#### Town of Kittery Planning Board Meeting May 25, 2023

#### 5 ITEM 2 – Buoy Shack Site Plan and Shoreland Development Plan Modification Review

6 <u>Action</u>: Hold public hearing. Approve or deny proposed modification to approved plan.

7 <u>Owners and applicants</u>: Joel Harris; joelfredharris@hotmail.com; 603-475-3601

8 <u>Proposal</u>: utilize existing off-site parking lot to increase seating at existing restaurant.

9 <u>Property</u>: Buoy Shack restaurant: 1-3 Badgers Island West, Tax Map 1 Lot 19. Off-site parking lot: Foreside Dental,
 10 12 Newmarch St., Map 3 Lot 8

11 Zoning: Badgers Island Mixed Use (MU-BI) and Mixed Use Kittery Foreside (MU-KF)

12 <u>Viewpoint #</u>: MJPM-23-1 13

#### 16 Summary:

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17 The Buoy Shack is a restaurant operating in a 1,008 square foot building (first floor + deck) that was constructed at the subject property in 2022. Twelve (12) parking spaces are located at the site to support the restaurant use, which 18 was approved to include 3 4-person outdoor picnic tables and 4 outdoor dining chairs. The applicant proposes to 19 increase outdoor seating to a total of 13 4-person picnic tables and 11 outdoor dining chairs. Off-street parking to 20 21 serve the proposed increase in seating capacity is proposed to be located 0.3-mile north of the restaurant at 13 Newmarch St, which is currently occupied by Foreside Dental. The additional outdoor seating and proposed off-site 22 parking plan constitutes a major modification to the Site Plan and Shoreland Development Plan that was approved by 23 24 the Kittery Planning Board on January 13, 2022.

#### 26 Staff Review:

#### 28 16.4.24 Mixed Use-Badger Island Zoning Provisions

29 D.4 Special Parking Standards

30 a. 1 off-street parking space is required for every three restaurant seats in the MU-BI zoning district

The approved site plan indicates that a total of 28 restaurant seats are currently authorized at the site, which would require 10 parking stalls. The 12 parking stalls constructed for the restaurant also serve on-site fishing operations. 4 employee parking stalls are shown to be located on the property, separate from the restaurant parking.

The applicant proposes to add 10 tables and 7 chairs to the approved outdoor seating, which requires provision of **16** additional off-street parking spaces. (1 stall per 3 seats/ @ 47 additional seats = 16). The draft lease agreement between Newmarch Dental and the Buoy Shack indicates that 16 off-street parking spaces are available at the proposed off-site parking lot.

- b. Joint-use parking. Required off-street parking may be satisfied by the joint use of parking spaces by two or more
  uses if the applicant can show that parking demand is nonconflicting and will reasonably provide adequate parking
  for multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of
  daytime as opposed to evening hours of operation or weekday as opposed to weekend hours of operation or seasonal
  variation in parking demand. In making this determination under development plan review, the Planning Board must
  consider the following factors:
  - 1. Such joint parking areas must be held under ownership or under terms of a contractual agreement that ensures such parking remains available to all users of the shared parking spaces;
  - 2. Analysis is based on a most frequent basis not a "worst case" scenario;
  - 3. Joint-use parking areas must be located within reasonable distance to the uses served, but do not need to be located on the same parcel as the uses served;
- 51 *4. Ease and safety of pedestrian access to shared parking by the users served, including any improvements or*

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#### shuttle service necessary; and

5. Such joint parking areas may not be located in residential zoning districts.

The narrative provided by the applicant and the draft Parking Lot Rental Agreement indicate that the Newmarch
Dental parking lot would be available for dental office uses during typical weekday hours of operation and available
for the restaurant use during evenings and weekends.

Newmarch Dental is located approximately 0.3-mile north of the Buoy Shack, on the west side of Newmarch Street/
Route 1. Paved sidewalks provide safe and sufficient walking facilities between the properties. Newmarch Dental is
in the Mixed Use Kittery Foreside (MU-KF) zoning district.

62 The draft Parking Lot Rental Agreement includes terms for payment, expiration, and termination. Since any approved 63 increase in outdoor seating at the restaurant property would be based on the ability to utilize the proposed off-site 64 parking lot, staff recommend conditioning approval of this modification by requiring the restaurant owner to provide 65 annual verification of adequate parking supply to the Kittery Planning and Development Department prior to installing 66 outdoor seating.

#### 68 16.7.11 General Development (Site Plan) Requirements

F.4.1: The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses
where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by
reasons of variation in the probable time of maximum use by patrons or employees among such establishments.

#### 75 **<u>Recommendation:</u>**

Staff find that the proposed off-site parking plan meets the intent and the specifications of Kittery's parking
ordinances and recommend approving this modification to the approved Site Plan and Shoreland Development Plan
with a condition requiring annual verification of parking supply to Town staff as follows:

#### 80 Suggested motion:

Move to approve the Site Plan and Shoreland Development Plan modification submitted on April 5, 2023 by Joel
Harris for consideration of an off-site parking plan and outdoor seating expansion for the restaurant at 1 Badgers
Island West (Tax Map 1, Lot 19) in the Mixed Use Badgers Island zoning district (MU-BI), with the following
<u>condition</u>:

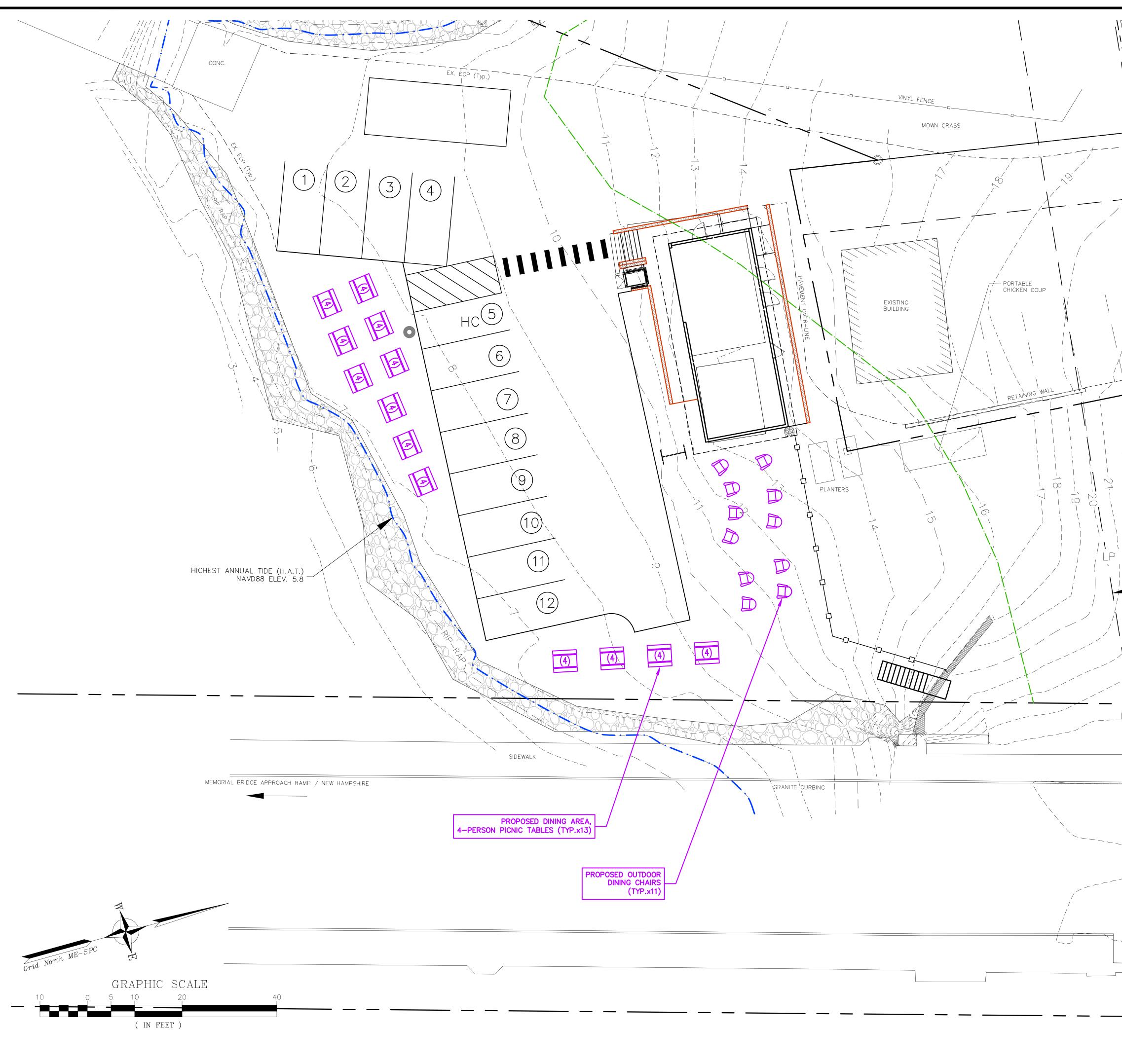
- 86 The applicant and any future owner(s) of the subject restaurant use shall provide an updated Parking Lot
  87 Rental Agreement or similar verification of adequate parking supply to the Kittery Planning and
  88 Development Department annually, prior to installing or utilizing the outdoor seating authorized in this
  89 modification. Failure to provide this verification will constitute a code violation subject to enforcement by
- 90 Kittery's Code Enforcement Officer.
- All other Findings of Fact and Conditions from the January 13, 2022 Site Plan and Shoreland Development Plan
   approval remain in effect.

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96	Vote of in favor against abstaining
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98	APPROVED BY THE KITTERY PLANNING BOARD ON
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102	Dutch Dunkelberger, Planning Board Chair
96 97 98 99 100 101	APPROVED BY THE KITTERY PLANNING BOARD ON

#### **Buoy Shack Plan Modification Project Narrative**

Submitted by Joel Harris 3/21/23

Little Bridge Lobster dba Buoy Shack is requesting approval to increase seating at its restaurant on Badgers Island. We have secured 15 additional parking spots at Foreside Dental located at 12 Newmarch Street less than 0.2 miles or a five-minute walk. In addition, we have arranged to use three spots on property formally designated for fishing operations. The designated spots are used outside of our hours of operation and allow both restaurant customers and our fisherman to use the spots. In total we have added 18 spots and would like to increase our seating from the previously approved 28 to 81. The approved seats are adequate for our weekday business but during the evenings and weekends our business can as much as triple. By adding the night and weekend parking we hope to alleviate any stress we may cause on the surrounding neighborhood. We have also executed several measures to encourage our customers to walk, bike and scoot when visiting the Buoy Shack. We constructed a pedestrian friendly walkway leading to our property, as well as designated scooter and bike parking areas.



	\/	
	ROUTE 1 BYPASS	ALTUS
	BADGERS ISLAND SC	ENGINEERING, INC. 133 Court Street (603) 433-2335 Portsmouth, NH 03801 www.altus-eng.com
RIGHT-O	NEW HAMPSHIRE RIVER NAVAL SHIPYARD	
Br	LOCATION MAP SCALE: 1"=1,500' (APPROX.)	
		NOT FOR CONSTRUCTION
	TOWN OF KITTERY	ISSUED FOR: APPROVAL
	PLANNER     DATE       CODE     ENFORCEMENT OFFICE     DATE	ISSUE DATE: APRIL 3, 2023 REVISIONS NO. DESCRIPTION BY DATE
		0 REVISED OUTDOOR SEATING EDW 04/03/22
	Cor	
	Deck	DRAWN BY:   RMB     APPROVED BY:   EDW     DRAWING FILE:   5053SITE.dwg
	Gas	$\frac{\text{SCALE:}}{(24^{"}\times 36^{"}) 1^{"}} = 10'$
RISER $\frac{1}{20}$	TAX MAP 1           LOT 19           30,457±         SQ. FT.	OWNER: ELIZABETH CASELLA WILLIAM J. BANFIELD ONE BADGERS ISLAND WEST, LLC
Conc	0.70± AC. f.f. 28.3	5 BADGERS ISLAND WEST #3 KITTERY, MAINE 03904
	f.f. 20.6	APPLICANT: LITTLE BRIDGE LOBSTER, LLC 5 BADGERS ISLAND WEST #3
Drain Manhole?		KITTERY, MAINE 03904
		PROJECT: LITTLE BRIDGE LOBSTER
		RESTAURANT TAX MAP 1, LOT 19 BADGERS ISLAND WEST KITTERY, MAINE
		<u>TITLE:</u>
		MINOR SITE PLAN OUTDOOR SEATING AMENDMENT
	P5053	sheet number: 1 OF 1

# PARKING LOT RENTAL AGREEMENT

I. **The Parties**. This agreement dated March 30, 2023, is by and between Heartland Dental dba. Foreside Family Dental with a mailing address of 12 Newmarch St, Kittery, Maine, 03904 (Hereinafter known as the 'Lessor') and Little Bridge Lobster dba. Buoy Shack with a street address of 3 Badger Island West, bldg. 2, Kittery, Maine, 03904 (Hereinafter known as the 'Lessee') for Sixteen (16) parking spaces located at 12 Newmarch St, Kittery, Maine, 03904. Other Details: Buoys Shack customers and employees parking in the lot will be limited to after 5:30pm Monday-Thursday, with the understanding that a few spots may be occupied by Foreside Dental staff and clients until 6 pm. All day parking will be allowed Friday-Sunday. No overnight parking will be allowed. Foreside Dental also

II. Term. The tenancy shall be on a fixed term renewed annually.

This agreement begins on May 1, 2023, and ends on November 30, 2023.

III. **Rent**. The payment of rent by the Lessee to the Lessor shall be due on the first (1st) of every month during the rental period in the amount of \$750 (US Dollars). Total payment for the 2023 rental period is \$5,250. Payment shall be delivered to the Lessor by the Lessee in the following manner: Rent shall be sent via check to the Lessor's mailing address provided. Abuse of parking privileges may result in the termination of agreement by either party with 60 day written prior notice provided.

IV. **Subletting**. The Lessee is not allowed to sublease (sublet) the space without the direct written consent from the Lessor.

V. **Current Insurance**. Lessee must provide valid proof of insurance naming the lessor and the rented property as additionally insured.

VI. Use of Space & Damage. The use of the lot may only be for the parking of Buoy Shack customers or employees. No storage of personal property may be allowed in the lot. Lessor is not liable for any damage done to the vehicles or personal property taken from it. All liability to the vehicle and personal property will be the responsibility of the Lessee.

VII. Governing Law. This agreement shall be governed under the laws in the State of Maine.

VIII. **Option to Renew**: option to renew the parking agreement shall be considered by tenant/lessor, by separate agreement for an annual extension however non the less not guaranteed.

IX. Notices.

Lessor/Tenant: Heartland Dental, LLC. 1200 Network Centre Dr. Effingham, IL 62401 leasing@heartland.com 217-540-5100 Real Estate. Local contact Foreside Dental 207-439-3390

Lessee: Joel Harris 3 Badger Island West Bldg.. 2 Kittery Maine 03904 603-475-3601 joelfredharris@hotmail.com

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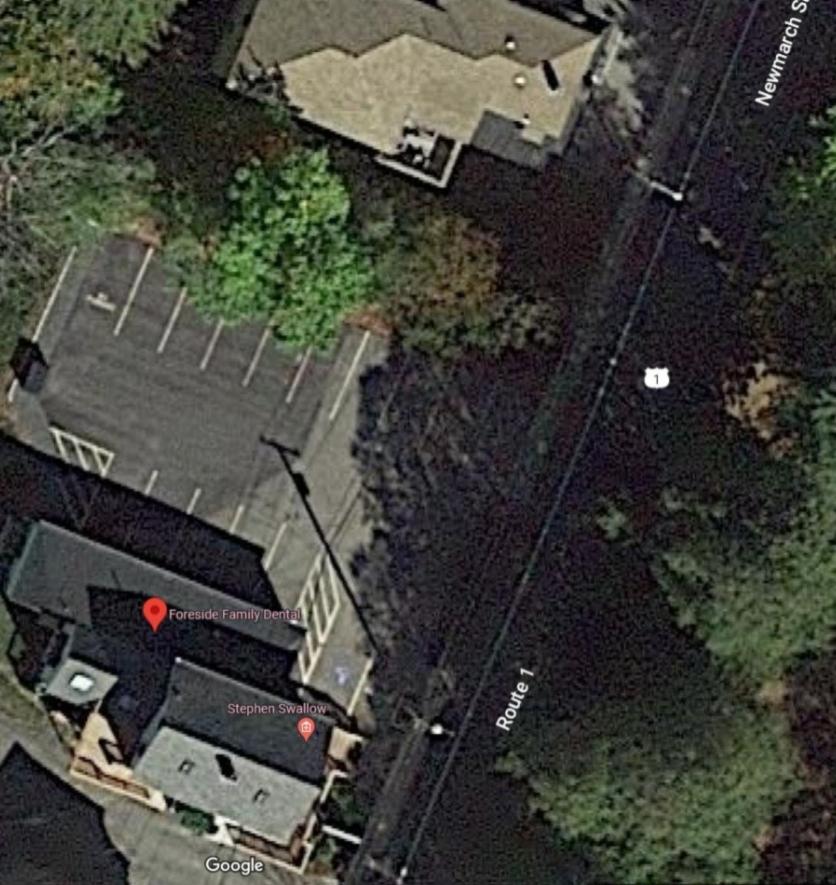
This agreement was signed on March 30, 2023.

Lessor's Signature.

Heartland Dental, LLC., a Delaware limited liability company

Toul Lessee's Signature

Little Bridge Lobster dba. Buoy Shack



The Water Street Inn Water o

Take Away Cafe Ca

Portsmouth Boat Co

Chrissy D Lobster

Water St

Warren's Lo Seafood - \$\$

**∱ 6 min** 0.3 miles Piscataqua River

Seafari Charters & Marine Services I.

Ore Nell's Barbecue

adger's Island

Ş,

∱ 6 min 0.3 miles

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Google

Island Ave

Piscataqua Marina

Buoy Shack O

Imagery ©2023 Maine GeoLibrary, Maxar Technologies, U.

# Owner:

# ONE BADGERS ISLAND WEST, LLC ELIZABETH CASELLA & WILLIAM J. BANFIELD

5 Badgers Island West Kittery, ME 03904 (802) 477–2845

# Applicant: LITTLE BRIDGE LOBSTER. LLC

5 Badgers Island West #3 Kittery, ME 03904 (802) 477–2845

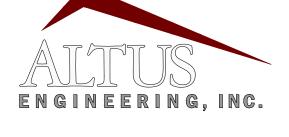
# Arichitect:



architecture + design

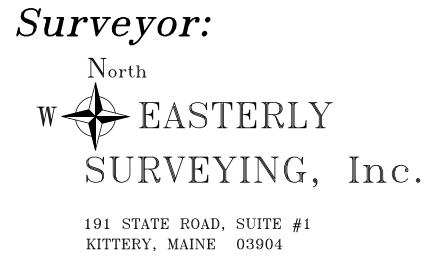
7 WALLINGORD SQUARE, UNIT 2099 KITTERY, MAINE 03904





133 Court Street (603) 433-2335

Portsmouth, NH 0380 www.altus-eng.com



# LITTLE BRIDGE LOBSTER RESTAURANT

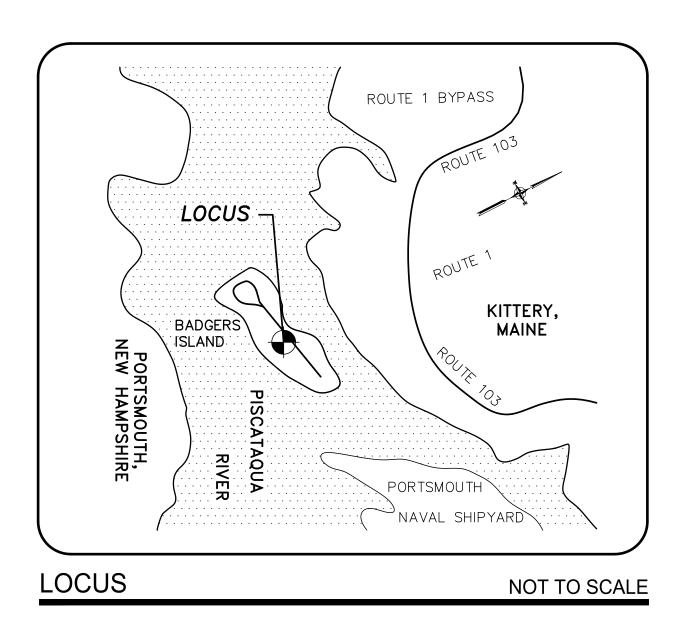
# **BADGERS ISLAND WEST** KITTERY, MAINE

# Assessor's Parcel 1, Lot 19

Plan Issue Date:

October 28, 2021 November 23, 2021 December 23, 2021 January 3, 2022 January 26, 2022

Shoreland Development Permit Shoreland Devel. Re-Submission Shoreland Devel. Re-Submission Shoreland Devel. Re-Submission Final Approval Set

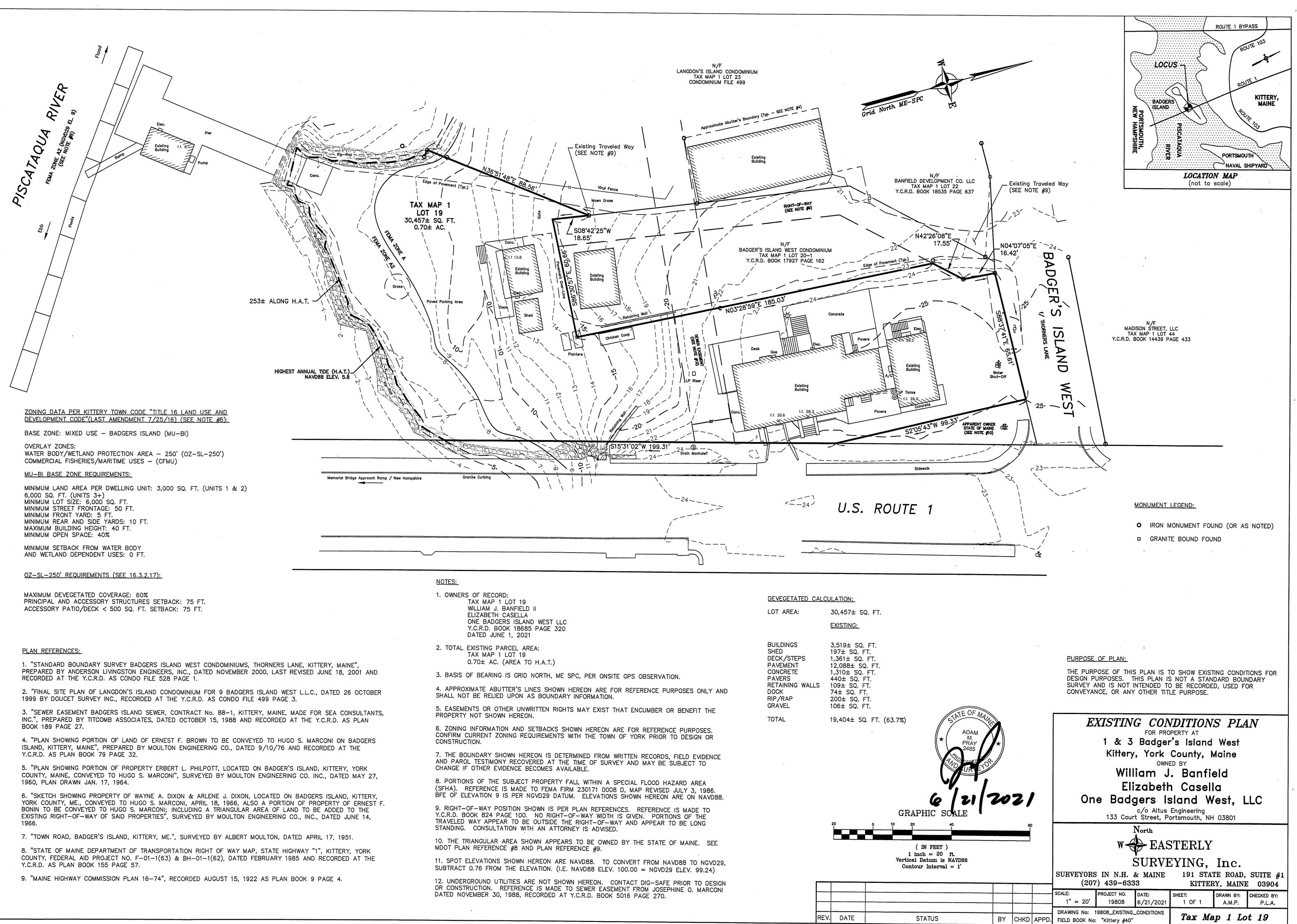


# Sheet Index Title

Exterior Perspe Site Plan for S Site Plan Erosion Contro Detail Sheet Elevations View Plan View

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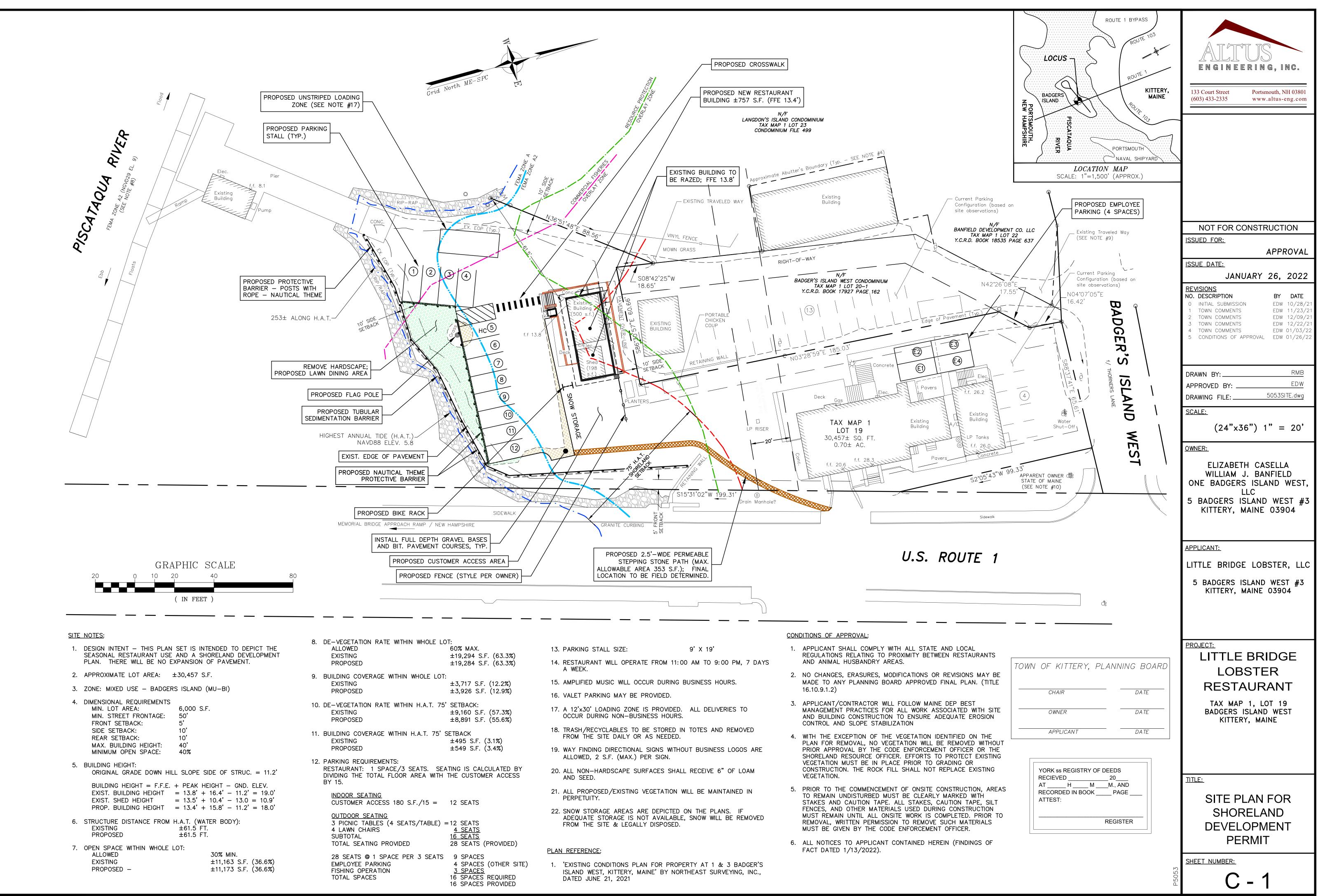
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Shoreland Development Permit	C-1	4	01/26/22
	C-2	3	01/26/22
ol Notes	C-3	1	11/23/21
	C-4	1	11/23/21
W	PB-1	—	10/28/21
	PB-2	—	10/28/21



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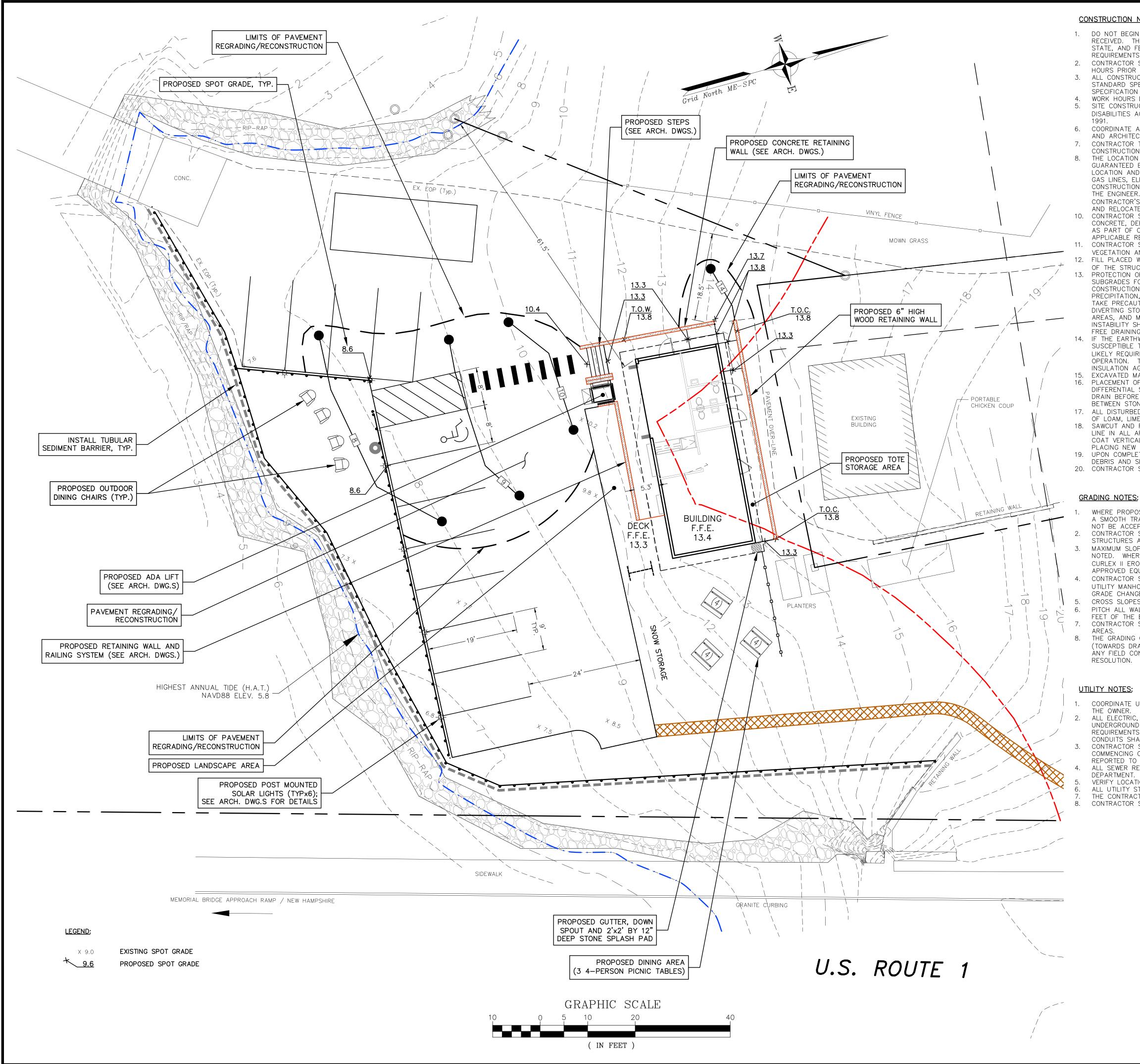
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WHOLE LOI	: 60% MAX. ±19,294 S.F. (63.3%) ±19,284 S.F. (63.3%)
HOLE LOT:	±3,717 S.F. (12.2%) ±3,926 S.F. (12.9%)
H.A.T. 75'	SETBACK: ±9,160 S.F. (57.3%) ±8,891 S.F. (55.6%)
A.T. 75' SI	ETBACK ±495 S.F. (3.1%) ±549 S.F. (3.4%)

F./15 =	12	SEATS
;/TABLE) =	<u>4</u> 16	SEATS <u>SEATS</u> <u>SEATS</u> SEATS (PROVIDED)
3 SEATS	4 <u>3</u> 16	SPACES SPACES (OTHER SITE <u>SPACES</u> SPACES REQUIRED
	10	SPACES PROVIDED



**CONSTRUCTION NOTES:** DO NOT BEGIN CONSTRUCTION UNTIL ALL STATE AND LOCAL PERMITS HAVE BEEN APPLIED FOR AND RECEIVED. THE LANDOWNER AND CONTRACTOR ARE RESPONSIBLE FOR COMPLYING WITH ALL LOCAL, STATE, AND FEDERAL WETLANDS REGULATIONS, INCLUDING ANY PERMITTING AND SETBACKS REQUIREMENTS REQUIRED UNDER THESE REGULATIONS. 2. CONTRACTOR SHALL OBTAIN A "DIGSAFE" NUMBER AND NOTIFY TOWN OF KITTERY AT LEAST 72 ENGINEERING, INC. HOURS PRIOR TO COMMENCING CONSTRUCTION. ALL CONSTRUCTION SHALL MEET THE MINIMUM STANDARDS OF THE TOWN OF KITTERY AND MEDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION. THE MORE STRINGENT SPECIFICATION SHALL GOVERN. WORK HOURS DURING CONSTRUCTION WILL BE AS APPROVED BY THE TOWN OF KITTERY Portsmouth, NH 03801 133 Court Street SITE CONSTRUCTION SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE AMERICANS WITH (603) 433-2335 www.altus-eng.com DISABILITIES ACT (ADA) AS PUBLISHED IN THE FEDERAL REGISTER, VOL. 56, NO. 144, DATED JULY 26, COORDINATE ALL WORK WITHIN TEN (10') FEET OF PROPOSED BUILDINGS WITH BUILDING CONTRACTOR AND ARCHITECTURAL DRAWINGS. CONTRACTOR TO ESTABLISH AND MAINTAIN TEMPORARY BENCHMARKS (TBMS) AND PERFORM CONSTRUCTION SURVEY LAYOUT. THE LOCATION OF EXISTING UNDERGROUND UTILITIES IS APPROXIMATE AND THE LOCATIONS ARE NOT GUARANTEED BY THE ENGINEER, SURVEYOR, OR OWNER. CONTRACTOR SHALL VERIFY THE EXACT LOCATION AND ELEVATION OF ALL EXISTING DRAIN AND SEWER LINES; VERIFY LOCATION OF EXISTING GAS LINES, ELECTRICAL LINES, COMMUNICATION LINES, AND WATER MAIN PRIOR TO COMMENCING CONSTRUCTION. ANY DISCREPANCIES BETWEEN FIELD AND PLAN SHALL BE IMMEDIATELY REPORTED TO THE ENGINEER. PRESERVE AND PROTECT ANY UTILITY LINES TO BE RETAINED. IT IS THE CONTRACTOR'S RESPONSIBILITY TO ANTICIPATE CONFLICTS, REPAIR DAMAGE TO EXISTING UTILITIES, AND RELOCATE EXISTING UTILITIES WHERE SHOWN. CONTRACTOR SHALL REMOVE AND DISPOSE OF EXISTING ON-SITE STRUCTURES, BITUMINOUS CONCRETE, DEBRIS, AND CONSTRUCTION WASTE PRODUCTS WHICH ARE NOT AUTHORIZED TO BE USED AS PART OF CONSTRUCTION. DISPOSE OF EXCESS MATERIALS OFF-SITE IN ACCORDANCE WITH APPLICABLE REGULATORY REQUIREMENTS. 11. CONTRACTOR SHALL CONTROL DUST BY SPRAYING WATER, SWEEPING PAVED SURFACES AND VEGETATION AND/OR MULCHING STOCKPILES. FILL PLACED WITHIN 3 FEET OF THE OUTSIDE OF FOUNDATION WALLS SHALL MEET THE REQUIREMENTS NOT FOR CONSTRUCTION OF THE STRUCTURAL/ARCHITECTURAL DRAWINGS. PROTECTION OF SUBGRADE: THE CONTRACTOR SHALL BE REQUIRED TO MAINTAIN STABLE, DEWATERED SSUED FOR: SUBGRADES FOR FOUNDATIONS, PAVEMENT AREAS, UTILITY TRENCHES, AND OTHER AREAS DURING CONSTRUCTION. SUBGRADE DISTURBANCE MAY BE INFLUENCED BY EXCAVATION METHODS, MOISTURE, APPROVAL PRECIPITATION, GROUNDWATER CONTROL, AND CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL TAKE PRECAUTIONS TO PREVENT SUBGRADE DISTURBANCE. SUCH PRECAUTIONS MAY INCLUDE ISSUE DATE: DIVERTING STORMWATER RUNOFF AWAY FROM CONSTRUCTION AREAS, REDUCING TRAFFIC IN SENSITIVE AREAS, AND MAINTAINING AN EFFECTIVE DEWATERING PROGRAM. SOILS EXHIBITING HEAVING OR JANUARY 26, 2022 INSTABILITY SHALL BE OVER EXCAVATED TO MORE COMPETENT BEARING SOIL AND REPLACED WITH FREE DRAINING STRUCTURAL FILL. <u>REVISIONS</u> 14. IF THE EARTHWORK IS PERFORMED DURING FREEZING WEATHER, EXPOSED SUBGRADES ARE BY DATE NO. DESCRIPTION SUSCEPTIBLE TO FROST. NO FILL OR UTILITIES SHALL BE PLACED ON FROZEN GROUND. THIS WILL LIKELY REQUIRE REMOVAL OF A FROZEN SOIL CRUST AT THE COMMENCEMENT OF EACH DAY'S INITIAL SUBMISSION EDW 10/28/2 OPERATION. THE FINAL SUBGRADE ELEVATION WOULD ALSO REQUIRE AN APPROPRIATE DEGREE OF TOWN COMMENTS EDW 11/23/2 INSULATION AGAINST FREEZING. TOWN COMMENTS EDW 12/23/2 15. EXCAVATED MATERIALS SHALL BE PLACED AS FILL MATERIALS WITHIN UPLAND AREAS ONLY. TOWN COMMENTS EDW 01/03/2 PLACEMENT OF BORROW MATERIALS SHALL BE PERFORMED IN A MANNER THAT PREVENTS LONG TERM 4 CONDITIONS OF APPROVAL EDW 01/26/22 DIFFERENTIAL SETTLEMENT. EXCESSIVELY WET MATERIALS SHALL BE STOCKPILED AND ALLOWED TO DRAIN BEFORE PLACEMENT. FROZEN MATERIAL SHALL NOT BE USED FOR CONSTRUCTION. VOIDS BETWEEN STONES AND CLUMPS OF MATERIAL SHALL BE FILLED WITH FINE MATERIALS. 17. ALL DISTURBED AREAS NOT TO BE PAVED OR OTHERWISE TREATED SHALL RECEIVE FOUR (4") INCHES OF LOAM, LIMESTONE, FERTILIZER, SEED, MULCH, AND APPROPRIATE SOIL STABILIZATION TECHNIQUES. 18. SAWCUT AND REMOVE EXISTING PAVEMENT ONE FOOT OFF PROPOSED EDGE OF PAVEMENT OR CURB LINE IN ALL AREAS WHERE NEW PAVEMENT OR CURBING ABUTS EXISTING PAVEMENT. CLEAN AND RMB DRAWN BY: COAT VERTICAL FACE OF EXISTING PAVEMENT AT SAWCUT LINE WITH RS-1 IMMEDIATELY PRIOR TO PLACING NEW BITUMINOUS CONCRETE. EDW APPROVED BY: 19. UPON COMPLETION OF CONSTRUCTION, THE DRAINAGE INFRASTRUCTURE SHALL BE CLEANED OF ALL DEBRIS AND SEDIMENT. 5053SITE.dwg DRAWING FILE: \_\_\_\_ 20. CONTRACTOR SHALL MAINTAIN AND PROVIDE RECORD DRAWINGS TO TOWN OF KITTERY SCALE:  $(24"\times 36")$  1" = 10' WHERE PROPOSED GRADES MEET EXISTING GRADES, CONTRACTOR SHALL BLEND GRADES TO PROVIDE A SMOOTH TRANSITION BETWEEN EXISTING AND NEW WORK. PONDING AT TRANSITION AREAS WILL NOT BE ACCEPTED. ABRUPT RIDGES AT TOPS AND BOTTOM WILL NOT BE ACCEPTED OWNER: CONTRACTOR SHALL MAINTAIN POSITIVE DRAINAGE AWAY FROM ALL BUILDING FOUNDATIONS, STRUCTURES AND PLANTING BEDS. ELIZABETH CASELLA MAXIMUM SLOPE IN DISTURBED AREAS SHALL BE NO STEEPER THAN 3:1 (h:v), UNLESS OTHERWISE NOTED. WHERE SLOPES IN DISTURBED AREAS ARE STEEPER THAN 3:1, CONTRACTOR SHALL WILLIAM J. BANFIELD CURLEX II EROSION CONTROL BLANKET FROM AMERICAN EXCELSIOR COMPANY (800) 777-7645 OR ONE BADGERS ISLAND WEST, APPROVED EQUAL UNLESS OTHERWISE NOTED. CONTRACTOR SHALL ADJUST UTILITY ELEMENTS MEANT TO BE FLUSH WITH GRADE (CLEANOUTS, LLC UTILITY MANHOLES, HANDHOLDS, CATCH BASINS, INLETS, ETC.) THAT IS AFFECTED BY SITE WORK OR 5 BADGERS ISLAND WEST #3 GRADE CHANGES, WHETHER SPECIFICALLY NOTED ON PLANS OR NOT. KITTERY, MAINE 03904 CROSS SLOPES AT ALL WALKS SHALL BE PITCHED TO DRAIN 1-1/2% MINIMUM 2% MAXIMUM. PITCH ALL WALKS AND PATIOS AWAY FROM BUILDINGS AT 1-1/2% MINIMUM 2% MAXIMUM WITHIN 5 FEET OF THE BUILDING CONTRACTOR SHALL PROVIDE A FINISH PAVEMENT SURFACE FREE OF LOW SPOTS AND PONDING THE GRADING ON THIS PLAN SHOWS THE GENERAL INTENT AND DIRECTION OF THE STORMWATER FLOW (TOWARDS DRAINAGE STRUCTURES). CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY OF APPLICANT: ÀNY FIELD CONDITIONS THAT WILL IMPACT THE GRADING DESIGN SHOWN ON THIS PLAN FOR LITTLE BRIDGE LOBSTER, LLC 5 BADGERS ISLAND WEST #3 KITTERY, MAINE 03904 COORDINATE UTILITY WORK WITH RESPECTIVE UTILITY COMPANIES, ARCHITECTURAL DRAWINGS AND ALL ELECTRIC, CABLE, AND TELECOMMUNICATION SERVICES AND CONDUITS SHALL BE LOCATED UNDERGROUND WHERE SHOWN. UNDERGROUND UTILITIES INSTALLATIONS SHALL MEET THE MINIMUM REQUIREMENTS OF TOWN OF KITTERY AND RESPECTIVE UTILITY COMPANIES. ALL UNDERGROUND CONDUITS SHALL HAVE NYLON PULL ROPES TO FACILITATE PULLING IN CABLES. CONTRACTOR SHALL VERIFY THE EXACT LOCATION & ELEVATIONS OF ALL EXISTING UTILITIES PRIOR TO COMMENCING CONSTRUCTION. ANY DISCREPANCIES BETWEEN FIELD AND PLAN SHALL BE IMMEDIATELY REPORTED TO ENGINEER. PROJECT: ALL SEWER RELATED WORK SHALL CONFORM TO THE MINIMUM REQUIREMENTS OF THE KITTERY SEWER LITTLE BRIDGE VERIFY LOCATION OF NEW UTILITY BOXES WITH OWNER AND UTILITY COMPANIES. ALL UTILITY STRUCTURES SHALL BE SET FLUSH WITH PROPOSED GRADE. LOBSTER THE CONTRACTOR SHALL NOT DISRUPT THE EXISTING SEWER FLOWS. CONTRACTOR SHALL MAINTAIN WATER SERVICE AT ALL TIMES TO BUILDING RESTAURANT TAX MAP 1, LOT 19 TOWN OF KITTERY, PLANNING BOARD BADGERS ISLAND WEST KITTERY, MAINE CHAIR DATE DATE OWNER APPLICANT DATE TITLE: YORK ss REGISTRY OF DEEDS RECIEVED SITE PLAN \_\_\_\_\_ 20\_\_\_\_\_ AT \_\_\_\_\_ H \_\_\_\_ M \_\_\_\_M., AND **ENLARGEMENT** RECORDED IN BOOK \_\_\_\_\_ PAGE \_\_ ATTEST: SHEET NUMBER: REGISTER

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#### ROJECT NAME AND LOCATION

Little Bridge Lobster Restaurant 1ap 1 Lot 19 Badgers Island West Kittery, Maine

Latitude: 043° 07' 05" N Longitude: 070° 43' 58" W

#### DESCRIPTION

he project consists of constructing a seasonal restaurant and associated improvements.

#### DISTURBED AREA

he total area to be disturbed is approximately 8,000 square feet for new building and reconstruction of paved parking lot. Prior to lot clearing and soil disturbance, sedimentation barrier shall be installed to prevent sediment leaving the lot.

#### SEQUENCE OF MAJOR ACTIVITIES

Install temporary erosion control measures, including silt fences and stabilized construction entrances.

- Raze existing building Construct new foundation
- Install utilities. Prepare parking and lawn dining area.
- Stabilize disturbed areas.

When all construction activity is complete and site is stabilized, remove all hay bales, storm check dams, silt fences and sediment that has been trapped by these devices.

#### NAME OF RECEIVING WATER

Piscataqua River

TEMPORARY EROSION AND SEDIMENT CONTROLS AND STABILIZATION PRACTICES

Il work shall be in accordance with state and local permits. Work shall conform to the practices described n the "Maine Erosion and Sediment Control BMPs, 2003" published by the Maine Department of Environmental rotectior

As indicated in the sequence of Major Activities, the hay bales and silt fences shall be installed prior to ommencing any clearing or grading of the site. Structural controls shall be installed concurrently with the pplicable activity. Once construction activity ceases permanently in an area, silt fences and hay bale barriers and any earth/dikes will be removed once permanent measures are established.

During construction, runoff will be diverted around the site with stabilized channels where possible. Sheet unoff from the site will be filtered through hay bale barriers, stone check dams, and silt fences. All storm Irain inlets shall be provided with hay bale filters or stone check dams. Stone rip rap shall be provided at ne outlets of drain pipes and culverts where shown.

emporary and permanent vegetation and mulching is an integral component of the erosion and sedimentation ontrol plan. All areas shall be inspected and maintained until desires vegetative cover is established. These ontrol measures are essential to erosion prevention and also reduce costly rework of graded and shaped

emporary vegetation shall be maintained in these areas until permanent seeding is applied. Additionally, rosion sedimentation measures shall be maintained until permanent vegetation is established.

#### ISTALLATION, MAINTENANCE AND INSPECTION PROCEDURES FOR TEMPORARY EROSION AND EDIMENT CONTROL MEASURES

GENERAL Perimeter controls shall be installed prior to earth moving operations.

- The smallest practical portion of the site will be denuded at one time and no more than be mulched in one day. All disturbed areas must be stabilized by temporary measures within 5 days of initial disturbance and stabilized by permanent measures immediately after final grading.
- Sediment barriers shall be installed downgradient of stockpiles and diversion swales installed upgradient of stockpiles to prevent movement of soil.
- Built-up sediment shall be removed from sedimentation barrier or other barriers when it has reached one-third the height of the tubular barrier or bale, or when "bulges" occur in sedimentation barrier. All diversion dikes shall be inspected and any breaches promptly repaired.
- Temporary seeding and planting shall be inspected for bare spots, washouts, and unhealthy growth. The owner's authorized engineer shall inspect the site on a periodic basis to review compliance with the
- All ditches and swales shall be stabilized prior to directing runoff to them. All diversion dikes will be inspected and any breaches promptly repaired.
- Temporary water diversion (swales, basins, etc) shall be used as necessary until areas are stabilized. Ponds and swales shall be installed early on in the construction sequence (before rough grading site).
- All cut and fill slopes shall be seeded/loamed within 72 hours of achieving finished grade. An area shall be considered stable if one of the following has occurred:
- a. Base coarse gravels have been installed in areas to be paved;
- b. A minimum of 90% vegetated growth as been established; c. A minimum of 3 inches of non-erosive material such as stone of riprap has been installed; or Erosion control blankets have been properly installed.

#### MULCHING

- <u>Application</u> \* In sensitive areas (within 100 ft of streams, wetlands and in lake watersheds) temporary mulch shall be applied within 7 days of exposing soil or prior to any storm event.
- \* Areas, which have been temporarily or permanently seeded, shall be mulched immediately following seeding.
- \* Areas which cannot be seeded within the growing season shall be mulched for over-winter
- protection and the area should be seeded at the beginning of the growing season. \* Mulch anchoring should be used on slopes greater than 5% in late fall (past September 15), and over-winter (September 15 - April 15).

<u>Type of Mulch</u> Hay or Straw Mulches

> Organic mulches, including hay and straw, shall be air-dried, free of undesirable seeds and coarse materials. Application rate shall be 2 bales (70-90 pounds) per 1000 sq. ft. or 1.5 to 2 tons (90-100 bales) per acre to cover 75 to 90 % of the ground surface. Hay mulch subject to wind blowing shall be anchored via: netting; peg and twine or tracking.

#### Frosion Control Mix

Erosion control mix shall consist primarily of organic material and shall include any of the following: shredded bark, stump grindings, composted bark or other acceptable products based on a similar raw source. Wood or bark chips, ground construction debris or reprocessed wood products shall not be acceptable as the organic component of the mix.

- It can be used as a stand-alone reinforcement: \* On slopes 2 horizontal to 1 vertical or less.
- \* On frozen ground or forested areas.
- \* At the edge of gravel parking areas and areas under construction.
- Other reinforcement BMPs (i.e. riprap) should be used:
- \* On slopes with groundwater seepage; At low points with concentrated flows and in gullies;
- At the bottom of steep perimeter slopes exceeding 100 feet in length;
- Below culvert outlet aprons; and \* Around catch basins and closed storm systems.

#### Composition

Installation

Erosion control mix shall contain a well-graded mixture of particle sizes and may contain rocks less than 4" in diameter. Erosion control mix must be free of refuse, physical contaminants, and material toxic to plant growth. The mix composition shall meet the following standards: \* The organic matter content shall be between 80 and 100%, dry weight basis.

- \* Particle size by weight shall be 100% passing a 6" screen and a minimum of 70%, maximum of 85%, passing a 0.75" screen.
- \* The organic portion needs to be fibrous and elongated.
- \* Large portions of silts, clays or fine sands are not acceptable in the mix.
- \* Erosion control mix shall not be used on slopes steeper than 2:1. \* On slopes of 3:1 or less; 2 inches plus an additional 1/2 inch per 20 feet of slope up to 100 feet.
- \* On slopes between 3:1 and 2:1, 4 inch plus an additional 1/2 inch per 20 feet of slope up to 100 feet. The thickness of the mulch at the bottom of the slope needs to be:
  - <3:1 slope slopes between 3:1 and 2:1 <20' of slope 2.0" 4.0'
  - 3.0" <60'of slope 5.0' <100' of slope 4.0" 6.0'
- \* It shall be placed evenly and must provide 100% soil coverage, with the soil totally invisible

Any required repairs shall be made immediately, with additional erosion control mix placed on top of the mulch to reach the recommended thickness. When the mix is decomposed, clogged with sediment, eroded or ineffective, it shall be replaced or repaired. Erosion control mix mulch shall be left in place. If the mulch needs to be removed spread it out into the landscape.

#### Maintenance

All mulches must be inspected periodically, in particular after rainstorms, to check for rill erosion. If less than 90% of the soil surface is covered by mulch, additional mulch shall be immediately applied. Nets shall be inspected after rain events for dislocation or failure. If washouts or breakage occur, re-install the nets as necessary after repairing damage to the slope. Inspections shall take place until grasses are firmly established (95% soil surface covered with grass). Where mulch is used in conjunction with ornamental plantings, inspect periodically throughout the year to determine if mulch is maintaining coverage of the soil surface. Repair as needed.

#### C. TEMPORARY VEGETATION

<u>Considerations</u> Proper seedbed preparation and the use of quality seed are important in this practice just as in permanent seeding. Failure to carefully follow sound agronomic recommendations will often result n an inadequate stand of vegetation that provides little or no erosion control. \* Nutrients and pesticides used to establish and maintain a vegetation cover shall be managed to

- protect the surface and ground water quality.
- slopes, streambanks, etc.).

#### <u>Specifications</u>

Seedbed Preparation Apply limestone and fertilizer according to soil test recommendations. If soil testing is not feasible on small or variable sites, or where timing is critical, fertilizer may be applied at the rate of 600 pounds per acre or 13.8 pounds per 1,000 square feet of 10-10-10 (N-P20S-K20) or equivalent. Apply limestone (equivalent to 50 percent calcium plus magnesium oxide) at a rate of 3 tons per acre (138 lb. per 1,000 square feet).

### \* Select seed from recommendations in enclosed table.

\* Where the soil has been compacted by construction operations, loosen soil to a depth of 2 inches

- before applying fertilizer, lime and seed. Seeding rates must be increased 10% when hydroseeding.
- Apply mulch over seeded area according to the TEMPORARY MULCHING BMP.

#### Maintenance Temporary seeding shall be periodically inspected. At a minimum, 95% of the soil surface should be

	Seeding Rates and			
Seed	Lb./Ac	Seeding Depth	Recommended Seeding Dates	Remarks
Winter Rye	112 (2.0 bu)	1-1.5 in	8/15-10/1	Good for fall seeding. Select a hardy species, such as Aroostook Rye.
Oats	80 (2.5 bu)	1-1.5 in	4/1-7/1 8/15-9/15	Best for spring seeding. Early fall seeding will die when winter weather moved in, but mulch will provide protection.
Annual Ryegrass	40	.25 in	4/1-7/1	Grows quickly but is of short duration. Use where appearance is important. With mulch, seeding may be done throughout growing season.
Sudangrass	40 (1.0 bu)	.5-1 in	5/15-8/15	Good growth during hot summer periods.
Perennial	40 (2.0 bu)	.25 in	8/15-9/15	Good cover, longer lasting than Annual Ryegrass. Mulching will allow seeding throughout growing season.
Temporary mulch and/or without do			10/1-4/1	Refer to TEMPORARY MULCHING BMP PERMANENT VEGETATION BMP.

#### D. FILTERS

#### <u>Tubular Sediment Barrier</u> a. To be provided by an approved manufacturer or supplier: b. Installed per manufacturer's specifications; areas has been permanently stabilized.

- <u>Straw/Hay\_Bales</u> tightly abutting one another
- \* All bales shall be either wire-bound or string-tied. Bales shall be installed so that bindings are
- and the length of the proposed barrier to a minimum depth of 4 inches.
- Backfill soil shall conform to the ground level on the downhill side and shall be build up to 4 inches against the uphill side of the barrier.
- escaping between the bales.

### <u>Organic Filter Berm</u> See detail

\* Sediment barriers shall be installed along the down gradient side of proposed ground disturbance areas prior to any construction activities. \* The barrier must be placed along a relatively level contour.

- <u>Maintenance</u> sediment barriers shall be replaced with a temporary check dam.
- \* Should the fabric on a sedimentation barrier or filter barrier decompose or become ineffective replaced promptly.
- height of the barrier.
- \* Filter berms should be reshaped as needed.
- seeded
- PERMANENT SEEDING
- lime and fertilizer should be based on an evaluation of soil tests.
- 3. Seed Mixture (See Landscape Drawings for additional information): germination of each variety.
- 3.2. Seed mixture shall conform to landscape specifications erodible soils (fine sand/silt). etc.

\* Temporary seeding shall be used extensively in sensitive areas (ponds and lake watersheds, steep \* Late fall seeding may fail and cause water quality deterioration in spring runoff events, thus other measures such as mulching shall be implemented.

\* Apply seed uniformly by hand, cyclone seeder, drill, cultipacker type seeder or hydroseeder (slurry including seed and fertilizer). Hydroseeding that includes mulch may be left on soil surface.

covered by vegetation. If any evidence of erosion or sedimentation is apparent, repairs shall be made and in the interim (mulch filter barrier

c. Barrier shall be removed when they have served their useful purpose but not before the upslope

Bales shall be placed in a single row, lengthwise on the contour, with ends of adjacent bales

oriented around the sides, parallel to the ground surface to prevent deterioration of the bindings. \* The barrier shall be entrenched and backfilled. A trench shall be excavated the width of a bale \* After the bales are staked and chinked, the excavated soil shall be backfilled against the barrier.

\* At least two stakes or rebars driven through the bale shall securely anchor each bale. The first stake in each bale shall be driven toward the previously laid bale to force the bales together. Stakes or re-bars shall be driven deep enough into the ground to securely anchor the bales. \* The gaps between bales shall be chinked (filled by wedging) with hay to prevent water from

\* Hay bale barriers, sedimentation barriers and filter berms shall be inspected immediately after each rainfall and at least daily during prolonged rainfall. They shall be repaired immediately if there are any signs of erosion or sedimentation below them. If there are signs of undercutting at the center or the edges of the barrier, or impounding of large volumes of water behind them,

prior to the end of the expected usable life and the barrier still is necessary, the fabric shall be \* Sediment deposits should be removed when deposits reach approximately one third (1/3) the

\* Any sediment deposits remaining in place after the sedimentation barrier or filter barrier is no longer required shall be dressed or removed to conform to the existing grade, prepared and

\* Additional stone may have to be added to the construction stabilized entrance, rock barriers, stone lined swales, etc., periodically to maintain proper function of the erosion control structure.

1. Bedding - stones larger than  $1^{1/2}$ , trash, roots, and other debris that will interfere with seeding and future maintenance of the area should be removed. Where feasible, the soil should be tilled to a depth of 6" to prepare a seedbed and mix fertilizer (refer to Landscape Drawings and Specifications) into the

2. Fertilizer (refer to Landscape Drawings and Specifications) - lime and fertilizer should be applied evenly over the area prior to or at the time of seeding and incorporated into the soil. Kinds and amounts of

3.1. Lawn seed mix shall be a fresh, clean new seed crop. The Contractor shall furnish a dealer's guaranteed statement of the composition of the mixture and the percentage of purity and

4. Sodding - sodding is done where it is desirable to rapidly establish cover on a disturbed area. Sodding an area may be substituted for permanent seeding procedures anywhere on site. Bed preparation, fertilizing, and placement of sod shall be performed according to the S.C.S. Handbook. Sodding is recommended for steep sloped areas, areas immediately adjacent to sensitive water courses, easily

#### DEWATERING

A dewatering plan shall be implemented to address excavation de-watering following heavy rainfall events or where the excavation may intercept the groundwater table during construction. The collected water needs treatment and a discharge point that will not cause downgradient erosion and offsite sedimentation or within a resource.

All dewatering discharge locations shall be located on relatively flat ground at least 75' from streams and 25' from wetlands. The contractor shall utilize "Dirtbags", erosion control mix berms, or similar methods for filtration of dewatering and shall conform to the Maine Erosion and Sediment Control BMPs.

Placement of "Dirtbags" shall be located such that they can be removed intact upon completion of construction with no discharge of silt at the site and properly disposed.

MONITORING SCHEDULE The contractor shall be responsible for installing, monitoring, maintaining, repairing, replacing and removing all of the erosion and sedimentation controls or appointing a gualified subcontractor to do so. Maintenance measures will be applied as needed during the entire construction cycle. immediately following any significant rainfall, and at least once a week, a visual inspection will be made of all erosion and sedimentation controls as follows:

sedimentation barrier shall be inspected and repaired. Sediment trapped behind these barriers shall be excavated when it reaches a depth of 6" and redistributed to areas undergoing final grading. 2. Construction entrance shall be visually inspected and repaired as needed. Any areas subject to rutting shall be stabilized immediately. If the voids of the construction entrance become filled with mud, more crushed stone shall be added as needed. The public roadway shall be swept should mud be deposited/tracked onto them.

STANDARDS FOR STABILIZING SITES FOR THE WINTER

- The following standards and methodologies shall be used for stabilizing the site during the winter construction period:
- 1. Standard for the timely stabilization of disturbed slopes (any area having a grade greater than 25%) the contractor will seed and mulch all slopes to be vegetated by September 15th. If the contractor fails to stabilize any slope to be vegetated by September 15th, then the contractor will take one of the following actions to stabilize the slope for late fall and winter.
- A. <u>Stabilize the soil with temporary vegetation and erosion control mats</u>: by October 1st the contractor will seed the disturbed slope with winter rye at a rate of 3 pounds per 1000 square feet and then install erosion control mats or anchored hay mulch over the seeding. The contractor will monitor growth of the rve over the next 30 days.
- B. <u>Stabilize the slope with wood-waste compost</u>: the contractor will place a six-inch layer of wood-waste compost on the slope by November 15th. The contractor will not use wood-waste compost to stabilize slopes having grades greater than 50% (2h:iv) or having groundwater seeps on the slope face. C. <u>Stabilize the slope with stone riprap</u>: the contractor will place a layer of stone riprap on the slope by November 15th. The development's owner will hire a registered professional engineer to determine the
- stone size needed for stability on the slope and to design a filter layer for underneath the riprap. 2. Standard for the timely stabilization of disturbed soils - by September 15th the contractor will seed and
- mulch all disturbed soils on the site. If the contractor fails to stabilize these soils by this date, then the contractor will take on of the following actions to stabilize the soil for late fall and winter. A. <u>Stabilize the soil with temporary vegetation</u>: by October 1st the contractor will seed the disturbed soil with winter rye at a seeding rate of 3 pounds per 1000 square feet, lightly mulch the seeded soil with hay or straw at 75 pounds per 1000 square feet, and anchor the mulch with plastic netting. The contractor will monitor growth of the rye over the next 30 days. If the rye fails to grow at least three inches or fails to cover at least 75% of the disturbed soil before November 1, then the contractor will mulch the area for
- over-winter protection as described in item iii of this standard. B. <u>Stabilize the soil with sod</u>: the contractor will stabilize the disturbed soil with properly installed sod by October 1st. proper installation includes the contractor pinning the sod onto the soil with wire pins, rolling the sod to guarantee contact between the sod and underlying soil, and watering the sod to promote root
- growth into the disturbed soil. C. <u>Stabilize the soil with mulch</u>: by November 15th the contractor will mulch the disturbed soil by spreading hay or straw at a rate of at least 150 pounds per 1000 square feet on the area so that no soil is visible through the mulch. Immediately after applying the mulch, the contractor will anchor the mulch with netting or other method to prevent wind from moving the mulch off the disturbed soil.

Winter inspections shall be preformed after, each rainfall, snowstorm or thawing and at least once a week. All areas within 75 feet of a protected natural resource must be protected with a double row of sediment barrier.

#### EROSION CONTROL REMOVAL

- An area is considered stable if it is paved or if 90% growth of planted seeds is established. once an area is considered stable, the erosion control measures can be removed as follows: . sedimentation barrier: sedimentation barrier shall be disposed of legally and properly off-site. all sediment trapped behind these controls shall be distributed to an area undergoing final grading or removed and
- relocated off-site. 2. <u>Stabilized Construction Entrance</u>: The stabilized construction entrance shall be removed once the
- compacted roadway base in in place. Stone and sediment from the construction entrance shall be redistributed to an area undergoing grading or removed and relocated offsite.
- Miscellaneous: Once all the trapped sediments have been removed from the temporary sedimentation devices the disturbed areas must be regraded in an aesthetic manner to conform to the surrounding topography. Once graded these disturbed areas must be loamed (if necessary), fertilized, seeded and mulched in accordance with the rates previously stated.

The above erosion controls must be removed within 30 days of final stabilization of the site. Conformance with this plan and following these practices will result in a project that complies with the state regulations and the standards of the natural resources protection act, and will protect water quality in areas downstream from the project.

#### INSPECTION AND MAINTENANCE

. All sediment control measures shall be inspected at least once each week and following any storm event of 0.5 inches or greater. An inspection report shall be made after each inspection by a qualified inspector engaged by the Owner. The qualified inspector shall be a Professional Engineer licensed in Maine or be a Certified Professional in Erosion and Sediment Control approved by the Owner and MDEP. 2. All measures shall be maintained in good working order; if a repair is necessary, it will be initiated within

- 24 hours and completed within 72 hours. 3. Inspection and maintenance requirements: Inspect disturbed and impervious areas, erosion and stormwater control measures, areas used for storage that are exposed to precipitation, and locations where vehicles enter or exit the site. Inspect these areas at least once a week as well as before and after a 0.5 inches or greater storm event and prior to completion of permanent stabilization measures. A person with knowledge of erosion and stormwater control, including the standards in the Maine Construction General Permit and any departmental companion document to the MCGP, must conduct the inspection. This person must be identified in the inspection log. If best management practices (BMPs) need to be modified or if additional BMPs are necessary, implementation must be completed within 7 calendar days and prior to any storm event (rainfall). All measures must be maintained in effective operating condition
- until areas area permanently stabilized. 4. Inspection Log (report): A log (report) must be kept summarizing the scope of the inspection, name(s) and qualifications of the personnel making the inspection, the date(s) of the inspection, and major observations relating to operation of erosion and sedimentation controls and pollution prevention measures. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations(s) where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the inspection log the correct action taken and when it was taken. The log must be made accessible to the department staff and a copy must be provided upon request. The permittee shall retain a copy of the log for a period of at least three years from the completion of the permanent stabilization.

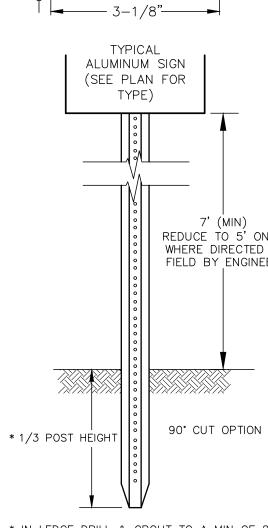
#### HOUSEKEEPING

- . Spill prevention: Controls must be used to prevent pollutants from construction and waste materials stored onsite, including storage practices to minimize exposure of the materials to stormwater and appropriate spill prevention, containment, and response planning implementation. The contractor and owners need to take care with construction and waste materials such that contaminates do not enter the stormwater. The storage of materials such as paint, petroleum products, cleaning agents and the like are to be stored in watertight containers. The use of the products should be in accordance with manufacturer recommendations. When fueling equipment, including snowblowers and lawnmowers, have oil absorbent pads available below the fueling. Refueling of small engines by the owner should occur in the garage or on a paved surface. Any spill or release of toxic or hazardous substances must be reported to the department. For oil spills, call 1-800-482-0777 which is available 24 hours a day. For spills of toxic or hazardous material, call 1-800-452-4664 which is available 24 hours a day. For more information, visit the department's website at: HTTP://WWW.MAINE.GOV/DEP/SPILLS/EMERGSPILLRESP/
- 2. Groundwater protection: Protection of the groundwater is required by the contractor and owner. During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the site draining to an infiltration area. An "infiltration area" is any area of the site that by design or as a result of soils, topography, and other relevant factors accumulates runoff that infiltrates into the soil. Petroleum products should be stored in manufactured cans designed for the purpose. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the site for the purposes of storage and handling of these materials. Spill preventions procedures should be followed.
- Note: Lack of appropriate pollutant removal BMPs may result in violations of the groundwater quality standard established by 39 M.R.S.A. §465-C(1). Any project proposing infiltration of stormwater must provide adequate pre-treatment of stormwater prior to discharge of stormwater to the infiltration area, or provide treatment within the infiltration area, in order to prevent accumulation of fines, reductions in infiltration rate, and consequent flooding and destabilization.

<ol> <li>Fugitive sediment and dust: Actions must be taken to ensure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control.</li> </ol>	
Note: Dewatering a stream without a permit from the department violates state water quality standards and the Natural Resources Protection Act.	ALTUS
4. Debris and other materials: Litter, construction debris, and construction chemicals exposed to stormwater must be prevented from becoming a pollutant source. Construction materials and construction debris should be covered to prevent rainwater from washing contaminants off the site. Any fertilizers, cleaning products, herbicides should be protected from the weather and used in accordance with manufacturers recommendations.	ENGINEERING, INC.
Note: Any contaminants that are washed off the site by rainwater is a violation of the Clean Waters Act. To prevent these materials from becoming a source of pollutants, construction activities related to a project may be required to comply with applicable provisions of rules related to solid, universal, and hazardous waste, including, but not limited to, the Maine Solid Waste and Hazardous Waste	133 Court Street     Portsmouth, NH 03801       (603) 433-2335     www.altus-eng.com
<ul> <li>Management Rules; Maine Hazardous Waste Management Rules; Maine Oil Conveyance and Storage Rules; and Maine Pesticide requirements.</li> <li>5. Trench or foundation dewatering: Trench dewatering is the removal of water from trenches, foundations, coffer dams, ponds, and other areas within the construction area that retain water after excavation. In most cases the collected water is heavily silted and hinders correct and safe construction practices. The collected water removed from the ponded area, either through gravity or pumping, must be spread through natural wooded buffers or removed to areas that are specifically designed to collect the maximum amount of sediment possible, like a cofferdam sedimentation basin. Avoid allowing the water to flow over disturbed areas of the site.</li> </ul>	ERIC D. WEINRIEB No. 6659
Note: For guidance on dewatering controls, consult the Maine Erosion and Sediment Control BMPs, published by the Maine Department of Environmental Protection.	SONA
6. Non-stormwater discharges: Identify and prevent contamination by non-stormwater discharges. Where allowed non-stormwater discharges exist, they must be identified and steps should be taken to ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the discharge. Authorized non-stormwater discharges are:	
<ul> <li>Discharges from firefighting activities</li> <li>Fire hydrant flushings</li> <li>Vehicle washwater if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage, and transmission washing is prohibited</li> <li>Dust control runoff in accordance with permit conditions</li> </ul>	NOT FOR CONSTRUCTION  ISSUED FOR: APPROVAL
<ul> <li>Routine external building washdown, not including surface paint removal, that does not involve detergents</li> <li>Pavement washwater (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material had been removed) if detergents are not used</li> <li>Uncontaminated air conditioning or compressor condensate</li> </ul>	ISSUE DATE: NOVEMBER 23, 2021
<ul> <li>Uncontaminated groundwater or spring water</li> <li>Foundation or footer drain-water where flows are not contaminated</li> <li>Uncontaminated excavation dewatering</li> <li>Potable water sources including waterline flushings</li> </ul>	REVISIONS NO. DESCRIPTION BY DATE
<ul> <li>7. Unauthorized non-stormwater discharges: Identify and prevent contamination from discharges that is mixed with a source of non-stormwater, other than those discharges in compliance with 6. Unauthorized non-stormwater discharges are: <ul> <li>Wastewater from the washout or cleanout of concrete, stucco, paint, form release oils, curing compounds or other construction materials;</li> <li>Fuels, oils, or other pollutants used in vehicle and equipment operations and maintenance;</li> <li>Soaps, solvents or detergents used in vehicle and equipment wash;</li> <li>Toxic or hazardous substances from a spill or other release.</li> </ul> </li> </ul>	0 INITIAL SUBMISSION EDW 10/28/21 1 TOWN COMMENTS EDW 11/23/21
Allowable non—stormwater discharges cannot be authorized under this permit unless they are directly related to and originate from a construction site or dedicated support activity.	
This project has a written erosion control plan and stormwater maintenance plan. Modifications to the plan must be approved by the Town.	DRAWN BY:   RMB     APPROVED BY:   EDW
Maintenance of stormwater treatment and control systems must occur regularly. The stormwater maintenance report provides inspection details and time lines for doing the inspections and reporting to the Town.	DRAWING FILE: 5053SITE.dwg
	<u>SCALE:</u> NOT TO SCALE
	OWNER:
	ELIZABETH CASELLA WILLIAM J. BANFIELD ONE BADGERS ISLAND WEST, LLC 5 BADGERS ISLAND WEST #3 KITTERY, MAINE 03904
	,
	APPLICANT:
	LITTLE BRIDGE LOBSTER, LLC
	5 BADGERS ISLAND WEST #3 KITTERY, MAINE 03904
STAKE ON 10' LINEAR SPACING STAKE (TYP.); REBAR W/ORANGE SAFETY	
WATER FLOW WATER FLOW WATER FLOW WORK AREA	PROJECT: LITTLE BRIDGE LOBSTER RESTAURANT
WORK AREA	TAX MAP 1, LOT 19
FILTREXX® COMPOST SILT-SOXX <sup>TM</sup> SECTION	BADGERS ISLAND WEST KITTERY, MAINE
PLAN_VIEW       SECTION         NOTES:       1. SILTSOXX MAY BY USED IN PLACE OF SILT FENCE OR OTHER SEDIMENT BARRIERS.	
<ol> <li>ALL MATERIAL TO MEET FILTREXX SPECIFICATIONS.</li> <li>SILTSOXX COMPOST/SOIL/ROCK/SEED FILL MATERIAL SHALL BE ADJUSTED AS NECESSARY TO MEET THE REQUIREMENTS OF THE SPECIFIC APPLICATION.</li> <li>ALL SEDIMENT TRAPPED BY SILTSOXX SHALL BE DISPOSED OF PROPERLY.</li> </ol>	<u>TITLE:</u>
TUBULAR SEDIMENT BARRIER NOT TO SCALE	
	EROSION CONTROL NOTES
P5053	<u>Sheet Number:</u> <b>C - 3</b>

# SIGN DETAILS

LENGTH: AS REQUIRED WEIGHT PER LINEAR FOOT: 2.50 LBS (MIN.) HOLES: 3/8" DIAMETER, 1" C-C FULL LENGTH STEEL: SHALL CONFORM TO ASTM A-499 (GRADE 60) OR ASTM A-576 (GRADE 1070 - 1080)



1 - 9/16"

.4 €

## <u>NOTES</u> 1. ALL SIGNS SHALL MEET THE REQUIREMENTS OF AND BE INSTALLED

AS INDICATED IN THE MANUAL ON

LATEST EDITION.

UNIFORM TRAFFIC CONTROL DEVICES,

NOT TO SCALE

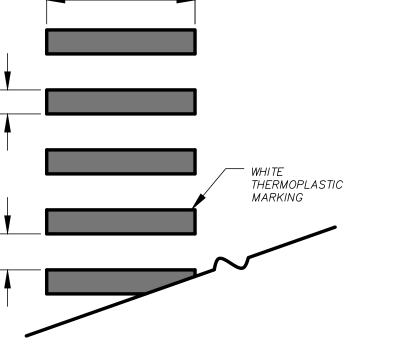
\* IN LEDGE DRILL & GROUT TO A MIN OF 2'

7'(MIN) REDUCE TO 5' ONLY WHERE DIRECTED IN FIELD BY ENGINEER

**I**−1/4" .164"

# **CROSSWALK STRIPING DETAIL**

PER PLAN



NOT TO SCALE

RESERVED PARKING

R7-8

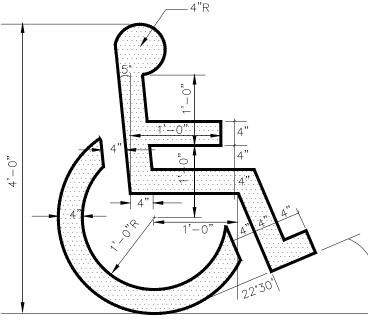
12" x 18"

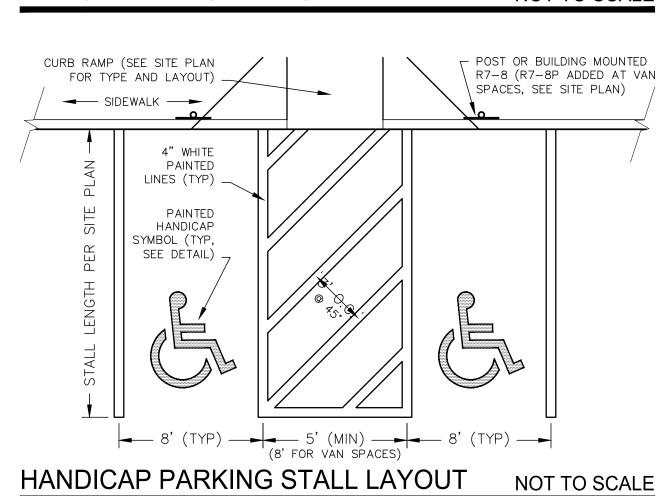
VAN ACCESSIBLE

> R7-8P 18" x 9"

# PAINTED HANDICAP SYMBOL

<u>NOTES</u> 1. SYMBOL TO BE PAINTED IN ALL HANDICAPPED ACCESSIBLE SPACES IN WHITE PAINT (BLUE-PAINTED SQUARE BACKGROUND OPTIONAL).





# **TYPICAL TRENCH PATCH**

### NOT TO SCALE

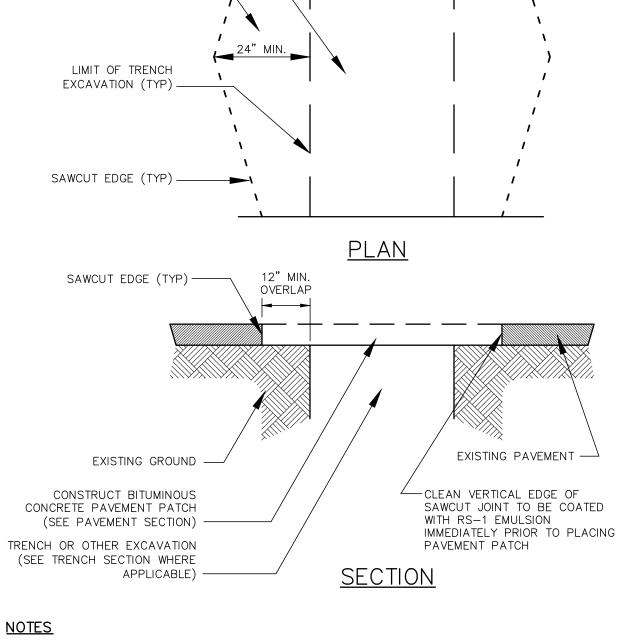
- 3. DIAMOND PATCHES, SHALL BE REQUIRED FOR ALL TRENCHES CROSSING ROADWAY. DIAMOND PATCHES SHALL MEET NHDOT REQUIREMENTS.
- 2. ALL TEMPORARY, DAMAGED OR DEFECTIVE PAVEMENT SHALL BE REMOVED PRIOR TO PLACEMENT OF PERMANENT TRENCH REPAIRS.
- 1. MACHINE CUT EXISTING PAVEMENT.

EXCAVATED UTILITY TRENCH

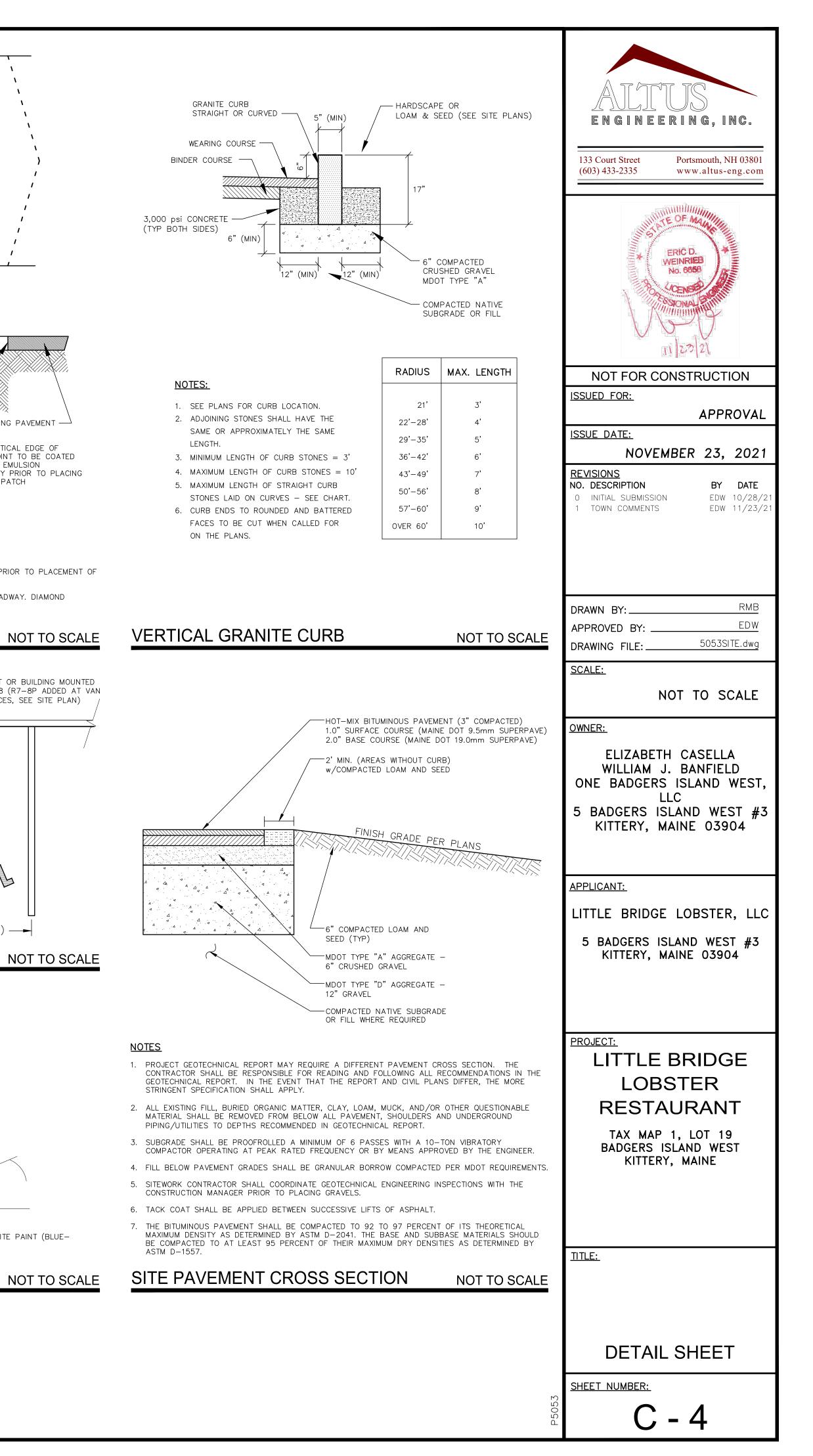
EXISTING GRAVEL BEYOND TRENCH SHALL BE LEFT

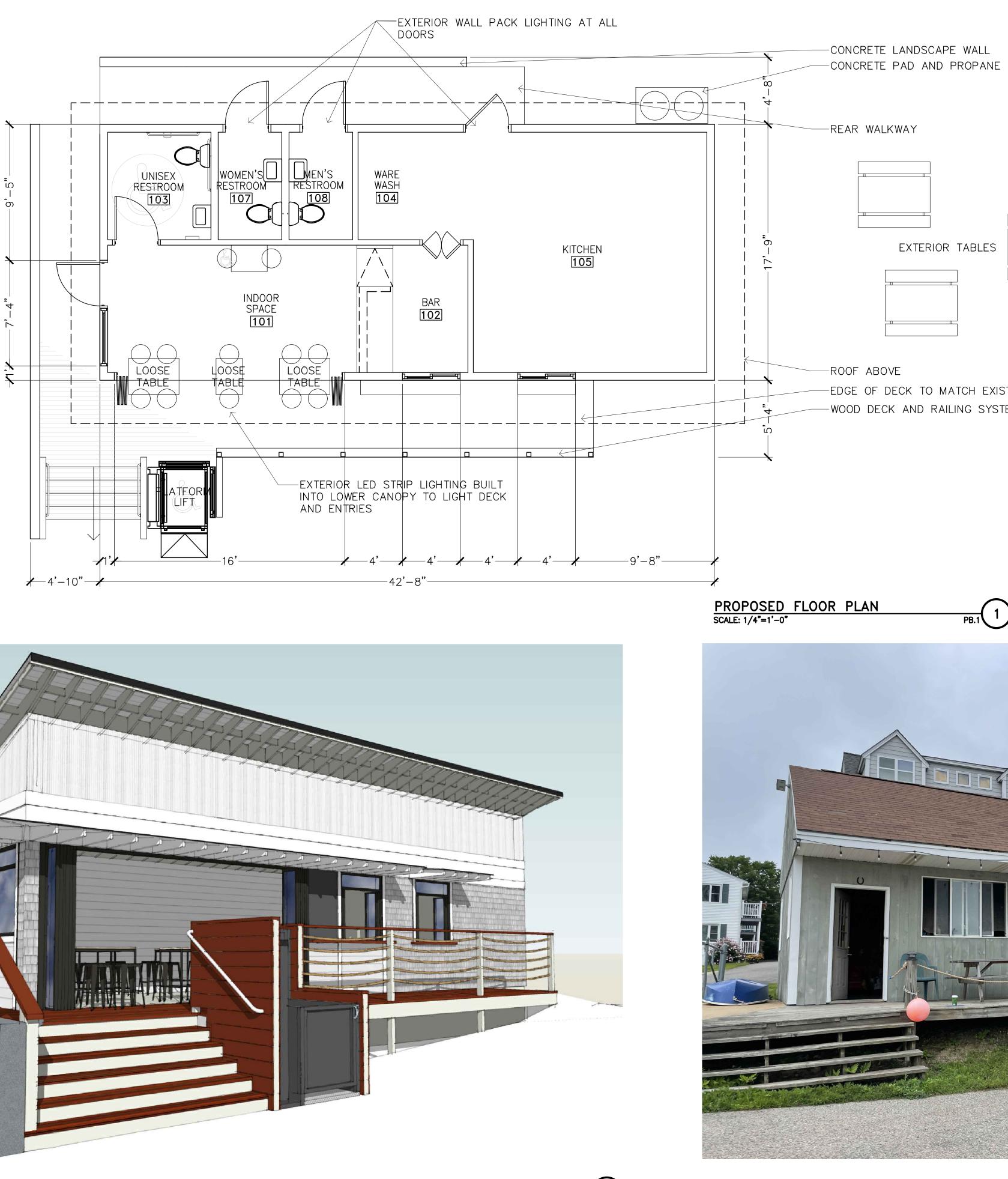
(SEE TRENCH SECTION) -

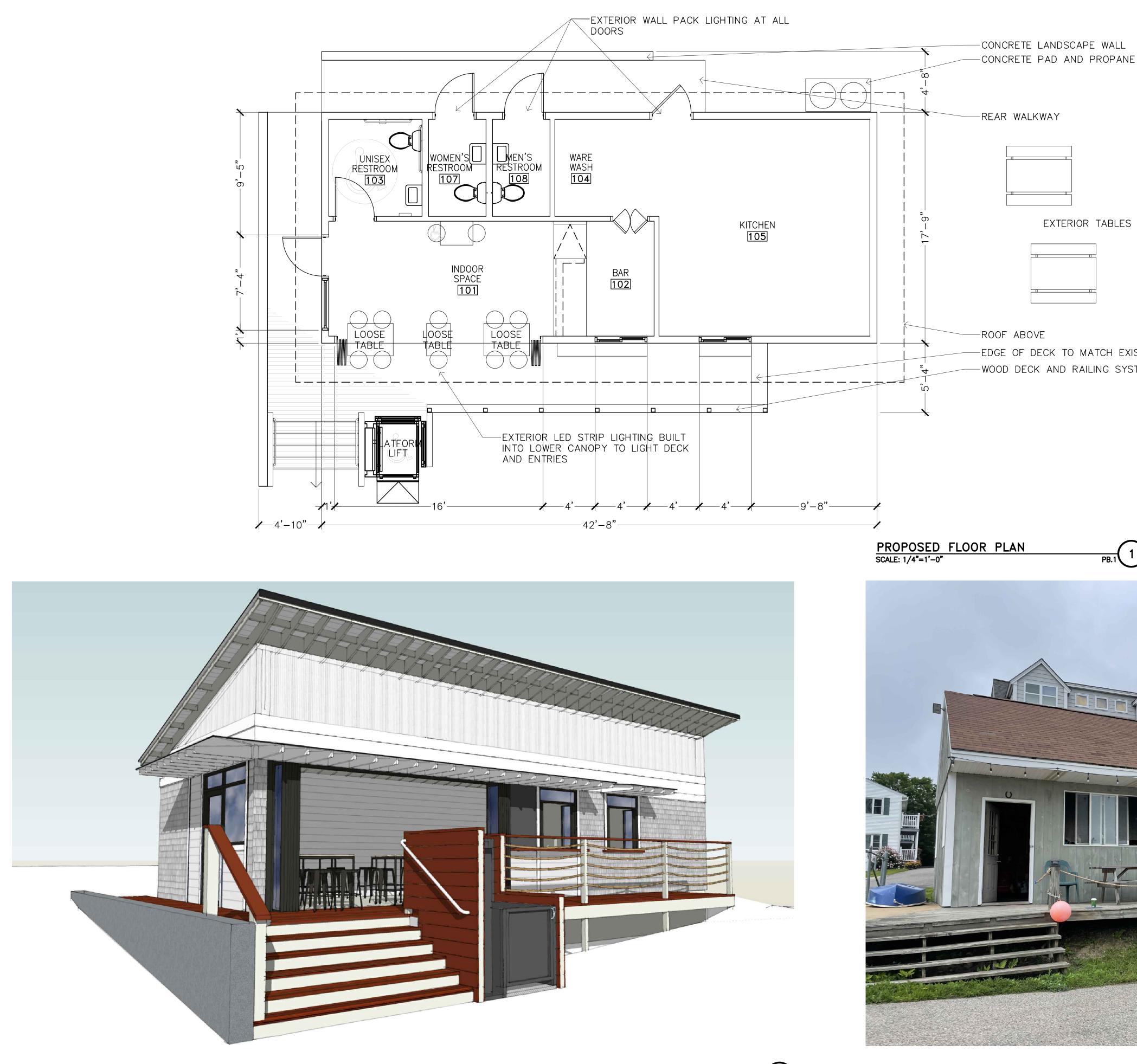
UNDISTURBED -



12" (MIN)



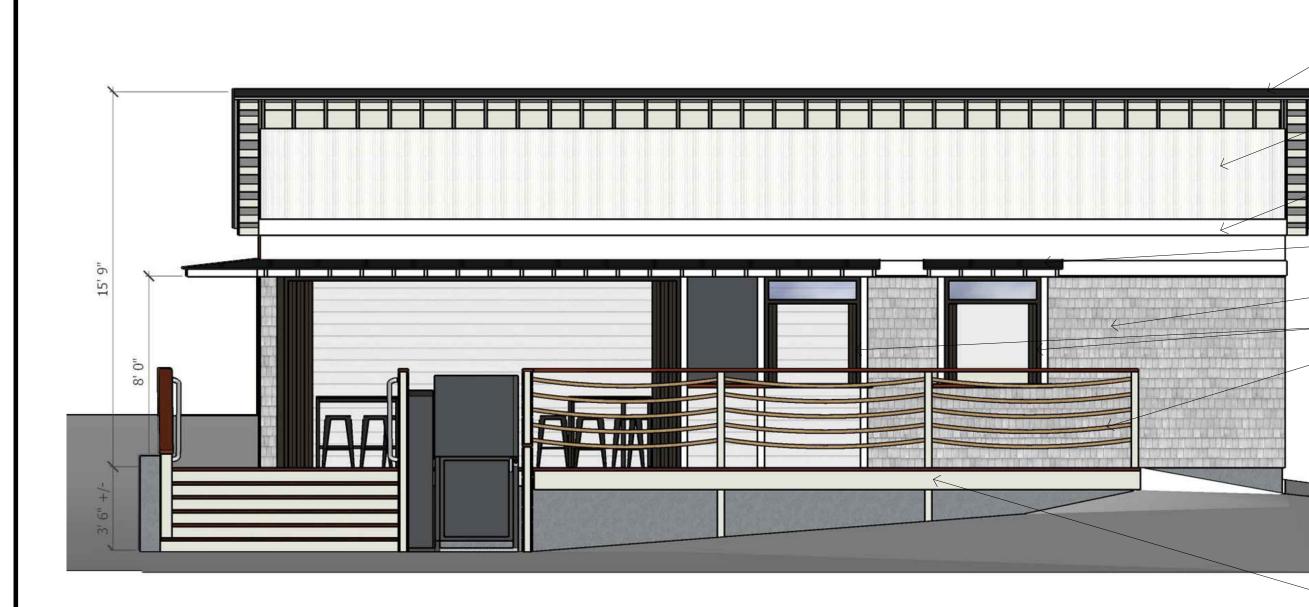


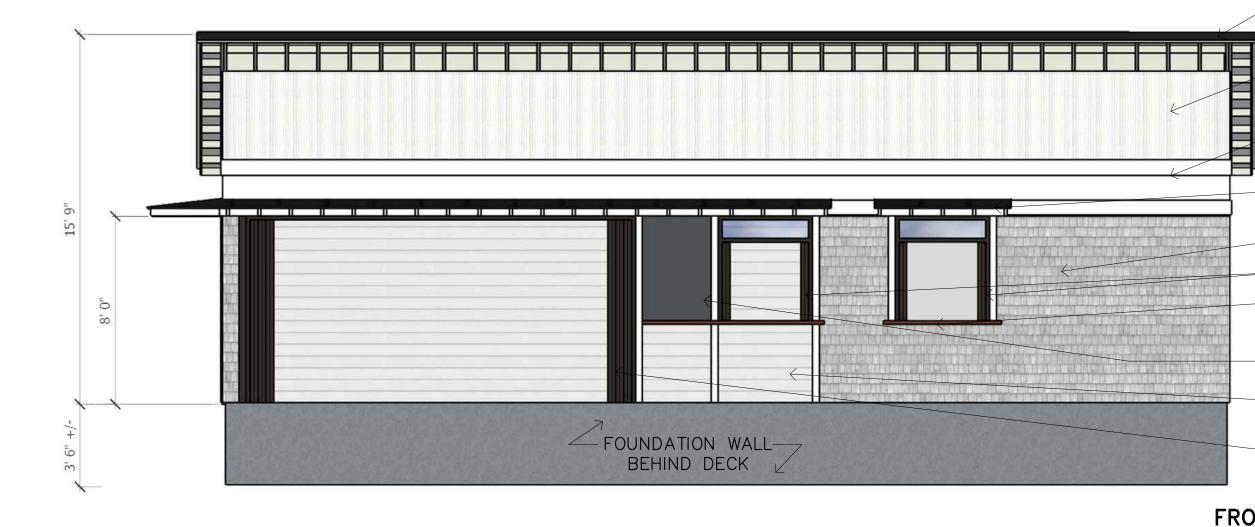


PROPOSED RENDER SCALE: N/A

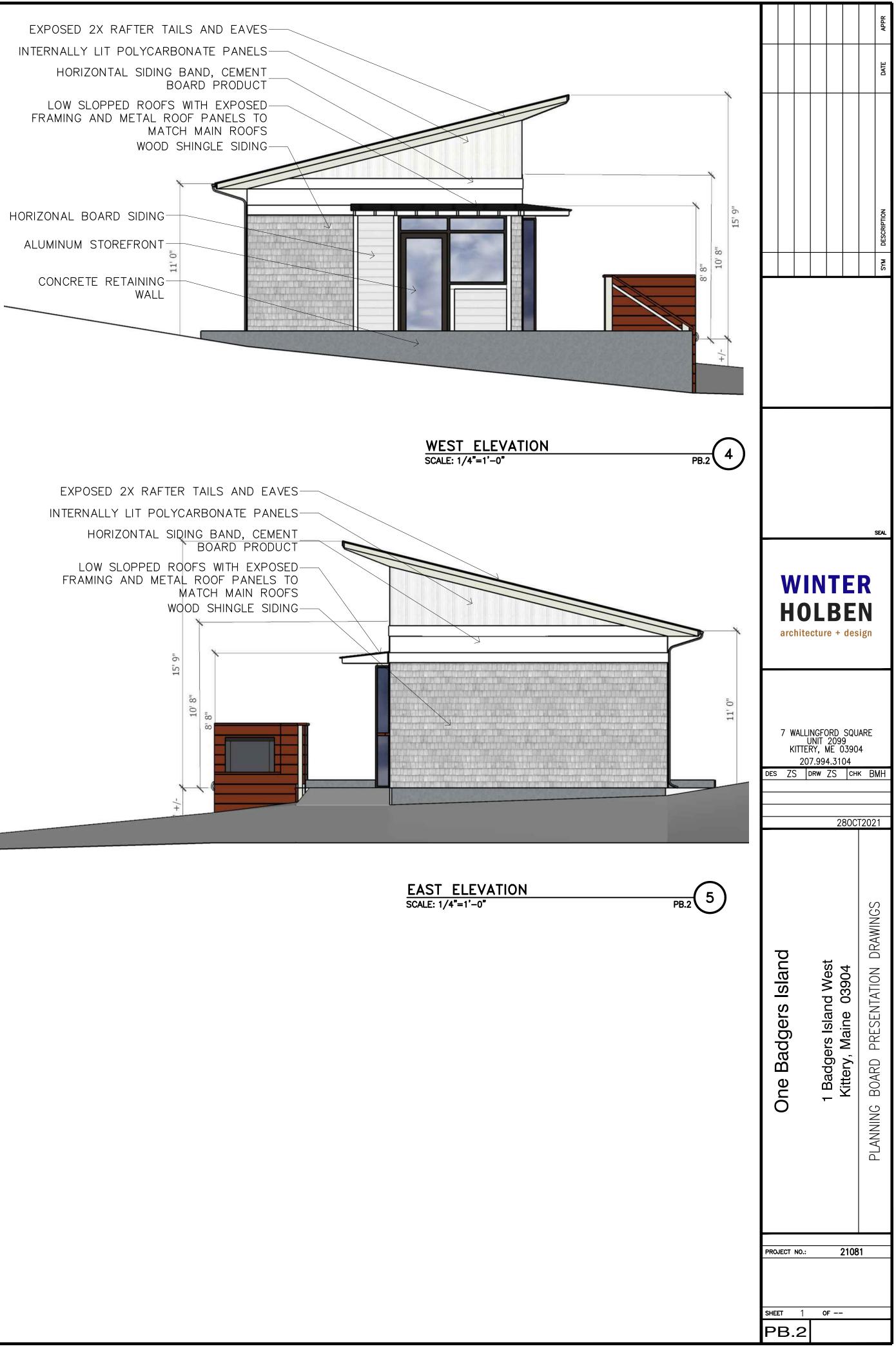
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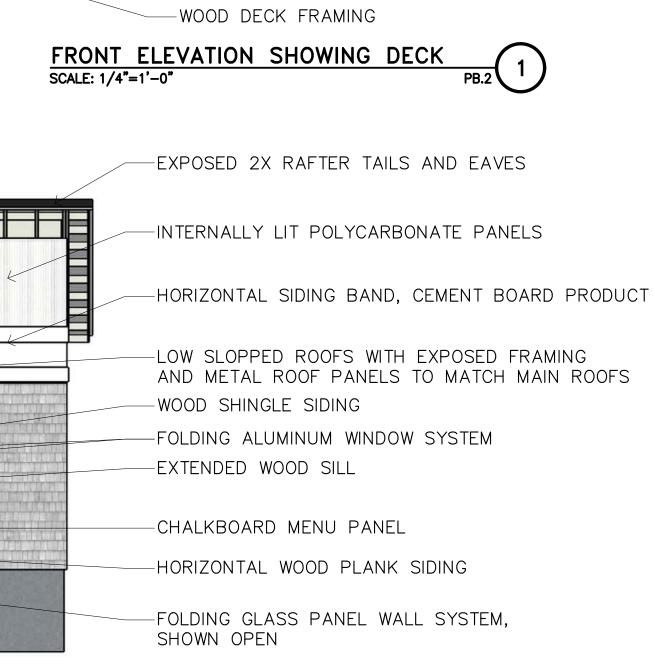
-EXPOSED 2X RAFTER TAILS AND EAVES

-INTERNALLY LIT POLYCARBONATE PANELS

-HORIZONTAL SIDING BAND, CEMENT BOARD PRODUCT

-LOW SLOPPED ROOFS WITH EXPOSED FRAMING AND METAL ROOF PANELS TO MATCH MAIN ROOFS -WOOD SHINGLE SIDING

-FOLDING ALUMINUM WINDOW SYSTEM -WOOD DECK SYSTEM WITH NAUTICAL ROPE BALUSTERS



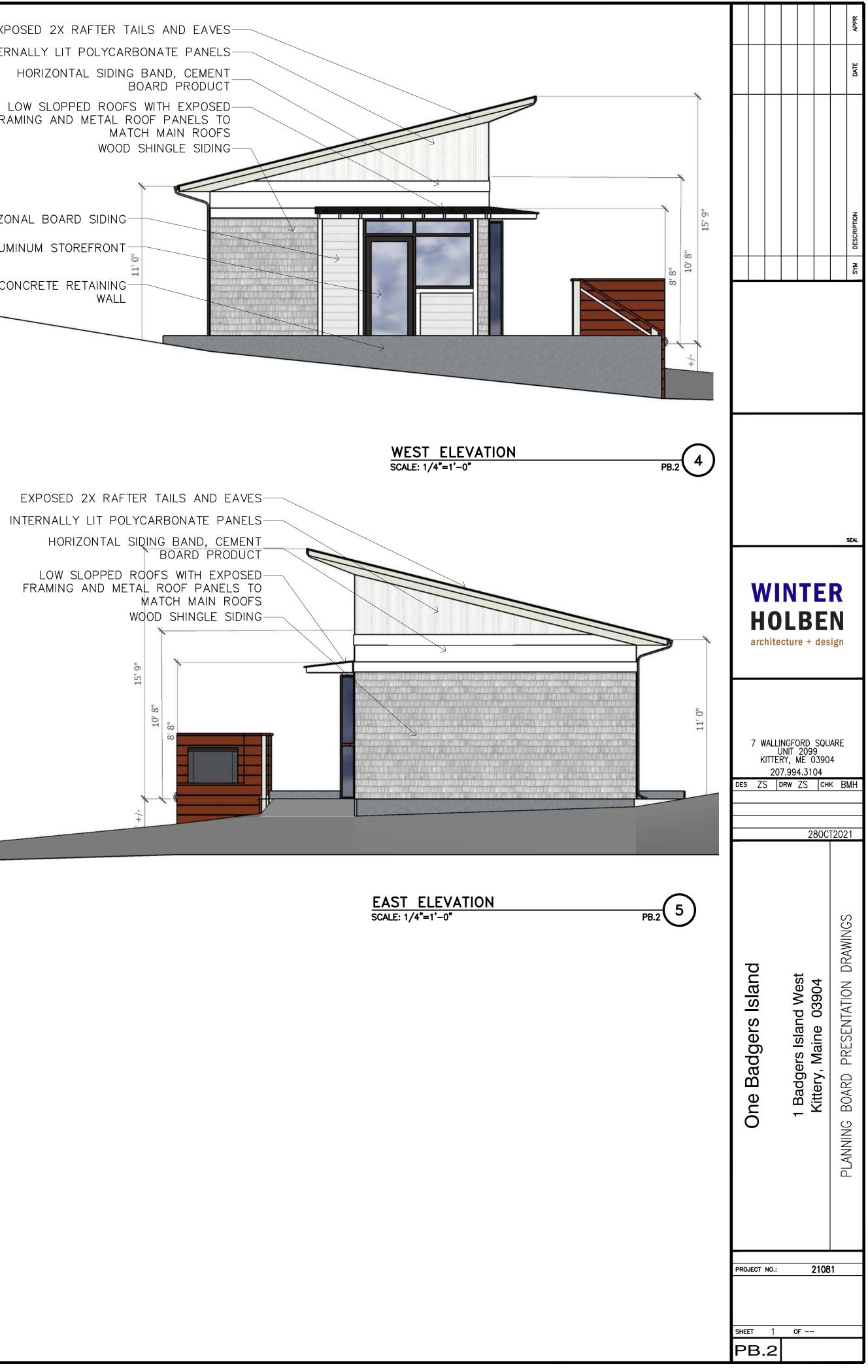
FRONT ELEVATION SCALE: 1/4"=1'-0"

-BLACK STANDING SEAM METAL ROOFING

РВ.2 (2)

РВ.2 (3)

BACK ELEVATION SCALE: 1/4"=1'-0"



#### Kittery Planning Board Findings of Fact For 1-3 Badgers Island West Shoreland Development Plan Review

WHEREAS: owners One Badgers Island West, LLC, Elizabeth Casella & William J. Banfield, applicant Little Bridge Lobster LLC and agent Altus Engineering, Inc. requests approval for a special exception to change the use of an legally nonconforming structure to a restaurant and to make improvements thereto by reconstructing and expanding the footprint and height and to add 12 parking spaces with outdoor seating area on a lot within the base zone setback of the Shoreland Land Overlay Zone on real property with an address of 1-3 Badgers Island West, Tax Map 1, Lot 19 in of the Mixed-Use Badgers Island (MU-BI) zoning district and Shoreland (OZ-SL-250), Resource Protection (OZ-RP) and Commercial Fisheries/Maritime Activities (OZ-CFMU) Overlay Zones

REQ'D	ACTION	COMMENTS	STATUS
No	Sketch Plan	Not Pursued	N/A
No	Site Visit	December 28, 2021	HELD
Yes	Completeness/Acceptance	December 9, 2021	ACCECPTED
No	Public Hearing	January 13, 2022	HELD
Yes	Final Plan Review and Decision	January 13, 2022	APPROVED

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"):

1. Shoreland Development Plan Application, dated \_\_\_\_\_

**NOW THEREFORE,** based on the entire record before the Planning Board and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings and conclusions:

#### FINDINGS OF FACT

#### **Chapter 16.3 LAND USE ZONE REGULATIONS**

#### 16.3.2.17.D(1)(D)

**Standard**: The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...

Finding: 1-3 Badgers Island West had a pre-existing, legally non-conforming devegetation rate of 63.3% and proposes to maintain the rate at 63.3%.

**Conclusion:** The standard appears to be met.

#### Vote: <u>5</u> in favor<u>0</u> against<u>0</u> abstaining

#### 16.3.2.17.D(2)(b)

**Standard:** Accessory patios or decks no larger than 500 square feet in area must be set back at least 75 feet from the normal high-water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland. Other patios and decks must satisfy the normal setback required for principal structures in the Shoreland Overlay Zone.

Finding: The proposed deck is within the existing footprint of the structure and plans on not encroaching any closer to the HAT.

Conclusion: The standard appears to be met.

Vote: <u>5</u> in favor<u>0</u> against<u>0</u> abstaining

#### Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS FOR NATURAL ENVIRONMENT

#### §16.9.1.3.B(1)

Standard: The developer must:

(a) Select a site with the right soil properties, including natural drainage and topography, for the intended use;

(b) Utilize for open space uses those areas with soil unsuitable for construction;

(c) Preserve trees and other vegetation wherever possible;

(d) Hold lot grading to a minimum by fitting the development to the natural contour of the land; avoid substantial areas of excessive grade;

(e) Spread jute matting, straw or other suitable material during construction in critical areas subject to erosion;

(f) Construct sediment basins to trap sediment from runoff waters during development; expose as small an area of subsoil as possible at any one time during development and for as short a period as possible;

(g) Provide for disposing of increased runoff caused by changed land formation, paving and construction, and for avoiding sedimentation of runoff channels on or off the site;

(h) Plant permanent and, where applicable, indigenous, vegetation and install structures as soon as possible for the purpose of soil stabilization and revegetation;

Finding: It appears that the proposed design and methods to construct the restaurant and other permitted structures will not adversely impact the surrounding landscape and soils, nor increase runoff and soil erosion.

Conclusion: This standard appears to be met.

#### Vote: 5 in favor 0 against 0 abstaining

#### §16.9.1.4.B

**Standard:** All land uses must be located on soils upon which the proposed uses or structures can be established or maintained without causing adverse environmental effects, including, but not limited to, severe erosion, mass soil movement, improper drainage, and water pollution to surface water and groundwater, whether during or after construction.

Finding: It appears that the proposed development may be supported by the existing and proposed soils nor will adversely impact the surrounding natural features.

**Conclusion:** The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

#### **CHAPTER §16.6.6 BASIS FOR DECISION**

#### §16.6.6.A(2)(a)

**Standard:** The proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;

Finding: It appears that the proposed development <u>DOES NOT</u> prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;

Finding: It appears

Conclusion: The requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

§16.6.6.A(2)(b)

**Standard:** The use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located or of permitted or legally established uses in adjacent use zones.

Finding: It appears that the proposed development <u>DOES NOT</u> prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located or of permitted or legally established uses

in adjacent use zones.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor<u>0</u> against<u>0</u> abstaining

#### §16.6.6.A(2)(c)

**Standard:** The safety, the health and the welfare of the Town will not be adversely affected by the proposed use or its location; and

Finding: It appears that the proposed development <u>DOES NOT</u> adversely affect the safety, the health and the welfare of the Town

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

#### §16.6.6.A(2)(d)

Standard: The use will be in harmony with and promote the general purposes and intent of this title.

Finding: It appears that the proposed development IS in harmony with and promote the general purposes and intent of this title.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

#### §16.6.6.B(1)

**Standard:** The character of the existing and probable development of uses in the zone and the peculiar suitability of such zone for the location of any of such uses;

16.6.6.B Factors of consideration

Finding: It appears that the proposed development IS suitable for the location and zone.

Conclusion: The requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

#### §16.6.6.B(2)

Standard: The conservation of property values and the encouragement of the most appropriate uses of land;

Finding: It appears that the proposed development **DOES** promote the conservation of property values and <u>IS / IS NOT</u> an appropriate use of the land.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

Vote: 5 in favor 0 against 0 abstaining

#### §16.6.6.B(3)

**Standard:** The effect that the location of the proposed use may have upon the congestion or undue increase of vehicular traffic congestion on public streets or highways;

Finding: It appears that the proposed development DOES NOT expand congestion or undue increase of vehicular traffic congestion on public streets or highways.

Conclusion: The requirement appears to be met.

#### §16.6.6.B(4)

**Standard:** The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use;

Finding: It appears that the proposed development **DOES** provide adequate treatment, removal or discharge of sewage, refuse or other effluent.

Conclusion: The requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

§16.6.6.B(5)

Standard: Whether the use, or materials incidental thereto, or produced thereby, may give off obnoxious gases, odors, smoke or soot;

Finding: It appears that the proposed development DOES NOT give off obnoxious gases, odors, smoke or soot.

**Conclusion:** The requirement appears to be met.

Vote:<u>5</u>in favor<u>0</u>against<u>0</u>abstaining

#### §16.6.6.B(6)

Standard: Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration or noise;

Finding: It appears that the proposed development (DOES / DOES NOT) cause disturbing emission of electrical discharges, dust, light, vibration or noise

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

§16.6.6.B(7)

**Standard:** Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the Town or by other competent governmental agency;

Finding: It appears that the proposed development (DOES / DOES NOT) cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the Town or by other competent governmental agency.

Conclusion: The requirement appears to be met.

§16.6.6.B(8)

Standard: The necessity for paved off-street parking;

Finding: It appears that the proposed development (DOES / DOES NOT) require the necessity for paved off-street parking.

Conclusion: The requirement appears to be met.

Vote: <u>5 in favor 0 against 0 abstaining</u>

Vote: 5 in favor 0 against 0 abstaining

#### §16.6.6.B(9)

**Standard:** Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason or as a result of the use, or by the structures to be used, or by the inaccessibility of the property or structures thereon for the convenient entry and operation of fire and other emergency apparatus, or by the undue concentration or assemblage of persons upon such plot;

Finding: It appears that the proposed development (DOES / DOES NOT) create a hazard to life, limb or property because of fire, flood, erosion or panic as a result of the use, or by the structures to be used, or by the inaccessibility of the property or structures thereon for the convenient entry and operation of fire and other emergency apparatus, or by the undue concentration or assemblage of persons upon such plot.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

#### §16.6.6.B(10)

Standard: Whether the use, or the structures to be used, will cause an overcrowding of land or undue concentration of population or unsightly storage of equipment, vehicles or other materials;

Finding: It appears that the proposed development (DOES / DOES NOT) cause an overcrowding of land or undue concentration of population or unsightly storage of equipment, vehicles or other materials.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

#### §16.6.6.B(11)

**Standard:** Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof;

**Finding:** It appears that the proposed development (HAS / DOES NOT HAVE) sufficient, appropriate and adequate plot area for the use and the reasonably anticipated operation and expansion thereof.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor<u>0</u> against <u>0</u> abstaining

§16.6.6.B(12)

Standard: Whether the proposed use will be adequately screened and buffered from contiguous properties;

Finding: It appears that the proposed development (DOES / DOES NOT) adequate screening and buffer space from contiguous properties.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

§16.6.6.B(13)

Standard: The assurance of adequate landscaping, grading and provision for natural drainage;

Finding: It appears that the proposed development (DOES / DOES NOT HAVE) assurances of adequate landscaping, grading and provision for natural drainage;

Conclusion: The requirement appears to be met.

§16.6.6.B(14)

Standard: Whether the proposed use will provide for adequate pedestrian circulation;

Finding: It appears that the proposed development (DOES / DOES NOT) provide for adequate pedestrian circulation.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

Vote: 5 in favor 0 against 0 abstaining

§16.6.6.B(15)

Standard: Whether the proposed use anticipates and eliminates potential nuisances created by its location; and

Finding: It appears that the proposed development (DOES / DOES NOT) anticipate and eliminates potential nuisances crated by its location.

Conclusion: The requirement appears to be met.

Vote: <u>5 in favor 0 against 0 abstaining</u>

§16.6.6.B(16)

**Standard:** The satisfactory compliance with all applicable performance standard criteria contained in Chapters 16.8 and 16.9.

Finding: It appears that the proposed development (DOES / DOES NOT) comply with all applicable performance standard criteria contained in Chapters 16.8 and 16.9.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor<u>0</u> against<u>0</u> abstaining

#### Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS Article III Nonconformance

16.7.3.1 Prohibitions and Allowances

Standard: A. Except as otherwise provided in this Article, a nonconforming condition must not be permitted to become more nonconforming

**Finding:** The proposed restaurant is becoming more conforming as the distance from the highest annual tide is no closer than previously existed (16.7.3.3.C), the proposed height is remaining under 20-ft in height. (16.7.3.3.B(3)(e)[5][a]), and the expansion (16.7.3.3.B(3)(e)[5][a]), of the structure (54-st; or 15%) is under the 30% permitted threshold.

Conclusion: The requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

§16.7.3.3.C(1)

**Standard:** In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and which is removed, damaged or destroyed, by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or coastal or freshwater wetland setback requirement to the greatest practical extent as determined by the Planning Board. In determining whether the structure reconstruction meets the setback to the greatest practical extent the Planning Board must consider, in addition to the criteria in § 16.7.3.3A(2), Nonconforming structure relocation, the physical condition and type of foundation present, if any.

**Finding:** Considering the topography and zoning conditions of the lot, the proposed dwelling unit appears to be relocated in the most ideal location practicable and is not becoming more nonconforming.

Conclusion: The requirement appears to be met

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

#### Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW Article 10 Shoreland Development Review

16.10.10.2 Procedure for Administering Permits

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will: Standard: 1. Maintain safe and healthful conditions;

Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This requirement appears to be met

Vote: <u>5 in favor 0 against 0 abstaining</u>

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

**Finding:** Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction to avoid impact on adjacent surface waters. An existing eroded slope will be revegetated.

Conclusion: This requirement appears to be met

Vote: <u>5 in favor 0 against 0 abstaining</u>

Standard: 3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development includes a sewer connection.

Conclusion: This requirement appears to be met.

#### Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

Standard: 4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: The proposed development does not appear to have an adverse impact on those resources.

Conclusion: This requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

Standard: 5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

Finding: The proposed development incorporates a landscaping plan the appears add more vegetation closer to the Piscataqua River.

Conclusion: This requirement appears to be met.

Standard: 6. Protect archaeological and historic resources;

Finding: There appears to be no archaeological and historical resources on the lot, thereby nothing to protect.

**Conclusion:** This requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

Standard: 7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

**Finding:** The proposed development does not include any activities that would adversely impact existing commercial fishing or maritime activities. Rather the proposed commercial fishing operation is to sell their catch to the proposed restaurant.

**Conclusion:** This requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

Standard: 8. Avoid problems associated with floodplain development and use;

**Finding:** The property is designated Zone A2 by FEMA Flood Zone standards and is defined as a Special Flood Hazard Area (SFHA) along the small portions of the lot abutting the highest annual tide. The proposed development is located outside the SFHA, yet future monitoring should take place as climate change affects the waterway and surrounding environment. In short, the proposed application does not appear to have an impact on the current floodplain or flood-prone area.

Conclusion: This requirement appears to be met.

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

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

Conclusion: This requirement appears to be met.

Vote: <u>5 in favor 0 against 0 abstaining</u>

Vote: 5 in favor 0 against 0 abstaining

Standard: 10. Be recorded with the York county Registry of Deeds.

Finding: A plan suitable for recording will be prepared.

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

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

**NOW THEREFORE**, the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers: None.

Conditions of Approval (to be depicted on final plan to be recorded):

- 1. Applicant shall comply with all state and local regulations relating to proximity between restaurants and animal husbandry areas.
- 2. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
- 3. Applicant/contractor will follow Maine DEP Best Management Practices for all work associated with site and building construction to ensure adequate erosion control and slope stabilization
- 4. With the exception of the vegetation identified on the plan for removal, no vegetation will be removed

Vote: <u>5 in favor 0 against 0 abstaining</u>)

without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing vegetation must be in place prior to grading or construction. The rock fill shall not replace existing vegetation.

- 4. Prior to the commencement of onsite construction, areas to remain undisturbed must be clearly marked with stakes and caution tape. All stakes, caution tape, silt fences, and other materials used during construction must remain until all onsite work is completed. Prior to removal, written permission to remove such materials must be given by the Code Enforcement Officer.
- 5. All Notices to Applicant contained herein (Findings of Fact dated 1/13/2022).

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

1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to endorsement by the Planning Board Chair.

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

#### Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

#### APPROVED BY THE KITTERY PLANNING BOARD ON January 13, 2022

Dutch Dunkelberger, Planning Board Chair

#### **Notices to Applicant:**

- 1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
- 2. Three (3) paper copies of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.
- 3. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

#### **Appeal of Decision:**

1. Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing vegetation must be in place prior to grading or construction. The rock fill shall not replace existing vegetation.

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1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to endorsement by the Planning Board Chair.

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

#### Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON January 13, 2022

utch Durkelberger, Planning Board Chain

#### Notices to Applicant:

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#### Jason Garnham

From:	Jeff Nawrocki <jeff@jsneng.com></jeff@jsneng.com>
Sent:	Tuesday, April 25, 2023 2:59 PM
То:	Jason Garnham
Cc:	Kearsten Metz; Kendra Amaral
Subject:	RE: Thursday night Planning Board Meeting

Hi Jason,

Please pass on these comments to the board, and please let me know if you think a public comment session will occur as I would then participate.

#### **Buoy Shack 1-3 Badgers Island West**

First, none of us are anti-Buoy Shack but are concerned that they have legitimate parking to support their occupancy. It was not a good start that they were approved for 28 seats and then put in more than 80, and right in an extremely obvious location with an apparent disregard for rules and approval limits. It took us residents asking about their seating capacity approval to bring it to light. Their occupancy drastically exacerbated our already prevalent parking problem on the island. Our concern is if they get approved off-site parking, how will it be enforced? Unlike Green Pages, that told their staff to NOT park on the island (and they did not), a public use cannot be controlled. People will park in the closest spot they can find.

I don't see how this should be approved unless they can prove it will be enforced, which I don't believe is possible.

Jeff Nawrocki and Mary Hansen 24 Badgers Island West Kittery

Jeffrey S. Nawrocki, PE President

JSN Associates, LLC One Autumn Street Portsmouth, NH 03801 Email: jeff@jsneng.com Website: www.jsneng.com Phone: (603) 433-8639 Ext. 206

#### Jason Garnham

From:	juliapendleton28@comcast.net
Sent:	Thursday, April 27, 2023 10:13 AM
То:	Jason Garnham
Subject:	Thursday night Planning Board Meeting Badgers Island

Jason, I am writing this email to you per your instructions to voice my extreme concern and lack of consistency to two of the items on the agenda this evening concerning Badger Island West. I bought 28 Badgers Island West April of 2017. Per the Planning Board, I went to each of my neighbors within 150 Feet and have in writing their approval following the Badger Island strict 75 Feet setup laws on Badgers Island. In the final stages of construction, it was determined that my house was 6 inches over, and I must literally remove 6 inches from several rooms and bathroom, reconstructing my cabinets, doors, granite, vanity, and kitchen island at a great cost to me and this house. I can't even close some of my doors and can't open some of my drawers with this enforcement. I won't even go into the tree and bush additional surveys and multiple replanting and moving. As an individual I had to jump through so many hoops and followed every rule and law! Learning that 35 Badgers Island is not following any of these strict guidelines, is wrong. We also want to have access to this land to walk and enjoy as was the agreement with Greengages.

The proposed increase to the Buoy Shack seating is additionally a **great concern for safety and the well being of the current residents!** I have witnessed last year and this year to date (with them serving still with blankets that is only going to turn into a Prescott Park environment with individual chairs brought by patrons), is dangerous, disruptive, and absolutely too much for this small island. I have seen cars parking on either side next to my house to prevent cars from getting by, blocking, and turning in my driveway, kids running around within the cars, speeding, and after an afternoon and evening of consuming alcohol it is not the place within this residential environment for all these additional cars and people. 28 seats plus employee parking are already too many cars for this island to handle with only 7 of their own. This is a great venue but with Portsmouth parking here and other folks just using this island as a free place to park, we need another solution. Additionally, the increase of over 40 occupants in the next few years with the pending construction with parking issues and traffic must be a consideration with the Buoy Shack.

Someone is going to get hurt and resident's have already moved because of the Buoy Shack.

I propose we have signs to park on one side of the street only and resident only parking on that one side in certain spots. We also can not have more patrons (sitting on seats, blankets, or their chairs) at the Buoy.

The fact that we can not have an opportunity to voice our concerns is insane and again not consistent with anything I have witnessed or experienced.

Julia Pendleton 28 Badgers Island West

From: Jason Garnham <<u>JGarnham@kitteryme.org</u>>
Sent: Tuesday, April 25, 2023, 2:28 PM
To: jeff@jsneng.com
Cc: Kearsten Metz <<u>KMetz@kitteryme.org</u>>; Kendra Amaral <<u>KAmaral@kitteryme.org</u>>
Subject: RE: Thursday night Planning Board Meeting

Hi Jeff,

I understand that you are inquiring about two items on the next Planning Board meeting agenda: 35 Badgers Island West Preliminary Site Plan and 1-3 Badgers Island West (Buoy Shack) Site Plan Modification.

The board's objective for 1-3 Badgers Island is to review a modification to a site plan that was already approved. A public hearing is not required for site plan modifications, so the board is not likely to invite public comment on this application during the meeting. The board may choose to schedule a hearing at a later date if they believe that additional evidence should be heard.

The board's objective for 35 Badgers Island (the Green Pages Building) is to review the preliminary site plan application for completeness. If the board finds the application to be complete, then they will schedule a public hearing for a later date. The board is also unlikely to invite public comment on this application during the meeting.

While verbal public comments are not likely to be solicited during the meeting, **you are welcome to send written comments to me on either project.** Correspondence received for the 1-3 Badgers Island/ Buoy Shack application **before noon on Thursday 4/27** will be uploaded to the packet for review by the board and the applicant. Correspondence received for the 35 Badgers Is. site plan application will be included in the packet for the pending public hearing.

Please let me know if you have additional questions about the meeting or these applications. For your reference, the packet for Thursday's meeting can be reviewed at: <u>Planning Board Meeting | Kittery ME</u> Regards,

-Jason

Jason Garnham, AICP Director of Planning and Development Town of Kittery, ME 207-475-1307 jgarnham@kitteryme.org

From: Louis Greco <louisgreco9495@gmail.com>

Sent: Wednesday, April 26, 2023 11:56 PM

To: Jeff Nawrocki <jeff@jsneng.com>

**Cc:** Julia Pendleton <juliapendleton28@comcast.net>; johnroukes@yahoo.com; laura.okeefe@comcast.net; russsouth@me.com; blakesbuildingco@gmail.com; sjunh87@gmail.com; langdon.condo@gmail.com **Subject:** Re: Thursday night Planning Board Meeting

Hello Jason,

My name is Lou Greco. I live at 32 Badgers Island West. I am opposed to the zoning variance to allow more seating at the Buoy Shack. First of all, if their business model thought that they could make a profit while having only a 28 person occupancy was viable, they wouldn't need to expand. They obviously were going for the adage that "it's better to ask for forgiveness, than to ask for permission ". Last year they were approved for 28 seats. In actuality, they had seating for 96 individuals. ( the picnic tables that they say are for four people, are actually six tops). They had live entertainment and outside music. They also had tents in the parking lot. They are asking for a variance to add three times the amount of people that they were granted permission to host. There employees were told to park in the street to let customers park in the allotted employee parking spots. Now they say they have off sight parking, which is 1/3 mile away from the venue. What do you think the odds are that a customer will go to the parking area as opposed to parking on Badgers Island? And, who will enforce it? I get that they want to maximize profits, but at what cost to the surrounding community? I barely have space to park guests in front of my condo, let alone the influx of an additional 30 vehicles. Plus, there is the future condos coming onto the island, which will bring another 18 vehicles onto this densely populated area. I applaud your efforts to alleviate the bottleneck at the first 250' of the road. But, that just pushes everyone further down the road. Enough is enough. This island is too small to have that many vehicles in one area. It shouldn't be Badger Island West's problem that the Buoy Shack doesn't have enough parking. Thank you for your time.

Sincerely, Lou Greco

#### Jason Garnham

From:	Louis Greco <louisgreco9495@gmail.com></louisgreco9495@gmail.com>	
Sent:	Wednesday, April 26, 2023 11:59 PM	
То:	Jason Garnham	
Subject:	Fwd: Thursday night Planning Board Meeting	

#### Sent from my iPad

#### Begin forwarded message:

From: Louis Greco <louisgreco9495@gmail.com> Date: April 26, 2023 at 11:56:30 PM EDT To: Jeff Nawrocki <jeff@jsneng.com> Cc: Julia Pendleton < juliapendleton 28@comcast.net>, johnroukes@yahoo.com, laura.okeefe@comcast.net, russsouth@me.com, blakesbuildingco@gmail.com, sjunh87@gmail.com, langdon.condo@gmail.com

Subject: Re: Thursday night Planning Board Meeting

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Sincerely, Lou Greco

Sent from my iPad

On Apr 25, 2023, at 3:46 PM, Jeff Nawrocki <jeff@jsneng.com> wrote:

Trying to include all here. Below is correspondence back from the Town. They are basically saying no public comment, and to send comments in. I am concerned about the Buoy Shack one as they could approve it that night.... Please read.

I have already given Jason my comments on each, which I will send in a separate email to you. Time for you all to write in.

Jeff

From: Jason Garnham <JGarnham@kitteryme.org>
Sent: Tuesday, April 25, 2023 2:28 PM
To: jeff@jsneng.com
Cc: Kearsten Metz <KMetz@kitteryme.org>; Kendra Amaral <KAmaral@kitteryme.org>
Subject: RE: Thursday night Planning Board Meeting

#### Hi Jeff,

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Regards, -Jason

Jason Garnham, AICP Director of Planning and Development Town of Kittery, ME 207-475-1307 jgarnham@kitteryme.org

From: Kearsten Metz <<u>KMetz@kitteryme.org</u>> Sent: Tuesday, April 25, 2023 12:23 PM To: Jason Garnham <<u>JGarnham@kitteryme.org</u>> Subject: FW: Thursday night Planning Board Meeting From: Jeff Nawrocki <<u>jeff@jsneng.com</u>> Sent: Tuesday, April 25, 2023 12:07 PM To: Kearsten Metz <<u>KMetz@kitteryme.org</u>> Subject: Thursday night Planning Board Meeting

Hi Kearsten,

I have a question. Some of us will be coming Thursday night for the restaurant parking issue. I also see that the Green Pages project is ahead of it. Will that be the time for public comment of opinion? Or is it just for the board to determine if their application is complete or not? I'd rather not be fighting two battles in one night. Thank you, Jeff

Jeffrey S. Nawrocki, PE President



Dwrfldwhv/#DOF <u>Over 35 Years of JSN</u> One Autumn Street Portsmouth, NH 03801 Email: jeff@jsneng.com Website: www.jsneng.com Phone: (603) 433-8639 Ext. 206

#### Jason Garnham

From:	Steven Epstein <seps1957@gmail.com></seps1957@gmail.com>
Sent:	Monday, May 15, 2023 5:24 PM
То:	Jason Garnham
Subject:	Re: Parking issues on Badgers Island West

Good afternoon Jason,

Thank you for responding to my concerns. I didn't understand it was a table not patron limit. That explains all the blankets they have been handing out to seat customers when available seating has been exceeded! Certainly they are not adhering to the intent of the table limit rule.

I think you are incorrect about availability of the off street lot. At the last planning board meeting I recall the owner said he had to rent the dentist parking lot as of May 1st. If that's the case I have seen few if any cars parked in that lot when I observed the street parking issue. They have mentioned the lot being available on recent posts to the Buoy Shack Facebook page which also supports it's available now.

Limiting parking at the bottleneck entrance to Badgers Landing West was a good first step but already haphazard parking has effectively narrowed the road to a one lane/one way through fare. This is dangerous and will only get worse when the summer season is in full swing. Approving such a large increase in seating capacity at the Buoy Shack is bound to make a bad situation much more dangerous. Unless something is done to alleviate the street parking situation it's only a matter of time before it results in someone getting hurt.

Lastly, yes please include my previous email and this response in the packet for the May 25th planning board meeting.

Thank you, Steve Epstein

Sent from my iPhone

> On May 15, 2023, at 3:34 PM, Jason Garnham <JGarnham@kitteryme.org> wrote:

>

> Hi Steven,

> Code Enforcement staff have been visiting the Buoy Shack during afternoons over the last couple of weekends in response to concerns expressed by you or your neighbors. Staff haven't observed any violations of Town code or conditions of approval but of course they are there for a limited time. To clarify, the limit is on the number of tables and chairs, not customers.

>

> I'm not sure what Planning staff can do about street parking. The restaurant folks cannot use the off-site parking lot unless and until the planning board authorizes it. If someone is breaking the law or causing a health or safety risk then please call the police.

>

> Would you like for your email to be included in the packet for the May 25 planning board meeting? I assume yes but want to make sure. Please let me know.

> Thanks,

- > -Jason
- >
- >

<sup>&</sup>gt; ----- Original Message-----

- > From: Steven Epstein <seps1957@gmail.com>
- > Sent: Saturday, May 13, 2023 1:22 PM
- > To: Jason Garnham <JGarnham@kitteryme.org>

> Subject: Parking issues on Badgers Island West

>

> Good afternoon Jason,

>

> About an hour ago I drove home to find our road overrun with vehicles parked legally and illegally. Given the number of people at the Bouy Shack this afternoon which far exceeds their approved 28 person limit it's highly likely the vast majority of these cars belong to their patrons. Also, if you go by the off site parking they secured you will see very few cars there.

>

> I don't expect you and the planning board to take my word on this so I request some of you come for a visit on a busy weekend day anytime between noon and 6pm to get a taste of what we residents have to deal with. And it's only going to get worse as we head into summer and this parking situation becomes a daily issue.

>

> I'd be glad to talk to you further on this issue if it would help illuminate the seriousness of the problem.

>

> Thank you,

>

- > Steven Epstein
- > 32 Badgers Island West #2
- > Kittery, ME
- > 603-568-2038

#### Jason Garnham

From:	Steven Epstein <seps1957@gmail.com></seps1957@gmail.com>
Sent:	Thursday, April 27, 2023 10:31 AM
То:	Jason Garnham
Subject:	Buoy Shack variance request

Good morning Jason,

My name is Steven Epstein and I reside at 32 Badgers Island West. I am opposed to the zoning variance to allow more seating at the Buoy Shack.

First of all, they asked for and received approval for 28 seats in 2022. In reality, they provided seating for up to 96 people. And to make matters worse, their employees were reportedly told to park on the street to let customers park in their designated employee parking spots. As you know from complaints and previous meetings with island residents last year, those customers parked in every available space on Badgers Island West from opening to closing!

After parking on Badgers Island West all of last year what do you think the odds are that customers will now use a remote parking area? And who will be charged to enforce it? With the influx of +/-30 vehicles from Buoy Shack customers last year I can tell you it was nearly impossible to find roadside parking for our guests. I'm not unsympathetic with their desire to maximize profits, but at what cost to the surrounding community?

If there is no enforcement, the burden of approving this variance basically eliminates guest parking for Island residents during operating hours of the Buoy Shack. And looking forward, has the planning board taken into account that this situation will be exacerbated when the approved condos on the former Greenpages property are occupied?

We appreciate the town taking action to alleviate the bottleneck on the first 250' of the road but that doesn't address the parking nightmare that will be created if you approve this variance. The island is too small to support that many vehicles in one area and "we have parking up the road" without enforcement is not a viable solution. The Buoy Shack should not be permitted to shift their lack of parking burden onto their neighbors.

Thank you for considering our point of view on this variance request.

Steven Epstein 32 Badgers Island West

#### Jason Garnham

From:	J Scott <sjunh87@gmail.com></sjunh87@gmail.com>
Sent:	Thursday, April 27, 2023 12:14 PM
То:	Jason Garnham
Subject:	BIW issues

Hello Jason and committee,

Scott Jones from 28 Badgers Island West commenting on the Bouy Shack development project. My main concern os for the safety and welfare of BIW residents and visitors. BIW has long been known to locals a convenient place to park and walk into Portsmouth. With the added awareness of the island parking by the very visible Bouy Shack, work has spread and so have the inconsiderate and haphazard way people now park on the island streets. The lack of clearly marked parking areas has led to a dangerous situation where adults, children and animals are at risk of injury or worse. I have personally witnessed several close calls and repeatedly ask drivers to slow down. I have also questioned several people parking their cars if they could move to a safer spot and have only received negative feedback from them. It's clear the time has come for for comprehensive parking rules. If the town is to allow expansion of seating at the Bouy, then the town must support that with proper parking plans. Please consider the lives of BIW residents as you make your decisions!

Very respectfully, Scott J