



TOWN OF KITTERY

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

KITTERY TOWN COUNCIL

April 26, 2021

6:00PM

The public may submit public comments for the DISCUSSION agenda item via email, US Mail, or by dropping written comments in the Drop Box outside the Town Hall entrance. Emailed comments should be sent to TownComments@kitteryme.org.

The public may also participate in the meeting via Zoom webinar. **Register in advance for the webinar at:** https://us02web.zoom.us/webinar/register/WN_-olrTXKhSsqIB6a_b_ZphQ

After registering, you will receive a confirmation email containing information about joining the webinar. Webinar participants will be able to submit questions and comments during a public hearing.

Comments received by **noon on the day of the meeting** will become part of the public record and may be read in whole or in summary by the Council Chair.

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
 - April 12, 2021 Regular Meeting
8. Interviews for the Board of Appeals and Planning Board

Due to the Declaration of a State of Emergency for the State of Maine and Town of Kittery, this meeting will be held remotely in accordance with LD 2167. The meeting will be broadcast on Channel 22, Facebook, and live broadcast from the Town's website.

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested offices.
10. PUBLIC HEARINGS
 - a. (040321-1) The Kittery Town Council moves to hold a public hearing on Title 10 - Parking on Pocahontas Road.
 - b. (040321-2) The Kittery Town Council moves to hold a public hearing on a revised Petition to Extend Sewer Service on Route 236
 - c. (040321-3) The Kittery Town Council moves to hold a public hearing on the State of Maine CDBG program for an Economic Development Program Grant.
 - d. (040321-4) The Kittery Town Council moves to hold a public hearing on a new Victualer's License application from Vagabond Coffee Truck located at 230 US Route 1, Kittery.
11. DISCUSSION
 - a. The public may submit public comments in writing or raise their hand in the webinar for the DISCUSSION agenda.
 - b. Chairperson will read written comments into the record.
 - c. Chairperson's response to public comments.
12. UNFINISHED BUSINESS
13. NEW BUSINESS
 - a. Donations/gifts received for Council disposition
 - b. (040321-5) The Kittery Town Council moves to approve a Special Activity Amusement Permit for The Corner Pub located at 4 Wallingford Square, Kittery.
 - c. (040321-6) The Kittery Town Council moves to approve renewal Liquor License application from Bob's Clam Hut located at 315 US Route 1, Kittery.
 - d. (040321-7) The Kittery Town Council moves to appoint a Council member to the Bicycle and Pedestrian Master Plan Work Group.
14. COUNCILOR ISSUES OR COMMENTS

Due to the Declaration of a State of Emergency for the State of Maine and Town of Kittery, this meeting will be held remotely in accordance with LD 2167. The meeting will be broadcast on Channel 22, Facebook, and live broadcast from the Town's website.

15. COMMITTEE AND OTHER REPORTS
 - a. Communications from the Chairperson
 - b. Committee Reports
16. EXECUTIVE SESSION
17. ADJOURNMENT

Posted: April 22, 2021

Due to the Declaration of a State of Emergency for the State of Maine and Town of Kittery, this meeting will be held remotely in accordance with LD 2167. The meeting will be broadcast on Channel 22, Facebook, and live broadcast from the Town's website.



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 April 26, 2021

- 1. Spinney Creek Aquaculture Lease** – The Town Council expressed a significant interest in the aquaculture leases on Spinney Creek. As such, I am sharing the recent notice of hearing being conducted by the Department of Marine Resources for an aquaculture lease on Spinney Creek. See attached.
- 2. Annual Goals Q1 Update and Comp Plan Objectives Update** – Please see attached.

Upcoming Dates:

- KEEP Property Tax Payment Applications Available Now – Town Hall and online
- Senior Tax Credit Applications Available Now – Town Hall and online
- Drive Thru Luau Luncheon – May 13, Kittery Community Center

Respectfully Submitted,

Kendra Amaral
Town Manager



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK C. KELIHER
COMMISSIONER

NOTICE OF SCHEDULED AQUACULTURE LEASE HEARING

The Department of Marine Resources (DMR) will hold a remote public hearing to take evidence on the following lease application:

Applicant Name and Lease Type	Spinney Creek Shellfish, Inc.	<input type="checkbox"/> Experimental Lease <input checked="" type="checkbox"/> Standard Lease
Culture Type	<input type="checkbox"/> Bottom culture (No gear)	<input checked="" type="checkbox"/> Suspended culture (Gear on bottom and/or suspended)
Species	<input checked="" type="checkbox"/> Shellfish	<input type="checkbox"/> Marine algae <input type="checkbox"/> Finfish <input type="checkbox"/> Other
General Location, Town	Spinney Creek, Eliot	
Acreage Requested	2.75	
Lease Term Requested	20 years	

Please review the following schedule of proceedings:

May 17, 2021, 3:00pm, Remote Pre-hearing Conference:

This meeting will be used to discuss the administration of the hearing including the pre-filing of evidence and the closure of the record. You do not need to register for this meeting in order to participate in the hearing! This meeting is recommended for those who intend to apply for intervenor status. In order to participate, you must register **no later than 5pm on May 14, 2021**. The registration form can be accessed here: <https://www.maine.gov/dmr> under "Meetings."

June 1, 2021, 5:00pm, Deadline to Apply for Intervenor Status:

If you apply for and are granted intervenor status, you become a legal party to the proceeding. Intervenor applications must be requested from DMR at the contact information below. DMR will decide whether to grant intervenor applications five days before the hearing.

June 16, 2021, 5:00 pm, Remote Hearing:

The proceeding will begin on the day and time noted above. It may be continued, as necessary, at the same time and format on June 17, 21, and 22. The hearing will be conducted remotely and will be held in accordance with the adjudicatory proceedings provisions of the Maine Administrative

Procedure Act (5 M.R.S.A., ch. 375, subchapter 4). Any interested person may attend the hearing and ask questions of the parties or testify under oath about the effect of the proposed lease.

If you wish to ask questions of the parties or provide testimony under oath you need to register to participate. Registration for the hearing will open at **8:00am on May 17, 2021 and will close at 5:00 p.m. on June 1, 2021**. The registration form can be accessed here: <https://www.maine.gov/dmr> under "Meetings."

Address questions to:
Maine Department of Marine Resources
Attn: Aquaculture Division
21 State House Station
Augusta, ME 04333-0021
(207) 624-6567
DMRaquaculture@maine.gov

For disability accommodations, contact Meredith Mendelson at:
(207) 624-6579, Meredith.Mendelson@maine.gov; or 877-243-2823, TTY 711

RELEVANT AUTHORITY: Chapter 2 of DMR's regulations; 5 M.R.S.A. §9501 et seq. & 12 M.R.S.A. §6072(1) et seq., & 12 M.R.S.A. §6072-A(1) et seq.

TOWN COUNCIL GOALS

2021

Work together respectfully toward consensus, capitalizing on our experiences and diversity.

Address proposals for Charter, Ordinance, and Policy changes for improving efficiency and effectiveness of the Town operations including:

- Title 5 - Business License Regulations
- General – Direct Issuance of Civil Penalties for Ordinance Violations

Advance the Comprehensive Plan 5 Year Action Plan, specifically the following:

- Climate Adaptation Study (9.1, 9.2)
 - Develop and implement climate adaptation, flood resiliency and green-house gases strategies and ordinances- **ordinance development underway**
- Reduce dog and horse waste in open spaces (2.2)
 - Expand/enhance Title 6 Animal Control ordinance - **Phase 2 recommendations developed by Animal Control Working Group, supported by Parks and Conservation Commissions. Council holding public hearing in May.**
- Ensure Town planning processes are open, transparent, informative, inclusive, respectful and welcoming (7.1)
 - Complete Title 16 recodification to achieve development goals – **Review by Planning Board, BOA, and KPA underway.**
 - Equip Town Hall to support ongoing hybrid and remote meetings- **Council Chambers and Conference Rm A conversion completed.**
- Develop long range plan for the library (7.2)
 - Advance construction project – **Construction began in March**
 - Begin five-year strategic plan for Library – **Seeking grant funds for strategic plan development.**
- Guide development to areas already served by public utilities, resulting in more efficient and cost-effective use of these public services (7.3)
 - Develop zoning amendments to uses, dimensional and performance standards that advantage development around utilities. – **In development through affordable housing, and Climate Adaptation Committee efforts.**
- Continue to support healthy lifestyle choices and wellness by improving walking and biking and infrastructure (5.2)
 - Launch pedestrian and bicycle master plan. – **Master Plan development launching in May.**
- Develop a plan for Town facilities and property owners to transition to low and zero impact energy sources (9.2)
 - Develop sustainable ordinances. – **Underway with CAC**
 - Identify Community Solar opportunities. – **Multi-town bid issued.**

Adopt a budget that is progressive, responsible, responsive to community expectations and needs, and visionary – moving the community forward.

Give attention to Councilor expressed priorities, including:

- Identify viable properties and an action plan for the re-use or disposition of Town controlled property including (but not limited to):
 - Walker Street Fire Station – **Warrant Article for June**
 - Taylor Building – **Warrant Article for June**
 - Old Post Properties – **Brownfields assessment finishing up. Mini planning-study with EDC underway.**
 - 2 Walker Street

TOWN MANAGER GOALS

2021

Support long term planning and growth management objectives:

- Finish the Title 16 recodification process and develop a plan to address identified policy issues – **Review by various stakeholders underway. Will be presented to Council in early summer.**
- Propose TIF amendments to provide relief to taxpayers and support desired growth
- Develop zone amendments to promote the increase of housing stock – **C zones approved, BL underway.**
- Advance JLUS Implementation effort and recommendations from Study – **Com meeting scheduled for May.**

Enhance Financial Stability

- Produce a 2022 budget that seeks to respond to service expectations of the community, and appropriately addresses unmet needs and revenue changes resulting from COVID
- Finish comprehensive technology master plan to inform the capital improvement program - **Complete**
- Integrate sustainability and climate change priorities into Capital Improvement Program - **Complete**

Continue to improve organizational efficiency through implementation of technology, and recommended amendments to the Charter, Town Ordinance, and Policy.

Support Council's efforts to implement the Comprehensive Plan 5 Year Action Plan (see Council Goals) – **See update.**

Town Assets and Infrastructure

- Develop recommendations and action plans for the reuse or disposition of various town owned or tax-acquired properties – **In process**
- Develop a sidewalk master plan for replacement, enhancement and addition of town sidewalks – **Project launch in May.**

Develop and Sustain the Professional Staff

- Complete contract negotiations in a timely fashion
- Plan for addressing increasing demands for police, fire, public works services, and code enforcement.

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 PRIMARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
PRIMARY OBJECTIVES			
2 – Natural Resources & Recreation	Establish mechanisms to protect visual assets such as creating a photographic documentation of scenic vistas and establishing an historic preservation committee to create a comprehensive inventory of historic resources . These are the first steps in helping to protect and promote those visual assets that contribute to Kittery’s uniqueness. (2.1)	<ul style="list-style-type: none"> • Conduct an inventory of historic resources, including landscapes, archaeological resources and buildings. 	
2 – Natural Resources & Recreation	Review existing hunting regulations and provide public education regarding these to improve the safety of residents especially in the Town Forest, while at the same time protecting resident’s right to carry firearms and hunt. (2.2)	<ul style="list-style-type: none"> • Create signage about hunting safety and regulations at Town Forest & Rogers Park 	Under review in conjunction with Title 6 Animal Control.

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 PRIMARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
3 - Economic Development	Engage in targeted outreach to business and industry sectors marketing Kittery’s economic development areas. (3.5)	<ul style="list-style-type: none"> • Improve town website and have routine maintenance. • Identify similar business or industry partners who may have insights on what businesses in those sectors are looking for in terms of amenities, infrastructure, costs/revenues, workforce characteristics, etc. • Talk with brokers and real estate agents about marketing property in Kittery. • Work with land owners to actively market properties through websites and brokers. 	<p>Website updated, expanded use of email and social media to share info.</p> <p>Kittery is a member of the Chamber of Commerce and serves on the Exec Board.</p> <p>Regular meetings with Foreside Business Group and outreach to Rte 1 and Bypass businesses.</p>
4 – Housing	Undertake to complete a Comprehensive town-wide Housing Plan that will document existing supply and identify needs and ways of meeting these, including methods for encouraging the development of affordable housing (e.g. creation of new types of housing, including workforce housing, and housing for seniors wishing to downsize, etc.). (4.1)	<ul style="list-style-type: none"> • Create a scope and request for proposals to undertake a comprehensive town-wide housing plan. Plan should include in-depth analysis of housing supply, demand, and strategies to encourage a variety of housing types and prices points. • Explore possibility of local regional planning commission undertaking the study on behalf of the town. 	<p>Affordable Housing ordinances implemented; Addtl zone amendments in review. Housing Com established. Housing fund established and receiving seed funds.</p>

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 PRIMARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
5 – Transportation	Evaluate Town-wide current parking conditions and policies and revise to meet development goals by improving management of existing spaces and exploring shared parking and other strategies. (5.4)	<ul style="list-style-type: none"> Review and revise town code to support goal. 	<p>Title 10 revisions completed for Foreside. Badger’s Island completed.</p> <p>JLUS complete. JLUS Implementation project underway with DOD funding.</p> <p>Walker/Wentworth revisions enacted by Council.</p> <p>Parking count for Foreside underway. Parking revisions in review for Pocahontas.</p>
7 - Municipal Facilities, Services, & Fiscal Capacity	Increase and improve communication with Town residents. Using a variety of modes including the internet and cable TV in innovative ways will help to keep residents more informed and connected to town government. (7.1)	<ul style="list-style-type: none"> Become more efficient by streamlining the permitting process. Update town’s GIS maps and establish a system for continuous update. Explore ways of reaching the largest number of residents and conduct outreach to actively recruit volunteers, especially representation of demographics that are currently missing or underrepresented. Develop clear messaging regarding what the boards and committees do, roles and expectations and information regarding opportunities and benefits of participation. 	<p>Online permitting launched. Implemented use of social media to expand resident participation on Boards.</p> <p>GIS upgrade complete.</p> <p>Use of Channel 22, FB, Twitter, and website expanded.</p> <p>Council Chambers and Conference Rm A upgraded to support hybrid (in-person/remote) meetings.</p>

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 PRIMARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
7 - Municipal Facilities, Services, & Fiscal Capacity	Educate residents about town planning roles and processes and ensure that planning and town management processes are open, transparent, informative, inclusive, respectful and welcoming. (7.1)	<ul style="list-style-type: none"> • Explore the use of communication technologies to increase the communication between residents and Town government. • Revise Town Code so that regulations are clear and easy to use and are aligned with Comprehensive Plan goals. 	<p>Use of Social Media, Channel 22, and website increased.</p> <p>Title 16 recodification near completion.</p> <p>Finalizing policy for reverse 911 implementation. Reverse 911 software quotes received and funding being identified.</p>
7 - Municipal Facilities, Services, & Fiscal Capacity	Develop a long-range plan for the library including where the library will be located (renovation and expansion on existing site, new building on another site) and whether the Library should become a Town Department. (7.2)	<ul style="list-style-type: none"> • Explore possibilities and compare and contrast advantages and disadvantages of sites being considered for Library facility. • Consider converting the Library to a Town Department. • Support Library Director’s efforts to support literacy, digitize the library’s collection of photographs, and to provide support and programming for the increasing elderly population. 	<p>Library design completed. Construction began Mar 2021. Capital campaign underway to fund enhancements.</p> <p>Library is now a Town Department.</p>
7 - Municipal Facilities, Services, & Fiscal Capacity and 8 – Land Use	Guide development to areas already served by public utilities, resulting in a more efficient and cost-effective use of these public services. (7.3) (8.1)	<ul style="list-style-type: none"> • Direct new development where feasible, to vacant or underutilized sites and buildings; direct development away from areas with natural constraints, key wildlife or open space corridors, protected shorelands, and areas where public utilities are not yet available and would be costly to extend. • Add utilities map to GIS. • Establish efficient permitting procedures, especially in areas designated as “growth areas” in Future Land Use Plan. 	<p>Mixed Use Neighborhood rezoning complete.</p> <p>Affordable housing ordinance enacted.</p> <p>GIS upgrade complete.</p>

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 PRIMARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
8 – Land Use	Review, update and incorporate where appropriate, the recommendations from the Foreside Forums. Residents have expressed much enthusiasm for recent improvements in the Foreside and support for future infill development that is appropriate in scale and activity. (8.3)	<ul style="list-style-type: none"> Study the opportunities and challenges associated with the Foreside area to determine if the zoning district boundaries should change in the future. Identify desired uses. Identify the regulations and infrastructure needed to support the future of the area. 	<p>Zoning review underway in conjunction with affordable housing effort. Mini study being completed for Old Post area.</p> <p>Reviewing tax acquired and Town owned property for potential beneficial infill.</p>
9 - Coastal Community Resilience	Complete a climate adaptation study to plan for the potential impacts of sea level rise and prepare for extreme weather events (9.1)	<ul style="list-style-type: none"> Complete a Climate Adaption Study. 	<p>Climate adaptation committee formed. Flood resiliency checklist complete. Flood vulnerability assessment complete. Kittery joined with regional climate adaptation planning. Kittery a member of ICLEI. EV charging station grant application in process. Incorporating sustainability evaluation into CIP. Town leasing two EVs for fleet.</p>

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 SECONDARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
SECONDARY OBJECTIVES			
2- Natural Resources & Recreation	Working with the Kittery Land Trust, develop a strategy for open space acquisition , setting priorities for parcels to be included. (2.1)	<ul style="list-style-type: none"> • Complete an inventory of open spaces in Kittery. • Consider purchase of unprotected open spaces. • Create/amend zoning to prohibit destruction of wetlands (high value, wildlife corridors) and add farmland and unprotected open space for review. • Revisit the inventory of scenic views defined in the 1999 Comprehensive Plan Update, making a photographic record (survey) and updating the inventory, as needed. 	
2- Natural Resources & Recreation and 8 – Land Use	Protect existing open lands , including farmlands and wetlands from over-development by implementing effective strategies such as larger minimum lot sizes in the rural residential zone. As one way of preserving Kittery’s rural character, review and revise the cluster zoning ordinance and provide incentives for developers to use the ordinance. (2.1) (8.1) (8.2)	<ul style="list-style-type: none"> • Review/Revise Cluster Zoning Law 	Review of amendments underway.

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 SECONDARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
2- Natural Resources & Recreation	Reduce dog and horse waste at area open spaces through enhanced enforcement and public education. (2.2)	<ul style="list-style-type: none"> • Increase awareness regarding enforcement of pet waste ordinance, support the efforts of the Police. • Establish Volunteer Dog Patrol. 	<p>Hired full time ACO.</p> <p>Phase 1 Title 6 update complete. AC Working Group recommendations presented to Council for action.</p>
2 – Natural Resources & Recreation and 5 – Transportation and 6 – Marine Resources and 7 - Municipal Facilities, Services, & Fiscal Capacity	Continue to support healthy lifestyle choices and wellness by increasing recreational opportunities for all ages, evaluating the Athletic Fields Master Plan, improving walking and biking infrastructure so that it is safe and pleasant, ensuring appropriate recreational access to the waterfront , and increasing awareness of existing resources. Updating the Sidewalks Conditions Report (5.2.1) and developing a Bike Plan are among the specific steps recommended (2.2) (2.2.6) (5.2) (6.1) (7.2)	<ul style="list-style-type: none"> • Monitor athletic field planning process. • Evaluate opportunities for providing bike infrastructure on roads including bike lanes, wide shoulders and “Share the Road” signs (ex. “sharrows” and stencils). • Develop a sidewalk and pedestrian plan including updating sidewalk conditions report and inventory to identify existing conditions and gaps in the pedestrian network. Identify opportunities for new trails. • Work with schools, Community Center and Town Departments to prioritize sidewalk projects on town-owned facilities and recreational areas. • Update street and publicly owned shade tree inventory. 	<p>Athletic Field Master Plan accepted, Committee working on updating it to reflect completed work.</p> <p>Sidewalk master plan development underway.</p> <p>Bicycle/Pedestrian Master Plan project being launched in May.</p>

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 SECONDARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
3 - Economic Development	Collaborate with property owners in the area around the Route 1 corridor to identify strategies towards making mutually beneficial changes to the area including exploring options to redevelop commercial properties with mixed use (e.g. retail, housing, office) and consider zoning amendments such as an overlay district to provide more flexibility concerning permitted uses. (3.3) (8.5)	<ul style="list-style-type: none"> • Draft a scope of work for planning, market analysis, and transportation engineering services to re-envision the Route 1 area. 	New grant opportunities being evaluated.
6 – Marine Resources and 8 – Land Use	Continue to support Kittery’s maritime based economy including the fishing and shell fishing industry by maintaining access to the working waterfront and creating innovative avenues to better connect fishing to the local economy. (6.2) (8.4)	<ul style="list-style-type: none"> • Conduct poll/outreach/meetings with commercial fishermen and boat operators to determine need (KPA). • Conduct poll/outreach/meetings with commercial fishermen and boat operators to identify areas where navigation is difficult or impossible due to shallow depths (KPA). 	Survey on Pepperrell Cove depths completed. <i>Identifying “piggy back” projects for cost reduction.</i> <i>Identifying funding for engineering.</i>

KITTERY COMPREHENSIVE PLAN
 5 YEAR ACTION PLAN
 SECONDARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
6 – Marine Resources	Increase awareness in residents and business owners with regard to the effects of pollutants, pesticides, and stormwater runoff and evaluate Town Code regarding the use of pesticides and herbicides with chemicals, in waterfront areas and town-wide . Providing information and incentives for greener practices will help to mitigate these environmental hazards. (6.3)	<ul style="list-style-type: none"> • Prepare easy-to-read materials that summarize Kittery’s water quality challenges and the effects of pollutants and pesticides. Distribute to property and business owners, and post on municipal website. 	Lawn care training conducted. Town transition to environmentally sustainable pesticide treatment complete.
8 – Land Use	Consider an Adaptive Reuse Ordinance to guide redevelopment of existing buildings. By promoting the reuse of existing structures more efficient development can occur in areas already serviced by public utilities and protecting open land from development. (8.1)	<ul style="list-style-type: none"> • Consider adopting a demolition delay ordinance. • Consider adopting Adaptive Reuse Ordinance. 	
9 - Coastal Community Resilience	Develop a Plan for Town facilities and property owners to transition to low and zero impact energy sources (9.2)	<ul style="list-style-type: none"> • Establish a timeline for converting all Town-owned buildings to renewable energy. 	Physical constraints of municipal sites make PV challenging. Multi-town community solar project out to bid.

KITTERY COMPREHENSIVE PLAN
5 YEAR ACTION PLAN
SECONDARY OBJECTIVES

TOPIC AREA	GOAL	ACTION ITEMS	STATUS
			Sustainable and low impact development ordinances in development.

KITTERY TOWN COUNCIL Unapproved Minutes

April 12, 2021

Remote Meeting

6:00PM

1 1. Call to Order

2 Chair Thomson called meeting to order at 5:55 p.m.

3 2. Introductory

4 3. Pledge of Allegiance

5 4. Roll Call

6 Councilors present: Chair Jeffrey Thomson, Jeffrey Pelletier, George Dow, and Vice
7 Chair pro tempore Judith Spiller. Councilors absent: Cyrus Clark

8 5. Agenda Amendment and Adoption

9 Under New Business amend item m. change the word “approves” to “conceptually
10 endorse”.

11 Under New Business add item n. (040221-16) The Kittery Town Council moves to offer
12 or consider a letter in support of Fair Tide’s application for the community project
13 funding.

14 Chair Thomson moved to accept the agenda as amended, seconded by Vice Chair pro
15 tempore Spiller.

16 Motion Carried 4-0-0

17 6. Town Manager’s Report

18 The Town Manager reported on: Library virtual ground breaking video, Bicycle and
19 Pedestrian Master Plan, Legion Pond invasive management, Norton Preserve, and
20 fiscal year 2021 quarter 3 report. Upcoming Dates: mooring renewals are due April 15,
21 2021, KEEP Property Tax payment applications available now at the Town Hall and
22 online, Senior Tax Credit applications available now at the Town Hall and online, Kittery
23 Education Scholarship application deadline is Thursday, April 15, 2021 at the Town
24 Clerk’s office, Kittery 375 Celebration logo contest voting deadline is on Friday, April 16,
25 2021 and is available online and Town Hall is closed for the Patriots’ Day Holiday on
26 Monday, April 19, 2021.

27 7. Acceptance of Previous Minutes

28 March 22, 2021 Regular Meeting

29 April 5, 2021 Special Meeting

30 Chair Thomson moved to approve the March 22, 2021 and the April 5, 2021 Council
31 minutes as written, seconded by Councilor Pelletier.

32 Motion Carried 4-0-0

33 8. Interviews for the Board of Appeals and Planning Board.

34 9. All items involving the town attorney, town engineers, town employees or other town
35 consultants or requested offices.

36 10. PUBLIC HEARINGS –

37 a. (040221-1) The Kittery Town Council moves to hold a public hearing on a new
38 Victualer’s License application from Deborah McCluskey and Michael McCluskey for
39 Lil’s Café located at 7 Wallingford Square #106, Kittery.

40 Moved by Councilor Pelletier, seconded by Councilor Dow.

41 Motion Carried 4-0-0

42 b. (040221-2) The Kittery Town Council moves to hold a public hearing to authorize the
43 Town Manager to enter into a lease agreement for two electric vehicles.

44 The Town Manager gave an overview on entering into a lease agreement for two
45 electric vehicles, stating this is a great opportunity for the Town.

46 Chair Thomson read into to record the names of the residents who had written the 24
47 comments in support of the Town leasing two electric vehicles.

48 Councilor Pelletier moved in accordance with title 30-A MRS §3001, and the Town
49 Charter §§2.14 and 6.11(3), the Town of Kittery hereby ordains approval for the Town
50 Manager to execute lease agreements for two electric vehicles, seconded by Vice Chair
51 pro tempore Spiller.

52 Motion Carried 4-0-0

53 11. DISCUSSION

54 a. The public may submit public comments in writing or raise their hand in the webinar
55 for the DISCUSSION agenda.

56 Kalle Matso, 31 Goose Point Road Kittery, ME – Mr. Matso spoke about his concerns
57 with the parking at the Norton Preserve, and expressed the Town might have to get
58 involved.

59 b. Chairperson will read written comments into the record.

60 Todd Thayer, 8 Thaxter Lane, Kittery Point, ME – Mr. Thayer communicated in an email
61 his concerns about individuals having bonfires, parties, leaving trash on Seapoint

62 Beach, as well as trespassing on his and his neighbor's backyards. Mr. Thayer also
63 stated that the Police were called Friday night and maybe on Saturday night.

64 Chair Thomson stated Shaye Robbins, 24 Heron Point Lane, Kittery Point, ME had
65 provided correspondence regarding the marijuana issue. Chair Thomson stated he
66 wasn't going to read it and her email would be a part of the public record.

67 c. Chairperson's response to public comments.

68 Chair Thomson asked the Town Manager if she had spoken to the Police Department in
69 reference to Mr. Thayer's concerns.

70 The Town Manager stated she would be speaking with the Police Department the next
71 morning.

72 Chair Thomson responded to Ms. Robbins' concerns and stated that the Council has a
73 workshop with the Planning Board on a proposed ordinance.

74 12. UNFINISHED BUSINESS - None

75 13. NEW BUSINESS

76 a. Donations/gifts received for Council disposition.

77 (040221-3) The Kittery Town Council moves to receive a donation in the amount of
78 \$15,000 from the Rice Public Library Corporation.

79 Moved by Councilor Dow, seconded by Councilor Pelletier.

80 Motion Carried 4-0-0

81 b. (040221-4) The Kittery Town Council moves to approve a renewal Liquor License
82 application from Festina Lente, located at 1 Government Street Suite 3, Kittery.

83 Moved by Vice Chair pro tempore Spiller, seconded by Councilor Pelletier.

84 Motion Carried 4-0-0

85 c. (040221-5) The Kittery Town Council moves to approve a renewal Liquor License
86 application from Badger's Island Pizza located, at 3 Island Avenue, Kittery.

87 Moved by Vice Chair pro tempore Spiller, seconded by Councilor Pelletier.

88 Motion Carried 4-0-0

89 d. (040221-6) The Kittery Town Council moves to approve a renewal Liquor License
90 application from Anju Noodle Bar, located at 7 Wallingford Square Unit 102, Kittery.

91 Moved by Vice Chair pro tempore Spiller, seconded by Councilor Pelletier.

92 Motion Carried 4-0-0

93 e. (040221-7) The Kittery Town Council moves to authorize expenditure from the
94 Wetlands Funds for Fort Foster Invasive Species Management Plan Implementation.

95 The Town Manager gave an overview of the expenditure from the Wetlands Funds for
96 Fort Foster Invasive Species Management Plan Implementation.

97 Moved by Councilor Dow, seconded by Councilor Pelletier.

98 Motion Carried 4-0-0

99 f. (040221-8) The Kittery Town Council moves to appoint a Councilor to interview
100 Amelia Burke along with Chair, Jeff Brake for an appointment to the Educational
101 Scholarship Committee for a three-year term to expire 12/31/2024.

102 Chair Thomson moved to appoint Councilor Dow to interview Amelia Burke for the
103 Educational Scholarship committee, seconded by Vice Chair pro tempore Spiller.

104 Motion Carried 4-0-0

105 g. (040221-9) The Kittery Town Council moves to schedule a public hearing on May 3,
106 2021 for the School Budget Ordinances.

107 Chair Thomson moved to schedule a public hearing on May 3, 2021 for the School
108 Budget Ordinances, seconded by Councilor Pelletier.

109 Motion Carried 4-0-0

110 h. (040221-10) The Kittery Town Council moves to schedule a public hearing on May
111 10, 2021 on Title 6 Animal Control Amendments.

112 Chair Thomson moved to schedule a public hearing on May 10, 2021 on Title 6 Animal
113 Control Amendments, seconded by Vice Chair pro tempore Spiller.

114 Motion Carried 4-0-0

115 i. (040221-11) The Kittery Town Council moves to appoint Cameron Hamm to the
116 Educational Scholarship Committee for a three-year term to expire 12/31/2024.

117 Moved by Vice Chair pro tempore Spiller, seconded by Councilor Pelletier.

118 Motion Carried 4-0-0

119 j. (040221-12) The Kittery Town Council moves to schedule a public hearing on April 26,
120 2021 on Title 10 – Parking on Pocahontas Road.

121 Chair Thomson moved to schedule a public hearing on April 26, 2021 on Title 10 –
122 Parking on Pocahontas Road, seconded by Councilor Pelletier.

123 Motion Carried 4-0-0

124 k. (040221-13) The Kittery Town Council moves to schedule a public hearing on April
125 26, 2021 on a revised Petition to Extend Sewer Service on Route 236 to MacKenzie
126 Lane.

127 Chair Thomson moved to schedule a public hearing on April 26, 2021 on a revised
128 Petition to Extend Sewer Service on Route 236 to MacKenzie Lane, seconded by
129 Councilor Pelletier.

130 Motion Carried 4-0-0

131 l. (040221-14) The Kittery Town Council moves to schedule a public hearing on April 26,
132 2021 to discuss an application submitted to the State of Maine CDBG program for an
133 Economic Development Program Grant.

134 Chair Thomson moved to schedule a public hearing on April 26, 2021 to discuss an
135 application submitted to the State of Maine CDBG program for an Economic
136 Development Program Grant, seconded by Councilor Pelletier.

137 Motion Carried 4-0-0

138 m. (040221-15) The Kittery Town Council moves to conceptually endorse the American
139 Rescue Plan Allocation strategy.

140 The Town Manager gave an overview of the American Rescue Plan Allocation strategy.

141 Vice Chair pro tempore Spiller moved to conceptually endorse the American Rescue
142 Plan Allocation strategy, seconded by Councilor Pelletier.

143 Motion Carried 4-0-0

144 n. (040221-16) The Kittery Town Council moves to offer or consider a letter in support of
145 the Fair Tide application for the community project funding.

146 Councilor Dow gave an overview for the Fair Tide application for the community project
147 funding.

148 Councilor Dow moved for the Council to provide a letter in support of the Fair Tide
149 application for the community project funding, seconded by Vice Chair pro tempore
150 Spiller.

151 Motion Carried 4-0-0

152 14. COUNCILOR ISSUES OR COMMENTS

153 Vice Chair pro tempore Spiller mentioned Hadley Barndollar the Town's former reporter
154 who had won the 2020 Reporter of the Year from the New England Newspaper
155 Association. She also stated that she received an email from Michael Blackman, 47
156 Seapoint Road, Kittery Point, ME. Mr. Blackman was raising the same issues heard
157 earlier regarding Seapoint during the public discussion.

158 Chair Thomson spoke about an article in the May issue of Downeast magazine, the
159 article mentions Kittery and the re-birth of the Foreside.

160 15. COMMITTEE AND OTHER REPORTS

161 a. Communications from the Chairperson

162 b. Committee Reports

163 Vice Chair pro tempore Spiller spoke about the Kittery Climate Adaptation Committee'
164 sponsored ZOOM meeting with Efficiency Maine on March 31, 2021. The joint meeting
165 is now being broadcast on Channel 22.

166 16. EXECUTIVE SESSION - None

167 17. ADJOURNMENT

168 Vice Chair pro tempore Spiller moved to adjourn at 7:09 p.m., seconded by Councilor
169 Pelletier.

170 Motion Carried 4-0-0

Submitted by Kim Tackett

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.



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: April 12, 2021
UPDATE: April 26, 2021
From: Kendra Amaral, Town Manager
Subject: Fort Foster Parking on Pocahontas Road
Council Sponsor: Vice Chair Judy Spiller

EXECUTIVE SUMMARY

Over the years, abutting neighbors of Fort Foster have raised concerns and complaints about the traffic/parking/congestion on Pocahontas Road. Complaints include vehicles blocking private property access, dog waste and litter left on the side of the road, unsafe vehicle turnarounds and unsafe pedestrian access.

During the recent local state of emergency, parking was temporarily restricted at the Fort Foster Gate and on the west side of Pocahontas. The restrictions were established to reduce crowding at the gate, create a safe turnaround area for cars, and safe shared drive/parking/walking space for Fort Foster visitors. The temporary parking restrictions were lifted when the local declaration of emergency was ended.

The group is now seeking to make the parking restrictions on Pocahontas permanent.

PARKING RESTRICTIONS PROPOSED

Since the COVID emergency began, more people, both within and outside of Kittery, have visited Fort Foster. On October 29, 2020, a meeting was held with three neighbors to discuss the issues, challenges and options to address parking and crowding around the Fort Foster gate. The meeting included me, Chief Richter, DPW Commissioner Rich, and Councilor Judy Spiller. A member of the Parks Commission was invited to participate, however was unable to attend due to scheduling conflicts.

In the meeting, we discussed various ideas, and the potential benefits and challenges of each. At the conclusion, we agreed that I would document the options and provide it to Council for direction. The Council supported the concept of opening the gate during the off season when road conditions permitted (no snow).

We met again with the neighbors on March 24, 2021 to get feedback on the open gate and determine next steps with parking. Again, the discussion focused on the congestion around the gate both for queuing and parking. This meeting included me, Chief Richter, DPW Commissioner Rich, and David Wrocklage, serving as the Parks Commission representative. We concluded the meeting by agreeing to propose to the Council an ordinance amendment restricting parking on the west side of Pocahontas permanently. We also agreed to look into shifting the Fort Foster hours to open an hour earlier, and thereby close an hour earlier.

The group also agreed to seek a meeting with the Parks Commission to discuss their broader concerns and ideas.

The proposed Title 10 amendment will restrict parking on the west side of Pocahontas from the Fort Foster gate to 300 feet north, or just past the first private way. If approved, the DPW will install permanent no-parking signs along this section of the road.

PROPOSED SOLUTION/RESOLUTION

Approve amendment as proposed.

ATTACHMENTS

- Proposed Title 10 Amendment
- Proposed Title 10 Amendment Enactment
- Map of Impacted Area

TITLE 10
Pocahontas Road

AMEND § 10.3.1.1 to prohibit parking on the west side of Pocahontas near the Fort Foster Gate as follows:

Parking is prohibited at all hours in the following locations:

Pocahontas Road, on the west side, beginning at the Fort Foster Gate and continuing in a northerly direction for 300 feet

**KITTERY TOWN CODE
TITLE 10
POCAHONTAS PARKING RESTRICTION**

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**, year-round visitation to Fort Foster has grown significantly over the years,
11 increasing the number of vehicles and pedestrians flowing through and around the Fort Foster
12 entrance gate; and

13 **WHEREAS**, the Town seeks to address safety concerns for abutting residents and for visitors to
14 Fort Foster; and

15 **WHEREAS**, due to the COVID pandemic the Town temporarily implemented the proposed
16 parking restrictions and found them to improve safety and crowding at the Fort Foster gate;

17 **NOW THEREFORE**, IN ACCORDANCE WITH TITLES 30-A MRS §3001 AND TOWN
18 CHARTER §2.14 THE TOWN OF KITTERY HEREBY ORDAINS AN AMENDMENT TO TOWN
19 CODE TITLE 10.3.1.1 PROHIBITED AT ALL TIMES, AS PRESENTED.
20 .

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



1508.13'

55-57

51-8-2

51-11

RIVE

51-8-3 1

.8

60

51-8-4

177.64'

110.94'

1.8

51-9

76



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329

REPORT TO TOWN COUNCIL

Date: January 25, 2021
Updated: February 8, 2021, April 26, 2021
From: Kendra Amaral, Town Manager
Subject: Petition for Sewer Extension – Route 236
Councilor Sponsor: N/A

EXECUTIVE SUMMARY

The developer of a car wash to be located at a parcel at the corner of MacKenzie Lane and Route 236 is seeking approval to extend the sewer main 2,000 feet north along Route 236 from its current terminus at Stevenson/Martin/Rte. 236 to their property. The extension has not been engineered yet, rather the applicant is trying to determine if the extension would be allowed before advancing to the design and costing stage.

Given certain conditions and considerations, this extension can be beneficial to both the property owner and the abutting property owners. The conditions and considerations would include that the applicant pay for the project directly, that the project be a gravity line that meets all of the town's design and performance standards for a public sewer main, and that the main be turned over to the Town upon completion, among other terms.

PROPOSED EXTENSION

The applicant has received Planning Board approval for the development of a car wash on parcel 28-25D. Attached is the Staff Report to the Planning Board regarding the project. It was approved with plans for a septic system for wastewater capture and treatment.

Since receiving Planning Board approval the applicant approached the Town about a possible sewer main extension up Rte. 236 to their site. The Town has no plans to undertake a sewer expansion project at this time. In accordance with Title 13, the applicant is exercising their right to seek an expansion at their own expense through a petition to the Council.

The proposed extension could impact approximately 17 parcels that lay along the proposed line (possibly fewer due to available connection exemption in §13.1.1.11). There is sufficient capacity in the collection and treatment infrastructure to accept the wastewater produced by the applicant and the abutting benefited properties (current and anticipated future uses). The proposal does not negatively impact capacity of the sewer service. The proposal does have the potential to add value to the properties along the extension, enhance environmental protections, and increase development opportunities.

If approved, the applicant would then engage in a design process to determine whether or not to proceed with the project.

The proposed extension should be built as a gravity main and sized accordingly to accept flow from potential future connections. The extension will take up valuable real estate in the underground utility corridor along Rte. 236 and should therefore be built to benefit not only the applicant but the abutting properties' current and future uses.

The proposed extension should be turned over to the Town as a public asset. The Town will assume all ongoing maintenance and replacement costs, and will collect all metered flows through the main in perpetuity.

Per Town Attorney, the abutting parcels would be required to connect to the sewer main and pay the respective impact and entrance fees to the Town. This connection requirement can be postponed until the existing septic system servicing each property exceeds 20 years old. Requirements and exemptions to connect are specified in §13.1.1.11.

Per Town Attorney, the Town is not obligated to recoup the costs of the installation on behalf of the applicant, through a betterment assessment. The Town is required to assess a betterment, however this can be simply the corresponding change in value that access to a public sewer utility affords. Typically, access to a public sewer utility increases the value of property on average 7% and 10%.

The staff and applicant met, prior to the February 8 Council meeting, to discuss their proposal for a force main rather than a gravity line. The staff disagree that a 2" main would sufficiently serve the future development of the corridor, however we do acknowledge that a force main approach is viable if designed appropriately to accommodate the anticipated future growth.

The Council has asked whether the staff recommend the petition for approval. Access to the sewer utility along 236 is generally desirable. The Town of Eliot's recent votes on their sewer expansion confirm that they do not intend to connect down Rte. 236 to the Kittery line; therefore, any expansion on Rte. 236 will be solely on the Kittery side of the town line. Utilizing a force main approach will require property owners to install and maintain individual pumps at each property. Regardless of the approach (force main or gravity) the property owners will need to connect.

UPDATE

In researching the Council's decisions on appeals for the Martin Road/Stevenson Extension it was found that the Council voted to waive the 20 year-connection requirement for a property that was unable to connect via gravity. This property will still be required to connect upon failure of the septic system, whenever that may be. This precedence suggests that Council can again approve such deferrals for those along Route 236, without gravity flow, to defer connection until their septic system fails (regardless of age) upon appeal.

Approval, if deemed appropriate by the Council, should be made only under certain conditions. Below is a proposed draft motion and conditions.

The Kittery Town Council moves to approve the petition for extension of sewer service on Route 236 to MacKenzie Lane with the following conditions:

- Applicant must bear the full cost of the design, permitting, and installation of the extension ("the project"). Applicant will not be reimbursed for the cost of the extension by the Town or by the benefiting property owners.

- Applicant must build a sewer line to the Town's existing sewer main, in accordance with design and performance standards set by the Sewer Department, and in a manner that supports current and potential future development of the benefiting properties.
- Applicant must legally transfer the assets to the Town within 30 days of the completion of the project.
- Benefited property owners will receive a 90-day notice to connect upon transfer of the assets to the Town. The Town will automatically grant deferrals for any property where their septic system is less than 20-years old per Title 13; however, abutting benefited properties must be permitted to connect to the project during construction, if they so desire. Those qualifying for an exemption will be notified accordingly.
- Benefited property owners will be advised that they can file for an appeal with the Council to defer connection until failure of the septic system, if the property is unable to connect via gravity flow.

PROPOSED SOLUTION/RECOMMENDATION

Schedule a public hearing to consider the matter.

The Staff recommend approval of the application with the following conditions:

- Applicant must bear the full cost of the design, permitting, and installation of the extension ("the project"). Applicant will not be reimbursed for the cost of the extension by the Town or by the benefiting property owners.
- Applicant must build a sewer line to the Town's public sewer main in accordance with design and performance standards set by the Sewer Department.
- Applicant must legally transfer the assets to the Town within 30 days of the completion of the project.
- Benefited property owners will receive a 90-day notice to connect upon transfer of the assets to the Town. The Town will automatically grant deferrals for any property where their septic system is less than 20-years old per Title 13; however, abutting benefited properties must be permitted to connect to the project during construction, if they so desire. Those qualifying for an exemption will be notified accordingly.
- Benefited property owners will be required to obtain a connection permit, and pay permit fees, entrance and impact fees to the Town in accordance with Title 13 and Appendix A.
- Benefited properties along the extension will be reviewed by the Town Assessor upon completion of the project and have a valuation adjustment accordingly.

ATTACHMENTS

- Petition for Sewer Extension
- 2016 Deferral Decision of Council

1. CALL TO ORDER

Chairperson Beers called the meeting to order at 6:00 p.m.

2. INTRODUCTORY

Chairperson Beers read the introductory.

3. PLEDGE OF ALLEGIANCE

Chairperson Beers led those present in the Pledge of Allegiance.

4. ROLL CALL

Answering the roll call were Chairperson Gary Beers, Vice Chairperson Charles Denault, Councilors Frank Dennett, Russell White, Kenneth Lemont, Judith Spiller, and Jeffrey Thomson.

5. NEW BUSINESS

a. (100516-1) The Kittery Town Council moves, pursuant to Council Rules Section 10, to suspend the rule of Robert's Rules of Order, governing the conduct of meetings in order to modify the conduct of these hearings in the due form of quasi-judicial proceedings.

A MOTION WAS MADE BY COUNCILOR THOMSON TO SUSPEND THE RULE OF ROBERT'S RULES OF ORDER, PURSUANT TO COUNCIL RULES SECTION 10, GOVERNING THE CONDUCT OF MEETINGS IN ORDER TO MODIFY THE CONDUCT OF THESE HEARINGS IN THE DUE FORM OF QUASI-JUDICIAL PROCEEDINGS, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

b. (100516-2) The Kittery Town Council moves to hold Assessment Hearings for the following applicants:

- Central Maine Power Company (Two Parcels)
- Kathleen C. & Gerald L. Eldridge
- Lady Slipper Properties, LLC; Richard D. Johnson
- Kathryn M. Hawkes
- Michel E. Racine
- Richard E. & Kathy A. Dellapiana

-
- Central Maine Power Company (Two Parcels)

Name of the requester: **CENTRAL MAINE POWER CO.**

Map-Lot: **20-04** Street: **91 MARTIN RD** & Map-Lot: **20-24** Street: **92 MARTIN RD**

Basic description of the issue on request:

Claims lots are deemed unbuildable because they are "a high-voltage transmission line corridor not buildable for a structure that would benefit from the sewer main." Notes adversely and directly affected by "an assessment for services that does not benefit the property."

Requests relief from assessment. States that "CMP conveyed rights to install portions of the sewer main over its property by easement dated May 3, 2016. And gave the Kittery Water District rights to

store water main pipe for the water main replacement project on its property at the Kittery Substation.”

Chairperson Beers stated that the request can be heard and a decision rendered based on the evidence presented or deny the request with prejudice due to the absence of representation. Councilor Dennett noted it is not required for the appellant to be present for hearing. Chairperson Beers concurred.

Chairperson Beers read the council’s basis in law and findings of fact for the hearing request into the record.

COUNCIL’S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing.

The applicant’s Burden of Proof [**was**] clarified to the Council: **SUBSTANTIAL EVIDENCE** Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are not**] applicable for this request.

Assessment formula for this assessment [**is not**] applicable for this request.

There [**are no**] mitigating factors related to this request not considered in the plan.

Key elements of the issue and applicable ordinance(s)/statute(s):

13.1.4.3 Assessment.

13.1.4.3.1 Determination of Benefits.

When the sewer line construction has been completed, the municipal officers shall determine what lots or parcels of land, with or without structures thereon, are benefited by said sewer line; and, estimate and assess upon said lots or parcels of land and against the record owner or owners thereof or against a person against whom the taxes thereon are assessed, a sum not exceeding the benefit the municipal officers deem fair and equitable towards defraying the expenses of said sewer construction together with any sewage disposal units and appurtenances that may be necessary for the proper operation of said sewer line.

13.1.4.3.2 Definitions.

For the purposes of this Article, the following definitions apply:

Benefited Parcel: A property which has gained direct access to a sewer main extension via frontage or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is readily achievable or not.

13.2.2 Unbuildable Parcel Appeals.

13.2.2.1 Definitions.

The following definitions apply to this Section only:

Unbuildable means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.

13.2.2.2 Right to Unbuildable Parcel Appeal.

Any person owning a property, included in an adopted Assessment Plan for a sewer main extension project, not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to Assessment Fee payment due date and without limitation of time thereafter, appeal the assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:

A. The appellant was the record owner of the assessed property and, excepting spousal or trust inclusions or exclusions, remains so without interruption at time of appeal; and

B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.

The relief sought as noted in the request filing asked the Council to find:

Request relief from assessment.

In order to grant the request, the applicant needed to demonstrate that:

Subject properties did not meet the “benefited parcel” definition/criteria.

Evidence submitted by the requester beyond what is shown on a plan:

Properties Area aerial photo. Indenture instrument, May 3, 2016, York Registry Book 17249 Pgs 520-524. Letter, July 28, 2016, RE: Water Main Replacement and Pipe Storage, Kittery, Maine

Evidence submitted by people other than the requester either for or against the issue: **NONE**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf:

Applicant presented no evidence or argument disputing the definition of a “benefited parcel”, or classification of the lots in question not meeting that criteria.

Applicants statement regarding the granting of an easement to the Town for the project is found to have no bearing on the equation. Applicant failed to note that the Town Paid \$5,232.10 for said easement.

Applicant’s evidence regarding temporary easement to the Kittery Water District has no bearing as the District is an independent quasi-municipal entity unrelated to the Town.

Applicant may appeal to the Board of Appeals on its contention that the parcels are unbuildable lots, pursuant to Town Code Title 13, §2.2.2, Right to Unbuildable Parcel Appeal.

The applicant’s evidence presented for the matter: [**was**] substantial;
[**was not**] credible;

Councilor White disagreed with the Council’s basis in law and findings of fact that the evidence presented was not credible. Chairperson Beers understood that no evidence was presented to support it is not a benefited parcel. He cited the definition of benefited parcel. He clarified that the question as to whether or not it is a buildable parcel could warrant an appeal to the Board of Appeals. However, the parcel meets the criteria of a benefited parcel and no evidence was presented to dispute that fact.

Councilor Dennett concurred with the decision for the easement for water service and the determination as to whether or not it is a buildable lot.

Chairperson Beers continued to read the council’s basis in law and findings of fact for the hearing request into the record.

The applicant’s evidence presented for the matter:

[**is**] outweighed by conflicting evidence from the Town; and, the applicant
[**did not**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does not**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

NONE

A MOTION WAS MADE BY CHAIRPERSON BEERS TO HEREBY RESOLVE, PURSUANT

TO TOWN CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 20 LOT 04 AT 91 MARTIN RD AND MAP 20 LOT 24 AT 92 MARTIN RD, AND OWNED BY CENTRAL MAINE POWER CO., SECONDED BY COUNCILOR SPILLER.

Chairperson Beers clarified to Councilor Dennett that the application could appear before the Board of Appeals.

Chairperson Beers added that some properties were included in the Assessment simply for the fact that it was suspected they could be waived, which in turn would not increase Assessments for other parcels.

THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTIES AT MAP 20 LOT 04 AND MAP 20 LOT 24 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES., SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

Chairperson Beers advised if the applicant is not satisfied with this decision, pursuant to Town Code Title 13, §1.4.3, appeal may be made within ten (10) days after this hearing, to an independent arbitration panel. Forms are available on the town website and at the Town Clerk's office.

-
- Kathleen C. & Gerald L. Eldridge

Name of the requester: **ELDRIDGE, KATHLEEN C. & GERALD L.**

Map-Lot: **29-08** Street: **131 MARTIN RD**

Basic description of the issue on request:

Apparently requesting relief to connection requirement due to lack of gravity flow and distance from structure to sewer main.

Ms. Eldridge stated a deferral was granted from the Town Manager until year 2024. She asked whether or not the property requires connection past the deferral period since no gravity flow exists to pump out.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is not**] complete, **but may contain sufficient detail to render a decision**; made a part of the record; and, the applicant [**does**] have standing.

The applicant's Burden of Proof [**was**] clarified to the Council: **SUBSTANTIAL EVIDENCE**

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are not**] applicable for this request.

Assessment formula for this assessment [**is not**] applicable for this request.

There [**are**] mitigating factors related to this request not considered in the plan.

Aerial view shows structure requiring sewage waste disposal to be greater than 100' from project main.

Key elements of the issue and applicable ordinance(s)/statute(s):

Title 13, §1.1.11 Installation and Connection to Public Sewer Required.

A. Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line as measured along any public way are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so.

C. When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.

The relief sought as noted in the request filing asked the Council to find:

Exemption from connect requirement due to lack of gravity flow and greater than 100' distance from structure to sewer main.

In order to grant the request, the applicant needed to demonstrate that:

Gravity flow cannot be achieved; or, distance exceeds requirement.

Evidence submitted by the requester beyond what is shown on a plan:

Superintendent – Project Engineer e-mail, Oct 06, 2016.

Evidence submitted by people other than the requester either for or against the issue: **NONE**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Parcel aerial photo.**

The applicant's evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is not**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Relief from Town Code Title 13, §1.1.11C, for connection: Structure greater than 100' distant from the sewer main; gravity flow probably unobtainable.

Councilor Dennett stated there was no evidence presented that gravity flow cannot be obtained.

Chairperson Beers explained the basis of decision would not be lack of gravity flow, but would be the distance of the structure being greater than 100 feet. He added that the appellant requested relief only from connection.

Ms. Eldridge replied to Councilor Dennett that the septic is twelve years old and that is why the deferral request was made.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO HEREBY RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29 LOT 08 AT 131 MARTIN RD AND OWNED BY KATHLEEN C. & GERALD L. ELDRIDGE, PURSUANT TO TOWN CODE TITLE 13, §1.1.11A, EXEMPTION FROM

CONNECTION REQUIREMENT IS GRANTED DUE TO STRUCTURE REQUIRING SEWAGE DISPOSAL LOCATED GREATER THAN 100' FROM SEWER MAIN., SECONDED BY COUNCILOR SPILLER.

Councilor Dennett understood that the motion is for exemption from the requirement to hook up to sewer and does not change the Assessment. He asked if there was a stub. Councilor Thomson believed that there was reference to a stub that is three feet buried. Chairperson Beers understood that the amount of frontage to the road is irrelevant and that there is a proposed stub for all parcels.

THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR DENNETT OPPOSED.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 29 LOT 08 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES., SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

Chairperson Beers advised if the applicant is not satisfied with this decision, pursuant to Town Code Title 13, §1.4.3, appeal may be made within ten (10) days after this hearing, to an independent arbitration panel. Forms are available on the town website and at the Town Clerk's office.

-
- Lady Slipper Properties, LLC; Richard D. Johnson

Name of the requester: **LADY SLIPPER LLC, RICHARD D. JOHNSON**

Map-Lot: **20-17** Street: **37 ROUTE 236**

Basic description of the issue on request:

States objection to:

- 1) Number of units assessed**
- 2) Sewer Stub Location**
- 3) Sewage pump required**

Mr. Johnson explained the reasoning for his request to assess the property based on three units instead of thirteen. Based on the water usage, the three units combined use about 500 gallons less than the average consumption per cubic feet per quarter.

Mr. Johnson explained the location of the existing stub is approximately five feet higher than the outfall. The distance to the proposed stub would reduce the distance from the outfall from 174 feet to 148 feet. The new stub location would allow the force main to run alongside the existing driveway. The current septic has reached less than 50% of useful life and when it fails, he plans to connect to Town sewer. He requests that the Town provide a stub at the proposed location and a pump station. Alternatively, he requests the future connection fee be waived and the Assessment fee be adjusted to offset the cost of grinder pump station. He did receive a response from Mr. George Kathios that the Town would provide a pump, but Mr. Johnson was not sure if that included installation.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing.

The applicant’s Burden of Proof [**was**] clarified to the Council: **SUBSTANTIAL EVIDENCE**
Assessment dimensions of the property and other arithmetical calculations used for calculating the
assessment [**are**] applicable for this request.

Assessed for 13 units of occupancy.

Assessment formula for this assessment [**is not**] applicable for this request.

There [**are**] mitigating factors related to this request not considered in the plan.

- 1. Basis of determining number of units of occupancy.**
- 2. Sewer stub location anticipated sewer line exiting at front, but it exits at rear.**
- 3. Project sewer main level is 5.71’ higher than structure outfall level preventing gravity flow.**

Key elements of the issue and applicable ordinance(s)/statute(s):

UNITS OF OCCUPANCY

13.1.4.3.2 Definitions.

For the purposes of this Article, the following definitions apply:

Unit-of-Occupancy: The category of property use which carries the unit charge as found in §13.1.6.5, Sewer Impact Fee.

13.1.6.5 Sewer Impact Fee.

13.1.6.5.3 Categories of Use and Unit Charge.

The following categories of property use carry the unit charge set forth herein to be used in the computation of the sewer impact fee as provided above:

Minimum charge.....	1/2 unit charge
Single-family dwelling or condominium unit.....	1 unit charge
Multifamily dwelling or condominium per unit.....	1 unit charge
3 hotel units (double occupancy).....	1 unit charge
5 motel units (double occupancy).....	1 unit charge
4 boarding house (double occupancy).....	1 unit charge
7 cabins.....	1 unit charge
15 school students (day school).....	1 unit charge
4 school students (boarding school).....	1 unit charge
2 hospital beds (medical).....	1 unit charge
3 nursing home beds.....	1 unit charge
50 theater seats.....	1 unit charge
30 employees.....	1 unit charge
Retail store per 1,500 gross square feet.....	1 unit charge
30 full service restaurant or function room seats.....	1 unit charge
1 laundromat machine.....	1 unit charge
1 automobile service station.....	3 unit charges
Fast food and/or drive-in service restaurant (15 seats).....	1 unit charge
10 yacht or country club members.....	1 unit charge
50 church members.....	1 unit charge
Industrial and manufacturing use.....	Base minimum on domestic use plus any process water usage

Commercial and retail uses:

5 plumbing fixtures added to existing structures
and connected to wastewater collection system..... 1 unit charge

For any category of use or change in use not specifically set forth above, the enforcing officer determines the total number of unit charges based upon a per unit load of three hundred (300) gallons per day.

13.1.6.5.4 Proportional Factors.

When the number of units within a category of use does not exactly correspond to that listed in the schedule above, a proportional factor is to be utilized to calculate the total sewer impact fee. For example, to compute the total sewer impact fee for a seven-unit motel the following calculation is used:

$$7 \text{ motel units} = 1 \text{ Unit charge for } 5 + 2/5 \text{ Unit charge for } 2 \\ = \$3,000 + (2/5 \times \$3,000 (\$1,200)) = \$4,200.00$$

13.1.6.5.5 Multiple Category Factors.

If two or more categories of use may apply to a particular proposed use, the sewer impact fee is the higher of the two or more calculations. However, when there are multiple uses within a structure, each such use is subject to a separate sewer impact fee.

GRAVITY FLOW

Title 13, §1.1.11 Installation and Connection to Public Sewer Required. 13.1.1.11

A. Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line as measured along any public way are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so. **Pursuant to Town Code Title 16, Chapter 8, Article VII, Sewage Disposal, connection to public sewer is required for a commercial or industrial development or a residential subdivision, where public sewer, within an abutting public way, is within one thousand (1,000) feet of the property line as measured along said public way.**

C. When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. **Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.**

D. Owners of properties with a septic tank and leach field system **installed within twenty (20) years of any main extension project completion date may request deferral of connection until the system has reached the twenty-years after installation anniversary.**

The relief sought as noted in the request filing asked the Council to find:

1. **Reduction in number of units assessed to three (3).**
2. **Exemption from connection requirement due lack of gravity flow obtainability and distance in excess of 100’.**
3. **Request the Town install a pump station and maintain it forever; or, waive future Connection and adjusted Assessment Fees to offset the cost of the grinder/pump station and long term maintenance.**

4. Not articulated as a request in application attachment A: The Town install an additional sewer stub for a short, less intrusive access line trench.

In order to grant the request, the applicant needed to demonstrate that:

- 1. The assessment of the number of units of occupancy (13) is in error.**
- 2. Gravity flow from the structure to the main is unobtainable and/or structure is located more than 100' distant from the main.**
- 3. That there is an obligation and/or justification for the Town to install a lifting station on a private property and maintain it in perpetuity.**
- 4. That there is an obligation and/or justification for the Town to install an additional connection stub at the owner's preferred location.**

Evidence submitted by the requester beyond what is shown on a plan:

Drawings; e-mails with Superintendent; dwelling unit comparable water consumption examples.

Applicant noted offer of grinder pump from Wastewater Superintendent

Evidence submitted by people other than the requester either for or against the issue: **NONE**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **7.48052 gallons / cubic foot.**

HOW MANY TOILET FACILITIES ARE IN THE BUILDING? Five plus a break room.

Mr. Johnson replied to Chairperson Beers that the building has five bathrooms and one break room.

Councilor Dennett suggested that the determination of load based on number of gallons per day be verified by the Code Enforcement Officer. Chairperson Beers stated that given the number of toilet facilities, it appears that basis on use is not a decision making criteria. The consideration is for Council to accept the description of the facility and consider reduction to three units for Assessment or develop an alternative formula that is justifiable.

Councilor Dennett questioned why the Code Enforcement Officer would not be allowed to make the determination for number of units and whether or not that determination be based on load in gallons per day. He added that it is also based on occupied units and that would need to be considered.

Vice Chairperson Denault stated the evidence presented clearly supports the criteria in question and the request as presented is fair and reasonable.

Councilor Lemont echoed Vice Chairperson Denault's statement.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO MOVE TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 20 LOT 17 AT 37 ROUTE 236 AND OWNED BY RICHARD D. JOHNSON, LADY SLIPPER, LLC, TO REDUCE THE NUMBER OF UNITS OF OCCUPANCY ASSESSED TO THREE (3) AND RECALCULATE THE ASSESSMENT FEE., SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR DENNETT OPPOSED.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 20 LOT 17 AT 37 ROUTE 236 AND OWNED BY LADY SLIPPER, LLC, AND PURSUANT TO TOWN CODE TITLE 13, §1.1.11C, EXEMPTION FROM CONNECTION REQUIREMENT IS GRANTED DUE TO LACK OF OBTAINABLE GRAVITY FLOW, SECONDED BY COUNCILOR DENNETT. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

Councilor Dennett felt that since the exemption for connection was granted, the request for lifting station and maintenance obligations is rendered moot. Chairperson Beers referenced the ordinance stating that properties not required to connect, must do so when the existing septic system fails or otherwise be replaced. Councilor Dennett interpreted that to contradict the exemption from connection based on lack of gravity flow.

Chairperson Beers explained to Councilor White that there was no evidence presented that there is an obligation for the Town to pay for a pump station on a private property.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE INSTALLATION OF A SEWAGE WASTE LIFTING STATION, AND OBLIGATE THE TOWN FOR MAINTENANCE IN PERPETUITY, ON MAP 20 LOT 17 AT 37 ROUTE 236, AS REQUESTED BY RICHARD D. JOHNSON, REPRESENTING LADY SLIPPER, LLC, SECONDED BY COUNCILOR WHITE. THE MOTION FAILED TO PASS BY A UNANIMOUS ROLL CALL VOTE 0/7/0.

Chairperson Beers cited the fourth item regarding the Town providing an additional sewer connection stub at the owner's preferred location. He concurred with the applicant's position and questioned whether or not this is a function of the sewer department or Council's decision.

Vice Chairperson Denault questioned when the connection would be required given the uncertainty of when the stub would be moved. Chairperson Beers explained if a second stub location is not arranged, the requirement to make the connection would be true. Vice Chairperson Denault did not feel it would be reasonable to make a decision if it could be potentially resolved later.

Councilor White suggested to consult the matter with staff. If a satisfactory resolution cannot be found, then it could come back to Council, if necessary. It is difficult to know what the engineering should be. Chairperson Beers concurred. He added that the issue pertains to proper authority. He thought that the movement of installation or connection of additional stubs is part of administration, not a decision for Council to make. The Council reached consensus to make no action on the matter and request the Town Manager to provide a follow on report.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 20 LOT 17 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES., SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

Chairperson Beers advised if the applicant is not satisfied with this decision, pursuant to Town Code Title 13, §1.4.3, appeal may be made within ten (10) days after this hearing, to an independent arbitration panel. Forms are available on the town website and at the Town Clerk's office.

-
- Kathryn M. Hawkes

Name of the requester: **HAWKES, KATHRYN M.**

Map-Lot: **29-33** Street: **16 STEVENSON RD**

Basic description of the issue on request:

Requesting relief to connection requirement due to lack of gravity flow.

Ms. Hawkes explained why proper connection would require to pump up or lose the downstairs facilities.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29 LOT 33 AT 16 STEVENSON RD AND OWNED BY KATHRYN M. HAWKES, PURSUANT TO TOWN CODE TITLE 13, §1.1.11C, EXEMPTION FROM CONNECTION REQUIREMENT IS GRANTED DUE TO LACK OF OBTAINABLE GRAVITY FLOW, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

Councilor Thomson referenced a statement made in an e-mail presented in the application and suggested that each department head should be made aware of Council actions in the regularly scheduled staff meetings.

Chairperson Beers advised if the applicant is not satisfied with this decision, pursuant to Town Code Title 13, §1.4.3, appeal may be made within ten (10) days after this hearing, to an independent arbitration panel. Forms are available on the town website and at the Town Clerk's office.

-
- Michel E. Racine

Name of the requester: **RACINE, MICHEL E.**

Map-Lot: **20-08A** Street: **11 MARTIN RD**

Basic description of the issue on request:

Requesting relief to connection requirement due to lack of gravity flow and deferral of connection until current system 20-year anniversary.

Noted in Application attachment: Difference in Assessed Area (32,670sf) and 2003 Survey plat (32,271sf) of 399sf.

Mr. Racine stated the distances to the stub and septic and requested relief from connection and requested deferral.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing.

The applicant's Burden of Proof [**was**] clarified to the Council: **SUBSTANTIAL EVIDENCE**
Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] applicable for this request.

Assessment formula for this assessment [**is**] applicable for this request.

There [**are**] mitigating factors related to this request not considered in the plan.
Distance from structure to sewer main; Assessed Area calculations in error

Key elements of the issue and applicable ordinance(s)/statute(s):

Title 13, §1.1.11 Installation and Connection to Public Sewer Required.

A. Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line as measured along any public way are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so.

C. When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. **Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.**

The relief sought as noted in the request filing asked the Council to find:

Exemption of connection; Approval of deferral to 20 year deadline unnecessary.

In order to grant the request, the applicant needed to demonstrate that:

Gravity flow is unobtainable.

Evidence submitted by the requester beyond what is shown on a plan: **NONE**

Evidence submitted by people other than the requester either for or against the issue: **NONE**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf:

TOWN PROPERTY RECORD; TAX MAP EXCERPT; AERIAL VIEW. Title 13, §1.1.11A.

The applicant's evidence presented for the matter: [**was**] substantial;

[**was not entirely**] credible;

[**is not**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Relief from Town Code Title 13, §1.1.11 for connection: Structure greater than 100' distant from the sewer main; gravity flow probably unobtainable.

Councilor Beers stated that the drawing presented does not include professional details and would require a certified soils analysis for proof of gravity flow. It would not be acceptable to find that proof of gravity flow is not obtainable, but rather probable.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 20 LOT 08A AT 111 MARTIN RD AND OWNED BY MICHEL E. RACINE, PURSUANT TO TOWN CODE TITLE 13, §1.1.11A, EXEMPTION FROM CONNECTION REQUIREMENT IS GRANTED DUE TO STRUCTURE REQUIRING SEWAGE DISPOSAL LOCATED GREATER THAN 100' FROM SEWER MAIN, SECONDED BY VICE CHAIRPERSON DENAULT.

Councilor Dennett requested to split the motion to vote separately on the finding that the structure is located greater than 100' from the sewer main.

THE MOTION PASSED AS AMENDED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR DENNETT OPPOSED.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 20 LOT 08A AT 111 MARTIN RD AND OWNED BY MICHEL E. RACINE, PURSUANT TO TOWN CODE TITLE 13, §1.1.11A, TO AFFIRM THE LOT SIZE AT 32,271 S.F. AND THE ASSESSMENT CALCULATION TO BE SO REVISED, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

Chairperson Beers advised if the applicant is not satisfied with this decision, pursuant to Town Code Title 13, §1.4.3, appeal may be made within ten (10) days after this hearing, to an independent arbitration panel. Forms are available on the town website and at the Town Clerk's office.

-
- Richard E. & Kathy A. Dellapiana

Name of the requester: **DELLAPIANA, RICHARD E.**

Map-Lot: **20-38** Street: **72 MARTIN RD**

Basic description of the issue on request:

Contests Unit Category; Unit Charge; Total Assessment Amount; Other: Address incorrect and information of 20-38. Indicated 2002 data, not provided.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is not**] complete; made a part of the record; and, the applicant [**does**] have standing.

Number of Units - Town records show five dwelling units / Assessed for four.

72: 1,687sf

76A: 600sf

76B: 980sf

76C: 864sf

76D: 1,064sf

The applicant's evidence presented for the matter: [**was not**] substantial;

[**was not**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did not**] meet the burden of proof for granting the request.

The sum of the information presented and reviewed [**does not**] warrant a revision of the Assessment.

Chairperson Beers confirmed to Councilor Thomson that additional information regarding the purchase of the property was said to be provided in the application, but was not presented before the hearing.

Councilor White felt the application did not appear to be complete and it is the type of property that should connect.

Chairperson Beers stated the Assessment based on the number of units was done correctly because one of the five was less than 650 square feet, the code dimension for a dwelling unit.

Councilor Beers explained to Councilor Dennett that the motion would affirm the Assessment with prejudice and conclude the matter, but could still warrant an appeal.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 20 LOT 38 AT 72 MARTIN RD AND OWNED BY RICHARD E. DELLAPIANA, WITH PREJUDICE, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 20 LOT 38 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A ROLL CALL VOTE 7/0/0.

Chairperson Beers advised if the applicant is not satisfied with this decision, pursuant to Town Code Title 13, §1.4.3, appeal may be made within ten (10) days after this hearing, to an independent arbitration panel. Forms are available on the town website and at the Town Clerk's office.

6. ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT 7:20 P.M. SECONDED BY COUNCILOR LEMONT. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.

Submitted by Marissa Day, Minutes Recorder, on November 7, 2016.

Disclaimer: The following 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 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>.

State of Maine
Community Development
Block Grant Program



**2021 Economic Development Program
Letter of Intent to Apply
Due Friday March 5, 2021 by 4:00 p.m.**

Letters of Intent must be submitted via email to: ocd.loi@maine.gov
Please enter "EDP LOI" in the subject line.

All communities wishing to apply for assistance under the 2021 Economic Development Program must use this Letter of Intent to document compliance with requirements established by Title I of the Housing and Community Development Act of 1974, as amended and the State of Maine CDBG program. Applicants who submit a completed Letter of Intent deemed to be fully compliant will be notified by OCD that they are eligible to submit a final application. Eligibility to submit a final application does not imply final project approval or funding. **Funds will not be available until after July 1, 2021.**

EDP PROJECT PARTICIPANTS

Legal Applicant (Community):

Applicant:	Town of Kittery	Phone:	207-475-1307
Address:	200 Rogers Road	Fax:	207-439-6806
City, ZIP+4:	Kittery, ME 03904	E-Mail:	Adam Causey, Planning Director: acausey@kitteryme.org
Contact:	Kendra Amaral, Town Manager: kamaral@kitteryme.org		
DUNS #:	Applicant DUNS (Dunn & Bradstreet) #: 09-362-9822 (visit http://fedgov.dnb.com/webform if applicant needs to obtain a number)		
OCD Staff Consultation (Name and Date of Consultation Required): Tammy Knight, Development Program Manager, 02/26/2021			

Business to be assisted:

Business	Good To-Go LLC	Phone:	207.451.9060
Address:	484 US Route 1	Fax:	207.703.2357
City, ZIP:	Kittery, 03904	E-Mail:	jennifer@goodto-go.com
Contact:	Jennifer Scism	Title	CEO
DUNS #:	Applicant Business DUNS (Dunn & Bradstreet) #: 080241239 (visit http://fedgov.dnb.com/webform if business needs to obtain a number)		

If applicable, is business to be assisted Retail Start-up

EDP ELIGIBLE ACTIVITY CATEGORY

	Grants to Municipalities for Direct Business Support: for capital and non-capital equipment, \$250,000* job training and working capital in support of an identified business. Acquisition is not an allowable activity under this group. *Start-up businesses are limited to a maximum grant award of \$100,000

ECONOMIC DEVELOPMENT PROGRAM FUNDS CANNOT BE USED TO REFINANCE EXISTING DEBT

PROJECT INFORMATION

Using the space provided please provide a clear, concise description of the proposed development project. Be sure to clearly explain how EDP funds will be utilized, the financing gap that exists to do the project and the timeline in which the CDBG-EDP funds will be expended and information relative to jobs being created and/or retained.

Good To-Go has been in business for 7 years. We are food processors manufacturing all-natural shelf stable dehydrated meals. The meals are sold in individual pouches that boiling water is added to, the diner only needs to wait a few minutes and the meals are ready to eat. We execute every step of the process in our facility from receiving the raw materials to cooking, drying, packaging, and shipping, selling either to B2B or directly to our customers through our website. We have been growing on average 39% annually and have reached the point of maximum production capacity at our current location. Good To-Go will be moving all our operations to a larger facility in Kittery in the next 10 to 15 months to continue our rapid growth. The 20,000 sq ft manufacturing plant will allow the company to expand its production capacity 4 times as well as increase our product line. We will be purchasing (2) 200-gallon steam kettles for cooking the meals and (2) FD-145 commercial dehydrators build and manufactured by Nyle Systems in Brewer Maine. The driers are paramount to our production capacity. Each drier takes 18 hours to fully process the cook batch, making it impossible to be used in a second shift. At the present time we have (1) smaller drier, capable of drying up to 5000 servings a day. Two new larger driers will expand our daily production up to 20,000 servings a day. In order for us to process at this level we will need to increase our production staff at a minimum of 6 people. The jobs created will be in the departments of shipping, sanitation and cooking. These are entry level jobs that we will fully train on site. Individuals are not required to have previous experience, special degrees or technical skills, only a will to work and good attitude are necessary. With the larger facility we have determined that we will need between \$1.75 million and \$2 million to be used for leasehold improvements to the building as well as capital expenditures for manufacturing equipment. To fund the project Good To-Go will raise money through sale of company equity. It is our hope to be able to raise \$1.5 million in the next 4 to 6 months. Bank financing was considered for the 250K gap in funds needed but leveraging that amount of money would negatively affect the company's profit and loss statement pushing profitability back until 2024 or later.

Occupation/Job Title	# of Jobs	Work Location	Hire Date	Hourly Salary	Job Class #
Picker Packer	2	Kittery	By 6/30/2022	17.50 + benefits	Laborers
Dishwasher	2	Kittery	By 6/30/2022	17.00+ benefits	Laborers
Production Asst	2	Kittery	By 6/30/2022	17.50 + benefits	Operatives
VP of Sales	1	Kittery	By 1/1/2022	TBD	Manager
Controller	1	Kittery	By 6/30/2022	TBD	Professional
Marketing Asst	1	Kittery	By 1/1/2022	TBD	Office and Clerical

In determining CDBG National Objective compliance with job creation only **Permanent** jobs may be counted; temporary jobs may not. Full time jobs require a worker to work at least 1750 hours per year. Part time jobs require a worker to work at least 875 hours but less than 1750 hours per year. Part-time jobs **must** be converted to Full Time Equivalentents (FTE). An FTE is defined as two part time jobs. **Seasonal** jobs may count only if the seasonal job lasts long enough and provides sufficient income to be considered the employee's principal occupation. (Contact OCD prior to counting seasonal jobs towards LMI benefit.) **All** permanent jobs created by the project must be counted, regardless of funding source(s). Jobs indirectly created by the project (i.e., remote location, "trickle down" jobs) do not count.

**STATE OF MAINE
COMMUNITY DEVELOPMENT BLOCK GRANT
ECONOMIC DEVELOPMENT PROGRAM LETTER OF INTENT**

GRANTEE/BUSINESS ASSURANCES

JOB CREATION

The Business Good To-Go LLC (as identified below), having applied for funding from the Town of Kittery (as identified below) through the Maine Department of Economic and Community Development, assures that it has discussed CDBG job creation project goals and requirements with the municipality. The Municipality is assured that 9 jobs will be created. The Business (as identified below) assures that these jobs will be created and that timely and completed documentation will be provided to the Municipality necessary to verify job creation achievements. Both the Municipality and the Business assure that low and moderate-income persons will take at least 51% of the jobs created.

In determining CDBG National Objective compliance with job creation only **Permanent** jobs may be counted; temporary jobs may not. Full time jobs require a worker to work at least 1750 hours per year. Part time jobs require a worker to work at least 875 hours but less than 1750 hours per year. Part-time jobs **must** be converted to Full Time Equivalents (FTE). An FTE is defined as two, part time jobs. **Seasonal** jobs may count only if the seasonal job lasts long enough and provides sufficient income to be considered the employee's principal occupation. (Contact OCD prior to counting seasonal jobs towards LMI benefit.) **All** permanent jobs created by the project must be counted, regardless of funding source(s). Jobs indirectly created by the project (i.e., remote location, "trickle down" jobs) do not count.

All job creation information reported on this form will be reviewed by OCD.

Town of Kittery
Municipality



Signature of Municipal CEO

3/3/21

Date

Good To-Go LLC
Business



Signature of Business CEO

03/02/2021

Date

G. COST ESTIMATES & PROJECT FUNDING

Provide the estimated project cost, amount of CDBG funds to be requested and sources, amounts and dates secured for all anticipated cash matching funds.

Applicants for Economic Development Program funds must certify and provide documentation, at time of application, that there is a 50% cash match of the total EDP award. Matching funds must be directly related to the activities undertaken with EDP funding and must be firm commitments from non-CDBG funds and documented by binding commitment letters submitted with the final application. Matching funds cannot be committed or expended prior to the project receiving Environmental Review Clearance from the Office of Community Development. Prior commitments and in-kind contributions are not considered as match. Project must demonstrate that there is a gap between sources and uses and that CDBG funds are needed to fill that gap.

If the business that is requesting CDBG funds has previously been assisted, you must get permission from the Director of OCD.

Please note projects with a total cost exceeding \$3,000,000 are not eligible for EDP assistance. The minimum request for EDP assistance is \$100,000*.



Total Estimated Project Cost:	\$2,000,000	CDBG Request:	\$250,000
--------------------------------------	-------------	----------------------	-----------

Funding Source	Amount	Date Secured
Funds Secured through Equity Raise	\$1,750,000	By mid May 2021
TOTAL:	\$1,750,000	

Applicant & Business Certifications

As an authorized official of the applicant community and/or business, I certify under the penalties of perjury that:

1. To the best of my knowledge and belief, all information contained in this Letter of Intent and all attached documentation is true and correct and current as of the date signed below;
2. This Letter of Intent complies with all applicable State and federal laws and regulations;
3. All parties signing this Letter of Intent are cognizant of the requirements that should the intended Job Creation/Retention National Objective of the CDBG program not be met all CDBG funds must be repaid to the State of Maine CDBG program; that DECD may elect to secure such requirement/repayment with assets of the Applicant Business for a term of up to five years should this project be approved for funding; and that DECD may deduct from the amount of any Grant the cost of legal fees associated with the review, underwriting and securing of collateral should this project be approved for funding.
4. There are no actions, suits or proceedings pending or, to the knowledge of the borrower, threatened against or affecting the applicant and/or business at law or in equity before any court or administrative officer or agency which might result in any material adverse change in the business or financial condition of the borrower. The borrower is not in default (a) in the payment of any taxes levied or assessed against it or any of its assets or (b) under an applicable statute, rule, order, decree, writ, injunction or regulation of any governmental body (including any court).
5. With the exception of administrative or personnel costs, verify that no person who is an employee, agent, consultant, officer, or elected official or appointed official of state or local government or of any designated public agencies, or subrecipients which are receiving CDBG funding may obtain a financial interest or benefit, have an interest in or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect to CDBG activities, per 24 CFR Part 570.611.
6. Approval of this Letter of Intent by OCD to submit a final application does not imply final project approval or funding.

Signature of Chief Executive Officer: 	Printed or Typed Name: Kendra Amaral, Town Manager
Name of Applicant Community : Town of Kittery, Maine	Date: 3/3/21
Signature of Chief Executive Officer: 	Printed or Typed Name: Jennifer Scism
Name of Applicant Business : Good To-Go LLC	Date: 03/02/2021

JOB CATEGORY DEFINITIONS AND CLASS NUMBERS

1. **Officials and Managers** – Occupants requiring administrative personnel who set broad policies, exercise overall responsibility of execution of these policies, and individual departments or special phases of a firm’s operations. This includes: Officials, Executives, middle management, plant managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, and kindred workers.
2. **Professional** – Occupants requiring either college graduation or experience of such kind and amount as to provide a comparable background includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, professional and labor relations workers, physical scientists, physicians, social scientists, teachers, and kindred workers.
3. **Technicians** – Occupants requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education such as is offered in many technical institutions and junior colleges, or through equivalent on the job training. This includes: computer programmers and operators, drafters, engineering aides, junior engineers, mathematic aides, licensed practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science) and kindred workers.
4. **Sales** – Occupants engaging wholly or primarily in direct selling. This includes: advertising agenda and sales workers; insurance agents and brokers; real estate agents and brokers; sales workers, demonstrators and retail sales workers; and sales clerks, grocery clerks and cashiers; and kindred workers.
5. **Office and Clerical** – Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. This includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists, and secretaries, telegraph and telephone operators, and kindred workers.
6. **Craft Worker (skilled)** – Manual workers of relatively high-level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. This includes: the building trades, hourly paid supervisors and lead operators (who are not members of management), mechanic and repairers, skilled machining occupations, composers and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, and kindred workers.

JOB CATEGORY DEFINITIONS AND CLASS NUMBERS (continued)

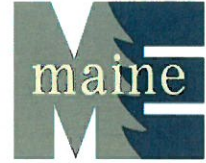
7. **Operatives (semi-skilled)** – Workers who operate machines or other equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. This includes: apprentices (auto mechanics, plumbers, electricians, machinists, mechanics, building trades, metal working trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dress makers and sewers (except factory), dryer's furnaces workers, heaters (metal), laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, boiler tenders, truck and tractor drivers, weavers (textile), welders and flame metals workers, and kindred workers.

8. **Laborers (unskilled)** – Workers in manual occupations which generally require no special training perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. This includes garage laborers; car washers and greasers; gardeners (except farm) and ground keepers; stevedores; wood choppers; laborers performing lifting, digging, mixing loading, and pulling operations; and kindred workers.

9. **Service workers** – Workers in both protective and non-protective service occupations. This includes attendants (hospital and other institutions, professional and personal service, including nurses' aides and orderlies), barbers, chair workers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection guards, door keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, and kindred workers.



STATE OF MAINE
DEPARTMENT OF ECONOMIC
AND COMMUNITY DEVELOPMENT



JANET T. MILLS
GOVERNOR

HEATHER JOHNSON
COMMISSIONER

March 15, 2021

Kendra Amaral, Manager
Town of Kittery
200 Rogers Road
Kittery, ME 03904

Dear Ms. Amaral:

The Office of Community Development (OCD) has reviewed the Letter-of-Intent to apply submitted for the 2021 Community Development Block Grant (CDBG) Economic Development Program (EDP). Our review showed that the Town of Kittery, on behalf of Good To-Go LLC, has met the requirements established by Title I of the Housing and Community Development Act of 1973, as amended and the State of Maine CDBG program.

Please note the following items that the EDP application and supporting documentation **must** include, in order to be eligible to be reviewed and scored:

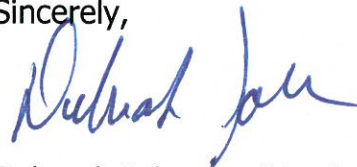
- Municipal legislative body approval
- Redefined budget and description of how CDBG funds will be used based on 2021 program statement and eligible activities – working capital, capital equipment, inventory. **NOTE** – renovation costs and construction cannot be paid using CDBG funds, but may be part of defined grant project using matching funds, pending appropriate environmental review and clearance date
- Documented commitment letters for **all matching funds required to complete the project**
- Identified sources from which resources were sought and why they are not being utilized as part of this development project demonstrating a gap exists in the project
- Tax return for **2020** for the applicant business and/or for any entity or individual with a 20% or more interest in the business

March 15, 2021
Town of Kittery
Page 2

If the application and financial documentation package, **as identified in the EDP application checklist**, does not contain all the required items, it will be deemed incomplete and **will not** be scored.

Please remember that eligibility to submit a final application does not imply final project approval or funding. Further, no matching funds or CDBG funds can be obligated or expended prior to the project receiving Environmental Clearance from the Office of Community Development.

Sincerely,



Deborah Johnson, Director
Office of Community Development



TOWN OF KITTEERY
Office of the Town Clerk
200 Rogers Road, Kittery, Maine 03904
Telephone: (207) 475-1313 Fax: (207) 439-6806

**APPLICATION FOR VICTUALERS, INNKEEPERS,
AND LODGING HOUSE OPERATORS LICENSE**

Applicant's Name Ethan Whited
please print

Applicant's Address 113 Fessenden St. Portland ME 04105
please print

Applicant's mailing address if different from above: _____

Applicant's Email address (required) vagabondcoffeecar@gmail.com

Date of Birth 01/12/1996 Applicant's Telephone Number: (207)295-6982

Business Name: Vagabond Coffee Truck LLC
please print

Business Address: 8 Chestnut St. Falmouth ME, 04103
please print

Business Telephone Number: (207)295-6982 *Truck located at*

Signature of Applicant *Ethan Whited* DATE: 04/07/2021

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



TOWN OF KITTERY
Office of the Town Clerk
200 Rogers Road
Kittery, Maine 03904
Phone 207-474-1328 Fax 207-439-6806

APPLICATION FOR SPECIAL ACTIVITY/AMUSEMENT PERMIT
(Pursuant to 28-A M.R.S.A. Sec. 1054)

Name, address and legal status of individual(s) or entity seeking to hold permit:

Michael Landgarten 103 Pepperrel Rd Bx 86 Kittery PT, ME 03905 Andrew Edgar 15 Spinney Creek Rd Eliot, ME 03903 Glen Jodoin 42 Washington RD Rye, NH 03807

All equal co owners

Name and mailing address of the premises where the special activity/amusement will occur:

The Corner Pub 4 Wallingford Sq Kittery, ME 03904

=

Mailing address and telephone number of owner of the real estate: Jest Realty Eliot Sirkin 23 Random Rd Bedford, NH 03110t

=

Describe the specific portion of the premises where the special activity/amusement will occur:

The music will take place along the back wall of the outside seating area. This is fully social distanced from all customers and staff

Set forth the specific time periods between which the special activity/amusement will occur:

6-9pm Thursday evenings

Describe the specific activity or type of amusement for which the permit is requested:

Music will be played by single musicians, duos, or small bands. There will be no loud music and we are aware of the decibel restrictions

Has any individual(s), partner(s), majority shareholder(s) of the business entity, seeking to hold this permit, been convicted of a felony or had any similar type of amusement or activity permit been denied or revoked within the past ten (10) years by any other municipal or state authority, agency or board? Yes ___ No x

If so, give the state of conviction for any felony and describe specifically the circumstances of any such

denial or revocation giving the state or city and date of such denial or revocation:

(Over)

Give any additional information to support your request for the permit sought herein:

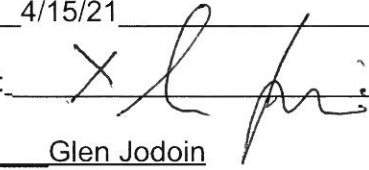
Our outside seating area has become popular with the local adults that can walk to the restaurant. We feel this will add value to our environment and the environment of the Foreside

As part of this application process, the individual or business entity seeking the permit herein acknowledges that the Municipal Officers, pursuant to 28-A M.R.S.A. Subsection 1054(7) may suspend or revoke the permit applied for herein on the grounds that the activity or amusement constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or regulations.

Give the authority and legal relationship of the applicant signing below to the entity seeking permit:

NOTE: In granting this permit, the Town relies on the accuracy and truth of the facts represented herein. Any misleading or incorrect information set forth in this application shall be grounds for denial or immediate revocation of the permit issued. By signing this application, the applicant represents the truth of the facts herein stated.

DATE OF APPLICATION: _____ 4/15/21 _____

SIGNATURE OF APPLICANT: _____  _____

APPLICANT'S NAME: _____ Glen Jodoin _____

_____ (please print)

ADDRESS: _____ 42 W@ashington Rd unit 2 Rye, NH
03870 _____ (please print)

TELEPHONE NUMBER: _____ 603-498-6250 _____

FEE: \$20.00 per year Must be renewed annually with liquor license. PLEASE

CORNER PUB

STAIRWELL

FRONT DOOR

RAMP

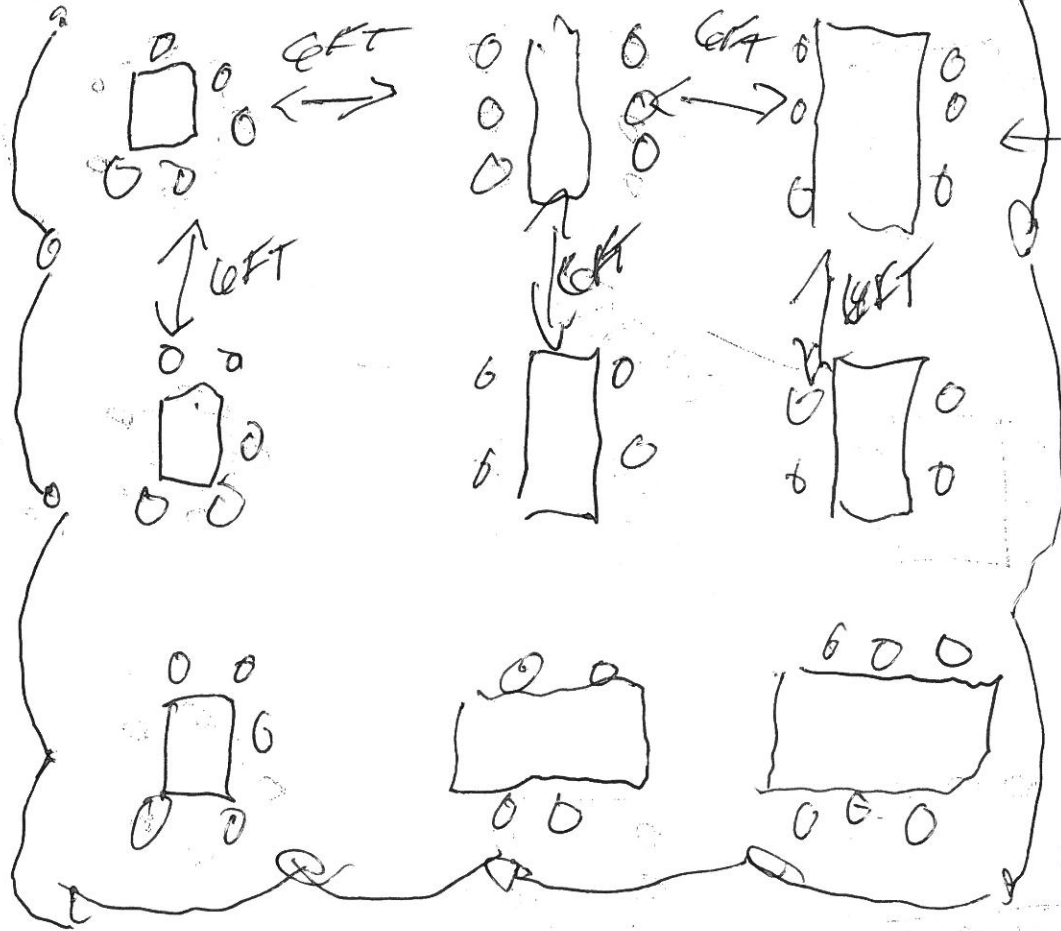
FRONT DOOR

FRONT DOOR

FRONT DOOR



GOVT ST.



15 FT

WAVE FENCE

WAVE BORDER

GOVT ST
PARKING

4. Indicate the type of license applying for: (choose only one)

- Restaurant (Class I, II, III, IV) Class A Restaurant/Lounge (Class XI) Class A Lounge (Class X)
- Hotel (Class I, II, III, IV) Hotel – Food Optional (Class I-A) Bed & Breakfast (Class V)
- Golf Course (included optional licenses, please check if apply) (Class I, II, III, IV) Auxiliary Mobile Cart
- Tavern (Class IV) Other: _____
- Qualified Caterer Self-Sponsored Events (Qualified Caterers Only)

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

315 US Route 1, Kittery 03904

6. Is the licensee/applicant(s) citizens of the United States? Yes No
7. Is the licensee/applicant(s) a resident of the State of Maine? Yes No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

Yes No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

Yes No

Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

Yes No

If yes, please provide details: Kennebunk Savings Commercial Loan

11. Do you own or have any interest in any another Maine Liquor License? Yes No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
Robert's Maine Grill	CAR-2016-16-1202	326 US Route 1 Kittery ME 03904
Mabel's Lobster Claw	CAR-2019-11627	124 Ocean Ave Kennebunkport 04046
Mabel's House	HOT-2019-11694	126 Ocean Ave Kennebunkport 04046

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Shiva K. Natarajan	06/10/1964	Calcutta, India

Residence address on all the above for previous 5 years

Name: Shiva K. Natarajan Address: 8 Pepperell Way, York ME 03909

Name: Address:

Name: Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

Yes No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? Yes No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? Yes No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? Yes No

17. Does the licensee/applicant(s) own the premises? Yes No

If No, please provide the name and address of the owner:

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: n/a

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Indoor and Outdoor Seating
Counter Service

20. 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?

Name: The Church at Spruce Creek

Distance: .9 mile

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: Shiva K. Natarajan 4/13/2021

Signature of Duly Authorized Person

Signature of Duly Authorized Person

Shiva K. Natarajan
Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? Municipal Officers of _____

County Commissioners of _____ County

- Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

This Application will Expire 60 Days from the date of Municipal or County Approval unless submitted to the Bureau

Included below is the section of Maine’s liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§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.

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.

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.

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.

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;

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;

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;

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;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

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

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.

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. Repealed

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.

4. Repealed

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.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
 - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its [Retail Beverage Alcohol Dealers](https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers) permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

Please note: For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

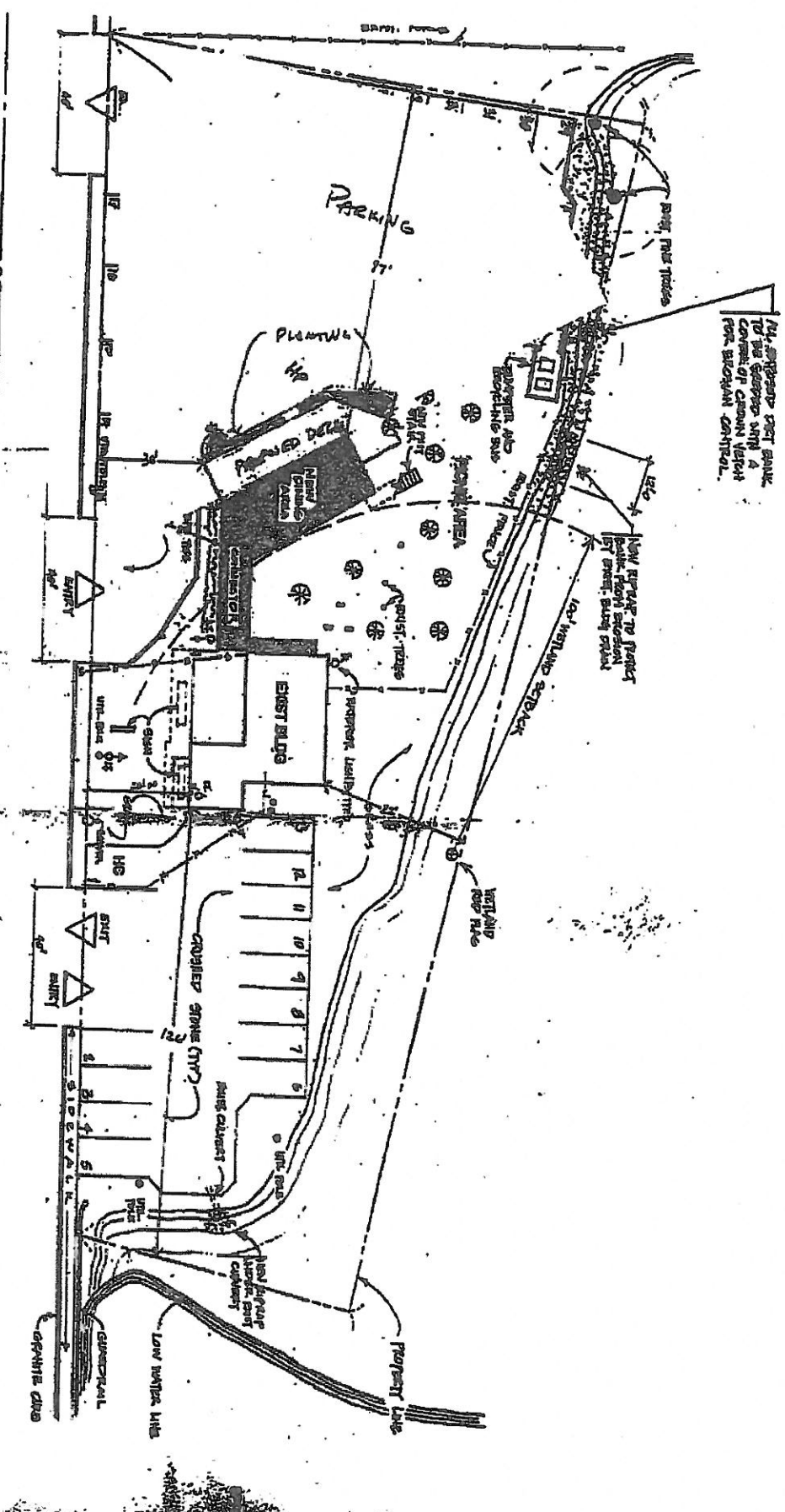
Class of License	Type of liquor/Establishments included	Fee
Class I	For the sale of liquor (malt liquor, wine and spirits) This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	\$ 900.00
Class I-A	For the sale of liquor (malt liquor, wine and spirits) This class includes only hotels that do not serve three meals a day.	\$1,100.00
Class II	For the Sale of Spirits Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
Class III	For the Sale of Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class IV	For the Sale of Malt Liquor Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
Class III and IV	For the Sale of Malt Liquor and Wine Only This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
Class V	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Club without catering privileges.	\$ 495.00
Class X	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Class A Lounge	\$2,200.00
Class XI	For the sale of liquor (malt liquor, wine and spirits) This class includes only a Restaurant Lounge	\$1,500.00

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.

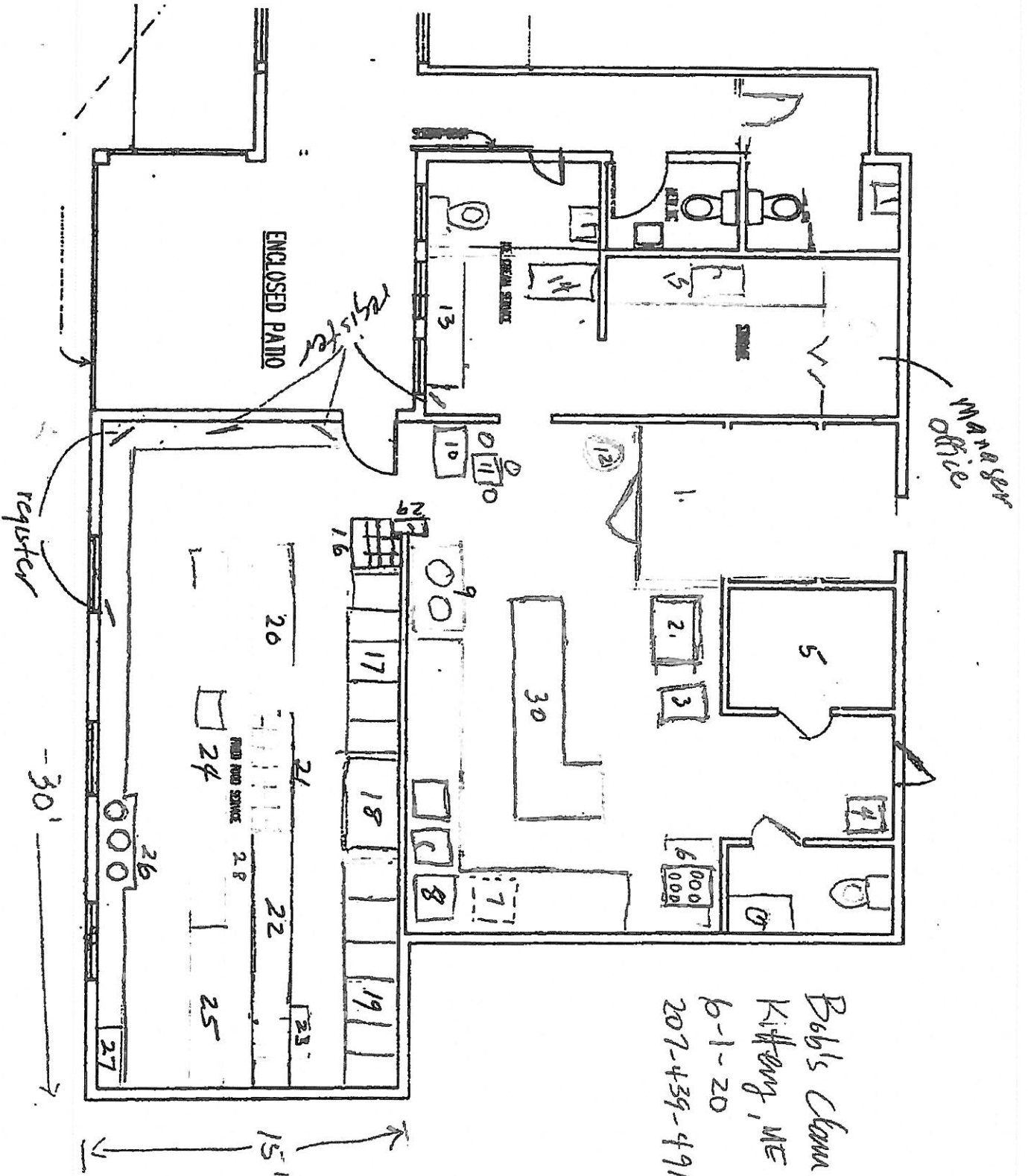
Please
see
included
diagrams



of Proposed Deck = 7/14

U.S. ROUTE ONE

TO YORK



Bob's Clean Hot
 Kittery, ME
 6-1-20
 207-439-4919 (office)

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Clam Hut Hospitality Inc
2. Doing Business As, if any: Bob's Clam Hut
3. Date of filing with Secretary of State: 05/21/2020 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: n/a
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Shiva K. Natarajan	8 Peppereil way York ME 03909	06/10/1964	President	100

(Ownership in non-publicly traded companies must add up to 100%.)