

The Kittery Planning Board meeting of April 25, 2019 was adjourned at 7:10 p.m.

Submitted by Jamie Steffen, Town Planner, on July 18, 2019.

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



PLANT LIST

SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	SIZE
●	JUNIPERUS CHINESES BLUE POINT	CHINESE JUNIPER	38	4-5' WIDE
▲	ARBORVITAE	ARBORVITAE	3	3-4' WIDE

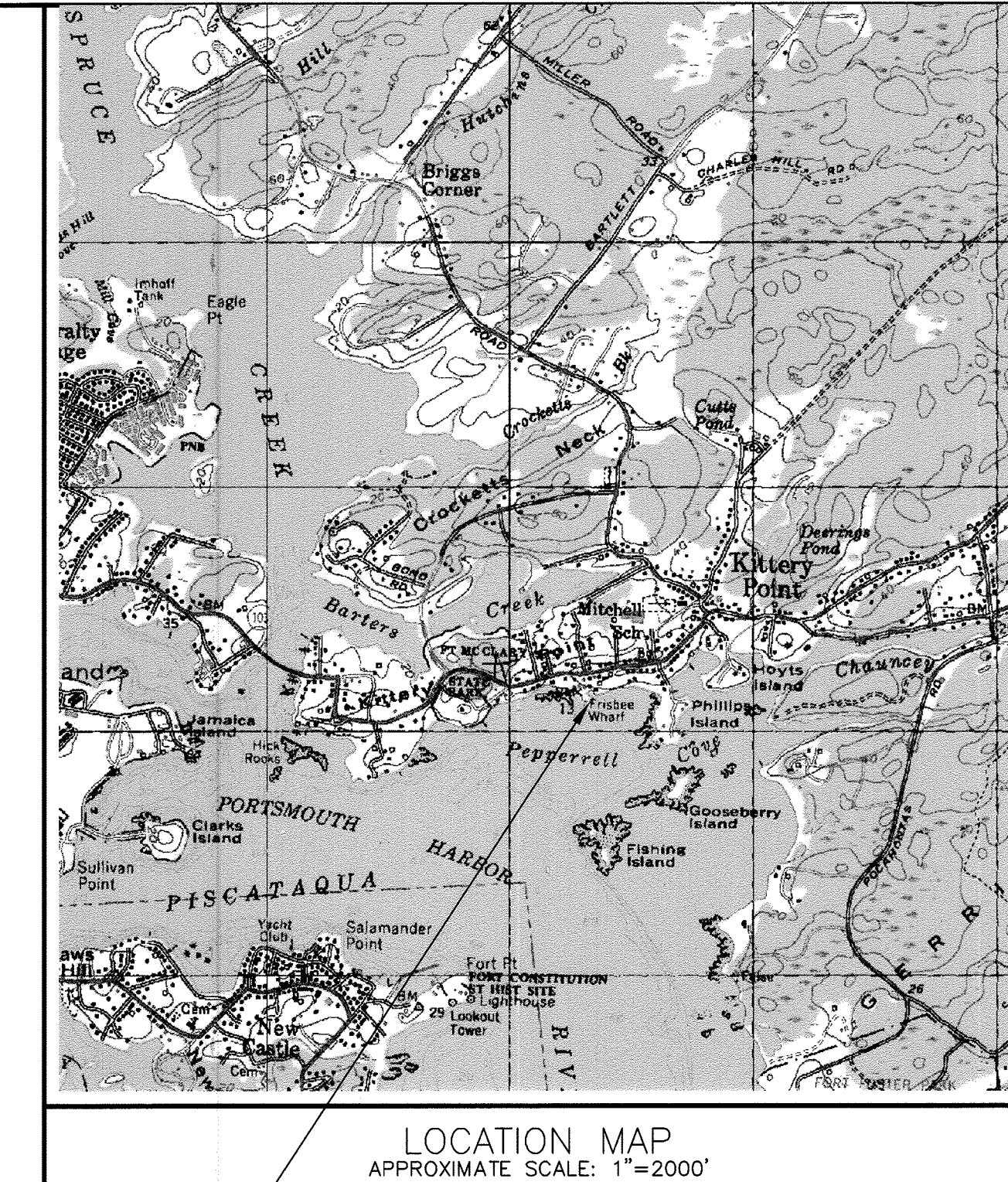
TOWN OF KITTELY PLANNING BOARD DATE

B. Bumbelberg 14 May 2019

GRAPHIC SCALE
0 30 60 90 120 (FEET)

OWNER: CHATHAM STREET LLC
5 MILANO DRIVE
SAUGUS, MA 01906

NO.	DESCRIPTION	DATE
J	STAFF REVIEW	05/10/2019
I	STAFF REVIEW	03/08/2019
H	STAFF REVIEW	02/20/2019
G	STAFF REVIEW	02/12/2019
F	STAFF REVIEW	02/11/2019
E	PLANNING REVIEW	01/10/2019
D	SITE REVIEW	12/27/2018
C	BUILDING CHANGES	12/24/2018
B	PARKING CHANGES	11/27/2018
A	PARKING CHANGES	10/24/2018
NO.	DESCRIPTION	DATE



GENERAL NOTES

THIS PLAN PROVIDES A PARKING LAYOUT IN BOTH THE SUBURBAN RESIDENTIAL AND LOCAL BUSINESS ZONES AT 88 PEPPERRELL ROAD, KITTELY, MAINE. LOTS ARE LOCATED ON TAX MAP 27 LOTS 2A AND 49

1. PARKING IS CALCULATED AS FOLLOWS:

UNIT TYPE	NO. OF UNITS/SF	SPACES/UNIT	SF/UNIT	REQUIRED
115 SEAT BISTRO AND SKI CLUB BAR AND DECK	N/A	1 SPACE/3 SEATS	N/A	115/3 = 38.3
DWELLINGS	1 UNIT	2 SPACES/ UNIT	N/A	2 x 1 = 2
FUTURE DWELLING	1 UNIT	2 SPACES	N/A	2 x 1 = 2
FUNCTION HALL	1 SPACE/ 100 S.F.	N/A	2,093 S.F.	2,093/100 = 20.93
PROVISIONS STORE AND ICE CREAM WINDOW	1 SPACE/ 175 S.F.	N/A	N/A	623/175 = 3.56
WHARF 42 OUTDOOR SEATS	N/A	1 SPACE/3 SEATS	N/A	42/3 = 14

TOTAL SPACES REQUIRED = 80.79(81) WITH 81 SPACES PROVIDED

2. DELIVERIES SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS. LOADING DOCK NOT REQUIRED IN THIS DISTRICT.

3. DUMPSTER REMOVAL SHALL PRIMARILY OCCUR DURING NON-WORKING HOURS.

4. IF SNOW STORED ON SITE SHOULD BLOCK ANY PARKING SPACES THE SNOW SHALL BE REMOVED FROM THE SITE.

5. ANY PARKING ATTENDANT WILL BE SUBJECT TO THE APPROVED PARKING MANAGEMENT PLAN PREPARED BY ATLANTIC PARKING SERVICES.

6. SEE REFERENCES 1-3 FOR MONUMENTATION.

7. SEE REFERENCE 4 FOR COVERAGE WITHIN THE SHORELAND ZONE.

REFERENCES

1. "PLAN OF LAND OF FRISBEE'S HOLDINGS, LLC, SHOWING LOT MERGER OF TAX MAP 27, LOTS 49, 50 & 51A" PREPARED BY CIVIL CONSULTANTS DATED JULY 15, 2010, AND RECORDED AT YCRD BK 344 P 28.

2. "PROPOSED LEASE AREA, FRISBEE HOLDINGS", PREPARED FOR: ALPHONSE DAMICO" PREPARED BY CIVIL CONSULTANTS DATED AUGUST 26TH, (YEAR UNKNOWN).

3. "PLAN OF LAND OF FRISBEE'S HOLDINGS II, LLC & FRISBEE'S HOLDINGS, LLC" PREPARED BY CIVIL CONSULTANTS DATED MARCH 2010.

4. "THE VIEW PARCEL 27-50" PREPARED BY ATTAR ENGINEERING DATED SEPTEMBER 19, 2017

YORK ss REGISTRY OF DEEDS
RECEIVED June 6 2019
AT 2 H 15 M P M, AND
RECORDED IN BOOK 402 PAGE 15
ATTEST:
Nancy Hammond
REGISTER

SITE PLAN
SCALE: 1" = 30"

LEGEND

PROPERTY LINE	PL
EXT. BUILDING	

PARKING PLAN

PARKING LAYOUT
88 PEPPERRELL ROAD (ROUTE 103)
KITTELY POINT, MAINE

FOR: 1828 PEPPERRELL COVE LLC
88 PEPPERRELL RD PO BOX 67
KITTELY POINT, ME 03905

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 30'
DATE: 6/28/2018
JOB NO: C054-18

APPROVED BY: *Carroll*
DRAWN BY: BRN
REVISION: DATE
J: 05/10/2019

SHEET 1 OF 1
TAX MAP 27, LOT 2A/49

PEPPERRELL COVE PARKING MANAGEMENT PLAN

Pepperrell Cove's parking management plan consists of trained parking attendant(s), as necessary, determined by experience.

Atlantic Parking Solutions has been consulting and training our staff. They will continue in that role as well as staffing several our events when they feel it is necessary.

The layout of the two parking lots will be as shown on the approved plan. When valet parking is in use, as opposed to self-parking, the valet presence will be recognizable by signage.

During the high season, Memorial Day to Labor Day, Thursday to Sunday, when both restaurants are open, attendants will be on site from 11am to 9pm. We will continue to have parking attendants beyond Labor day whenever the amount of business requires it.

During that time attendants will guide vehicles far enough into the parking lot to avoid congestion on Pepperrell Rd. If the queue of vehicles ever reaches out to the road the attendants will begin to direct drivers to return in 20 minutes when we anticipate congestion will have abated.

There will also be 2 highly visible temporary A-frame signs, 1 in front of each lot, showing the lots are full and asking customers to please try again later.

We have followed this plan successfully on 2 different occasions this spring. Each time we had large events, over 100 participants at The View and the Bistro was open. In both cases we had over 90 cars parked on the Tomb lot. The Bistro lot was full, and we had no congestion or problems.

Notes:

While we know we have enough parking spaces to meet the parking code required for the number of seats we have at Bistro 1828, The View, Provisions, The wharf

and the apartment. As a convince to our customers we have secured private offsite parking for View events with over 50 participants.

View events are scheduled in advance and contractually agreed to by the customer and the View. For events over 50 participants the offsite parking requirement is part of the contract and detailed instructions for it's use are included.



TOWN OF KITTERY MAINE
Town Planning and Development Department
200 Rogers Rd. Kittery, Maine 03904
(207) 475-1323

NOTICE OF DECISION

PROPERTY OWNER:	Chatham Street, LLC,
APPLICANT:	Ann Kendall
MAILING ADDRESS:	P.O. Box 67, 88 Pepperrell Road, Kittery, ME 03905
PROPERTY LOCATION:	87 & 88 Pepperrell Road, Kittery ME 03905
MAP LOT:	MAP 27 LOTS 2A & 49
APPLICATION:	Business Use Change
ZONE(S):	Business Local (B-L) & Residential –
DATE:	Kittery Point Village (R-KPV) January 10, 2019

Per Section 16.4.3.E of the Town of Kittery Land Use and Development Code, the Town Planner and Code Enforcement Officer are to review and approve, or refer to the Planning Board for action all Business Use Changes which occur that fall below Planning Board review thresholds as outlined in Sections 16.10.3.2 and 16.10.3.6. Approval must be based on compliance with all requirements of this Code.

The review of “The Bistro” was to consider if the proposed change from retail (Frisbee’s Market) to restaurant (the Bistro) is significantly different in intensity of use per Section 16.10.3.6.C. The application was referred by the Town Planner to the Planning Board for its consideration at the October 26, 2017 meeting. After considerable discussion regarding the business use change at that meeting, the Planning Board voted to return the applicant to the Town Planner and the Code Enforcement Officer as a business use change but not of such intensity that requires Planning Board perview with the condition that the applicant prior to opening the final project the Wharf come back with a detailed plan for parking for the entire project. Since that time, the applicant has changed the order of the opening of the new businesses with the Bistro now being the final project.

A detailed parking plan has been submitted which was considered by the Planning Board at the meetings of December 13, 2018 and January 10, 2019.

At the meeting of January 10, 2019 the Planning Board approved the parking plan dated 01/10/2019 as revised by and with the following conditions:

NOD
87 & 88 Pepperrell Road
Business Use Change

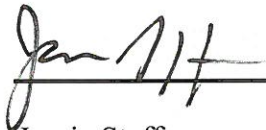
- 1) Curb stops must be installed for each parking space and securely anchored in place except in the parallel spaces in the paved portion of the lot.
- 2) Any parking signs placed in the interior of the parking lot must be affixed to a wooden post – no metal sign posts are allowed.
- 3) The applicant shall design and construct pedestrian improvements subject to Department of Public Works review and approval.
- 4) The applicant shall work with CMP to install adequate screening or shielding on any existing street pole mounted lights utilized by the businesses. Any new permanent lighting added will be CMP approved cut-off fixtures with adequate shielding to direct light down and away from adjacent properties.
- 5) Food and beverage service for The Wharf is restricted to the area designated in the approved license.
- 6) Restoration of the crushed sea shell area to its previous limit must be performed to the satisfaction of the Shoreland Resource Officer prior to the opening of The Wharf in the spring.
- 7) A parking management plan shall be developed in conjunction with staff which will be reviewed annually and certified as to compliance by April 1st of every year.

This Notice of Decision IS NOT a building permit or a sign permit.

Any proposed field changes, diversion or revisions to the plan and construction documents after approval shall be reported to the Code Enforcement Officer prior to proceeding with the proposed changes.

Any site changes not approved in this Notice of Decision will be in violation of State law and Town Codes.

Sincerely:



Jamie Steffen
Town Planner

Stephen Wilson
Code Enforcement Officer



Dutch Dunkelberger
Planning Board Chair

**KITTERY PLANNING BOARD
FINDINGS OF FACT**

APPROVED

**For
88 Pepperrell Road – The Bistro
Parking Plan Review for Business Use Change**

WHEREAS: Owner Chatham Street, LLC and applicant Ann Kendall are establishing a new business entity in an existing facility, where intensity of use is significantly different, located at 88 Pepperrell Cove (Tax Map 27 Lots 2A & 49) in the Business Local (B-L), Residential – Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SL-250') Zones.

Hereinafter the “Development”

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted;

Parking Plan Review	12/13/2018
Site Walk	12/27/2018
Parking Plan Review	01/10/2019

And pursuant to the Plan and other documents considered to be a part of the plan review decision by the Town Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”):

1. Parking Plan, The Bistro, The View, Provisions, Frisbees Wharf, 88 Pepperrell Road, and associated exhibits, Attar Engineering, December 27, 2018, Parking Layout revision dated 01/10/2019.
2. Waiver Request, prepared by Attar Engineering, entitled The Bistro, The View, Provisions, Frisbees Wharf, 88 Pepperrell Road, dated January 10, 2019.

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

A. Development Conforms to Local Ordinances.
<i>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.</i>
Finding: The proposed redevelopment does not meet the off-street parking standards outlined in 16.8.9. The Board of Appeals has approved miscellaneous variations from the off-street parking standards, specifically 16.8.9.4.G, 16.8.9.4.K (2), 16.8.9.4.K (3), 16.8.9.4.K (4), and 16.8.9.4.K (5).
Conclusion: This standard appears to be met.
Vote of <u> 7 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining

- B. Freshwater Wetlands Identified;**
- C. River, Stream or Brook Identified;**
- D. Water Supply Sufficient;**
- E. Municipal Water Supply Available;**
- F. Sewage Disposal Adequate;**
- G. Municipal Solid Waste Disposal; Available;**
- H. Water Body Quality and Shoreline Protected;**
- I. Groundwater Protected;**
- J. Flood Areas Identified and Development Conditioned;**
- K. Stormwater Managed;**
- L. Erosion Controlled;**
- M. Traffic Managed;**
- N. Water and Air Pollution Minimized;**
- O. Aesthetic, Cultural and Natural Values Protected;**

Finding: The Board finds that the standards B-O, excepting K, M, & O are not applicable to the proposed parking plan.

Vote of 7 in favor 0 against 0 abstaining

K. Stormwater Managed.

M. Traffic Managed.

O. Aesthetic, Cultural, and Natural Values Protected

The proposed development will provide for adequate stormwater management.

The proposed development will:

- 1. 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*
- 2. Provide adequate traffic circulation, both on-site and off-site.*

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 of the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Findings K: There is one open storm drain existing in the north parking lot that appears to be functioning properly. The Board of Appeals approved a miscellaneous parking variation of Section 16.8.9.4.K (3) to waive the requirements for additional storm water infrastructure.

Findings M: The proposed redevelopment requires eighty-one (81) parking spaces which is satisfied by the proposed parking layout. The plan proposes a two-way drive aisle for the 90-degree angle parking areas and a one-way exit drive aisle along parallel parking spaces at the western property boundary. The parking plan shows that traffic flow is to be clearly marked with signs and surface directions at all times. Site distances at the parking lot entrance/exit are shown to be 425' to the west and 350' to the east.

A parking management plan will be developed in conjunction with staff which will be reviewed and certified as to compliance by April 1st of every year.

Finding O: The applicant has agreed to conduct a Phase I Archaeology Survey to investigate the existence of unmarked remains beneath the parking lot adjacent to the Pepperrell tomb within one (1) year of the parking plan approval.

Conclusion: These standards appear to be met.

Vote of 7 in favor 0 against 0 abstaining

P. Developer Financially and Technically Capable.

Developer is financially and technically capable to meet the standards of this section.

Finding: The developer has successfully redeveloped three-fourths of the property to date.

Conclusion: The Applicant appears to meet this standard.

Vote of 7 in favor 0 against 0 abstaining

Waivers: Waiver requested for sidewalks, specifically Sections 16.8.4.13.A & B is denied. Vote: 6-0-0.

Conditions of Approval:

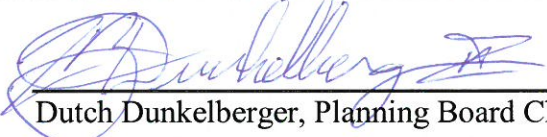
1. Curb stops must be installed for each parking space and securely anchored in place except in the parallel spaces in the paved portion of the lot.
2. Any parking signs placed in the interior of the parking lot must be affixed to a wooden post – no metal sign posts are allowed.
3. The applicant shall design and construct pedestrian improvements subject to Department of Public Works review and approval.
4. The applicant shall work with CMP to install adequate screening or shielding on any existing street pole mounted lights utilized by the businesses. Any new permanent lighting added will be CMP approved cut-off fixtures with adequate shielding to direct light down and away from adjacent properties.
5. Food and beverage service for The Wharf is restricted to the area designated in the approved license.
6. Restoration of the crushed sea shell area to its previous limit must be performed to the satisfaction of the Shoreland Resource Officer prior to the opening of The Wharf in the spring.
7. A parking management plan shall be developed in conjunction with staff which will be reviewed annually and certified as to compliance by April 1st of every year.

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these findings determines the proposed parking plan will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the parking plan at the above referenced property with the above noted waivers and conditions.

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

Vote of 7 in favor 0 against 0 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON 01/10/2019


Dutch Dunkelberger, Planning Board Chair

1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board of 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 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.



MaineDOT

Maine Department of Transportation QUALITY COMMUNITY PROGRAMS Fiscal Years 2012-2013 Application

Date Application
Received

(For MaineDOT Use
Only)

Quality Community Program Eligibility:

Please indicate which Quality Community Program(s) your project is eligible for. Please place an "x" next to all that apply:

- Transportation Enhancement Program (Up to 80% of total project value)
- Safe Routes to School Program (Up to 100% of total project value, within 2 miles of a K-8 school)
- Other Program (please list):

Section 1: General Information

Applicant Name(s): Town of Kittery, Maine		
Contact Person: Mary Ann Conroy		
Mailing Address: 200 Rogers Road		
City: Kittery	State: Maine	Zip: 03904
Daytime Phone No.: 207-439-2169	Email: MConroy@kitteryme.org	

NOTE: The following sections of this application request specific project related information. If warranted, pictures, maps, exhibits, diagrams, survey summaries, etc., should be included with the application. Please be concise. If additional space is required, please attach supplemental sheets.

Section 2: Project Brief

Location of Project: Provide town/city, street name(s) and additional project location references. Attach map showing location of the proposed improvements. Indicate area affected or linked to the proposed improvement(s) especially noting valued community resources, including neighborhoods, schools within two (2) miles, businesses, and village areas.

*** Stevenson Road Sidewalk Project - Shapleigh Middle School Neighborhood, Kittery, Maine.
Sidewalk shall connect the Shapleigh Middle School sidewalk (currently under construction) to the intersection of Route 236, a two lane arterial that links Kittery, Eliot, South Berwick and Berwick.

Project Summary (*Outline proposed improvements in 30 words or less*):

Design/construct a 5' concrete sidewalk with granite curbing along Stevenson Road from Shapleigh School to Route 236 (1,650 linear feet), including pedestrian crossing signals and related signage/stripping.

Section 3: Project Details

Section 3.1 - Estimated Cost of Infrastructure Project

Environmental Evaluation:		1. \$ 0
Preliminary/Final Design Engineering:		2. \$ 13,275
MaineDOT Project Design Administration (5% of Preliminary and Final Design line above)		3. \$ 664
Right of Way/Land Acquisition:		4. \$ 0
Construction:		5. \$ 220,000
Construction Engineering:		6 \$ 6,485
MaineDOT Construction Administration (10% of Construction Engineering line above)		7 \$ 649
Total Value of Project (add lines 1 through 6):		8. \$ 241,073
Local Match/Voluntary Contributions (Note: All match/voluntary contributions must be detailed. Bonus consideration may be given to applications that offer additional match/voluntary contributions beyond any applicable required local match.)		
- Cash:		9. \$ 15,000
- In-kind, right of way, or other contributions:		10. \$ 33,215
- Please describe local match in detail:	Town cash and Town installation labor	
Total Local Match/Voluntary Contributions:	% 20%	11. \$ 48,215
Funds Requested from MaineDOT:		12. \$ 192,858
Note: The sum of Lines 11 and 12 should equal Line 8 above.		

Note: Section 3.2 of this form also requires further details on costs. The amount shown on line 8 on the above estimate should match the total outline of costs in Section 3.2, or an explanation must be given for the discrepancy.

Section 3.2 - Detailed Description of Infrastructure Project and Cost (if applicable)

Provide a detailed description of project work items and/or construction costs from Section 3.1. Note that all infrastructure improvements must comply with the requirements of the Americans with Disabilities Act (ADA).

See Attachment A - Preliminary Opinion of Cost - Stevenson Road Sidewalk prepared for the Town of Kittery by Attar Engineering, Inc.

Section 3.3 - Project Description and Demonstrated Needs

Describe the proposed project and scope: *Attach diagrams, maps and/or correspondence that will help provide a clear description of the proposed scope.*

*** Stevenson Road Sidewalk Project - Shapleigh Middle School Neighborhood, Kittery, Maine.

A proposed project connects the new Shapleigh Middle School sidewalk (currently under construction) to the neighborhood on the other side of Route 236, on Martin Road. This 1,650 LF of sidewalk will provide a missing link of the pedestrian network for this neighborhood. The intersection of Stevenson and Route 236 currently operates with a traffic signal; however, no pedestrian signals were included in the initial installation. We propose to install new pedestrian, count-down signals with the appropriate signage and striping.

Describe why this project is important to your community/region and worthy of funding:

The proposed project is vital for the public safety and health of the residents in this "growth area" neighborhood. The neighborhood has over 360 students surrounding the Shapleigh Middle School and related Town athletic fields, located within the project area. Kittery recently hosted the York County Special Olympics with over 600 participants supported by hundreds of teachers, volunteers, parents and guests attending the day long event.

This neighborhood currently does not have any sidewalks; however, the Town is serious about improving the pedestrian and bicycle network with any and all new projects...including our own capital improvement plans. The Town residents recently voted in a bond to renovate Shapleigh Middle School. In their plan, and current contract, new sidewalks are to be constructed along the entire Shapleigh School property (on Stevenson and Manson Roads). New bike racks and interior sidewalks within the school property also improve access to all users.

The extension is needed to provide safe pedestrian and bike transportation for students and parents approaching the school from not only the north side of Maine Route 236, but also those on the south side of Route 236 along Martin Road and beyond. Separating children/residents from vehicular traffic and improving their ability to cross a major arterial is very important to our community.

Describe the Transportation Values: *Each project should serve primarily transportation purposes, as opposed to recreation purposes. A project serves valid transportation purposes if it serves as a connection between origins and destinations, increases safety, or enhances the use of the transportation system and the transportation environment.*

This region understands that it is important to create a balanced transportation system that integrates cycling and walking as part of daily life. As a result Kittery and its surrounding communities will experience economic, health, and environmental benefits, and will notice an improved quality of life for its citizens. Route 236 is a two lane arterial that links Kittery, Eliot, South Berwick and Berwick. It is a major commuter corridor and carries the highest volume of traffic (with the exception of the interstate) within the KACTS MPO. Average daily volume was 18,890 in Kittery as noted in a 2008 Corridor Study completed by MaineDOT..

Currently Route 236 has paved shoulders for a shared bike/breakdown lane. Although our project focuses on improved pedestrian amenities, our future planning includes dedicated bike lanes for Route 236 from Kittery into Eliot and South Berwick. Stevenson Avenue also has shared bike/vehicular lanes leading to the middle school as well as a short cut to the shopping malls on US Route 1.

Describe the Positive Impacts on Community:

The primary purpose of this proposed project is to provide a safe and healthy pedestrian and bicycle alternative for commuting to school, walking to the mall area, or visiting the town athletic fields, rather than traveling by car or bus. Increased bicycle and pedestrian traffic reduces vehicle trips thus making positive impacts for reduced traffic congestion and pollution. Furthermore, it increases neighborhood livability, sustainability, quality of life, and public health.

Our schools work throughout the school year promoting healthy lifestyles and conversely fighting obesity in our school age children. Faculty utilize many different approaches to education including: physical education, the statewide 5210 program, curriculum and strict nutritional guidelines. Getting students out walking and biking is not only a commitment by the faculty and town officials, but parent groups as well. The Kittery PTO is hosting a Seaside 4-Miler Race for all ages this September 19th ending at one of our greatest gems, Fort Foster Park, 90 acres of oceanside parks and trails.

The extension is needed to provide safe pedestrian and bike transportation for students and parents approaching the school from not only the north side of Maine Route 236, but also those on the south side of Route 236 along Martin Road and beyond.

Describe Regional Benefits:

Kittery participates in KACTS, a regional MPO, to define the regional goals and objectives in an on-going long range Transportation Plan. Our group just finalized the updated for the 2010 to 2035 Transportation Plan. Our proposed project meets the guidelines for the four of the seven primary goals: (1) Improved Public Safety, (2) Promote an Integrated Multimodal Transportation System, (3) Strengthen the Connection between Land Use, Economic Development and Transportation, and (4) Enhance Environmental Prosperity.

For Improving Public Safety - Our project increases pedestrian safety by providing a separated walking route for regional users of the Town athletic fields and School facilities (e.g. York County Special Olympics attended by 600 participants). Bicycle and pedestrian safety will be enhanced at the Route 236/Stevenson Road intersection with new pedestrian/bicycle crossing signals, cross walks, and related signage. The presence of bikers, walkers, signage, etc. will also encourage greater vehicular driver attention to safety and reduced speed through this area. We also plan to work with MaineDOT to request a lower speed limit for this area, currently at 45MPH.

For Promoting an Integrated Multimodal Transportation System - Our project increases system accessibility to all modes, facilitates connectivity across and between modes, better access between bicycle and pedestrian facilities, improve mobility options and increase non auto trips to and through this neighborhood.

For Strengthening the Connection between Land Use, Economic Development and Transportation - Our project supports promoting compact, mixed use growth patterns and linking regional transportation decisions with local land use decisions.

For Enhancing Environmental Prosperity - Our project reduces air and noise pollution, green house gas emissions and single occupancy vehicular trips thus creating a healthy environment and community.

Describe the Demonstrated Needs:

Although Kittery has miles of sidewalks in other areas of town, no sidewalks currently exist in this neighborhood. Residents and students must walk along private property or the edge of the roadway to get from one point to another in this area. Shared vehicular, bicycle and pedestrian infrastructure creates unsafe conditions to all users, particularly during school, special sporting and other events held at the school/fields. The proposed Stevenson Road Sidewalk improvements will make the neighborhood safer for pedestrians and bicyclists.

Describe How the Project Brings New Opportunities for Public Benefit:

With sidewalks in place, more students/residents can leave their cars at home and walk to the area events throughout the year. Regional users can also utilize a safer pedestrian and bicycle route to the mall area along Route 1.

Describe How Your Project Meets State Planning Goals/Economic/Tourism Benefits: *A project that will enhance or enable a livable, compact community that has the potential to improve quality of life, thereby enhancing the economic vibrancy of a community or region.*

Our proposed project is vital for the public safety and health of the residents in this "growth area" neighborhood with over 360 students surrounding the Shapleigh Middle School and related Town athletic fields. Kittery most recently hosted the York County Special Olympics with 600 participants, supported by hundreds of teachers, volunteers, parents and guests. The "missing link" is needed to provide safe pedestrian and bike transportation for students/residents approaching the school from not only the north side of Maine Route 236, but also those on the south side of Route 236 along Martin Road and beyond.

The proposed project is consistent with Comprehensive Plan found consistent by Maine State Planning Office on December 18, 2000, by enhancing coordinated land use, transportation and a economic development policies and implementation strategies. Our project is also consistent with Town Land Use and Development Code, updated and ordained on effective June 23, 2010, by providing for development in defined growth areas, higher densities in town center area, mixed use development and clustered residential development subdivisions. Also, the Code updated complete streets standards including full accessibility, wider pedestrian walkways (separated by heavily traveled ways by street tree were possible), bike lanes and pedestrian crossings.

Describe the Potential Safety Improvements:

Project is critically important to Kittery and the region. It is vital for the public safety and health of the residents in this growth area neighborhood with over 360 students surrounding the Shapleigh Middle School and related Town athletic fields.

Although Kittery has miles of sidewalks in other areas of town, no sidewalks currently exist in this neighborhood. Residents and students must walk along private property or the edge of the roadway to get from one point to another in this area. Shared vehicular, bicycle and pedestrian infrastructure creates unsafe conditions to all users, particularly during school, special sporting and other events held at the school/fields. The proposed Stevenson Road Sidewalk improvements will make the neighborhood safer for pedestrians and bicyclists.

Our project increases pedestrian safety by providing a separated walking route for regional users of the Town athletic fields and School facilities (e.g. York County Special Olympics attended by 600 participants). Bicycle and pedestrian safety will be enhanced at the Route 236/Stevenson Road intersection with new pedestrian/bicycle crossing signals, cross walks, and related signage. The presence of bikers, walkers, signage, etc. will also encourage greater vehicular driver attention to safety and reduced speed through this area. We also plan to work with MaineDOT to request a lower speed limit for this area, currently at 45MPH.

Section 4: Community Support

Provide information on the consultation and support for the project by the community: *Identify public discussion processes that occurred in the development of the proposal. Identify organizations that pledged their support of the project and the roles they plan to play in project implementation. Possible project partners may include school officials, local traffic engineers, community members, municipal officials, law enforcement agencies, public health agencies or organizations, local elected officials, and other not-for-profit community groups. Include as attachments letters of support.*

Public discussions for our townwide Proposed Bike and Pedestrian Plan have been very informal up to this point. Small groups of interested citizens, business owners and town officials have been reviewing a base plan that includes the three main travel routes in Kittery: US Route 1, Route 236, Route 103, and connection roadways Haley, Government, Stevenson/Manson, Chauncy Creek, and Pocohontas. A Proposed Base Plan is attached for your review.

KACTS has recently awarded our community a grant for further development of our Bike and Pedestrian Plan with a focus on the Route 1 Corridor and adjacent neighborhoods. This study will include collaboration with the shopping area business owners, neighborhood associations, school/town staff, regional/state bicycle and pedestrian coordinators, students/residents, transit providers and other walkable, liveable community interest groups.

The Superintendent of Schools, Chairperson of Town Council, Mitchell School Principals have all submitted letters of support for this application. A televised workshop was held on Tuesday, June 28th, for presentation of this application to the public and Town Council.

Is a municipal official where the project is located certified to locally administer the project? Yes No

Is the municipality willing to become LAP Certified? Yes No

A municipal/state agreement with the Maine Department of Transportation is required for the development, design, and construction of the project in accordance with Federal, State, and Local requirements.

Note: Information on Locally Administered Project (LAP) requirements can be found at:
<http://www.maine.gov/mdot/lap/lpa.php>

Section 5: Sensible Transportation Planning Bonus Points

Please Note: Your community may receive additional bonus points if it has met some of the criteria listed below. To be eligible for these bonus points, please answer the following questions:

Does your community have an approved Comprehensive Plan or Community Transportation Plan that has been found consistent by the State Planning Office or MaineDOT? Yes No If yes, please list the year it was found consistent:

If applicable, please outline relevant ordinances and policies that have been enacted to support the Comprehensive or Transportation Plan by promoting and encouraging compact development patterns in growth areas.

The proposed project is consistent with Comprehensive Plan found consistent by Maine State Planning Office on December 18, 2000, by enhancing coordinated land use, transportation and a economic development policies and implementation strategies.

Our project is also consistent with Town Land Use and Development Code, updated and ordained on effective June 23, 2010, by providing for development in defined growth areas, higher densities in town center area, mixed use development and clustered residential development subdivisions. Also, the Code updated complete streets standards including full accessibility, wider pedestrian walkways (separated by heavily traveled ways by street tree were possible), bike lanes and pedestrian crossings.

If applicable, please describe any regional efforts with surrounding municipalities that your community has undertaken to promote and encourage compact development patterns in growth areas.

The Town of Kittery is currently coordinating with Town of Eliot for a shared public sewer line to provide better service in growth areas. We also participate in Kittery Area Comprehensive Long Range Transportation Plan 2010 - 2035 with six core and 5 other municipalities in the region, KACTS, a regional MPO. The region is also coordinating regional land trust acquisition and management of conservation/no-growth areas.

Section 6: Authorized Signatures

An authorized representative of the city/town and applicant/sponsor must sign the application.

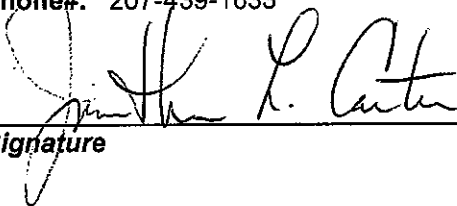
Municipal Official: (check one) Applicant Endorsement

Name: Jonathan Carter

Title: Town Manager

Phone#: 207-439-1633

Email: jcarter@kitteryme.org


Signature

6-29-10
Date

Applicant/Sponsor (if different)

Name:

Title:

Phone#:

Email:

Signature

Date

These signatures indicate the willingness/ability to provide the designated level of matching funds and a willingness to enter into a municipal/State agreement with the Department requiring the municipality/applicant/sponsor to administer the development, design, and construction of the project abiding to federal, State, and local requirements. The applicant will also be responsible for future maintenance of the completed project. Note that design should meet all applicable federal and State Standards and ADA Guidelines.

Send all application information as follows: Applications must be received no later than 4:00 PM (EST) on July 1, 2010. Seven complete hardcopy application packages (including all attachments and all required documents) must be submitted to:

MaineDOT



Town of Kittery, Maine

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 439-0459 Fax: (207) 439-6806

June 28, 2010

To Whom It May Concern

Re: Quality Community Program Grant Application
Sidewalk Projects in the
Mitchell Primary, Traip High and Shapleigh Middle School Neighborhoods

This is to express the Town Council's support for the funding and improvement of the proposed sidewalks in the neighborhoods surrounding our Mitchell Primary, Traip High and Shapleigh Middle School neighborhoods.

The sidewalks will improve significantly child safety walking and riding bicycles to and from the schools as well as promote better health and fitness for everyone in the community and those visiting from the region.

Please give this grant application your most serious consideration for funding.

Sincerely,

Judith Spiller
Chairperson
Town Council

KITTERY SCHOOL DEPARTMENT

200 Rogers Road
Kittery, Maine 03904-1458
FAX: (207) 439-5407

Marilyn Woodside

Curriculum Coordinator
(207) 475-1335

E-mail: mwoodside@kitteryschools.org

Larry Littlefield

Superintendent of Schools
(207) 475-1334

E-mail: llittlefield@kitteryschools.org

Jane Durgin

Director of Special Services
(207) 475-1331

E-mail: jdurgin@kitteryschools.org

June 22, 2010

To Whom It May Concern:

Re: Quality Community Program Grant Application
Mitchell Primary School and Shapleigh Middle School areas – Kittery, Maine

This letter is to express my full support for the funding and improvement of proposed sidewalks in the neighborhoods surrounding our Mitchell Primary School and Shapleigh Middle School

Sidewalks will significantly improve child safety walking and riding bicycles to and from the schools as well as promote better health and fitness for everyone in the community.

Please give this grant application your most serious consideration for funding.

Thank you.

Sincerely,



Larry Littlefield, Superintendent



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

Preliminary Opinion of Cost - Stevenson Road Sidewalk Kittery, Maine 6/15/2010

Stevenson Road from Shapleigh School baseball field to Route 236 (1,650 linear feet)
5' wide sidewalk with granite curb on north side of the road.
exclusions: engineering, surveying, land acquisitions

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Price</u>
Clear	0.2	AC	\$5,000	\$1,000
Common Excavation	500	CY	\$5	\$2,500
Subbase Gravel	440	CY	\$15	\$6,600
Base Gravel	220	CY	\$25	\$5,500
Bituminous Pavement	170	TON	\$100	\$17,000
Granite Curb	1,430	LF	\$24	\$34,320
Concrete Walk	7,150	SF	\$4	\$28,600
Pavement Markings	650	SF	\$0.75	\$488
Utility Poles	4	EA	\$3,500	\$14,000
18" HDPE	230	LF	\$21	\$4,830
Catch Basin / Drain Manhole	4	EA	\$3,000	\$12,000
Rip Rap Protection	4	SY	\$18	\$72
Topsoil, Seed, Mulch	2.4	MSF	\$150	\$360
Siltation Fence	60	LF	\$3	\$180
Interferences & Landscaping	1	LS	\$20,000	\$20,000
Pedestrian Traffic Signals	1	LS	\$50,000	\$50,000
Subtotal				\$197,450
Contingency (10% of Subtotal)				\$19,745
PRELIMINARY ESTIMATE ONLY (final design is not complete)				
Total				\$217,194



Town of Kittery, Maine

Department of Public Works

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 439-0333 Fax: (207) 439-6118

SCHOOL PROJECT UPDATE

November 2, 2011

STEVENSON/MANSON SIDEWALK/ROADWAY

Job Status: All work is done for this project

Budget Status:

Total Budget Estimate \$220,654

	<i>Estimate</i>	<i>Actual</i>
• Reclaim/paving contract	\$ 31,600	46,600
• Stormwater contract	\$ 32,300	34,000
• Curbing/Concrete Work	\$ 50,000	61,000
• Fencing	\$ 15,000	7,700
• Landscaping/Site Grading	\$ 15,000	22,000
• Striping	\$ 8,000	3,000
• Misc.	<u>\$ 20,000</u>	<u>25,729.33</u>
Budget Estimate - Oct 2010	\$171,900	
Total Spent		\$200,029.33

Updated Potential Savings: \$ 20,624

Issues/Concerns/Comments:

- I underestimated the replenishment of our materials at a cost of approximately \$15,000. To hold the projected savings to the amount shown above, we have not included this in our cost reimbursement. After review of your final costs throughout the larger project, if funds are available we would appreciate reimbursement, if possible.
- July 19, 2011 Reimbursement Transfer \$180,445.31
- Nov 2011 Reimbursement Pending \$ 19,584.02
- **Total** **\$200,029.33**



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: June 10, 2019
UPDATED: October 28, 2019
From: Kendra Amaral, Town Manager
Subject: Title 16 – Accessory Dwelling Units
Council Sponsor: Vice Chairperson Matt Brock

OVERVIEW

The Housing Working Group was formed in the spring of 2018 to identify solutions and recommendations to address the town's growing challenge of housing affordability. The Working Group is made up of volunteers including Councilor Matt Brock, Planning Board members Drew Fitch and Russell White, and interested residents, non-profit agencies, and business owners including Debbie Driscoll, Emily Flinkstrom, Stephen Kosacz, and Tom Emerson.

One of the Working Group's goals is to recommend and advance ideas to increase housing supply that is accessible for people of low to moderate incomes. It coordinated with the Seacoast Workforce Housing to host a workforce housing workshop in October 2018. Early in 2019, the Working Group proposed an ordinance revision for the Accessory Dwelling Unit code. It is presently working on developing recommendations for an affordable housing overlay zone for Title 16.

ACCESSORY DWELLING UNITS

The Working Group decided to focus on Accessory Dwelling Units (ADUs) as a first step, as this form of housing stock growth tends to be more organic, fits with existing infrastructure fairly seamlessly, and is less complex than large housing projects. ADU ordinance applies to single-family residential parcels, and allows for an additional dwelling unit (not separately owned) to be added to the parcel.

The proposed ordinance revision was developed by the Working Group with assistance from town staff. It was reviewed and revised by the Kittery Land Issues Committee (KLIC). The revised version was supported by the Working Group and forwarded to the Planning Board for review and recommendation to the Council.

The Working Group focused on reducing barriers such as size, parcel applicability, caps on annual ADU development, and owner occupancy requirements. The Planning Board accepted the revisions to the design and performance standards, but added back owner occupancy requirements, and introduced an annual permitting process as they grappled with their concerns regarding short-term-rentals (which is not part of this ordinance).

In June, the Council held a workshop with the Planning Board to review their recommendations. The workshop concluded with a mix of results. There is clearly support for the objective of increasing the available housing stock in Kittery by removing barriers in the ADU ordinance. There was no disagreement regarding the proposed design/lot standards (unit size, setbacks, lot coverage). The workshop discussion

focused on short term rentals (STRs) and the potential for ADUs to become predominately tourist lodging.

The proposed revision eliminates the owner-occupancy requirement, and reincorporates a 30-day minimum rental period for only those ADUs created under the new, less restrictive, unit standards. The proposed revisions also create an exemption on the 30-day minimum rental period for legally existing ADUs at the time the ordinance becomes effective. The effective date is proposed to be 6 months from adoption. The 6-month delay allows existing-unpermitted ADUs and/or anticipated ADUs time to come into code compliance under the current ordinance unit standards in order to retain the ability to utilize the ADU as a STR. The current, more restrictive, design standards would apply to these ADUs.

To note, the 30-day minimum does not apply to STRs universally. It is limited to ADUs created under the newer, less restrictive, unit standards proposed in this ordinance amendment. It does not apply to STRs in existing or new non-ADU dwellings (homes, apartments, etc.).

The draft revisions were provided to the Council in July as part of the Town Manager report, to allow an extended timeframe for Councilors to review and consider the proposal.

ATTACHMENTS

- Proposed Title 16 Amendment – Accessory Dwelling Units
- Title 16 – Accessory Dwelling Unit Enactment
- Planning Board Public Hearing Notes – March 28, 2019

Video of the April 25, 2019 Planning Board Meeting and June 10 Workshop are available at kitteryme.org

**KITTERY TOWN CODE –
ACCESSORY DWELLING UNIT**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in
6 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers
7 that authorize the town, under certain circumstances, to provide for the public health, welfare,
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or
9 federal laws; and

10 **WHEREAS**, the Kittery Town Council seeks to address the growing lack of affordable housing in
11 Kittery by providing opportunities for growth in housing stock in a manner that fits with existing
12 infrastructure, and allows homeowners flexibility in the use of their property; and

13 **WHEREAS**, the current Accessory Dwelling Unit code is overly complex and restrictive limiting
14 the generation of new accessory dwelling units in town; and

15 **WHEREAS**, amendments to the Accessory Dwelling Unit code are needed to remove the
16 barriers that are preventing property owners from creating accessory dwelling units; and

17 **WHEREAS**, the Kittery Town Council seeks to have newly created accessory dwelling units
18 serve to provide stable housing for residents, and not solely be short term rentals units;

19 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN
20 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS TITLE 16, LAND USE and
21 DEVELOPMENT CODE, ACCESSORY DWELLING UNITS AMENDMENTS OF THE TOWN
22 CODE, AS PRESENTED **TO BE EFFECTIVE SIX MONTHS FROM THE DATE OF**
23 **ENACTMENT**.

24 **INTRODUCED** and read in a public session of the Town Council on the ____ day of _____,
25 20____, by: _____ {NAME} Motion to approve by Councilor
26 _____ {NAME}, as seconded by Councilor _____ {NAME} and
27 passed by a vote of _____.

28 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
29 Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

30 **Attest:** {NAME}, _____ Town Clerk

1 **AMEND Title 16 -Article 2 Definitions as follows:**

2 **ACCESSORY DWELLING UNIT (ADU)**

3 ~~An apartment which is part of an existing structure on the property where the owner of the property~~
4 ~~occupies one of the units. The accessory dwelling unit may be rented so that the owner occupant may~~
5 ~~benefit from the additional income. The owner may also elect to occupy the accessory dwelling unit and~~
6 ~~rent the principal dwelling unit.~~A secondary dwelling unit with facilities used or intended to be used for
7 living, sleeping, cooking, eating, and sanitary facilities for one or more persons, whether attached to the
8 principal dwelling unit, detached from it or contained within it.

9 **AMEND Title 16 - Article 25 - Accessory Dwelling Units as follows:**

10 § 16.8.25.1 **Purpose.**

11 It is the intent of this article to ~~impose~~provide standards that enable homeowners to create accessory
12 dwelling units that are compatible with this title and ~~do not negatively impact the character of the existing~~
13 ~~neighborhood or overburden the existing infrastructure.~~to (1) provide a means for residents – including
14 seniors, single parents, and families with grown children – to remain in their homes and neighborhoods,
15 and (2) increase the housing stock of existing neighborhoods in a manner that is compatible with their
16 size and scale, and (3) allow more efficient use of existing housing stock and infrastructure, and (4)
17 provide a broader range of affordable housing options. The purpose of this article is not intended to
18 create a new supply of short-term rental (STR) units, such as those commonly advertised to tourists.

19 § 16.8.25.2 **Applicability.**

20 A. An accessory dwelling unit is allowed in all zoning districts where the use is permitted in Chapter
21 16.3. The unit must be located: ~~in an existing structure, with a certificate of occupancy issued more than~~
22 ~~five years prior to the date of the ADU application, on the property where the owner of the property~~
23 ~~occupies one of the units. The accessory dwelling unit may be attached to, or detached from, the primary~~
24 ~~dwelling unit. No expansion of a building's footprint is allowed to accommodate an accessory dwelling~~
25 ~~unit.~~

- 26 (1) within an existing structure, either principal or accessory on the property; or
27 (2) attached to the existing principal structure, sharing a common wall; or
28 (3) within a new accessory structure constructed for this purpose on the property.

29 B. Accessory dwelling units that have a valid certificate of occupancy or have vested rights in the
30 permitting process with an active building permit as of [effective date of ordinance] are exempted from
31 the Use Standard §16.8.25.4.C. (COUNCIL WILL NEED TO PROPOSE A REVISION INSERTING
32 THE DATE OF THE VOTE AS PART OF THE MOTION)

33 § 16.8.25.3 **Application for accessory dwelling unit.**

- 34 A. An application for an accessory dwelling unit must be made by the owner of the parcel on which the
35 primary residential unit sits. The completed application and associated fees must be submitted to the
36 ~~Town Planner and~~ Code Enforcement Officer for review.
- 37 B. Applications for an accessory dwelling unit that meets the unit size standards and development
38 standards contained in this article may be approved administratively and require approval by ~~both~~
39 the ~~Town Planner and~~ Code Enforcement Officer.
- 40 C. An accessory dwelling unit that fails to meet the ~~unit size standards and/or the development~~
41 ~~standards~~ provided in this article may not receive administrative approval; however, the accessory

42 dwelling unit may still be allowed. See § 16.8.25.4~~D~~~~and B~~ below.

43 ~~D. The Town limits the number of new accessory dwelling unit permits to no more than 22 in the~~
 44 ~~remainder of the calendar year of implementation and no more than 10 per calendar year on a first-~~
 45 ~~come first served basis.~~

46 ~~E. One of the units on the property, either primary or secondary, must be occupied by the property~~
 47 ~~owner at all times during the period of permitting. Prior to the issuance of a certificate of occupancy,~~
 48 ~~the property owner must submit a recorded copy of deed restrictions to the Town Planner, outlining~~
 49 ~~the owner occupancy requirement.~~

50 § 16.8.25.4 Accessory dwelling unit standards.

51 A. Lot standards.

52 (1) Legal lot/residence. An accessory dwelling unit is allowed only on lots within the Town that contain
 53 ~~a~~one legal, single-family residence as the primary unit.

54 (2) Number of accessory dwelling units per lot. No more than one accessory dwelling unit is permitted
 55 on a lot.

56 (3) Zone lot size and unit density. The property on which an accessory dwelling unit is located must
 57 meet the size required by the applicable a zone's zoning standards for the principal residence except
 58 in the case of legally, non-conforming lots. However, an accessory dwelling unit is exempt from the
 59 density requirements of ~~such~~ the zone in which they are located.

60 (4) Setbacks and coverage. Yard setbacks for the zone must be met. However, for legally non-
 61 conforming lots where a proposed accessory dwelling unit will be attached to a principal dwelling
 62 unit and cannot meet the zone's side and rear yard setbacks, the percentage by which a lot is smaller
 63 than the required lot size for the zone will dictate the required setback for that lot. For example, a
 64 30,000 square foot legally non-conforming lot in a zone that requires 40,000 square feet would
 65 require side and rear yard setbacks that are 75% of the zone's side and rear yard setbacks. Building
 66 coverage requirements will remain as required by the zone.

67 (4~~5~~) Utility connections. Accessory dwelling units must be connected to adequate water and ~~sewer-~~
 68 wastewater services.

69 (a) Public sewer.

70 [1] Service: verification, in writing, of adequate service to support the additional flow from the
 71 Superintendent of Wastewater Treatment Facilities.

72 [2] Fees: Payment of appropriate fees for connection to the municipal sewer system is required prior to
 73 obtaining the certificate of occupancy.

74 (b) Septic systems. Verification of adequate sewage disposal for subsurface waste disposal is required.
 75 The septic system, existing or proposed, must be verified as adequate or reconstructed as required.
 76 Plans for subsurface waste disposal must be prepared by a Maine-licensed site evaluator in full
 77 compliance with the State of Maine Subsurface Wastewater Disposal Rules, 10-144 C.M.R. 241.

78 (c) Public water. Verification in writing is required from the Kittery Water District for volume and
 79 supply.

80 (d) Wells. Verification of the potable water supply for private wells is required. Tests of the existing
81 well or proposed well, if applicable, must indicate that the water supply is potable and acceptable for
82 domestic use and must conform to the recommendations included in the "Manual for Evaluating
83 Public Drinking Water Supplies, Public Health Service No. 1180 (1969)."

84 (6) Parking. Each accessory dwelling unit must have one on-site parking space in addition to the parking
85 for the primary dwelling unit. Tandem parking is permitted.

86 ~~(57)~~ Private road or right-of-way access. Where an applicant seeks to locate an accessory dwelling unit
87 on a privately maintained road or right-of-way the following applies:

88 (a) Applicant must ~~provide~~ submit written consent from the road or home owner's association or owner
89 and parties responsible for street maintenance. ~~;~~ ~~and~~

90 ~~(b) Road construction standards must support the additional trips generated.~~

91 B. Unit standards.

92 (1) Unit size. ~~The habitable floor space of an accessory dwelling unit must be a minimum of 400 square~~
93 ~~feet and no larger than 800 square feet.~~ The size of an accessory dwelling unit must meet the
94 minimum size for a dwelling unit as set by building code standards adopted and amended from time
95 to time by Maine's Bureau of Building Codes and Standards, and be no larger than 1,000 square feet.
96 For principal dwelling units 1,000 square feet or smaller, an accessory dwelling unit may be no
97 greater than 80% of the size of the principal dwelling unit, as measured in square feet. An accessory
98 dwelling unit may have no more than two bedrooms.

99 (2) Unit location. ~~An accessory dwelling unit:~~

100 (a) An accessory dwelling unit must meet on or more of the following conditions:

101 ~~Must b~~ [1] Be fully constructed within the existing footprint of any legal primary residence or accessory
102 building; or-

103 [2] Share a common wall with the principal residence, providing yard setbacks per 16.8.25.4.B.1; or

104 [3] Be constructed as a new accessory building containing an accessory dwelling unit, providing yard
105 setbacks can be met for the zone.

106 (b) Accessory dwelling units ~~W~~ will be allowed to be fully constructed within ~~inside of the primary-~~
107 ~~residence building~~ principal residence even if the building does not meet yard setbacks. ~~where the~~
108 ~~building has nonconforming yard setbacks.~~

109 (c) Accessory dwelling units ~~W~~ will not be allowed in accessory ~~or detached~~ buildings encroaching on
110 yard setbacks.

111 ~~(3) Building code compliance. An accessory dwelling unit must satisfy the requirements contained in~~
112 ~~the building code and fire code as currently adopted by the Town. See § 16.5.3E, Conformance to~~
113 ~~standards.~~

114 C. Use standards. The accessory dwelling unit may not be rented for less than a 30-day period.

115 ~~E~~ D. Development standards. Should an accessory dwelling unit fail to meet the applicable unit

116 ~~development~~ standards listed in this article, the accessory dwelling unit may still be allowed if the
117 applicant obtains approval from the Board of Appeals under the provisions of a miscellaneous
118 variation request, as outlined in §16.6.4.C. The Board of Appeals shall review any appeal decision
119 in conformance with §16.6.6. “Basis for decision”.

120 § 16.8.25.5 Violations.

121 A. A violation of the Use Standard 16.8.25.4.C will lose the certificate of occupancy for the unit for no
122 less than 30 days, and be assessed a penalty of \$200.

CALL TO ORDER

ROLL CALL

Present: Steve Bellantone, Member; Drew Fitch, Member; Russell White, Member; Mark Alesse, Member; and Karen Kalmar, Vice Chair

Absent: Ronald Ledgett, Member; Dutch Dunkelberger, Chair

Staff: Jamie Steffen, Town Planner; Adam Causey, Director of Planning and Development

Advisory: Earle Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – January 24, 2019

Vice Chair Kalmar announced that the Board needed Mr. Ledgett present to consider of approval of them. With his absence the approval of minutes was postponed.

PUBLIC COMMENT

Vice Chair Kalmar opened the public comment segment of the meeting. There being no comments, Vice Chair Kalmar closed the public comment segment.

PUBLIC HEARINGS

**Item 1 - Land Use and Development Code (Title 16) Amendments –
ARTICLE XXV Accessory Dwelling Units**

The Kittery Planning Board will consider proposed amendments to Section 16.2 DEFINITIONS and Section 16.8.25 Accessory Dwelling Units to allow for greater flexibility in the design and development of accessory dwelling units, including eliminating the annual limit and owner occupancy requirement, increasing the allowable ADU size, and restricting new ADUs to no less than 30-day rentals. Public Hearing, Vote to Recommend. Take public comment. Review and discuss proposed changes to ARTICLE XXV Accessory Dwelling Units. Vote to recommend to the Town Council.

Vice Chair Kalmar opened the public hearing.

Lindsay Blis, 4 Captain's Way, discussed a short-term rental issue in her development.

Tom Emerson, 10 Ox Point Drive, stated he was a member of the Housing Committee that worked initial draft of the proposed ADU amendments. He also disclosed that he has a short-term rental (STR) on his property. He stated that the purpose of this hearing was to talk about ADUs not STRs. He stated he was a strong proponent of ADUs. He further stated that he was not in favor of the 30 day period.

Niles Pinkham, 25 Pinkham Lane, spoke about a STR that is causing problems in his neighborhood.

Vice Chair Kalmar explained that the public hearing was input on the proposed ADU ordinance amendments not STRs. That topic will be considered by the Board at a later date.

Mara Lamstein, 35 Mill Pond Road, stated that she was a big supporter of ADUs.

Donald Gagnon, 33 Pinkham Lane, discussed the gray area between ADUs and STRs.

William Peirce, 53 Rogers Road, spoke in support of the ADU ordinance. He stated he has a two-family and would like to be able to have an ADU as well. He spoke to the vagueness of the definition of a ADU. He would like to see a workable ADU law.

Pamela Blodgett, 60 Old Dennett Road, discussed how Airbnb's would benefit Kittery.

Laurie Rowan, 115 Wilson Road, spoke in support of allowing Airbnb's.

Fred Kretchman, 46 Crockett Neck Road, spoke of support of ADUs but dislikes the 30 day limit.

Erin Brochu, 90 Government Street, spoke about the positives of renting her home on Airbnb. She stated that she and her husband would like to be able to do a ADU but can't afford it. She expressed concern with the 30 day restriction.

Tim Brochu, 90 Government Street, stated he Maine licensed architect. He spoke to specific points about STRs.

Cameron Wake, 19 Mendum Avenue, spoke to the ecological benefits of

allowing ADUs.

Vice Chair Kalmar closed the public hearing at 6:45 p.m.

Mr. White spoke to the ordinance being more flexible. His primary concerns are enforcement issues and improper use. He discussed looking into imposing local penalties on violations. Mr. Fitch spoke to his involvement as part of the Housing Working Group in spearheading the effort. He discussed the mission of creating affordable housing and that was why the proposed amendments were trying to discourage STRs.

Vice Chair Kalmar discussed enforcement of the under 30 day's restriction and asked staff for their input. Mr. Causey responded that the Department doesn't have the manpower to enforce. He spoke further to the intent of the proposed changes. He explained that the group was trying to come up with a compromise of being more flexible with ADUs but at the same time not creating a situation where it would lead to all STRs. He stressed the STRs would need to be addressed separately.

Vice Chair Kalmar questioned the fairness of denying current ADU owners the option to rent their units for fewer than 30 days since this rental restriction does not currently apply to any other type of dwelling. She also requested that the ordinance be amended to prohibit ADUs from being created within existing accessory structures that are in the Shoreland Overlay or Resource Protection Overlay zones' setbacks.

Mr. Alesse noted that he has a STR in his barn so he would not be voting on the item. He discussed his concern about wanting to protect the Kittery homeowners that have existing STRs on their properties. Mr. White expressed his concerns about the tie-in with STRs. He stated he would like to see the 30 day language removed. He further stated that the Town will need to tackle the STR issue – he recognizes that there are neighborhood issues but he hears more positive than negative. The Board discussed the need to remove the STR reference in the proposed amendment and addressed that a later date.

Kendra Amaral, Town Manager, spoke to STR reference and the 30 day language. She stated she and staff would be willing to compromise on that clause and remove it that was the desire of the Board. Her goal is to develop regulations that the community can get behind and support. She advised the Board on their options for moving the amendments forward.

Mr. White moved to continue the item until the Board's second meeting in April. Mr. Bellantone seconded the motion. It was acknowledged the staff would review whether to remove the 30 day restriction.



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: October 7, 2019
UPDATED: October 28, 2019
From: Kendra Amaral, Town Manager
CC: Dutch Dunkelberger, Planning Board Chair
Subject: Title 16 – Shoreland Overlay
Councilor Sponsor: Chairperson Judy Spiller

The Planning Board recommends approval of amendments to Title 16 to better clarify the permitting authority for review and approval of specific projects within the Shoreland Zone. The amendments address development generally associated with new or expanded dwelling units.

The proposed amendments specifically achieve:

- Clarification of what expansion of a structure is;
- Move dwellings to “permitted uses” from “special exceptions”; simplifying the process for homeowners;
- Eliminates prohibition on mobile homes (achieves compliance with state law);
- Simplifies the process for repair/expansion of a non-conforming existing structure if it is located outside of the baseline and overlay zone setbacks; and
- Clarifies process/restrictions on expansion of a nonconforming structure within the 25 foot setback.

The Planning Board recommended adoption of the ordinance amendments at their June 27, 2019 meeting, following a public hearing. There were no public comments.

The vote was unanimous to recommend the amendments; though there was some disagreement over certain parts of the amendment proposal. Typically, when the Planning Board unanimously recommends amendments, a workshop with the Council is not deemed to be needed.

UPDATES

The proposed amendment has been updated (highlighted in yellow) to address feedback on the proposed amendment. The updates include:

- Added the Resource Protection Overlay Zone Special Exception language correction to achieve consistency with state law which prohibits the limitation of mobile homes where single-family dwellings are allowed. The original proposal only corrected the Shoreland Overlay Zone.
- Clarifying that 16.7.3.3. is applicable to structures or the portion of the structure that is located less than the base zone setback;
- Removed reference to single-family and duplex dwellings in title of 16.8.28.1 and adds clarifying language to align with the Planning Board direction on this amendment effort.

PROPOSED SOLUTION/RECOMMENDATION

Approve amendments as proposed.

ATTACHMENTS

- Proposed Amendment to Title 16 – Shoreland and Resource Protection Overlay Zones
- Proposed Enactment
- Memo to Planning Board outlining proposed amendments

Video of the June 27, 2019 Planning Board Meeting is available at kitteryme.org

**KITTERY TOWN CODE –
TITLE 16
SHORELAND and RESOURCE PROTECTION OVERLAY ZONES**

1 **AN ORDINANCE** relating to the municipality’s authority for Town governance to give due and
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in
6 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers
7 that authorize the town, under certain circumstances, to provide for the public health, welfare,
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or
9 federal laws; and

10 **WHEREAS**, sections of Title 16 pertaining to the Shoreland Overlay Zone **and the Resource**
11 **Protection Overlay Zone** require updating to address identified inconsistencies, and to conform
12 to updated state recommended language; and

13 **WHEREAS**, the proposed amendments will provide better clarity on the permitting authority for
14 review and approval of specific projects within the Shoreland Overlay Zone **and the Resource**
15 **Protection Overlay Zone**;

16 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN
17 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS TITLE 16, LAND USE and
18 DEVELOPMENT CODE, SHORELAND OVERLAY ZONE AMENDMENTS OF THE TOWN
19 CODE, AS PRESENTED.

20 **INTRODUCED** and read in a public session of the Town Council on the ____ day of _____,
21 20____, by: _____ {NAME} Motion to approve by Councilor
22 _____ {NAME}, as seconded by Councilor _____ {NAME} and
23 passed by a vote of _____.

24 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
25 Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

26 **Attest:** {NAME}, _____ Town Clerk

Title 16 Shoreland Overlay Zone

1 **AMEND Definitions §16.2.2 as follows:**

2 EXPANSION OF STRUCTURE

3 An increase in the ~~floor area or volume~~footprint of a structure, including all extensions, such as, but
4 not limited to, piers or attached decks, garages, porches and greenhouses.

5 **AMEND Shoreland Overlay Zone §16.3.2.17 as follows:**

6 B. Permitted and special exception land use. The following uses in this section are allowed in
7 accordance with the land use standards established in the underlying base zone in this chapter and
8 land uses identified by the Mandatory Shoreland Zoning Act, 38 M.R.S. §§ 435 to 449.

9 (1) Residential – Rural Zone (R-RL).

10 (a) Permitted uses.

11 [1] Public open space recreational uses;

12 [2] Any agricultural building or use except a sawmill, piggery or the raising of poultry for commercial
13 purposes;

14 [3] Accessory uses and buildings; ~~and-~~

15 [4] Individual private campsite; ~~and-~~

16 [5] Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the
17 upland edge of a wetland.

18 (b) Special exception uses.

19 ~~[1] Dwellings or modular home, excluding mobile home, in a single family or duplex configuration;~~

20 ~~[2]~~ [2] School, hospital, long-term nursing care facility, convalescent care facility, municipal building or
21 use, church or other institution of educational, religious, philanthropic, fraternal or social nature;

22 ~~[3]~~ [3] Home occupations;

23 ~~[4]~~ [4] Day-care facility;

24 ~~[5]~~ [5] Public utility facilities including substations, pumping stations and sewage treatment facilities;

25 ~~[6]~~ [6] Mineral extraction subject to § 16.9.1.2; and

26 ~~[7]~~ [7] Recreation activity buildings and grounds operated for profit, exclusive of drive-in theaters.

27 (2) Residential – Suburban Zone (R-S).

28 (a) Permitted uses.

29 [1] Public open space recreational uses;

30 [2] Day-care facility; ~~and-~~

31 [3] Elderly day-care facility; ~~and-~~

32 [4] Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the
33 upland edge of a wetland.

34 (b) Special exception uses.

35 ~~[1] Dwellings in a multiunit residential configuration with not more than four units per building and~~
36 ~~mobile homes;~~

37 ~~[2]~~ [2] School or educational facility (including nursery schools), elder-care facility, hospital, long-term
38 nursing care facility, convalescent care facility, municipal, county or state building or use, church or
39 other institution of educational, religious, philanthropic, fraternal, political or social nature. Any
40 single listed use may not occupy more than 5,000 square feet of floor area;

- 41 [32] Public utility facilities, including substations, pumping stations and sewage treatment facilities;
42 [43] Mineral extraction subject to § 16.9.1.2; and
43 [54] Home occupations.
- 44 (3) Residential – Kittery Point Village (R-KPV).
45 (a) Permitted uses.
46 [1] Any agricultural building or use except a sawmill, piggery or the raising of poultry for commercial
47 purposes;
48 [2] Accessory uses and buildings; and
49 [3] Day-care facility; and
50 [4] Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the
51 upland edge of a wetland.
52 (b) Special exception uses.
53 ~~[1] Dwellings or modular home, excluding mobile homes, in a single family or duplex configuration;~~
54 [21] School or educational facility (including nursery schools), municipal, county or state building or use,
55 church or other institution of educational, religious, philanthropic, fraternal, political or social nature.
56 Any single listed use may not occupy more than 5,000 square feet of floor area;
57 [32] Home occupations; and
58 [43] Public utility facilities, including substations, pumping stations and sewage treatment facilities.
- 59 (4) Residential – Urban Zone (R-U).
60 (a) Permitted uses.
61 [1] Public open space recreational uses;
62 [2] Day-care facility; ~~and~~
63 [3] Accessory uses and buildings; and
64 [4] Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the
65 upland edge of a wetland.
66 (b) Special exception uses.
67 ~~[1] Dwellings, or manufactured housing, in a single family or duplex configuration;~~
68 [21] School (including day nursery), hospital, long-term nursing care facility, convalescent care facility,
69 municipal or state building or use, church or any other institution of educational, religious,
70 philanthropic, fraternal, political or social nature;
71 [32] Home occupations;
72 [43] Recreational uses, exclusive of drive-in theaters;
73 [54] Public utility facilities, including substations, pumping stations and sewage treatment facilities; and
74 [65] Inn.
- 75 (5) Residential – Village Zone (R-V).
76 (a) Permitted uses.
77 [1] Public recreation;
78 [2] Municipal, county or state building or use; ~~and~~
79 [3] Accessory buildings and structures; and
80 [4] Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the
81 upland edge of a wetland.
82 (b) Special exception uses.
83 ~~[1] Dwellings or modular home, excluding mobile home, in a single family or duplex configuration;~~

- 84 [21] Home occupation;
85 [32] Public utility facilities, including substations, pumping stations and sewage treatment facilities; and
86 [43] Day-care or nursery school facility for 13 or more persons in care, in conformance with the standards
87 for a major home occupation (see § 16.8.22.3).
- 88 (6) Residential – Rural Conservation Zone (R-RC).
89 (a) Permitted uses.
90 [1] Any agricultural building or use except sawmill, piggery or the raising of poultry for commercial
91 purposes;
92 [2] Timber harvesting;
93 [3] Public recreation; ~~and~~
94 [4] Accessory uses and buildings; and
95 [5] Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or
96 the upland edge of a wetland.
97 (b) Special exception uses.
98 ~~[1] Dwellings or modular home, excluding mobile home, in a single family or duplex configuration;~~
99 [21] Home occupation;
100 [32] School, municipal building or use, or any other institution of educational, religious, philanthropic,
101 fraternal or social nature;
102 [43] Public and private open space recreational uses, exclusive of drive-in theaters;
103 [54] Public utility facilities, including substations, pumping stations and sewage treatment facilities; and
104 [65] Day-care facility.
105 (c) Prohibited uses. Prohibited use is any use not listed as a permitted or special exception use.
- 106 (8) Business – Local Zone (B-L).
107 (a) Permitted uses.
108 [1] Public open space recreational uses; ~~and~~
109 [2] Accessory uses and buildings; ~~and~~ and
110 [3] Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or
111 the upland edge of a wetland.
112 (b) Special exception uses.
113 ~~[1] Dwellings or modular home, excluding mobile home, in a single family or duplex configuration;~~
114 [21] School or educational facility (including nursery schools), day-care facility, elder-care facility,
115 hospital, long-term nursing care facility, convalescent care facility, municipal, county or state
116 building or use, church or any other institution of educational, religious, philanthropic, fraternal,
117 political or social nature;
118 [32] Home occupation;
119 [43] Retail business and service establishments, but excluding those of which the principal activity entails
120 outdoor sales and/or storage, and excluding those specifically mentioned under Subsection C of this
121 section;
122 [54] Business and professional offices;
123 [65] Mass transit station;
124 [76] Commercial parking lot or parking garage;
125 [87] Restaurant;
126 [98] Art studio or gallery;
127 [109] Convenience store, food store, grocery store;

- 128 [110] Personal service;
129 [121] Business service;
130 [1312] Building materials, but excluding those of which the principal activity entails outdoor sales and/or
131 storage;
132 [1413] Garden supply;
133 [1514] Conference center;
134 [1615] Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking
135 of seafood occur at the site;
136 [1716] Motel, hotel, inn or rooming house;
137 [1817] Place of public assembly, including theater;
138 [1918] Public utility facilities, including substation, pumping stations and sewage treatment facilities;
139 [2019] Apartment building;
140 [2120] Residential dwelling units as part of a mixed-use building; and
141 [2221] Specialty food and/or beverage facility.
- 142 (14) Mixed-Use Zone (MU).
143 (a) Permitted uses.
144 [1] Agricultural uses and practices, except a piggery or the raising of poultry for commercial purposes;
145 [2] Art studio/gallery;
146 [3] Church or institution of religion;
147 [4] Research and development;
148 [5] Public open space or recreation;
149 [6] Municipal or state building or use;
150 [7] Institution of philanthropic, fraternal, political or social nature which is not used for residential or
151 overnight occupancy;
152 [8] Timber harvesting; ~~and~~
153 [9] Home occupations; ~~and~~
154 [10] Dwellings, limited to the following:
155 [a] Dwellings on lots of record as of April 1, 2004 if located farther than 100 feet from the normal high-
156 water line of any water bodies, or the upland edge of a wetland.
157 [b] Dwelling units on the upper floors of a mixed-use building that is served on the upper floors of a
158 mixed-use building that is served by public sewerage if located farther than 100 feet from the normal
159 high-water line of any water bodies, or the upland edge of a wetland.
160 (b) Special exception uses.
161 ~~[1] Dwellings, limited to the following:~~
162 ~~[a] Single family dwellings on lots of record as of April 1, 2004; and~~
163 ~~[b] Dwelling units on the upper floors of a mixed use building that is served by public sewerage.~~
164 [21] Business and professional offices;
165 [32] Boatyard;
166 [43] Grocery store, food store, convenience store or neighborhood grocery;
167 [54] Day-care facility;
168 [65] Commercial parking lot or garage;
169 [76] Hospital;
170 [87] Inn;
171 [98] Institution of education which is not used for residential or overnight occupancy;
172 [109] Mass transit station;

- 173 [110] Restaurant;
- 174 [121] Convalescent care facility, long-term nursing care facility;
- 175 [1312] Personal services;
- 176 [1413] Repair service;
- 177 [1514] Selected commercial recreation;
- 178 [1615] Theater;
- 179 [1716] Veterinary hospital;
- 180 [1817] Accessory buildings and uses;
- 181 [1918] Retail use, a single use not to exceed 50,000 square feet in gross floor area;
- 182 [2019] Elder-care facility;
- 183 [2120] Housing for elderly as part of a mixed-use project;
- 184 [2221] Commercial kennel;
- 185 [2322] Motel or hotel;
- 186 [2423] Public utility facilities, including substations, pumping stations and sewage treatment facilities;
- 187 [2524] Shop in pursuit of trades;
- 188 [2625] Transportation terminal;
- 189 [2726] Wholesale business;
- 190 [2827] Warehousing/storage;
- 191 [2928] Construction services;
- 192 [3029] Funeral home;
- 193 [3130] Research and development; and
- 194 [3231] Specialty food and/or beverage facility.
- 195 (15) Mixed-Use – Badger's Island Zone (MU-BI).
- 196 (a) Permitted uses.
- 197 [1] Public open space and recreational uses;
- 198 [2] Shuttle service and ride-sharing facilities
- 199 [3] Aquaculture; ~~and~~
- 200 [4] Research laboratories; and
- 201 [5] Dwellings if located 75 feet or farther from the normal high-water line of any water bodies, or the
- 202 upland edge of a wetland.
- 203
- 204 (b) Special exception uses.
- 205 ~~[1] Dwellings including modular homes in a single family or duplex configuration, excluding mobile-~~
- 206 ~~homes;~~
- 207 [21] School, municipal or state building or use, church or any other institution of educational, religious,
- 208 philanthropic, fraternal, political or social nature;
- 209 [32] Accessory buildings and uses;
- 210 [43] Home occupations;
- 211 [54] Day-care facility;
- 212 [65] Retail business and service establishments, but excluding those with any outdoor sales and/or
- 213 storage;
- 214 [76] Business and professional offices;
- 215 [87] Restaurant with the hours of operation limited to 5:00 a.m. to 11:00 p.m., but excluding restaurants
- 216 where ordering and/or pickup of food may take place from a motorized vehicle;
- 217 [98] Art studio/gallery;

- 218 [409] Grocery store, food store;
- 219 [410] Personal, business or service;
- 220 [421] Inn;
- 221 [4312] Boatyard;
- 222 [4413] Marina;
- 223 [4514] Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking
- 224 of seafood occur at the site;
- 225 [4615] Commercial recreational use;
- 226 [4716] Place of assembly;
- 227 [4817] Theater;
- 228 [4918] Public utility facilities, including substations, pumping stations and sewage treatment facilities;
- 229 and
- 230 [2019] Specialty food and/or beverage facility.

231 (16) Mixed-Use – Kittery Foreside Zone (MU-KF).

232 (a) Permitted uses.

233 [1] Public open space recreational uses; and

234 [2] Dwellings if located 75 feet or farther from the normal high-water line of any water bodies, or the

235 upland edge of a wetland.

236 (b) Special exception uses.

237 ~~[1] Dwellings in a single family or duplex configuration, excluding mobile homes;~~

238 [21] Retail business and service establishments, excluding those where the principal activity entails

239 outdoor sales and/or storage;

240 [32] Business and professional offices, including financial institutions;

241 [43] Shuttle service and ride-sharing facilities;

242 [54] Restaurant, coffee shop, bakery, cafes and similar food service operations, but excluding drive-in

243 facilities;

244 [65] Art studio or gallery;

245 [76] Grocery store, food store;

246 [87] Personal and/or business service;

247 [98] Inn;

248 [409] Commercial or private parking lots;

249 [410] Marinas;

250 [4211] Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking

251 of seafood occur at the site;

252 [4312] Home occupations;

253 [4413] Place of assembly;

254 [4514] Theater;

255 [4615] Research and development;

256 [4716] Public utility facilities, including substations, pumping stations, and sewage treatment facilities;

257 and

258 [4817] Specialty food and/or beverage facility.

259 **AMEND § 16.3.2.19 Resource Protection Overlay Zone OZ-RP as follows:**

260 B. Permitted and special exception land use. Land uses within each base zone that are overlaid by the

261 Resource Protection Overlay Zone include:

- 262 (1) Residential – Rural Zone (R-RL).
263 (b) Special exception uses.
264 [1] Single-family dwelling ~~or modular home, excluding mobile home;~~
- 265 (2) Residential – Suburban Zone (R-S).
266 (b) Special exception uses.
267 [1] Single-family ~~dwelling or mobile home;~~
- 268 (3) Residential – Kittery Point Village Zone (R-KPV).
269 (b) Special exception uses.
270 [1] Single-family dwellings, ~~excluding mobile homes;~~
271 |
- 272 (4) Residential – Urban Zone (R-U).
273 (b) Special exception uses.
274 [1] Single-family dwelling ~~including manufactured housing;~~
- 275 (5) Residential – Village Zone (R-V).
276 (b) Special exception uses.
277 [1] Single-family dwelling ~~and manufactured housing;~~
- 278 (6) Residential – Rural Conservation Zone (R-RLC).
279 (b) Special exception uses.
280 [1] Single-family dwelling, ~~including modular homes;~~
- 281 (8) Business – Local (B-L).
282 (b) Special exception uses.
283 [1] Single-family dwelling ~~including modular homes;~~
- 284 (9) Business – Local Zone (B-L1).
285 (b) Special exception uses.
286 [1] Single-family dwelling, including modular homes ~~and excluding mobile homes;~~
- 287 (11) Commercial – 2 Zone (C-2).
288 (b) Special exception uses.
289 [1] Accessory uses and buildings ~~including minor or major home occupations;~~
- 290 (15) Mixed-Use – Badger's Island Zone (MU-BI).
291 (b) Special exception uses.
292 [1] Single-family dwelling, ~~excluding mobile homes;~~
- 293 (16) Mixed-Use – Kittery Foreside Zone (MU-KF).
294 (b) Special exception uses.
295 [1] Single-family dwelling, ~~excluding mobile homes;~~
- 296 **AMEND Nonconforming Structures §16.7.3.3.B as follows:**
297 Nonconforming structure repair and/or expansion.
298 ~~(1) Except where otherwise permitted in this title, repair and/or expansion of a nonconforming structure~~

299 ~~must be approved by the Board of Appeals. In cases where the structure is located in the Shoreland~~
300 ~~or Resource Protection Overlay Zone, the repair and/or expansion must be approved by the Planning~~
301 ~~Board.~~

302 (21) The Code Enforcement Officer may approve the repair and/or expansion of a nonconforming
303 structure provided the proposed expansion is not located in the base zone setback of the Shoreland
304 Overlay Zone or at any location in the Resource Protection Overlay Zone and meets ~~all~~ either of the
305 following criteria:

306 (a) A vertical expansion that follows the existing building footprint;

307 (b) Will not result in setbacks less than those existing; ~~and~~

308 ~~(c) Is not located in the Shoreland Overlay or Resource Protection Overlay Zone.~~

309 (32) Except where otherwise permitted in this title, repair and/or expansion of a nonconforming structure
310 must be approved by the Board of Appeals. In cases where the structure is located in the base zone
311 setback of the Shoreland Overlay or Resource Protection Overlay Zone, the repair and/or expansion
312 must be approved by the Planning Board.

313 (3) This subsection does not apply to any proposed vertical expansion of a patio, deck or accessory
314 structure permitted to be closer to a water body or to a principal structure in accordance with Table
315 16.9 - Minimum Setbacks from Wetlands and Water Bodies.

316 (a) A nonconforming structure may be repaired or maintained and may be expanded in conformity with
317 the dimensional requirements, such as setback, height, etc., as contained in this title. If the proposed
318 expansion of a nonconforming structure cannot meet the dimensional requirements of this title, the
319 Board of Appeals or the Planning Board will review such expansion application and may approve
320 proposed changes provided the changes are no more nonconforming than the existing condition and
321 the Board of Appeals or the Planning Board makes its decision per § 16.6.6.B.

322 (b) Except in the Residential - Village (R-V) Zone, minimum setbacks of residential storage sheds that
323 are less than 121 square feet, one-story residential garages that are less than 577 square feet, and
324 decks less than 251 square feet may be one-half the minimum rear and side yard setbacks, providing
325 the lots are legally nonconforming.

326 (c) Where the expansion of the residential use within the Commercial Zones involves an expansion of a
327 structure, the structure must be expanded in conformity with the dimensional requirements contained
328 in this title. If the proposed structure expansion cannot meet the dimensional requirements of this
329 title, the application may be submitted to the Board of Appeals for review as a miscellaneous
330 variation request. In reviewing all such applications, the Board of Appeals must use the criteria
331 established in this section, and then may approve the proposed variations to the dimensional
332 requirements.

333 (d) The addition of steps and landings, exterior to the structure does not constitute expansion. Such steps
334 are not to be considered part of the structure for such determination. Step landings may not exceed
335 three feet by three feet in size.

336 (e) In addition to the standards in the above § 16.7.3.3B(3)(a) through (d), the expansion of a
337 nonconforming structure and the construction of new, enlarged, or replacement foundation beneath a
338 nonconforming structure located in the Shoreland or Resource Protection Overlay Zone must meet
339 the following:

- 340 [1] Wherever a new, enlarged, or replacement foundation is constructed under a nonconforming
341 structure the structure and new foundation must be placed such that setback requirements are met to
342 the greatest practical extent as determined by the Planning Board, basing its decision on the criteria
343 specified in § 16.7.3.3A(2), Nonconforming structure relocation.
- 344 [2] All new principal and accessory structures, excluding functionally water-dependent uses, must meet
345 the water body, tributary stream, or wetland setback requirements contained in § 16.3.2.17D(2). A
346 nonconforming structure may be added to or expanded after obtaining a permit from the same
347 permitting authority as that for a new structure, if such addition or expansion does not increase the
348 nonconformity of the structure and is in accordance with § 16.7.3.3B(3)(e)[4] and [5] below.
- 349 [3] If a legally nonconforming principal structure is located partially within 25 feet from the normal
350 high-water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland,
351 ~~Expansion~~ expansion of the footprint and/or height of any portion of a~~the~~ structure that is located
352 within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a
353 coastal or freshwater wetland is prohibited even if the expansion will not increase nonconformity
354 with the water body, tributary stream, or wetland setback requirement. Expansion of an accessory
355 structure that is located closer to the normal high-water line of a water body, tributary stream, or
356 upland edge of a coastal or freshwater wetland than the principal structure is prohibited, even if the
357 expansion will not increase nonconformity with the water body, tributary stream, or coastal or
358 freshwater wetland setback requirement.
- 359 [4] Notwithstanding § 16.7.3.3B(3)(e)[2] above, if a legally existing nonconforming principal structure
360 is entirely located less than 25 feet from the normal high-water line of a waterbody, tributary stream,
361 or upland edge of a coastal or freshwater wetland, that structure may be expanded as follows, as long
362 as all other applicable municipal land use standards are met and the expansion is not prohibited by
363 § 16.7.3.3B(3)(e)[2]:
- 364 [a] The maximum total footprint for the principal structure may not be expanded to a size greater than
365 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is
366 greater. The maximum height of the principal structure may not be made greater than 15 feet or the
367 height of the existing structure, whichever is greater.
- 368 [5] All other legally existing nonconforming principal and accessory structures that do not meet the
369 water body, tributary stream, or coastal or freshwater wetland setback requirements may be
370 expanded or altered as follows, as long as other applicable municipal land use standards are met and
371 the expansion is not prohibited by § 16.7.3.3B(3)(e)[2] or [3] above:
- 372 [a] For structures located less than ~~100 feet~~the base zone setback from the normal high-water line of a
373 water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum
374 combined total footprint for all structures may not be expanded to a size greater than 1,000 square
375 feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The
376 maximum height of any portion of a structure that is located within the base zone setback may not be
377 made greater than 20 feet, or the height of the existing structure, whichever is greater.
- 378 [b] In addition to the limitations in § 16.7.3.3B(3)(e)[5](a) above, for structures that are legally
379 nonconforming due to their location within the Resource Protection Overlay Zone when located at
380 less than 250 feet from the normal high-water line of a water body or the upland edge of a coastal or
381 freshwater wetland, the maximum combined total footprint for all structures may not be expanded to
382 a size greater than 1,500 square feet, or 30% larger than the footprint that existed at the time the
383 Resource Protection Overlay Zone was established on the lot, whichever is greater. The maximum

384 height of any structure may not be greater than 25 feet, or the height of the existing structure,
385 whichever is greater, except that any portion of those structures located less than ~~100 feet~~the base
386 zone setback from the normal high-water line of a waterbody, tributary stream, or upland edge of a
387 coastal or freshwater wetland must meet the footprint and height limits in § 16.7.3.3B(3)(e)[4][a],
388 and [5](a) above.

389 **AMEND Single and Duplex family dwellings in Resource Protection and Shoreland Overlay Zones**
390 **§16.8.28.1 as follows:**

391 **§16.8.28.1 ~~Single and duplex family dwellings~~ Dwellings in Resource Protection and Shoreland**
392 **Overlay Zones.**

393 The Code Enforcement Officer may issue a permit for a new dwelling outside the base zone setback in
394 the Shoreland Overlay Zone only provided the structure is conforming with all base zone standards. In
395 addition to the criteria specified in §§ 16.6.6 and 16.10.8.3D, applicable to the granting of a special
396 exception use request, the Planning Board may approve an application for a single- ~~or duplex~~ family
397 dwelling special exception use request within the Resource Protection Overlay Zone, where applicable,
398 provided the applicant demonstrates all of the following conditions are met:

399 A. There is no location on the property, other than a location within the Shoreland Overlay or Resource
400 Protection Overlay Zones, where a single-family dwelling can be built, ~~or similarly for a duplex in~~
401 the Shoreland Overlay Zone, provided the structure is conforming with all base zone standards.



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

ITEM 1

MEMORANDUM TO PLANNING BOARD

Meeting Date: June 27, 2019
From: Jessa Kellogg, Interim Code Enforcement Officer
Subject: Amendments to Title 16.2.2, 16.3.2.17, 16.7.3.3 and 16.8.28.1

EXECUTIVE SUMMARY

Amendments to one definition, Shoreland Overlay Zone standards, nonconforming structures relative to shoreland zoning setbacks, and single and duplex-family dwellings in Resource Protection and Shoreland Overlay Zones are proposed in an effort to better clarify the permitting authority for review and approval of specific projects.

TITLE 16.2.2 DEFINITIONS

In 2017 the Town amended the nonconforming structure repair/expansion ordinance to remove “floor area and volume” and replace with the State recommended “footprint” calculation for expansions. Inadvertently, the definition of EXPANSION OF STRUCTURE was not modified, so this amendment eliminates confusion for applicants and permitting authorities.

TITLE 16.3.2.17 SHORELAND OVERLAY ZONE

The Town previously amended a few areas of Title 16 to permit the Code Enforcement Officer to issue permits in the Shoreland Overlay zone that were outside the shoreland setback for that base zone, however this section of the Code was not amended to reflect that, which has caused confusion and conflict in interpreting the code. These amendments will enable the Code Enforcement Officer to issue permits for dwellings outside shoreland setbacks as defined in each base zone section. The special exception use was removed, thereby eliminating the possibility of new dwellings being permitted in the base zone shoreland setback which would violate minimum State Shoreland Zoning mandates. Additionally, mobile homes are no longer excluded in any zone per State law.

TITLE 16.7.3.3

Amendments to this section of the Code include adding the language “base zone setback” to accomplish two goals. First, this will enable the Code Enforcement Officer more clearly to permit repairs and expansions to nonconforming structures outside of the base zone shoreland setback, and second, to give clarity on what that setback is. The majority of base zones have a 100 foot

setback, however MU-KF, MU-BI and MU-N have a 75 foot setback from water resources. By adding this language, it eliminates confusion for these three zones for what setback they are held to. This also helps clarify projects that may require Board of Appeals review. For base zones MU-KF, MU-BI and MU-N, the special exception use for a dwelling is removed as no new structures are permitted by state law to be closer than 75 feet to the water resource. The Planning Board will review a special exception use request for dwellings proposed between 75 feet and 100 feet from a water resource in all other base zones.

A second amendment in this section is to clarify what expansion of a structure means for nonconforming structures that straddle the 25 foot setback line. In a few projects reviewed by the Planning Board in the last year there was confusion on what was permitted and after clarification with DEP, staff wanted to explicitly clarify that the portion of the structure within 25 feet could not be expanded in either footprint or height.

TITLE 16.8.28.1

Amendments to this section of the Code include giving the Code Enforcement Officer authority to issue permits for a dwelling outside of the base zone setback in the Shoreland Overlay Zone only. New dwellings anywhere within the Resource Protection Overlay Zone will still require Planning Board approval, as well as for dwellings located within the base zone setback for all base zones except MU-KF, MU-BI and MU-N which have the state minimum 75 foot setback requirement.

REPORT to the KITTERY TOWN COUNCIL – Jake (Jacob) Brake

1 **RESPONSIBLE INDIVIDUAL:** Councilor Charles Denault

Date: 09-30-2019

2

3 **Subject:** Adding restrictions of Jake Brake (exhaust brakes) to Title 10.

4

5 **Prelude**

6 Circa 2011, the use of Jake Brakes was raised by Councilor Leo Guy and residents of Old Post
7 Road. The complaint was about the vehicles that slow for the signal lights and Howells Truck Stop
8 on the Rte. 1 bypass. Signs were once erected yet; there are references within the ordinances to the
9 signage. Kittery has a noise ordinance that may cover this with a slight modification.

10

11 **Background:**

12

13 DOT has undertaken a significant project (the high level bridge) that alters the traffic patterns
14 through residential areas and has exponentially increased this traffic flow as a result of the High
15 Level Project. Complaints are being made of Tractor Trailer trucks jack knifing as they attempt to
16 turn around on driveways and side streets after missing the signage that is poorly placed warning
17 them to the closure of the bridge.

18

19 Eliot Maine's State Road has seen a number of truck increase as well. This increase brings noise,
20 pollution, and an increased use of a safety device activation known as JAKE (JACOB) BRAKES
21 which allow for the compression of the engines to be released and used to slow the trucks down.
22 The brakes are often referred to as "Jake Brakes," which is the leading brand of the engine-
23 retarding devices. Some trucking businesses, as well as the Connecticut-based manufacturer of the
24 Jake Brake, say the noise is often linked to the muffler, or lack of one. This alone (not having a
25 muffler) is a violation of Maine Law. As stated (Slow the trucks down) is clue that there driving
26 too fast for conditions, but however the noise is described as a RAT A TAT bass sounding noise
27 that is clearly heard and there is no mistake made as to what it is. Detours bring unfamiliarity with
28 local side roads and alternative roadways not usually traveled by the Big Rigs.

29

30 Recently residents have complained about DENNETT rd., I-95 SOUTH BOUND near Rte 236 on
31 ramp, MARTIN Rd, VALLE'S Rd, OLD POST, BRIDGE ST, the RTE 1 BYPASS, RTE 236 at
32 STEVENSON Rd. and this includes STEVENSON AND MANSON Rd as well as STATE Rd
33 near the circle and WALKER ST. All these roads have seen an increase in truck traffic. The use
34 of JAKE BRAKES have been reported mostly near intersections of hills when the trucks are
35 slowing down.

36

37 Portsmouth NH passed an ordinance as well as several Maine Communities including the Town
38 of Ogunquit. Maine Townsman article-Nov 2008 has some interesting reading.

39

40

REPORT to the KITTERY TOWN COUNCIL – Jake (Jacob) Brake

41 **Current Situation:**

42

43 There is no ordinance or reference to signs being erected to prohibit, regulate or reduce the noise
44 from Jake Brakes. I am pretty sure that the Noise Ordinance is not enforced with respect to exhaust
45 noise and at the minimum, signage would help but there is nothing that would reference why the
46 current (three) signs were erected or where it should be erected.

47

48 *Town Code 16.9.1.9 Noise abatement, says, Excessive noise at unreasonable hours shall be controlled*
49 *so as not to be objectionable due to intermittence, beat frequency, shrillness or volume. (See Attached).*
50 *These are regulated within the commercial and business zones.*

51

52 **Proposed Solution**

53

- Accept as written and adopt the changes to Title 10.1 Rules of the Road 10.1.9 ordinance restricting the use of Jake Brakes as allowed by Maine 30-A § 3009
- Incorporate the definition of Jake Brake and the restricted use of Jake Brakes under the Noise Ordinance or Title 10.07 and allow for signage based on the Noise Ordinance.
- Post the areas that area seen heavy usage of the JAKE BRAKES.

58

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61 **Rationale for the Proposed Solution:**

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Limit the unnecessary use of Jake Brakes in Town

63

Limit Noise pollution

64

Due to detours and alternate routes, the use of Jake Brakes has increased in areas not usually known for the use of them.

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66

67

Attachments

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69

Title 10 with recommended changes

TITLE 10.1

§10.1.9 Traffic restrictions for trucks, buses and tractor-trailer vehicles as follows:

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A. Except for vehicles performing municipal services, through traffic on:

A(1). Love Lane by buses and heavy trucks having a gross weight in excess of 10,000 pounds is prohibited on Love Lane.

B(2). Williams Avenue by buses and heavy trucks having a gross weight in excess of 10,000 pounds is prohibited (except for local deliveries and pickup) starting at the point where the easterly side of Traip Academy parking lot and Williams Avenue intersect and continuing around Williams Avenue to intersection with Whipple Road.

~~C(3)~~. Maple Avenue by tractor-trailer vehicles is prohibited.

~~D(4)~~. Commercial Street by buses (as defined in M.R.S. Title 29A) and heavy trucks having a gross weight in excess of 10,000 pounds are prohibited from the intersection of Government Street to the intersection of Water Street (except for local deliveries and pickups on Commercial Street).

~~E(5)~~. Pleasant Street by buses (as defined in M.R.S. Title 29A) and heavy trucks having a gross weight in excess of 10,000 pounds is prohibited from the intersection of Government Street to the intersection of Water Street (except for local deliveries and pickups on Pleasant Street).

B. Except for vehicles performing municipal services, It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated in the Town of Kittery, any Jake (Jacob) Brake, engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud or unusual noise from such vehicle, unless such use is necessary to avoid imminent danger.

DEFINITIONS. For the purposes of this ordinance the following words and phrases are defined as follows:

1. "Engine retarding brake" means a "Dynamic Brake," "Jake Brake," "Jacobs Brake," "C-Brake," "Paccar Brake," transmission brake or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression.

**KITTERY TOWN CODE
TITLE 10
USE OF COMPRESSION BRAKES**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, 36 MRS §6232 and §6271,
7 pursuant to its powers that authorize the town, under certain circumstances, to provide for the
8 public health, welfare, morals, and safety, and does not intend for this Ordinance to conflict with
9 any existing state or federal laws; and

10 **WHEREAS**, the Town seeks to limit the unnecessary use of compression brakes within the
11 Town of Kittery;

12 **NOW THEREFORE**, IN ACCORDANCE WITH TITLES 30-A MRS §3001, 36 MRS §6232 and
13 §6271, AND TOWN CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS
14 AMENDMENT TO TITLE 10 OF THE TOWN CODE, AS PRESENTED.

15 **INTRODUCED** and read in a public session of the Town Council on the ____ day of _____,
16 20____, by: _____ {NAME} Motion to approve by Councilor
17 _____ {NAME}, as seconded by Councilor _____ {NAME} and
18 passed by a vote of _____.

19 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
20 Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

21 **Attest:** {NAME}, _____ Town Clerk



TOWN OF KITTERY
Office of the Town Clerk
200 Rogers Road, Kittery, Maine 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

**APPLICATION FOR VICTUALERS, INNKEEPERS,
AND LODGING HOUSE OPERATORS LICENSE**

Applicant (Sole Proprietor, Corporation, Limited Liability Co.): Mian Noodle Bar, Corp.
(please print)

Applicant Address: 518 US Route 1, Unit 2, Kittery, ME 03904
(please print)

Applicant's mailing address if different from above: 3 Perkins Dr, York, ME 03909

Date of Birth (Sole Proprietor): 01/09/1984 Applicant's Telephone Number: 207-994-9907

Business Name: 518 Noodle Bar
(please print)

Business Address: 518 US Route 1, Unit 2, Kittery, ME 03904
(please print)

Business Telephone Number: 207-703-2151

Signature of Applicant: _____ DATE: 10/09/2019

Applicant's Name: Xue Qin, Zheng
(please print)

LICENSE FEE: \$ 50.00

FIRST TIME APPLICATIONS: \$50.00
RENEWAL OF LICENSE: \$25.00

PLEASE SUBMIT THIS FORM WITH THE APPROPRIATE FEE TO THE TOWN CLERK'S OFFICE

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
 8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
 10 WATER STREET, HALLOWELL, ME 04347
 TEL: (207) 624-7220 FAX: (207) 287-3434
 EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: Yes No

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: MALT VINOUS SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI) | <input type="checkbox"/> CLASS A LOUNGE (Class X) |
| <input type="checkbox"/> HOTEL (Class I,II,III,IV) | <input type="checkbox"/> HOTEL, FOOD OPTIONAL (Class I-A) | <input type="checkbox"/> BED & BREAKFAST (Class V) |
| <input type="checkbox"/> CLUB w/o Catering (Class V) | <input type="checkbox"/> CLUB with CATERING (Class I) | <input type="checkbox"/> GOLF COURSE (Class I,II,III,IV) |
| <input type="checkbox"/> TAVERN (Class IV) | <input type="checkbox"/> QUALIFIED CATERING | <input type="checkbox"/> OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Mian Noodle Bar, corp.</u>		Business Name (D/B/A) <u>518 Noodle Bar</u>	
APPLICANT(S) –(Sole Proprietor) DOB:		Physical Location: <u>518 US Route 1, Unit 2</u>	
DOB:		City/Town <u>Kittery</u>	State <u>ME</u>
Address		Zip Code <u>03904</u>	
Mailing Address			
City/Town	State	Zip Code	
City/Town	State	Zip Code	
Telephone Number <u>207-994-9907</u>	Fax Number <u>207-361-7350 (Lyle)</u>	Business Telephone Number <u>207-703-2151</u>	Fax Number
Federal I.D. # <u>EIN# 83-1975584</u>	Seller Certificate #: or Sales Tax #: <u>116266</u>		
Email Address: Please Print <u>Kittery 518@gmail.com</u>	Website:		

If business is NEW or under new ownership, indicate starting date: December 20, 2018
 Requested inspection date: 10-9-2019 Business hours: 11-9, Fr-Sa 11-10pm

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
- State amount of gross income from period of last license: ROOMS \$ NA FOOD \$ NA LIQUOR \$ NA
- Is applicant a corporation, limited liability company or limited partnership? YES NO
If Yes, please complete the Corporate Information required for Business Entities who are licensees.
- Do you own or have any interest in any another Maine Liquor License? Yes No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

 License # Name of Business (Use an additional sheet(s) if necessary.)

 Physical Location City / Town

5. Do you permit dancing or entertainment on the licensed premises? YES NO

6. If manager is to be employed, give name: _____

7. Business records are located at: 518 Noodle Bar
518 US Rte 1, Unit 2 Kittery, ME 03904

8. Is/are applicant(s) citizens of the United States? YES NO

9. Is/are applicant(s) residents of the State of Maine? YES NO

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Yue Qin Zheng	01/09/1984	Fujian, China.
Bing Zhou	7/5/1979	Shanghai, China
Lyle Brown	5/5/1970	Portsmouth, NH USA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
3 Perkins Drive, York ME 03909		
5 Winterbrooke Ct, York, ME 03909		
5 Winterbrooke Ct, York, ME 03909		

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES NO

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes No If Yes, give name: _____

13. Has/have applicant(s) formerly held a Maine liquor license? YES NO

14. Does/do applicant(s) own the premises? Yes No If No give name and address of owner: _____

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) "attached"

16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES NO Applied for: Business license - 10/16/18 Health Cert. - in December, 2018

17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 5 miles

Which of the above is nearest? Church

18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES NO

If YES, give details: Mortgage on the property in the amount of \$160,000.00
Banque Savings Bank loan # 6178144272

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Kittery on October 9, 2019
Town/City/State Date

Please sign in blue ink

[Signature]
Signature of Applicant or Corporate Officer(s)
XUE QIN. ZHENG
Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)	\$ 10.00
Class I Spirituous, Vinous and Malt	\$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.	
Class II Spirituous Only	\$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III Vinous Only	\$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV Malt Liquor Only	\$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
CLASS V: Clubs without catering privileges.	
Class X Spirituous, Vinous and Malt – Class A Lounge	\$2,200.00
CLASS X: Class A Lounge	
Class XI Spirituous, Vinous and Malt – Restaurant Lounge	\$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.	

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. **All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

This application must be completed and signed by the Town or City and mailed to:

Bureau of Alcoholic Beverages and Lottery Operations

Division of Liquor Licensing and Enforcement

8 State House Station, Augusta, ME 04333-0008.

Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: Municipal Officers County Commissioners of the
 City Town Plantation Unincorporated Place of: _____, Maine

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).][2003, c. 213, §1 (AMD) .]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]
[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD) .]
[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license. [1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

Please be sure to include the following with your application:

Completed the application and sign the form.

Signed check with correct license fee and filing fee.

Your local City or Towns signature(s) are on the forms.

Be sure to include your ROOM, FOOD and LIQUOR gross income for the year (if applicable).

Enclose diagram for all businesses, auxiliary locations, extended decks and storage areas.

Complete the Corporate Information sheet for all ownerships except sole proprietorships.

If you have any questions regarding your application, please contact us at (207) 624-7220.



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:	
License #:	_____
SOS Checked:	_____
100%	Yes <input type="checkbox"/> No <input type="checkbox"/>

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

- Exact legal name: Mian Noodle Bar, Corp
- Doing Business As, if any: 518 Noodle Bar
- Date of filing with Secretary of State: June 14, 2018 State in which you are formed: Maine
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Xue Qin Zhang	3 Perkins Drive York ME 03909	01/09/1984		50%
Bing Zhou	5 Winterbrook Ct. York, ME 03909	7/5/1979		50%
Lyle Brown (Secretary)	5 Winterbrook Ct. York, ME 03909	5/5/1970	Secretary	—

(Stock ownership in non-publicly traded companies must add up to 100%.)

- If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Is any principal person involved with the entity a law enforcement official?

Yes No If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations/ in the United States?

Yes No

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

Date

10/09/2019

Xue .Q. Zheng

Print Name of Duly Authorized Person

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

PORTSMOUTH NAVAL SHIPYARD
NAVAL CIVILIAN
MANAGERS ASSOCIATION

1665

54-998327114

10/16/19

Date

CHECK NUMBER

Pay to the
Order of

Team of Kittery

\$2,010

Teethouse Sandten

Two Dollars

Photo
Safe
Deposit
Boxes
1240

Northeast
CREDIT UNION
PO Box 1240, Portsmouth, NH 03802-1240

For



Karen Estee

From: Kendra Amaral
Sent: Thursday, October 3, 2019 1:16 PM
To: Karen Estee
Subject: FW: [Kittery ME] Request for fundraising "toll" at Town Dump (Sent by Patricia Robillard, robillard.patricia5@gmail.com)

-----Original Message-----

From: cmsmailer@civicplus.com <cmsmailer@civicplus.com>
Sent: Thursday, October 3, 2019 10:13 AM
To: Kendra Amaral <KAmaral@kitteryme.org>
Subject: [Kittery ME] Request for fundraising "toll" at Town Dump (Sent by Patricia Robillard, robillard.patricia5@gmail.com)

Hello kamaral,

Patricia Robillard (robillard.patricia5@gmail.com) has sent you a message via your contact form (<https://www.kitteryme.gov/user/28/contact>) at Kittery ME.

If you don't want to receive such e-mails, you can change your settings at <https://www.kitteryme.gov/user/28/edit>.

Message:

Hi -

I am writing on behalf of the Traip Academy Project Graduation committee. We have a need to raise approximately \$10-12,000 and in the past have had great success with a "toll" at the Town Dump. In fact, when I was last on the Project Graduation committee in 2018-19, we raised approximately \$1500 in one day via the dump toll - a demonstration as to how supportive and generous our community is to this important cause.

We are requesting to hold a dump toll on November 30th and again in the spring on May 2nd. Please let me know if there is anything else that I need to provide.

Thank you!

Tricia Robillard
Traip Academy Project Graduation Committee 2019-20



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: October 28, 2019
From: Kendra Amaral, Town Manager
Subject: Title 4 – Library Advisory Committee
Councilor Sponsor: Chairperson Judy Spiller

OVERVIEW

The Rice Public Library provides services, materials, and public space for the enrichment and support of residents and patrons.

The Rice Public Library became a Town department on July 1, 2019. With this change, the Library Board of Directors (501c3 entity) transitioned from a governance board to a board focused on fundraising to support the Library mission. An advisory board is needed to assist the Library in ensuring it is meeting its mission and serving the community as best possible.

A Library Advisory Committee serves an important role in guiding a public library in the development of goals and library policies, programs, services, and collections that meet the needs of the community and library patrons.

LIBRARY ADVISORY COMMITTEE

The proposed charge and membership for the Library Advisory Committee has been developed using guiding principles from the American Library Association, the Maine State Library - Public Library Standards, and best-practice standards published by other libraries. The charge focuses on mission, strategic planning, and advocacy.

Has been reviewed by Library Director, Lee Perkins and by the Library Board of Directors (501c3). Input from the Friends of the Library group has also been sought. This broad input will help ensure the Committee can be effective and beneficial to the community.

PROPOSED SOLUTION/RECOMMENDATION

Approve amendments as proposed.

ATTACHMENTS

- Proposed Title 4 Amendment – Library Advisory Committee

TITLE 4
LIBRARY ADVISORY COMMITTEE

ADD the Library Advisory Committee to Title 4 as follows:

1 §4.7 Library Advisory Committee

2 The Library Advisory Committee is charged with guiding the Rice Public Library in the
3 development of goals, library policies, programs, services, and collections that meet the needs of
4 the community and library patrons.

5 §4.7.1 Duties

6 A. Establish bylaws to govern routine Committee proceedings;

7 B. Develop and recommend to the Council a mission statement for the Rice Public Library, and
8 promote and advocate for the mission of the Rice Public Library;

9 C. Understand the needs and goals of the community and guide the Rice Public Library in the
10 development of programs, collections, and services that meet such needs and goals;

11 D. Prepare and recommend for adoption by the Town Council a five-year strategic plan with
12 evaluation goals; update and monitor progress towards implementation of the adopted
13 strategic plan;

14 E. Recommend the establishment and timely update of library policies for programs,
15 collections, lending, confidentiality, and services that are aligned with the American Library
16 Association and State of Maine’s Public Library Standards, and that advance the goals of the
17 Library and support the strategic plan;

18 F. Stay informed of the library statistics, financial status, funding sources and needs of the
19 Library, advise on the annual development of the budget, focusing on the strategic plan
20 implementation;

21 G. Review and provide input on the annual capital program to the Capital Improvement
22 Program Committee; and

23 H. Report at such intervals as the Town Council may direct on programs, use, and
24 implementation progress of the strategic plan.

25 §4.7.2 Appointment and Composition

26 The Committee consists of seven voting members: one Town Councilor, one member from the
27 non-profit Library Board of Directors, one member from the Friends of the Library and four
28 citizen members. The Library Director is an ex officio member without voting rights.

29 Citizen member appointments, or reappointments, are to be for three-year terms, except as
30 otherwise specified. Members representing the Council, non-profit Library Board of Directors,
31 and Friends of the Library serve until their successors are appointed by their respective boards.

**KITTERY TOWN CODE
TITLE 4
LIBRARY ADVISORY COMMITTEE**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that
7 authorize the town, under certain circumstances, to provide for the public health, welfare,
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or
9 federal laws; and

10 **WHEREAS**, the Rice Public Library became a department of the Town of Kittery on July 1,
11 2019; and

12 **WHEREAS**, the American Association of Libraries and the Maine State Library standards
13 recommend having an advisory board that represents the community and serves as volunteers
14 and advocates for the Library; and

15 **WHEREAS**, the Kittery Town Council seeks to create an advisory committee to guide the Rice
16 Public Library in the development of goals and library policies, programs, services, and
17 collections that meet the needs of the community and library patrons;

18 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001 AND TOWN CHARTER
19 §2.07(3), THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT TO TITLE 4 OF THE
20 TOWN CODE, AS PRESENTED.

21 **INTRODUCED** and read in a public session of the Town Council on the ____ day of _____,
22 20____, by: _____ {NAME} Motion to approve by Councilor
23 _____ {NAME}, as seconded by Councilor _____ {NAME} and
24 passed by a vote of _____.

25 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
26 Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

27 **Attest:** {NAME}, _____ Town Clerk

Karen Estee

From: Kendra Amaral
Sent: Thursday, October 10, 2019 8:25 PM
To: Dutch Dunkelberger
Cc: Karen Estee
Subject: RE: Resignation from the board

We will put this on the Council agenda for October 28 and start the process of getting word out for applicants.

Congrats to Mark on the sale of his home!
Kendra

From: Dutch Dunkelberger <dutchdunkelberger@gmail.com>
Sent: Thursday, October 10, 2019 7:49 PM
To: Kendra Amaral <KAmaral@kitteryme.org>
Subject: Re: Resignation from the board

FYI. Mark resigned last night. His house was on the market for two weeks, and he got a full price offer.

Dutch
Sent from my iPhone

On Oct 10, 2019, at 10:42 AM, Mark Alesse <mark.alesse@gmail.com> wrote:

Dutch,

I will announce my resignation from the board at tonight's meeting, which will be my last. I've enjoyed the challenges of working on the board in recent days thanks to your fine leadership as chairman.

Best,

Mark

518 210-3544 cell
207 703-2054 Kittery Point, Maine

"Politics, n. Strife of interests masquerading as a contest of principles."
Ambrose Bierce (1842 - 1914), The Devil's Dictionary

"The best lack all conviction, while the worst
Are full of passionate intensity."
William Butler Yeats (1865 - 1939) The Second Coming



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: October 28, 2019
From: Kendra Amaral, Town Manager
Subject: Land and Water Conservation Fund Authorization
Council Sponsor: Chairperson Judy Spiller

EXECUTIVE SUMMARY

The town is preparing to move forward with Phase 2 of the Emery Field Park improvements. As with the first phase, we are again interested in seeking Land and Water Conservation Fund (LWCF) financial assistance. If awarded, the LWCF will support up to 50% of the project costs, approximately \$300,000.

Council authorization is required as part of the application process. The application for financial assistance is due November 22nd, therefore the timing is critical for this item.

BACKGROUND

In 2015, the Town Council authorized the Town Manager to seek financial assistance through the LWCF for the first phase of Emery Field Park improvements. The project was selected from the draft Athletic Field Master Plan that recommends multiple improvements to various playing fields in town.

LWCF awarded the project in 2016, at \$374,000, with a 50% match requirement; meaning LWCF would reimburse the Town for up to \$187,000 of the eligible project costs. The project resulted in regrading of the playing field, installation of drainage and irrigation, creation of a perimeter walking path and fencing around the fields. Total project cost came in slightly under budget at \$357,860.

The Town Council approved the Project Certification for Phase 2 in November of 2018. That application was withdrawn due to the match funding being moved to FY21 (FY20 – FY24 CIP) and the Council's desire to consider utilization of a portion of the site for an affordable housing project. As a result, the grant application was suspended in February of 2019.

Subsequent conversations with LWCF indicated that the Phase 2 priorities should be reassessed in order to make a future grant application more competitive. The suggestion from LWCF resulted in a more refined design, that prioritizes those components previously slated for a future Phase 3.

STATEMENT OF NEED

The new Phase 2 concept plan retains the improvement/expansion of the parking lot and completion of the perimeter path originally planned for this phase. It also includes the construction of a neighborhood playground, and enhanced playing courts to support a basketball court (half-court) and two pickle ball courts. If funding allows, a practice wall for lacrosse will be constructed and a shed for sports equipment storage will be installed. At this time, it is not expected these add/alternatives are within the project budget.

Weston & Sampson is designing Phase 2. They designed Phase 1 and have a good understanding of the site and the needs.

The estimated project cost is \$791,872 including design. We have already funded and expended approximately \$30,055 in design costs. Hard costs (construction and contingency) are approximately \$706,372.

We can seek a maximum of \$300,000 from the LWCF, and will need to fund the remaining, approximately \$406,372; based on the current estimate. It is agreed that some level of value engineering (VE) is needed to bring down the total amount and the team has already identified a few options towards this end.

We currently have approximately \$52,380 in capital funding for the remaining design and engineering costs. The Open Space Reserve and the Athletic Field Master Plan Reserve have a combined balance of \$9,032. The FY21 CIP allocates \$300,000 to support the project. An additional \$100,000 could be available from the Town's warrant article authorizing the use of unencumber surplus for grant matches.

We have received the LWCF pre-approval to apply for the grant. There is no guarantee we will be awarded the funds from LWCF this round. If we are unsuccessful with this application, we will plan to complete the design and pursue funding in a future year.

If we are successful, we will need to commit the necessary funding for the match. The amount needed is a stretch financially, but achievable. I would recommend looking to the unencumbered fund for a portion of the grant match. We have been increasing the unencumbered surplus by more than \$100,000 annually. Though not guaranteed, it is likely any allocation from unencumbered surplus will be replenished at the close of the following fiscal year.

The alternative is for the Town to complete the design, and wait a few years to pursue construction. This alternative would give us the time to build a reserve for the match slowly. There is no guarantee the Town will receive a future grant award. Delay will also likely result in higher construction costs due to escalation.

PROPOSED SOLUTION/RECOMMENDATION

Approve as presented.

ATTACHMENTS

- Project Certification
- REVISED Concept Design Emery Field – Phase 2
- Estimated Project Budget



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

Project Certification

This is to certify that the Kittery Town Council hereby authorizes the Town Manager to make application for financial assistance under the provisions of the Land and Water Conservation Fund Act, Public Law 88-578 for development of the Emery Field Park Phase 2 Improvements.

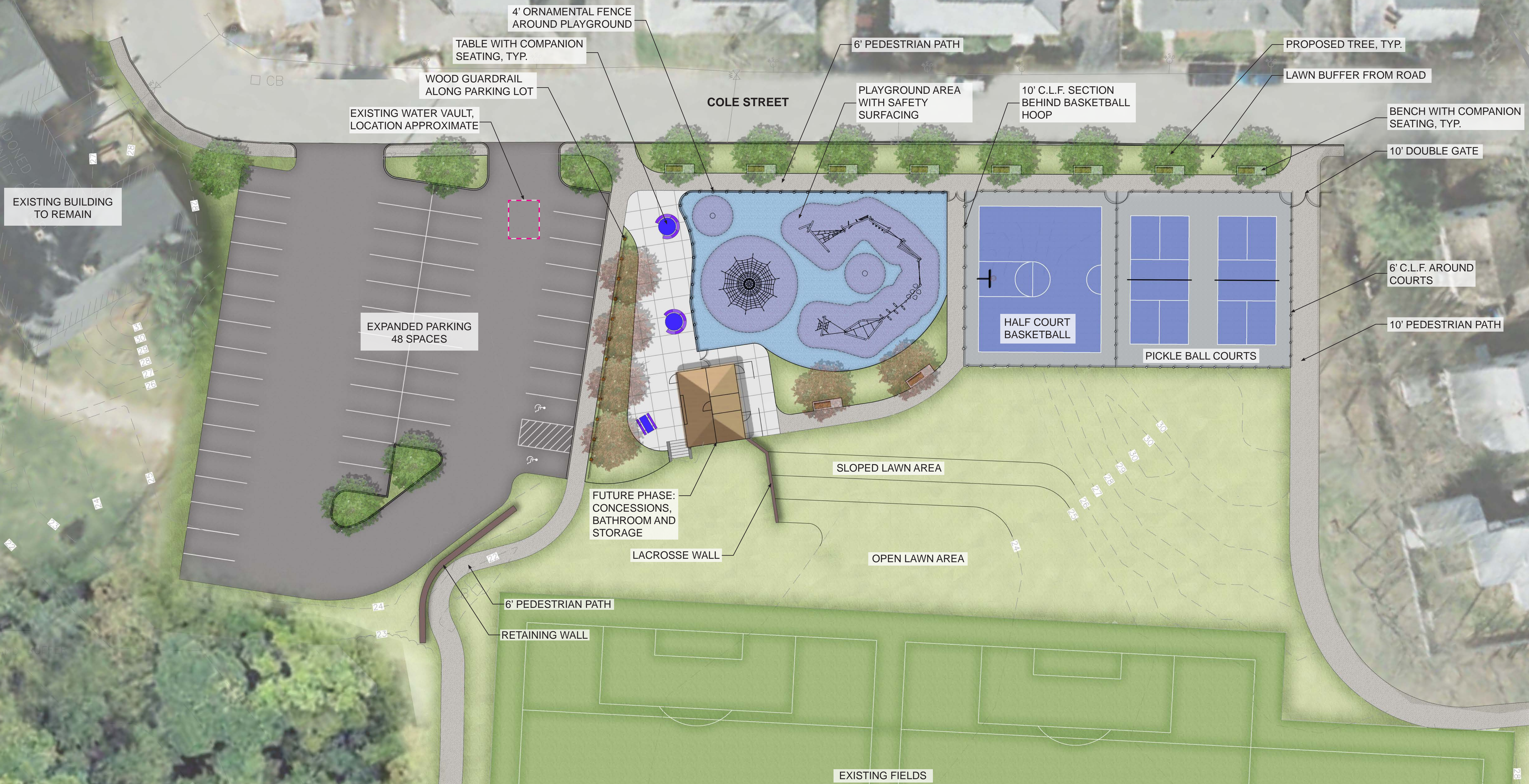
This further certifies that the Kittery Town Council is familiar with the terms and conditions of the Land and Water Conservation Fund Project Agreement, revision dated March 1995 and hereby authorizes the Town Manager to enter into said agreement between the Town of Kittery and the State of Maine upon federal approval of the above identified project.

This further certifies that the Town of Kittery has been legally constituted in accordance with 30-A MRS and is responsible for planning and carrying out the municipal recreation program, and the continued operation and maintenance of this completed project in accordance with the terms and conditions of the Land and Water Conservation Fund Project Agreement.

And this further certifies that except for the financial assistance requested by this project application, no financial assistance has been applied for, given or promised under any other State or Federal Program.

Approved: October 28, 2019

SCALE: 1" = 40'-0"



**Emery Field Phase 2
Preliminary Estimate
2019**

Estimated Project Costs

Engineering (design, bid, resident)	\$	85,500	
Design Costs To Date	\$	(30,055)	
<i>Subtotal</i>	\$	55,445	
Demolition and Site Prep		50,000	
Walkways and Parking Lot		128,883	
Playground		230,000	VE Options available
Courts		124,823	
Landscaping		53,700	
Furniture		33,000	
Fencing		21,750	
Subtotal		642,156	
Contingency 10%		64,216	
Total Construction Cost (Excludes design)	\$	706,372	
LWCF Share (50% up to \$300K)		300,000	
Town Share (excluding design)		406,372	

Funds Available for Town Share Match as of Nov 1, 2019

Open Space Reserve		9,032
Total Available for Match		9,032
Variance		397,340

All Possible Addlt Sources

CIP 2020 Allocation ²	\$	300,000
Unencumbered for Match 2020 ³		Up to \$100,000

Notes:

1. Design costs are not part of the LWCF grant. The town has allocated funds for the design costs.
2. CIP 2020 Allocation based on FY20 - FY24 CIP. May be adjusted through the development of the FY21 - FY25 plan.
3. Unencumbered for Match available per Town Article approved June 2019, and proposed for Town Article in June 2020.

Karen Estee

From: Sherrie Morrow <macredd@gmail.com>
Sent: Monday, October 21, 2019 12:35 AM
To: Karen Estee
Subject: Formal Request

Hello,

I spoke to Suzanne Esposito last week concerning a request and she advised me to send a formal request to you for consideration at the council meeting on 10/28.

I am a First Robotics mentor for the Traip Academy Robotics Team #3597. We are having a fundraiser at the Blue Mermaid Island Grill on Nov. 5th, 2019. We would like to use the area in front of the transfer station on Saturday, Nov. 2, 2019. Mainly to promote our event, but there will be an opportunity for people to donate, as well as, learn more about our robotics team.

I have been a seasonal employee for the Town of Kittery for three years and also have worked at the transfer station, so I've set many of these events up in the past. Tim and his crew won't have to do anything for this one, I'll set it up within his guidelines.

We will also be attending the council meeting should they have any additional questions or concerns.

Our team coach is Brian Yurick, I can get you his contact information if needed.

I look forward to hearing from you.

Thanks so much,
Sherrie I Morrow