Town of Kittery Planning Board Meeting June 23, 2022

ITEM 3 – 181 State Road – Sketch Site Plan Review, Marijuana Business

Action: Accept application as complete; if accepted, set site walk. Pursuant to 16.4 Land Use Regulations, 16.4.21 Special Exception Use Request, 16.5.32 Marijuana Business, and 16.7 Site Plan Review of the Town of Kittery Land Use and Development Code, applicant IDC 5, LLC and agent Sebago Technics request approval for special exception use to construct a 2,908-sf Marijuana Business on real property with an address of 181 State Road (Tax Map 22, Lot 4) located in the Commercial (C-3) Zone and Business Local (BL) Zone.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
No	Sketch Plan	June 23, 2022	N/A
YES	Site Visit		TBD
YES	Preliminary Plan Review Completeness/Acceptance		TBD
YES	Public Hearing		TBD
YES	Preliminary Plan Approval		TBD
YES	Final Plan Review and Decision		TBD

Applicant: Prior to the signing of the approved Plan any Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS. As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Project Introduction

181 State Road ("Project") is situated in the Commercial-3 (C-3) and Business Local (B-L) zoning districts with the majority being in the C-3 zone. The .48-acre lot fronts the traffic circle at the convergence of State Road and Route 236, has Route 1 Bypass at the rear (west) of the property, and is abutted to the north by a commercial real estate office in the C-3 zone. The site is currently developed with one 800 square-foot single-family dwelling and one 613 square-foot restaurant with associated parking, addressed as 185 State Road and 181 State Road, respectively. The site exhibits elevation changes from south to north, with higher elevations near the Route 1 Bypass roadway.

The property is currently owned by Penn Concessions LLC but is under contract to purchase by the applicant. The applicant notes the property lines depicted are based on the Penn Condominium Plan from 2005. The purchase and sale agreement would convey both the single-family residence and the commercial building to the applicant.

The proposed sketch site plan application before the Planning Board proposes to change the current restaurant use into a Marijuana Business, specifically an adult use store. The existing single-family dwelling unit would remain. The proposed use is a special exception use, which requires the Board to consider additional review criteria as found 16.7.10 *Review Process and Submission Requirements* and 16.2.12.F *Basis of decision*. The applicant is proposing to redevelop the existing restaurant and gravel

ITEM 1

- parking area with a 2,908 square foot cannabis retail building, paved access and parking area, with related
- 32 site improvements such as but not limited to, utility connections, stormwater infrastructure, and
- landscaping (see letter from Craig Burgess dated June 2, 2022). The existing curb cuts into the lot will be
- retained and new parking areas are proposed to encircle a new building. Both public water and sewer will
- 35 be utilized and stormwater infrastructure is proposed to manage runoff from the proposed impervious
- surface. The existing uses currently share a sewage disposal system, which the applicant intends to
- 37 abandon and connect both the marijuana business and remaining residential use to the public sewer.
- 38 The applicant proposes 22 parking spaces to serve the new use, including 6 compact spaces, which exceeds
- 39 the requirement of 16 parking spaces if using the "Retail store" calculation of one space per 175 square
- 40 feet of gross floor area (16.7.11.F.(4)). Staff notes that 16.5.32.B.(5) limits the customer access area of
- any Marijuana Business from 400 square feet to 2,000 square feet and the applicant should explain how
- 42 the building is divided. The lot appears to be outside 1,000 feet of any public or private school or public
- recreation facility (pursuant to 16.5.32.B.(1)).
- The applicant has provided a trip generation assessment, detailing the anticipated automobile trips from
- 45 the proposed use compared to the trips from the existing uses. The applicant contends the difference would
- 46 not cross the threshold to require a Traffic Movement Permit (TMP) from Maine Department of
- 47 Transportation, as the additional trips would not be above 100. Staff is unaware of any discussions between
- 48 the applicant and the Maine DOT. The proposed sketch plan appears to leave all driveway entrances and
- 49 asphalt areas currently in the right-of-way as they exist today. Town staff questions whether leaving a
- large segment of open asphalt could be misinterpreted by drivers and offer unsafe options for cars to divert
- from the drive aisle around the building. The proposed plan does not indicate if the drive aisles are one-
- way or two-way (though they appear wide enough to accommodate two vehicles), which could lead to
- conflicts. Staff suggests the applicant work with Maine DOT to determine what changes within the DOT
- to the desired state of the desired with the position of the desired with the desir
- 54 right-of-way could be designed to make the entrance and exits as safe as possible, and possibly reduce
- impervious surface with additional landscaping.
- The lot is split zoned C-3 and BL, with the majority of the lot within C-3. The sketch plan depicts the
- 57 Marijuana Business use wholly within the C-3 zone. Per Section 16.1.8.B.(5), the Planning Board may
- extend the zoning regulations applicable to either zone up to 50 feet into the other zone. This may not be
- 59 necessary but staff likes to point this out for lots that have split zones. Staff requests the applicant to
- explain how the building's front setback was determined, as the structure is located within the C-3 zone
- explain now the building's front setouck was determined, as the structure is focuted within the C 3 zone
- but part of the lot frontage is within the BL zone. C-3 zone has a maximum front setback of 15 feet and
- 62 BL requires a minimum front setback of 15 feet.
- 63 The sketch plan phase allows the Board to: 1) determine if sufficient information has been supplied and,
- if not, request the information; 2) to ask questions; and 3) give direction to the applicant. If the Board
- 65 finds the application insufficient, the Board should request information to provide for the next meeting.

Items to consider:

1. The proposed plan uses the property lines based on an existing Penn Condominium Plan, dated January 26, 2005. Does the applicant intend to continue this condominium arrangement? Are there any existing covenants, or condominium association documents available?

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- 2. Has the applicant approached Maine DOT for design review or permitting? How will the apron area within Maine DOT right-of-way operate with the existing curb cuts?
- The applicant's letter states that a crosswalk is depicted showing a connection from the business to the Town's sidewalk network. No crosswalks were identified by staff on the sketch plan, other than the existing crosswalks within Maine DOT right-of-way at the existing curb cuts on the traffic circle.
 - 4. How does the applicant apply the building front setback given the split zoning?
 - 5. Does the applicant intend to address the split zone lot in any way?

Staff Recommendations

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- This sketch plan meets general dimensional (16.4.21), parking (16.7.11.F), and the basic marijuana business requirements (16.5.32) at this time.
 - The lot is legally nonconforming as to its size, as a 40,000 square foot lot is the standard. BL zone has no
 - minimum lot size requirement.
 - There is no minimum requirement for the C-3 zone or BL zone.
 - Rear and side setbacks are 10 feet for the C-3 zone but require 15 feet abutting a single-family use. The
 - side and rear setbacks appear to be met.
 - Parking meets the requirements (1 space per 175 sf gross floor area for retail).
 - Water/wastewater connections not shown will need to be included with preliminary plan submission.
 - Building design was not submitted so unclear if the building would meet Design Handbook standards.
 - Lighting plan similar to utility connections will need to be included with preliminary plan.
 - Area of customer access should be determined (minimum 400 sf; maximum 2,000 sf).
- 99 According to 16.7.10.B, the Board must cause written guidance to be given to the applicant, should the
- Board wish addition information included or changes made to the plans. The Board may do this via
- 101 conditions if a plan acceptance motion is made or request that staff convey written guidance to the
- applicant per the Board's discussion during the meeting and continue the sketch plan to a future meeting.
- 103 Next Steps
- The Board will want to consider whether the plan appears to be complete enough to accept, that the plan
- generally meets the Title 16 standards and that questions have been answered or will be answered during
- the preliminary plan phase. If the Board is satisfied, the Board may wish to vote to accept the application
- and plans. Under 16.7.10.B, the Board is tasked with deciding whether or not a site walk will take place.
- The Board may set the date now or wait until the preliminary plan submission.

ITEM 1

110	Recommended	Motions
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- 111 *Motion to accept the sketch plan:*
- Move to accept the sketch plan application by applicant IDC 5, LLC and agent Sebago Technics requesting
- approval for special exception use to construct a 2,908-sf Marijuana Business on real property with an
- address of 181 State Road (Tax Map 22, Lot 4) located in the Commercial (C-3) Zone and Business Local
- 115 (BL) Zone.
- 116 *Motion to accept the sketch plan with conditions:*
- Move to accept the sketch plan application by applicant IDC 5, LLC and agent Sebago Technics requesting
- approval for special exception use to construct a 2,908-sf Marijuana Business on real property with an
- address of 181 State Road (Tax Map 22, Lot 4) located in the Commercial (C-3) Zone and Business Local
- 120 (BL) Zone, with the following condition(s): [TBD].
- 121 *Motion to continue the sketch plan:*
- Move to continue the sketch plan application by applicant IDC 5, LLC and agent Sebago Technics
- requesting approval for special exception use to construct a 2,908-sf Marijuana Business on real property
- with an address of 181 State Road (Tax Map 22, Lot 4) located in the Commercial (C-3) Zone and Business
- 125 Local (BL) Zone.
- 126 *Motion to schedule site walk:*
- Move to schedule a site walk on ___ (insert date) ___ at ___ (insert time) ___ on real property with the
- address of 181 State Road, Tax Map 22, Lot 4, in the Commercial (C-3) and Business Local (BL) zoning
- districts regarding the special exception use for a Marijuana Business submitted by applicant IDC 5, LLC
- and agent Sebago Technics.

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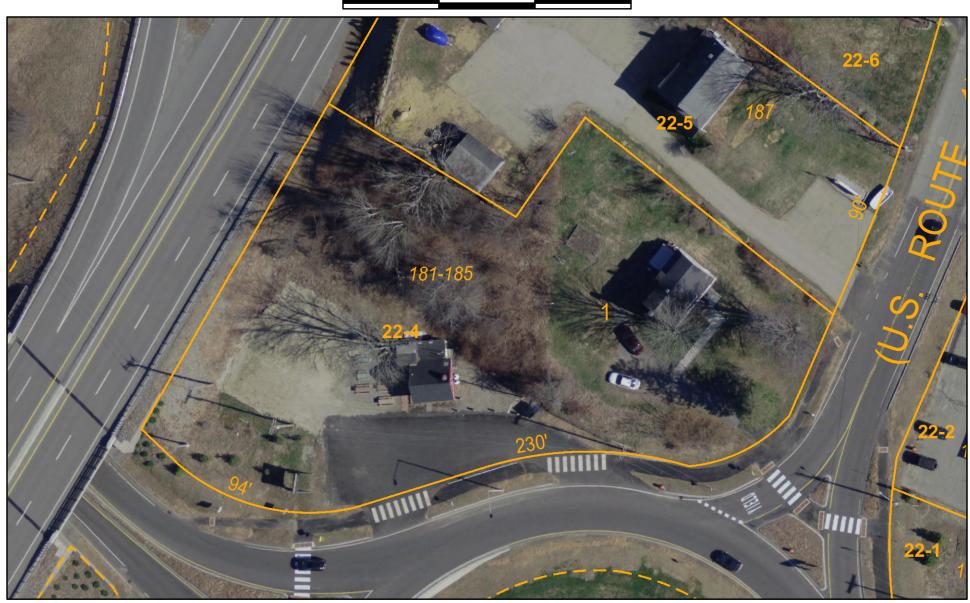






June 9, 2022

1 inch = 50 Feet www.cai-tech.com 0 50 100 150



Kittery, ME

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





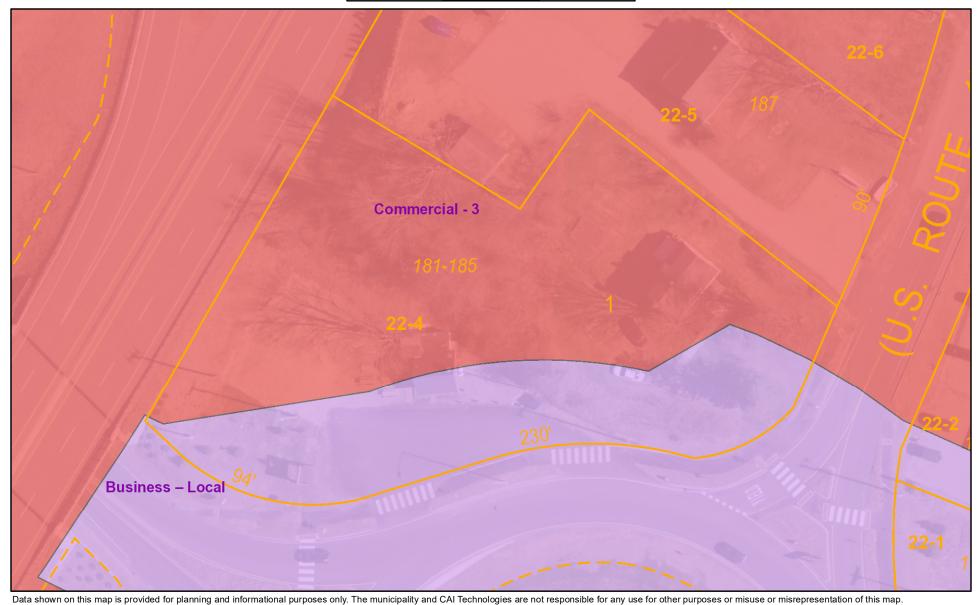


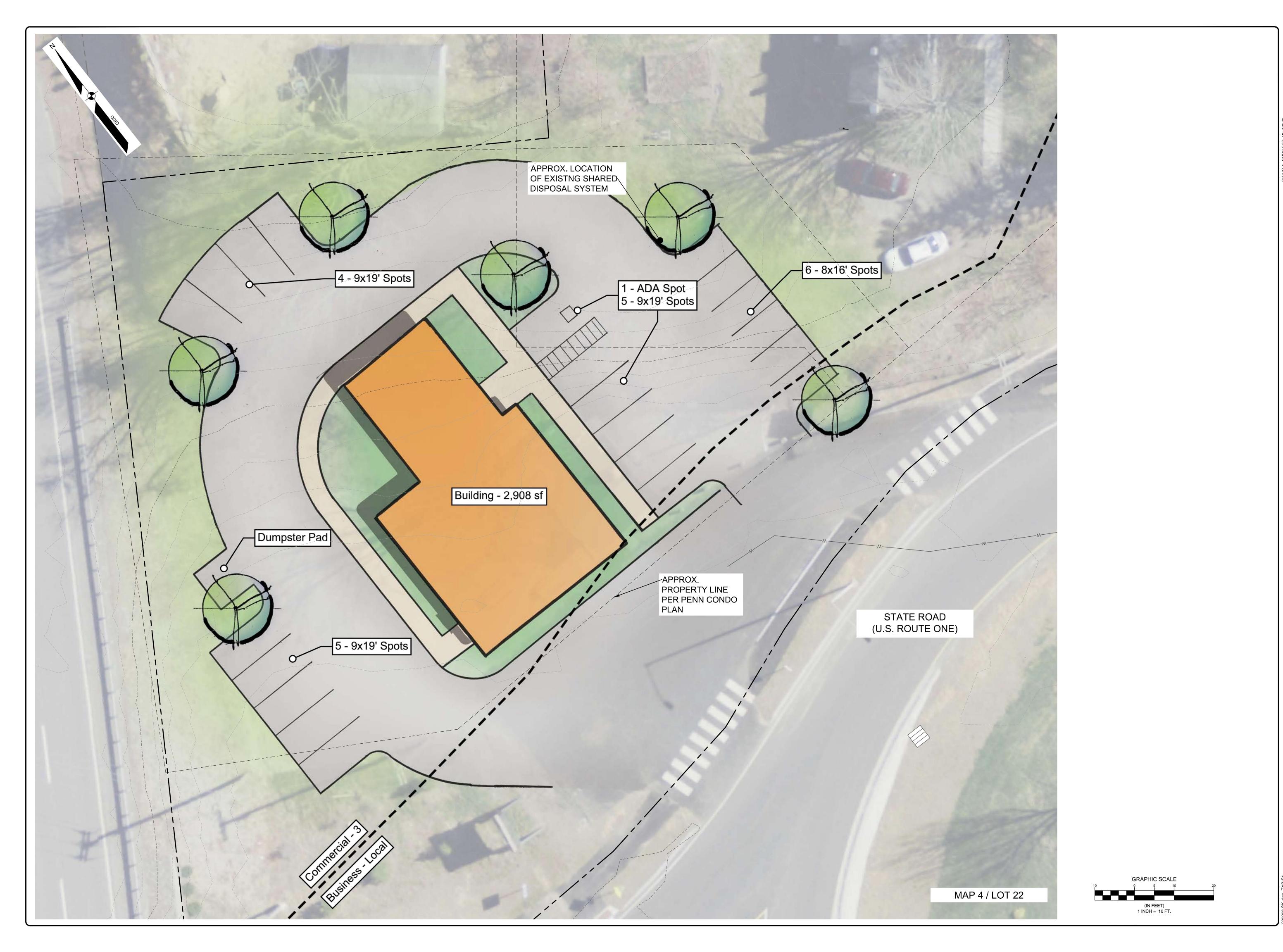


June 9, 2022

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	4	CAB	06-02-2022	06-02-2022 ISSUED FOR SKETCH PLAN REVIEW
	REV:	REV: BY:	DATE: STATUS:	STATUS:
	THIS	THIS PLAN S	SHALL NOT BE I	THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, ALTHORIZED OR OTHERWISE SHALL BE AT THE LISER'S SOLE RISK AND WITHOLIT LIABILITY TO SEBAGO TECHNICS. INC.

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ESIGNED	САВ		
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DATE	06/02/2022		
SCALE	1" = 10'		
PROJECT	220066		

SHEET 1 OF 1





Town of Kittery Sketch Plan

For

Indico Cannabis Retail

181 State Road Kittery, Maine 03904

Prepared for Indico 120 State Road Kittery, ME 03904

Prepared by
Sebago Technics, Inc.
75 John Roberts Road, Suite 4A
South Portland, Maine 04106

June 2022

Table of Contents

Exhibit 1 Cover Letter

Exhibit 2 Application Form

Exhibit 3 Site Location Map

Exhibit 4 Traffic Memo

Attachment 1 Penn Condominium Plan

Attachment 2 Sketch Plan

Sketch Plan Review 220066



June 2, 2022 220066

Adam Causey, Director of Planning and Development Members of the Planning Board Town of Kittery 200 Rogers Road Kittery, Maine 03904

<u>Sketch Plan Review</u> <u>Indico Cannabis, 181 State Road, Kittery, Maine</u>

Dear Adam and Planning Board Members:

On behalf of Indico, we are pleased to submit the enclosed Sketch Plan application for staff and Planning Board consideration. The parcel, identified as Tax Map 22, Lot 4, is in the Commercial 3 (C-3) zoning district. Indico is proposing to redevelop the existing restaurant and gravel parking area with a 2,908 square foot cannabis retail building, paved access and parking area, with related site improvements such as but not limited to, utility connections, stormwater infrastructure, and landscaping. The site is currently developed with one 800 square-foot single-family dwelling and one 613 square-foot restaurant with associated parking, addressed as 185 State Road and 181 State Road, respectively. For sketch purposes, Sebago Technics Inc. (STI) has assumed and depicted the property line based on the attached Penn Condominium Plan.

Indico's initial plan was to expand the existing single-family dwelling layout into the retail facility. After several attempts we could not get the adequate number of parking spaces due to setback and topography constraints.

22 parking spots are proposed for general compliance with the Ordinance (§16.8.9.4), requiring a minimum of 17 parking spaces and 1 ADA space. The two existing restricted curb cuts off of State Road (US Route 1) within the traffic circle will be utilized for the retail entrance and exit. We have included a traffic memorandum for the Town's viewing to better understand traffic impacts. A crosswalk has been depicted on the sketch plan to connect Indico Cannabis Retail with the Town's sidewalk network.

As described on the attached Penn Condominium Plan, each building lies within a "Limited Common Element" area and share a disposal system that lies within the "Common Element" area. The proposed design will abandon the on-site shared disposal system and be replaced with connections into the public system. Due to the removal of the shared disposal system, the condominium plan will be revised to only show limited common element areas.

Stormwater runoff will be managed by on-site best management practices (BMPs) per the Ordinance (§16.3.2.11). Stormwater strategies are currently being evaluated by the design team so that local standards for stormwater are generally satisfied.

A vegetated buffer along State Road (US Route 1) and US Route 1 bypass will consist of ornamental trees, evergreen material, and understory plantings that will successfully exhibit four seasons of interest. Landscaping will be planted in areas around the parking areas and along the building. Odor control will be evaluated and described within the preliminary application.

On behalf of Indico, we appreciate the opportunity to meet with the Town staff and Planning Board at the June 9th meeting. In the interim, please contact us if any additional information is needed. Thank you for your consideration.

Sincerely,

SEBAGO TECHNICS, INC.

Craig A. Burgess, P.E. Senior Project Manager

CAB: Enc.



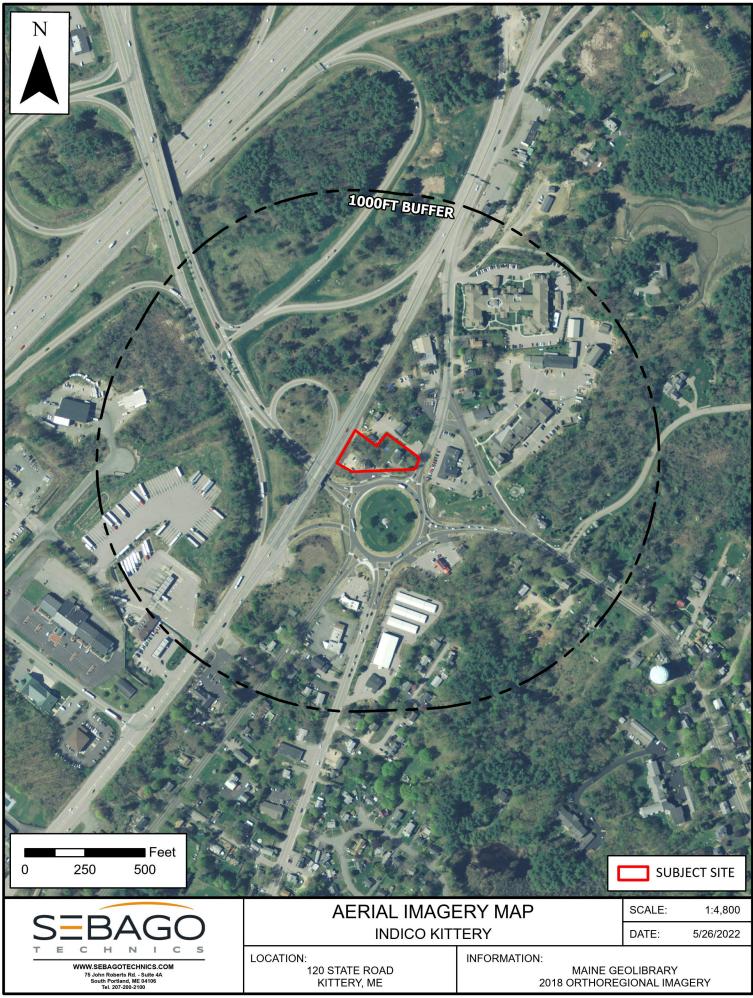
TOWN OF KITTERY MAINE TOWN PLANNING AND DEVELOPMENT DEPARTMENT

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

APPLICATION: SITE OR SUBDIVISION-SKETCH PLAN REVIEW

	Applica	tion Fee:			00.00	Amount F		Dat		
PROP	ERTY	Parcel ID	Мар	22	Zone(s)- Base:	.Commercial-:	3	Total Land Area	37,714 SF	
DESC	RIPTION		Lot		Overlay:	N/A		MS4	YESNO	
		Physical Address	181 S	tate Road (U	S Route 1), I	ittery				
PROPERTY OWNER'S INFORMATION		Name	Indico	c/o Mitchell D	elaney		120 State Ro			
		Phone	208-50	0-7026		Mailing Address	Kittery, Maine	03904		
INFOR	RMATION	Fax				Address				
		Email	ceo@ir	ndico.care						
		Name	Craig E	Burgess		Name of Business	Sebago Tech	nics		
APPLI AGEN	CANT'S	Phone	207-20	0-2081		Mailing		erts Road, Suite 4A d, Maine 04106		
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PROJECT DESCRIPTION	Proposed L The propose parking. The connection Please des	and Use(s) and or of the control of	d Develo ill demo ly home ic system nstruction	pment: the existing re will remain it n.	estaurant ans use. The ea	d construct app xisting sewer d	prox. 2,908 SF disposal system			
witho Applic	I certify, to the best of my knowledge, this application information is true and correct and I will not deviate from the Plan submitted without notifying the Town Planning and Development Department of any changes. Applicant's Signature: Date: Date:									

MINIMUM PLAN SU	BMITTAL REQUIREMENTS
☐ 15 Copies of this Application, Vicinity Ma	ap, and the Sketch Plan - 5 of which must be 24"X 36"
Sketch Plan format and content:	
 A) Paper Size; no less than 11" X 17" or greater B) Plan Scale ✓ Under 10 acres: no greater than 1" = 30' ✓ 10 + acres: 1" = 50' C) Title Block ✓ Applicant's name and address 	NOTE TO APPLICANT: PRIOR TO A PLANNING BOARD SITE WALK, TEMPORARY MARKERS MUST BE ADEQUATELY PLACED THAT ENABLE THE PLANNING BOARD TO READILY LOCATE AND EVALUATE THE DEVELOPMENT'S DESIGN.
Name of preparer of plan with professional	
Parcel's Kittery tax map identification (map	
Vicinity Map – map or aerial photo showing 1,000 f	
The state of the s	cet around the site.
Sketch Plan must include the follo	wing existing and proposed information:
Existing:	Proposed: (Plan must show the lightened existing topography
	under the proposed plan for comparison.)
Land Use Zone and boundary	
Topographic map (optional)	Recreation areas and open space
 Wetlands and flood plains Water bodies and water courses 	Number of lots and lot areas
☐ Water bodies and water courses ☐ Parcel area	 Setback lines and building envelopes Lot dimensions
Lot dimensions	Utilities (Sewer/septic, water, electric, phone)
Utilities (Sewer/septic, water, electric, phone)	Streets, driveways and rights-of-way
Streets, driveways and rights-of-way	☑ Structures
Structures	_
	Distance to:
	Nearest driveways and intersections
	☐ Nearest fire hydrant
	☐ Nearest significant water body
AN APPLICATION THE TOWN PLANNER DEEMS SUFFICIENTLY LACK	ING IN CONTENT WILL NOT BE SCHEDULED FOR PLANNING BOARD REVIEW.





Memorandum

CONANT

No. 16089

220066

To: Craig Burgess, P.E., Sebago Technics

From: Nikki Conant, P.E., Sebago Technics

Griffin Steinman, EI, Sebago Technics

Date: May 31, 2022

Subject: Trip Generation Assessment, Indico Cannabis Retail Facility, Kittery



The purpose of this memorandum is to provide a trip generation assessment for a proposed cannabis retail facility located on the northern parcel of the Route 1 roundabout in Kittery, Maine. The development proposes replacing the existing 620 square foot (SF) restaurant space with a 2,910 SF new building. Access to the site is proposed via the existing accesses to the roundabout, providing right-in and right-out only movements to and from the site. As such, this memorandum details estimated trip generation for the existing and proposed development.

Trip Generation

Trip generation was completed utilizing the 11th edition of the Institute of Transportation Engineers (ITE), *Trip Generation Manual*. Land use code (LUC) 882 – Marijuana Dispensary was utilized on the basis of 2,910 SF as LUC 882 is described as a "stand-alone facility where cannabis is sold to patients or retail consumers in a legal manner." As such, estimated trip generation is outlined in Table 1.

Table 1 – ITE Trip Generation
Land Use Code 882 – Marijuana Dispensary
2,910 SF

Time Period	Rate	Trips	Entering	Exiting
Weekday	211.12	614	307 (50%)	307 (50%)
AM Peak Hour – Adjacent Street (7 – 9 AM) *	-	-	-	-
AM Peak Hour – Generator	16.57	48	26 (54%)	22 (46%)
PM Peak Hour – Adjacent Street (4 – 6 PM)	18.92	55	27 (50%)	28 (50%)
PM Peak Hour – Generator	24.57	71	35 (49%)	36 (51%)
Saturday	259.31	754	377 (50%)	377 (50%)
Saturday Peak Hour	28.85	84	42 (50%)	42 (50%)

^{*}Based on the operating hours of the facility (10AM - 7PM) no estimation for the AM peak hour of the adjacent street was included

As demonstrated in Table 1, the proposed development is calculated to generate 48 trips during the AM, 71 trips during the PM, and 84 trips during the Saturday peak hours of the generator.

Additionally, trip generation was calculated for the existing 620 SF restaurant to determine the difference in trip generation between the existing and proposed site. Based on a review of the existing restaurant, operating hours include Monday through Saturday 11 AM to 5 PM. Additionally, it appears they are a take-out only restaurant with some outdoor seating. As such, the *ITE Trip Generation Manual* LUC 933 was utilized as per ITE the restaurant is "characterized by a large carry-out clientele." This restaurant also does "not provide table service." As such, trip generation is outlined for the existing restaurant in Table 2:

Table 2 – ITE Trip Generation
Land Use Code 933 – Fast-Food Restaurant without Drive-Through Window
620 SF

Time Period	Average Rate per 1,000 SF	Trips	Entering	Exiting
Weekday	450.49	280	140 (50%)	140 (50%)
AM Peak Hour – Adjacent Street (7 – 9 AM) *	-	-	-	-
AM Peak Hour – Generator	53.43	33	17 (53%)	16 (47%)
PM Peak Hour – Adjacent Street (4 – 6 PM)	33.21	21	10 (50%)	11 (50%)
PM Peak Hour – Generator	52.77	33	16 (50%)	17 (50%)
Saturday	696.00	432	216 (50%)	216 (50%)
Saturday Peak Hour	54.60	34	17 (50%)	17 (50%)

^{*}Based on the operating hours of the facility (11 AM – 5 PM) no estimation for the AM peak hour of the adjacent street was included

As outlined in Table 2, the restaurant is generating based on ITE, 33 trips, 33 trips, and 34 trips during the AM, PM, and Saturday peak hour periods. A comparison between the ITE estimations for the existing and proposed uses is shown in Table 3:

Table 3 – ITE Trip Generation Comparison

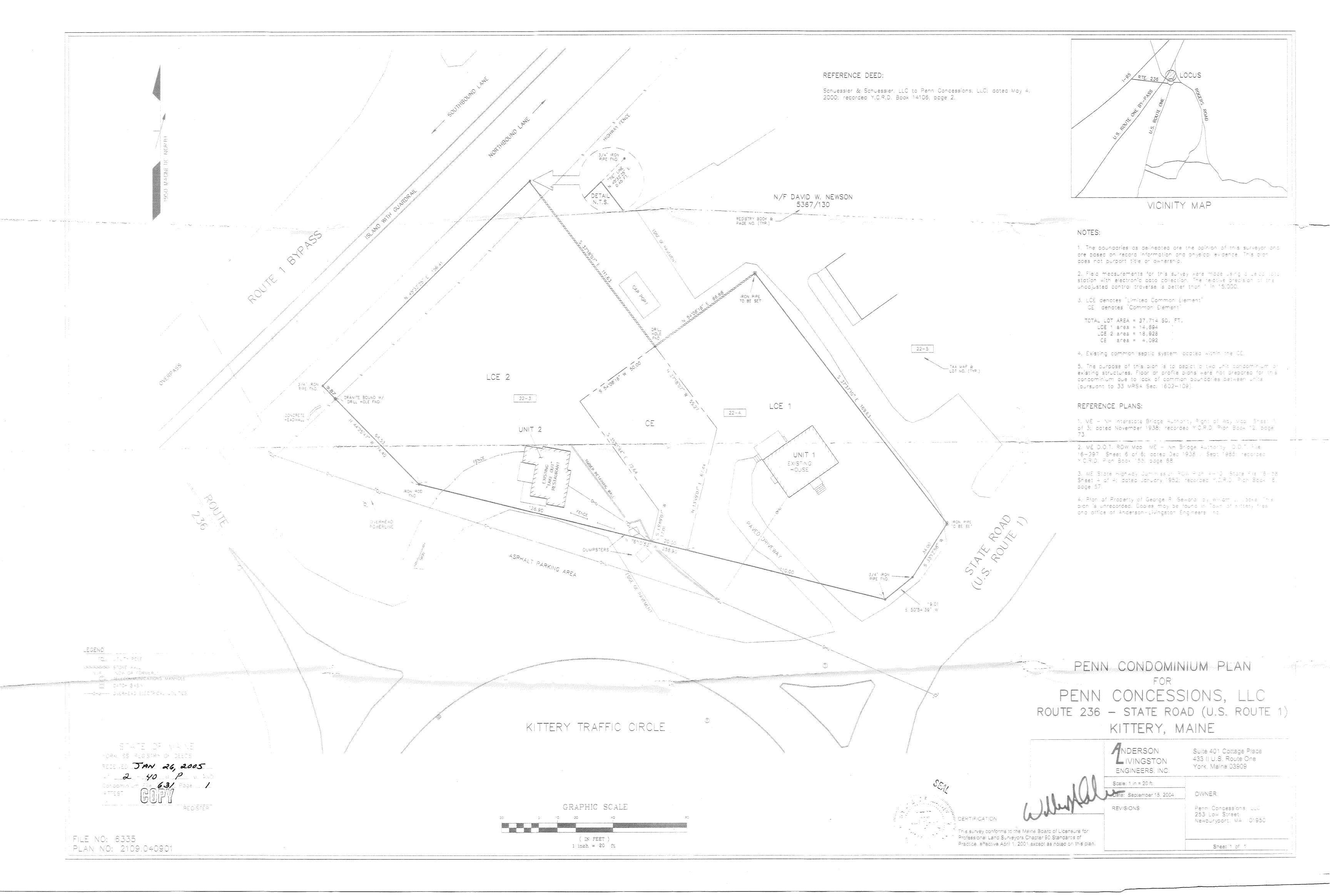
Time Period	LUC 882 – Proposed	LUC 933 – Existing	Difference	
Weekday	614 (307 in, 307 out)	280 (140 in, 140 out)	+334 (167 in, 167 out)	
AM Peak Hour – Adjacent Street (7 – 9 AM)	-	-	-	
AM Peak Hour – Generator	48 (26 in, 22 out)	33 (17 in, 16 out)	+15 (9 in, 6 out)	
PM Peak Hour – Adjacent Street (4 – 6 PM)	55 (27 in, 28 out)	21 (10 in, 11 out)	+34 (17 in, 17 out)	
PM Peak Hour – Generator	71 (35 in, 36 out)	33 (16 in, 17 out)	+38 (19 in, 19 out)	
Saturday	754 (377 in, 377 out)	432 (216 in, 216 out)	+322 (161 in, 161 out)	
Saturday Peak Hour	84 (42 in, 42 out)	34 (17 in, 17 out)	+50 (25 in, 25 out)	

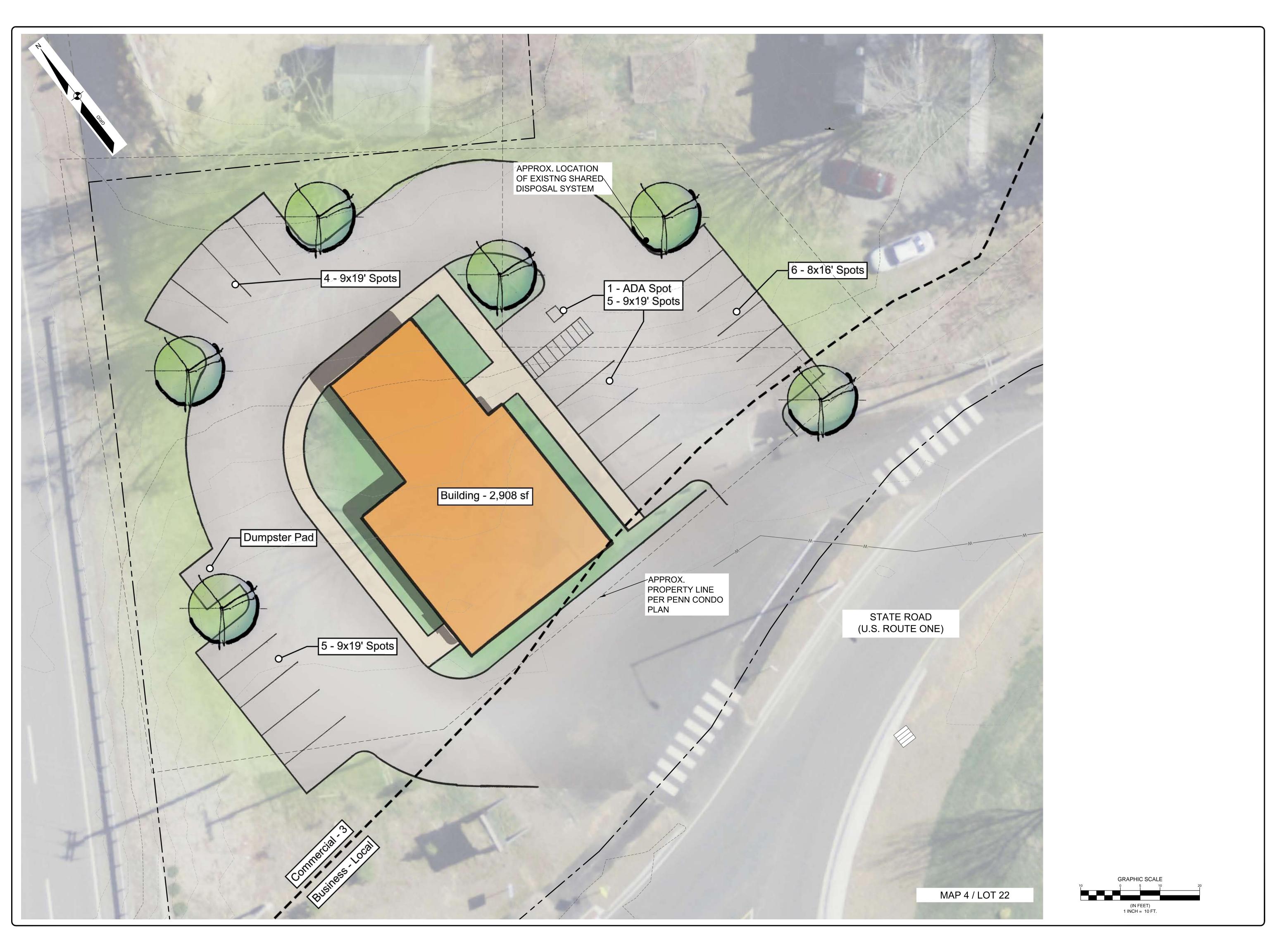
The redevelopment of the site from the existing restaurant to the proposed cannabis facility resulted in 15 new trips, 38 new trips, and 50 new trips to the site during the AM, PM, and Saturday peak hours of the generator, respectively. Given this level of trip generation, a Traffic Movement Permit (TMP) would not be required from the Maine Department of Transportation (MaineDOT) as new project trip generation does not exceed the 100-trip threshold to require a permit.

Additionally, per the Town of Kittery Ordinances, *Development Plan and Application Review, Chapter 16.10*, a project requires a traffic impact analysis if it is generating more than 400 vehicle trips per day. As shown in Table 3, the development is estimated to generate 334 new daily trips to the site.

Conclusion

The redevelopment of the site from the existing restaurant to the proposed cannabis facility is calculated to generate 15 new trips, 38 new trips, and 50 new trips to the site during the AM, PM, and Saturday peak hour periods, respectively. As such, the development would not require a Traffic Movement Permit (TMP) from the Maine Department of Transportation.







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DATE	06/02/2022
SCALE	1" = 10'
PROJECT	220066

SHEET 1 OF 1