

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

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

Action: Hold public hearing. Approve or deny proposed modification to approved plan.

Owners and applicants: Joel Harris; joelfredharris@hotmail.com; 603-475-3601

Proposal: utilize existing off-site parking lot to increase seating at existing restaurant.

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

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

Viewpoint #: MJPM-23-1

Summary:

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 was approved to include 3 4-person outdoor picnic tables and 4 outdoor dining chairs. The applicant proposes to increase outdoor seating to a total of 13 4-person picnic tables and 11 outdoor dining chairs. Off-street parking to 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 parking plan constitutes a major modification to the Site Plan and Shoreland Development Plan that was approved by the Kittery Planning Board on January 13, 2022.

Staff Review:

16.4.24 Mixed Use-Badger Island Zoning Provisions

D.4 Special Parking Standards

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;*
- 4. Ease and safety of pedestrian access to shared parking by the users served, including any improvements or*

52 *shuttle service necessary; and*
53 5. *Such joint parking areas may not be located in residential zoning districts.*
54

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

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

61
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.

67
68 **16.7.11 General Development (Site Plan) Requirements**

69 *F.4.1: The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses*
70 *where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by*
71 *reasons of variation in the probable time of maximum use by patrons or employees among such establishments.*
72

73
74
75 **Recommendation:**

76 Staff find that the proposed off-site parking plan meets the intent and the specifications of Kittery’s parking
77 ordinances and recommend approving this modification to the approved Site Plan and Shoreland Development Plan
78 with a condition requiring annual verification of parking supply to Town staff as follows:
79

80 **Suggested motion:**

81 ***Move to approve the Site Plan and Shoreland Development Plan modification submitted on April 5, 2023 by Joel***
82 ***Harris for consideration of an off-site parking plan and outdoor seating expansion for the restaurant at 1 Badgers***
83 ***Island West (Tax Map 1, Lot 19) in the Mixed Use Badgers Island zoning district (MU-BI), with the following***
84 **condition:**
85

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.
91

92 All other Findings of Fact and Conditions from the January 13, 2022 Site Plan and Shoreland Development Plan
93 approval remain in effect.
94

95
96 **Vote of ___ in favor ___ against ___ abstaining**
97

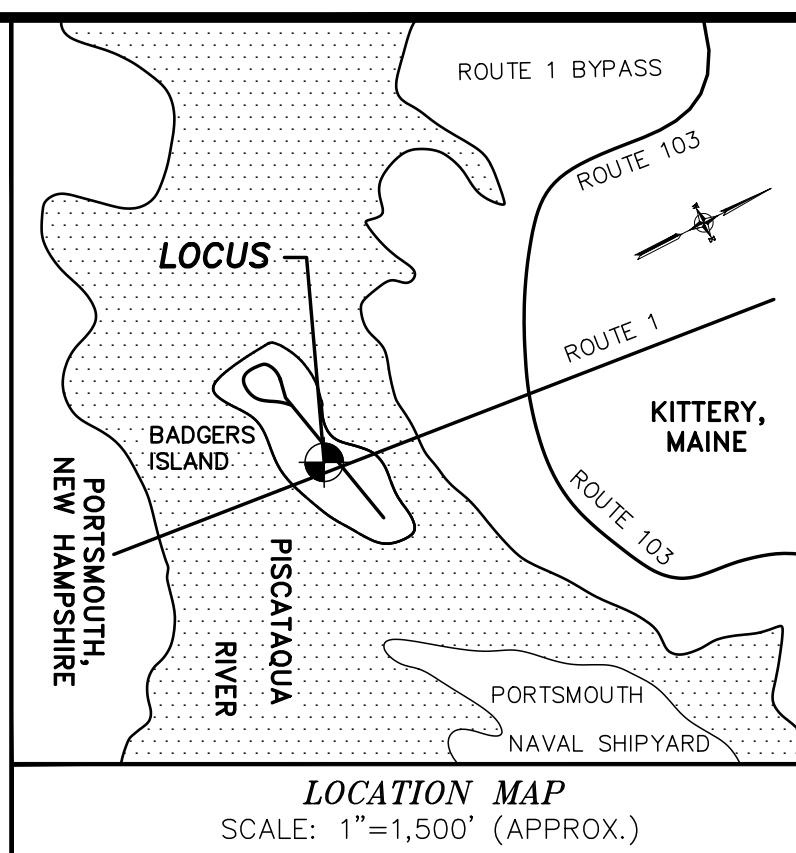
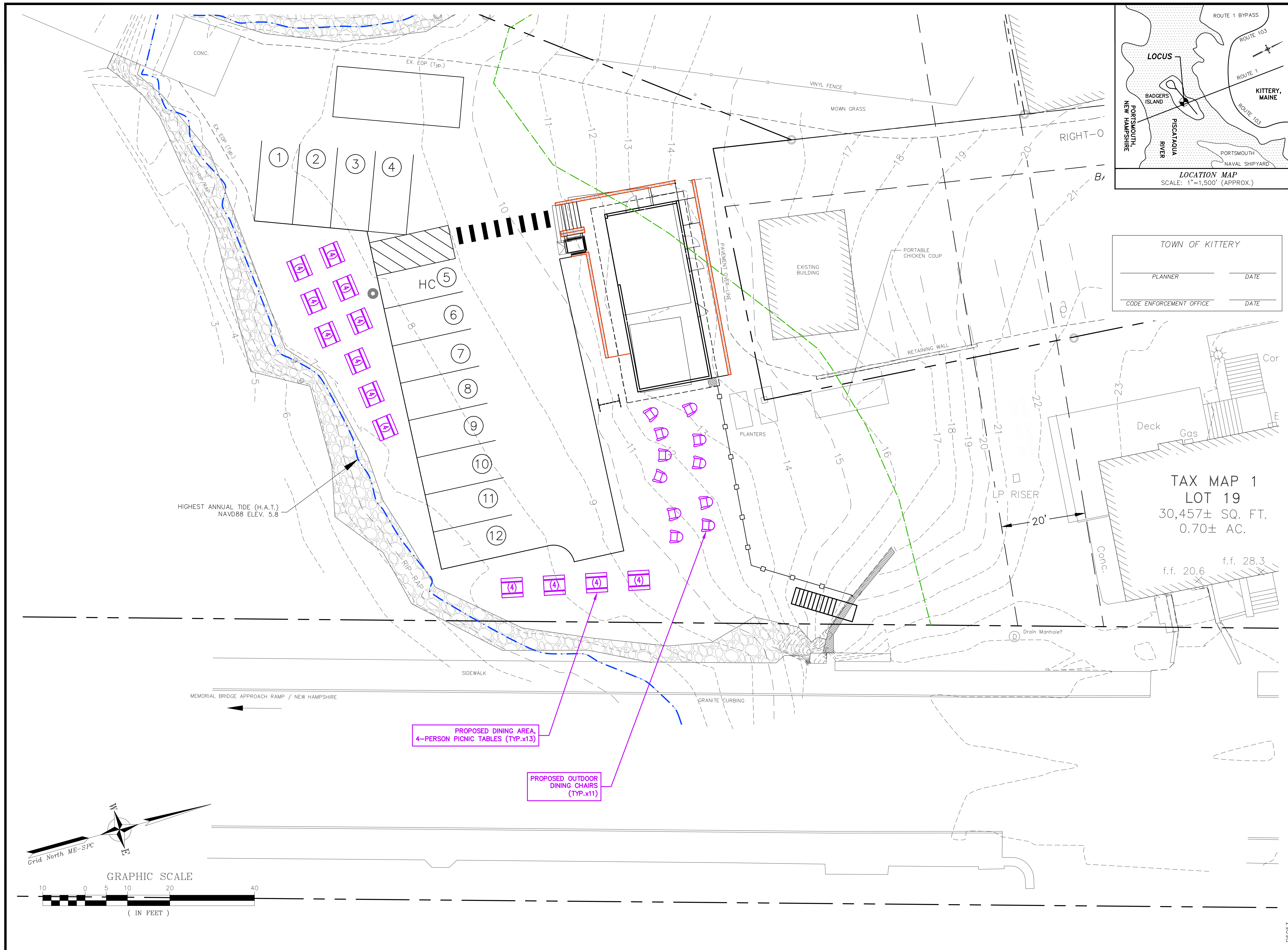
98 **APPROVED BY THE KITTERY PLANNING BOARD ON _____**
99

100
101 _____
102 Dutch Dunkelberger, Planning Board Chair

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.



ALTUS
ENGINEERING, INC.

133 Court Street
(603) 433-2335

Portsmouth, NH 03801
www.altus-eng.com

NOT FOR CONSTRUCTION

ISSUED FOR: APPROVAL

ISSUE DATE: APRIL 3, 2023

REVISIONS NO.	DESCRIPTION	BY	DATE
0	REVISED OUTDOOR SEATING	EDW	04/03/23

DRAWN BY: RMB

APPROVED BY: EDW

DRAWING FILE: 5053SITE.dwg

SCALE: (24"x36") 1" = 10'

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

PROJECT:
LITTLE BRIDGE LOBSTER RESTAURANT

TAX MAP 1, LOT 19
BADGERS ISLAND WEST
KITTERY, MAINE

TITLE:
MINOR SITE PLAN
OUTDOOR SEATING
AMENDMENT

SHEET NUMBER:
1 OF 1

P5053

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: Buoy 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 reserves the right to use the parking lot during the day on an occasional Friday.

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

JHA

This agreement was signed on March 30, 2023.

Lessor's Signature  _____
Heartland Dental, LLC., a Delaware limited liability company

Lessee's Signature  _____
Little Bridge Lobster dba. Buoy Shack



Forside Family Dental

Stephen Swallow



Google



ForeSIDE Family Dental

The Water Street Inn

Portsmouth Boat Co

Chrissy D Lobster

Warren's LO Seafood - \$\$

6 min
0.3 miles

Piscataqua River

Ore Nell's Barbecue
Barbecue - \$\$

Seafari Charters & Marine Services

6 min
0.3 miles

Adger's Island

Island Ave

Piscataqua Marina

Buoy Shack

Google

LITTLE BRIDGE LOBSTER RESTAURANT

BADGERS ISLAND WEST KITTERY, MAINE

Assessor's Parcel 1, Lot 19

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

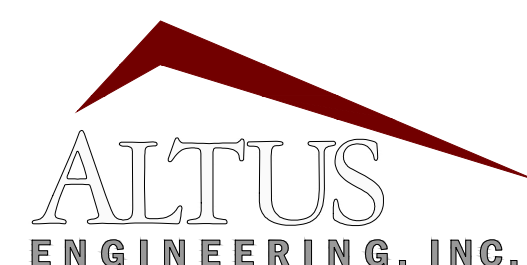
Architect:

**WINTER
HOLBEN**

architecture + design

7 WALLINGFORD SQUARE, UNIT 2099
KITTERY, MAINE 03904

Civil Engineer:



133 Court Street Portsmouth, NH 03801
(603) 433-2335 www.altus-eng.com

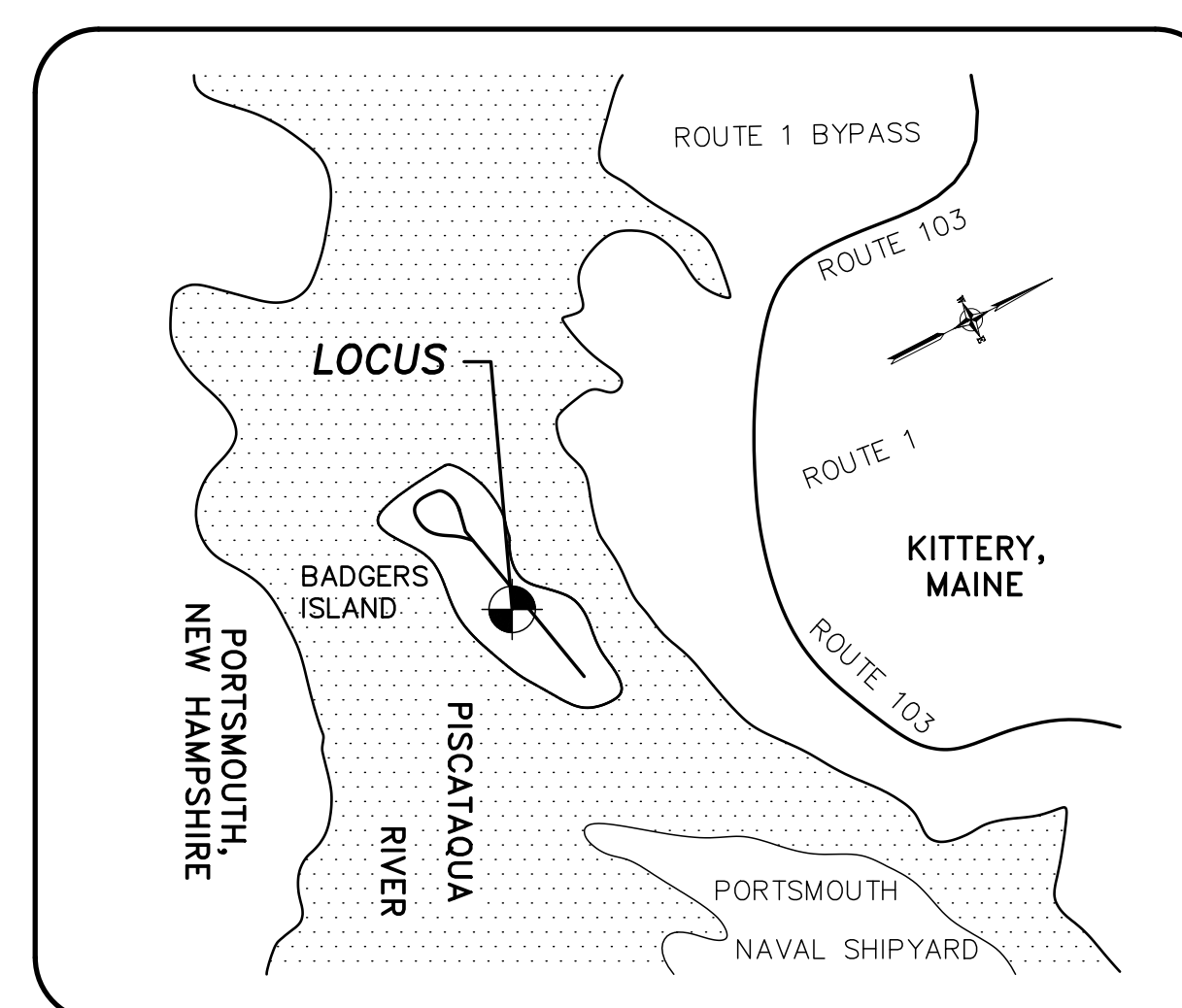
Surveyor:



191 STATE ROAD, SUITE #1
KITTERY, MAINE 03904

Plan Issue Date:

October 28, 2021	Shoreland Development Permit
November 23, 2021	Shoreland Devel. Re-Submission
December 23, 2021	Shoreland Devel. Re-Submission
January 3, 2022	Shoreland Devel. Re-Submission
January 26, 2022	Final Approval Set

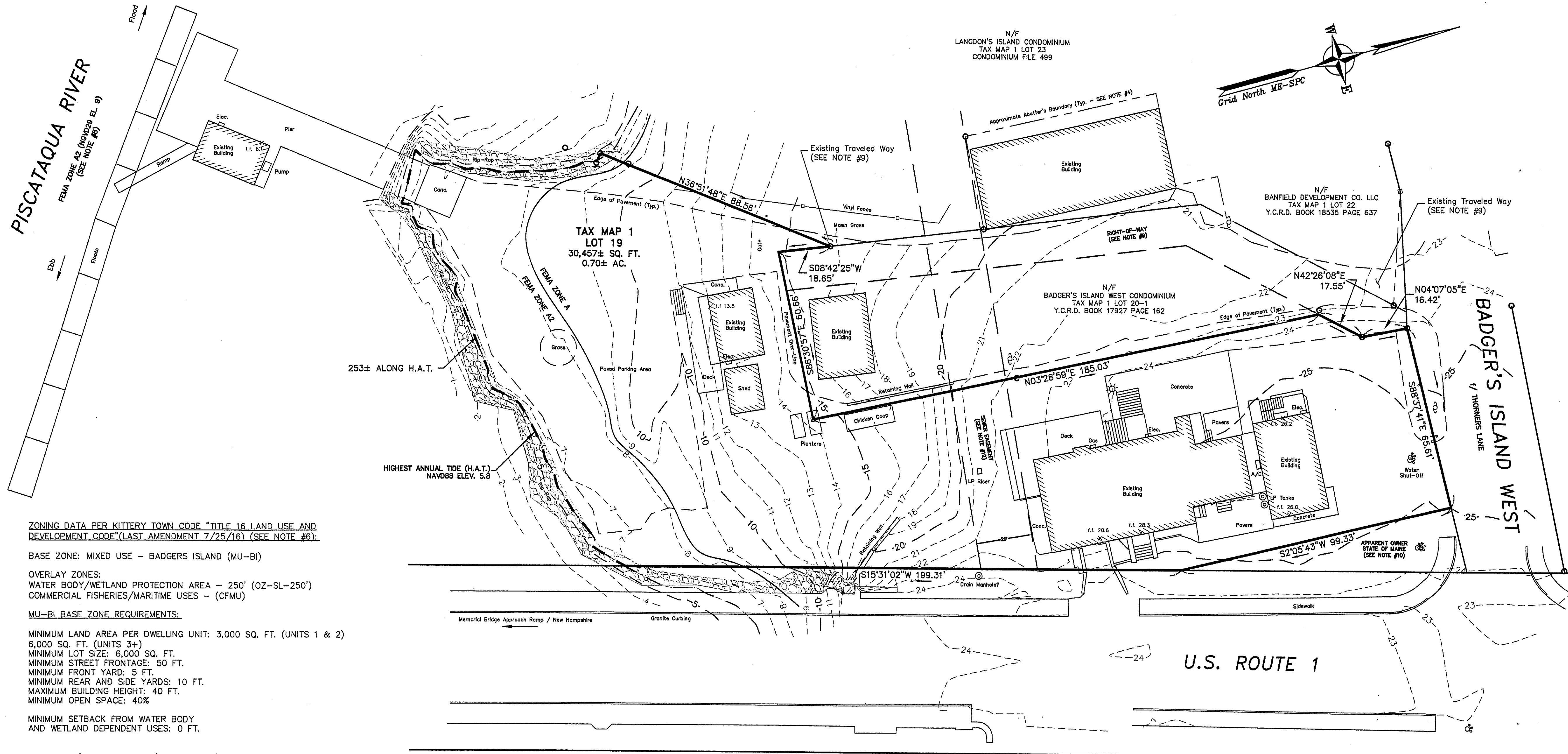
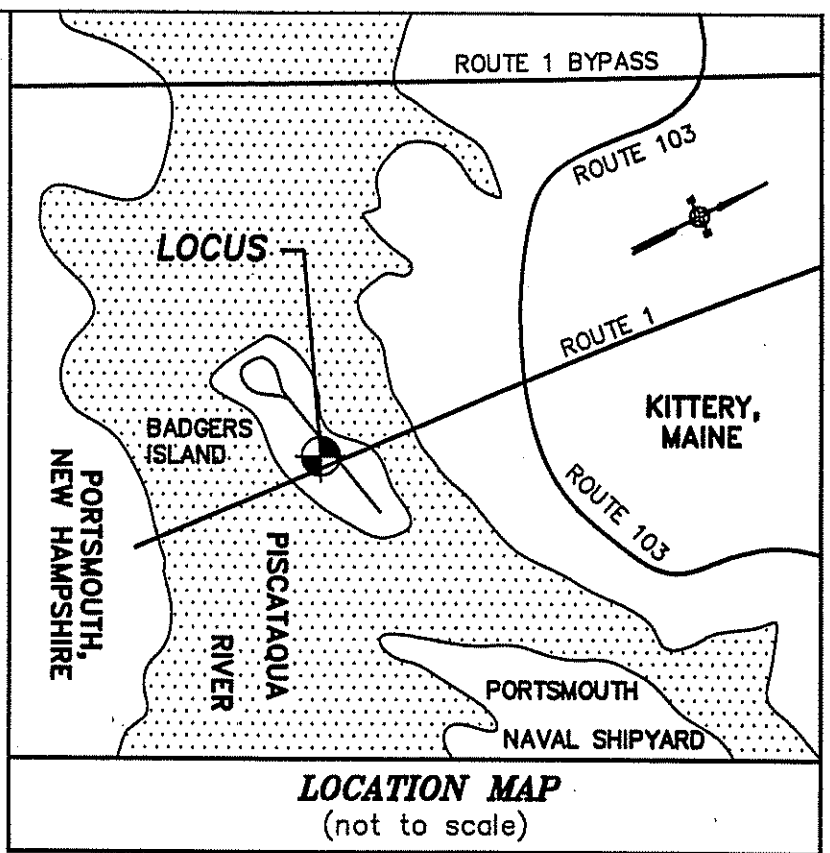
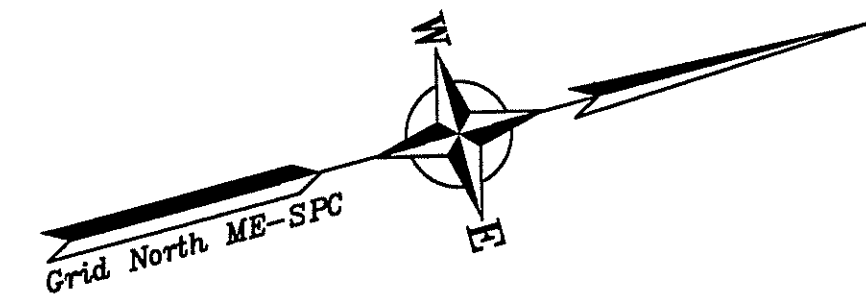


LOCUS NOT TO SCALE

Sheet Index
Title

	Sheet No.:	Rev.	Date
Exterior Perspective 3	1 of 1	0	06/21/21
Site Plan for Shoreland Development Permit	C-1	4	01/26/22
Site Plan	C-2	3	01/26/22
Erosion Control Notes	C-3	1	11/23/21
Detail Sheet	C-4	1	11/23/21
Elevations View	PB-1	-	10/28/21
Plan View	PB-2	-	10/28/21

PISCATAQUA RIVER
FEMA ZONE A2 (NAD83 EL. 9)
(SEE NOTE #8)



N/F
MADISON STREET, LLC
TAX MAP 1 LOT 44
Y.C.R.D. BOOK 14439 PAGE 433

ZONING DATA PER KITTERY TOWN CODE "TITLE 16 LAND USE AND DEVELOPMENT CODE" (LAST AMENDMENT 7/25/16) (SEE NOTE #6):

BASE ZONE: MIXED USE - BADGERS ISLAND (MU-BI)

OVERLAY ZONES:
WATER BODY/WETLAND PROTECTION AREA - 250' (OZ-SL-250')
COMMERCIAL FISHERIES/MARITIME USES - (CFMU)

MU-BI BASE ZONE REQUIREMENTS:

MINIMUM LAND AREA PER DWELLING UNIT: 3,000 SQ. FT. (UNITS 1 & 2)
6,000 SQ. FT. (UNITS 3+)
MINIMUM LOT SIZE: 6,000 SQ. FT.
MINIMUM STREET FRONTAGE: 50 FT.
MINIMUM FRONT YARD: 5 FT.
MINIMUM REAR AND SIDE YARDS: 10 FT.
MAXIMUM BUILDING HEIGHT: 40 FT.
MINIMUM OPEN SPACE: 40%

MINIMUM SETBACK FROM WATER BODY AND WETLAND DEPENDENT USES: 0 FT.

OZ-SL-250' REQUIREMENTS (SEE 16.3.2.17):

MAXIMUM DEVEGETATED COVERAGE: 60%
PRINCIPAL AND ACCESSORY STRUCTURES SETBACK: 75 FT.
ACCESSORY PATIO/DECK < 500 SQ. FT. SETBACK: 75 FT.

PLAN REFERENCES:

- "STANDARD BOUNDARY SURVEY BADGERS ISLAND WEST CONDOMINIUMS, THORNERS LANE, KITTERY, MAINE", PREPARED BY ANDERSON LIVINGSTON ENGINEERS, INC., DATED NOVEMBER 2000, LAST REVISED JUNE 18, 2001 AND RECORDED AT THE Y.C.R.D. AS CONDO FILE 528 PAGE 1.
- "FINAL SITE PLAN OF LANGDON'S ISLAND CONDOMINIUM FOR 9 BADGERS ISLAND WEST L.L.C., DATED 26 OCTOBER 1999 BY DOUCET SURVEY INC., RECORDED AT THE Y.C.R.D. AS CONDO FILE 499 PAGE 3.
- "SEWER EASEMENT BADGERS ISLAND SEWER, CONTRACT No. 88-1, KITTERY, MAINE, MADE FOR SEA CONSULTANTS, INC.", PREPARED BY TITCOMB ASSOCIATES, DATED OCTOBER 15, 1988 AND RECORDED AT THE Y.C.R.D. AS PLAN BOOK 189 PAGE 27.
- "PLAN SHOWING PORTION OF LAND OF ERNEST F. BROWN TO BE CONVEYED TO HUGO S. MARCONI ON BADGERS ISLAND, KITTERY, MAINE", PREPARED BY MOULTON ENGINEERING CO., DATED 9/10/76 AND RECORDED AT THE Y.C.R.D. AS PLAN BOOK 79 PAGE 32.
- "PLAN SHOWING PORTION OF PROPERTY ERBERT L. PHILPOTT, LOCATED ON BADGER'S ISLAND, KITTERY, YORK COUNTY, MAINE, CONVEYED TO HUGO S. MARCONI", SURVEYED BY MOULTON ENGINEERING CO. INC., DATED MAY 27, 1960, PLAN DRAWN JAN. 17, 1964.
- "SKETCH SHOWING PROPERTY OF WAYNE A. DIXON & ARLENE J. DIXON, LOCATED ON BADGERS ISLAND, KITTERY, YORK COUNTY, ME., CONVEYED TO HUGO S. MARCONI, APRIL 18, 1966, ALSO A PORTION OF PROPERTY OF ERNEST F. BONIN TO BE CONVEYED TO HUGO S. MARCONI; INCLUDING A TRIANGULAR AREA OF LAND TO BE ADDED TO THE EXISTING RIGHT-OF-WAY OF SAID PROPERTIES", SURVEYED BY MOULTON ENGINEERING CO., INC., DATED JUNE 14, 1966.
- "TOWN ROAD, BADGER'S ISLAND, KITTERY, ME.", SURVEYED BY ALBERT MOULTON, DATED APRIL 17, 1951.
- "STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, STATE HIGHWAY "1", KITTERY, YORK COUNTY, FEDERAL AID PROJECT NO. F-01-1(63) & BH-01-1(62), DATED FEBRUARY 1985 AND RECORDED AT THE Y.C.R.D. AS PLAN BOOK 155 PAGE 57.
- "MAINE HIGHWAY COMMISSION PLAN 16-74", RECORDED AUGUST 15, 1922 AS PLAN BOOK 9 PAGE 4.

NOTES:

- OWNERS OF RECORD:
TAX MAP 1 LOT 19
WILLIAM J. BANFIELD II
ELIZABETH CASELLA
ONE BADGERS ISLAND WEST LLC
Y.C.R.D. BOOK 18885 PAGE 320
DATED JUNE 1, 2021
- TOTAL EXISTING PARCEL AREA:
TAX MAP 1 LOT 19
0.70± AC. (AREA TO H.A.T.)
- BASIS OF BEARING IS GRID NORTH, ME SPC, PER ONSITE GPS OBSERVATION.
- APPROXIMATE ABUTTER'S LINES SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
- EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
- ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF YORK PRIOR TO DESIGN OR CONSTRUCTION.
- THE BOUNDARY SHOWN HEREON IS DETERMINED FROM WRITTEN RECORDS, FIELD EVIDENCE AND PAROL TESTIMONY RECOVERED AT THE TIME OF SURVEY AND MAY BE SUBJECT TO CHANGE IF OTHER EVIDENCE BECOMES AVAILABLE.
- PORTIONS OF THE SUBJECT PROPERTY FALL WITHIN A SPECIAL FLOOD HAZARD AREA (SFHA). REFERENCE IS MADE TO FEMA FIRM 230171 0008 D, MAP REVISED JULY 3, 1986. BFE OF ELEVATION 9 IS PER NGVD29 DATUM. ELEVATIONS SHOWN HEREON ARE ON NAVD88.
- RIGHT-OF-WAY POSITION SHOWN IS PER PLAN REFERENCES. REFERENCE IS MADE TO Y.C.R.D. BOOK 824 PAGE 100. NO RIGHT-OF-WAY WIDTH IS GIVEN. PORTIONS OF THE TRAVELED WAY APPEAR TO BE OUTSIDE THE RIGHT-OF-WAY AND APPEAR TO BE LONG STANDING. CONSULTATION WITH AN ATTORNEY IS ADVISED.
- THE TRIANGULAR AREA SHOWN APPEARS TO BE OWNED BY THE STATE OF MAINE. SEE MDT PLAN REFERENCE #8 AND PLAN REFERENCE #9.
- SPOT ELEVATIONS SHOWN HEREON ARE NAVD88. TO CONVERT FROM NAVD88 TO NGVD29, SUBTRACT 0.76 FROM THE ELEVATION. (I.E. NAVD88 ELEV. 100.00 = NGVD29 ELEV. 99.24)
- UNDERGROUND UTILITIES ARE NOT SHOWN HEREON. CONTACT DIG-SAFE PRIOR TO DESIGN OR CONSTRUCTION. REFERENCE IS MADE TO SEWER EASEMENT FROM JOSEPHINE O. MARCONI DATED NOVEMBER 30, 1988, RECORDED AT Y.C.R.D. BOOK 5016 PAGE 270.

DEVEGETATED CALCULATION:

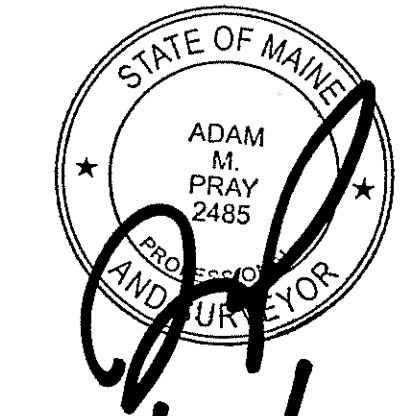
LOT AREA:	30,457± SQ. FT.
EXISTING:	
BUILDINGS	3,519± SQ. FT.
SHED	197± SQ. FT.
DECK/STEPS	1,361± SQ. FT.
PAVEMENT	12,088± SQ. FT.
CONCRETE	1,310± SQ. FT.
PAVERS	440± SQ. FT.
RETAINING WALLS	109± SQ. FT.
DOCK	74± SQ. FT.
RIP/RAP	200± SQ. FT.
GRAVEL	106± SQ. FT.
TOTAL	19,404± SQ. FT. (63.7%)

MONUMENT LEGEND:

- IRON MONUMENT FOUND (OR AS NOTED)
- GRANITE BOUND FOUND

PURPOSE OF PLAN:

THE PURPOSE OF THIS PLAN IS TO SHOW EXISTING CONDITIONS FOR DESIGN PURPOSES. THIS PLAN IS NOT A STANDARD BOUNDARY SURVEY AND IS NOT INTENDED TO BE RECORDED, USED FOR CONVEYANCE, OR ANY OTHER TITLE PURPOSE.



6/21/2021

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.
Vertical Datum is NAVD88
Contour Interval = 1'

EXISTING CONDITIONS PLAN

FOR PROPERTY AT
1 & 3 Badger's Island West
Kittery, York County, Maine

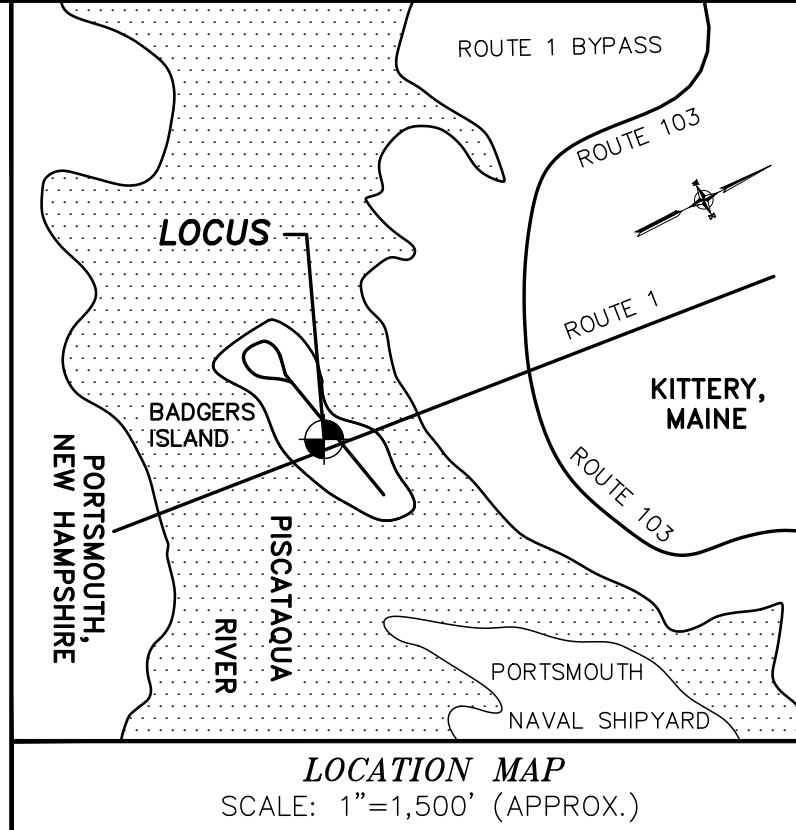
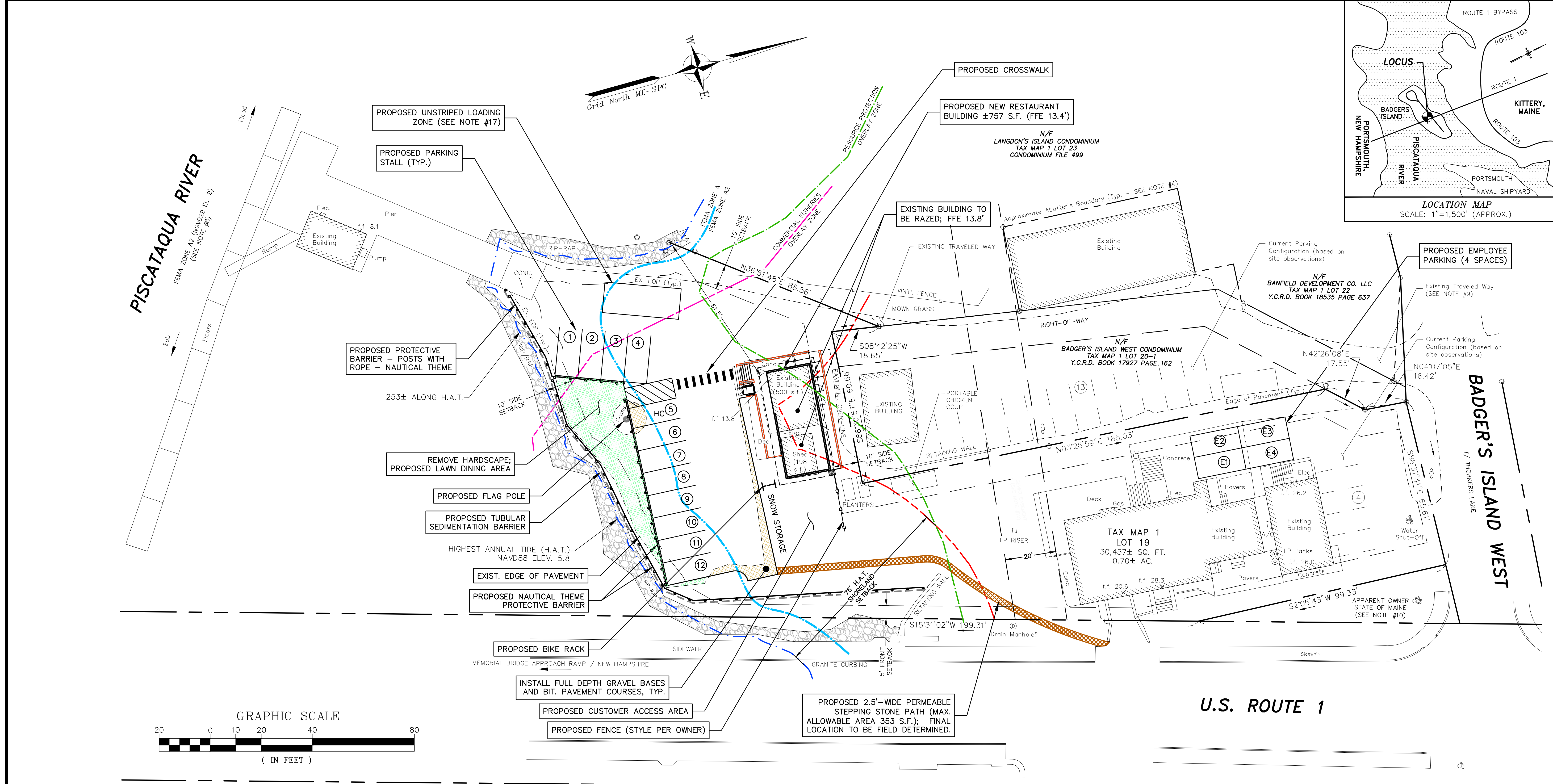
OWNED BY
William J. Banfield
Elizabeth Casella
One Badgers Island West, LLC

c/o Altus Engineering
133 Court Street, Portsmouth, NH 03801

North
EASTERLY
SURVEYING, Inc.

SURVEYORS IN N.H. & MAINE 191 STATE ROAD, SUITE #1
(207) 439-6333 KITTERY, MAINE 03904

SCALE:	PROJECT NO.	DATE:	SHEET:	DRAWN BY:	CHECKED BY:
1" = 20'	19808	6/21/2021	1 OF 1	A.M.P.	P.L.A.
DRAWING No: 19808_EXISTING_CONDITIONS FIELD BOOK No: "Kittery #40"					
Tax Map 1 Lot 19					



ALTUS ENGINEERING, INC.
 133 Court Street Portsmouth, NH 03801
 (603) 433-2335 www.altus-eng.com

NOT FOR CONSTRUCTION

ISSUED FOR: **APPROVAL**

ISSUE DATE: **JANUARY 26, 2022**

NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION	EDW	10/28/21
1	TOWN COMMENTS	EDW	11/23/21
2	TOWN COMMENTS	EDW	12/09/21
3	TOWN COMMENTS	EDW	12/22/21
4	TOWN COMMENTS	EDW	01/03/22
5	CONDITIONS OF APPROVAL	EDW	01/26/22

DRAWN BY: _____ RMB
 APPROVED BY: _____ EDW
 DRAWING FILE: _____ 5053SITE.dwg

SCALE: (24"x36") 1" = 20'

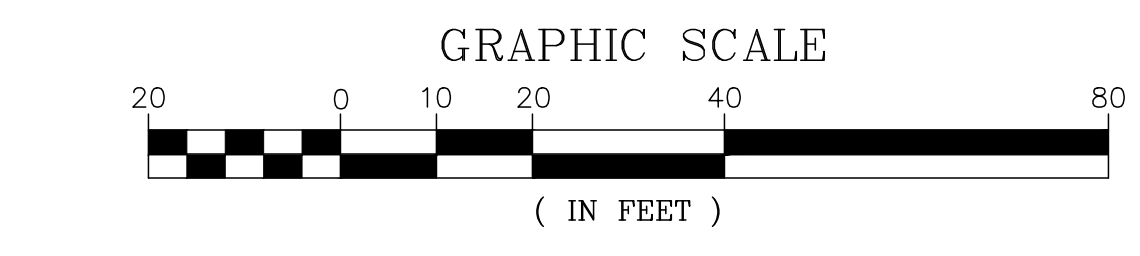
OWNER:
**ELIZABETH CASELLA
 WILLIAM J. BANFIELD
 ONE BADGERS ISLAND WEST, LLC
 5 BADGERS ISLAND WEST #3
 KITTERY, MAINE 03904**

APPLICANT:
**LITTLE BRIDGE LOBSTER, LLC
 5 BADGERS ISLAND WEST #3
 KITTERY, MAINE 03904**

PROJECT:
**LITTLE BRIDGE
 LOBSTER
 RESTAURANT**
 TAX MAP 1, LOT 19
 BADGERS ISLAND WEST
 KITTERY, MAINE

TITLE:
**SITE PLAN FOR
 SHORELAND
 DEVELOPMENT
 PERMIT**

SHEET NUMBER:
C - 1



SITE NOTES:

- DESIGN INTENT - THIS PLAN SET IS INTENDED TO DEPICT THE SEASONAL RESTAURANT USE AND A SHORELAND DEVELOPMENT PLAN. THERE WILL BE NO EXPANSION OF PAVEMENT.
- APPROXIMATE LOT AREA: ±30,457 S.F.
- ZONE: MIXED USE - BADGERS ISLAND (MU-B)
- DIMENSIONAL REQUIREMENTS
 MIN. LOT AREA: 6,000 S.F.
 MIN. STREET FRONTAGE: 50'
 FRONT SETBACK: 5'
 SIDE SETBACK: 10'
 REAR SETBACK: 10'
 MAX. BUILDING HEIGHT: 40'
 MINIMUM OPEN SPACE: 40%
- BUILDING HEIGHT:
 ORIGINAL GRADE DOWN HILL SLOPE SIDE OF STRUC. = 11.2'
 BUILDING HEIGHT = F.F.E. + PEAK HEIGHT - GND. ELEV.
 EXIST. BUILDING HEIGHT = 13.8' + 16.4' - 11.2' = 19.0'
 EXIST. SHED HEIGHT = 13.5' + 10.4' - 13.0 = 10.9'
 PROP. BUILDING HEIGHT = 13.4' + 15.8' - 11.2' = 18.0'
- STRUCTURE DISTANCE FROM H.A.T. (WATER BODY):
 EXISTING ±61.5 FT.
 PROPOSED ±61.5 FT.
- OPEN SPACE WITHIN WHOLE LOT:
 ALLOWED 30% MIN.
 EXISTING ±11,163 S.F. (36.6%)
 PROPOSED ±11,173 S.F. (36.6%)

8. DE-VEGETATION RATE WITHIN WHOLE LOT: ALLOWED 60% MAX. EXISTING ±19,294 S.F. (63.3%) PROPOSED ±19,284 S.F. (63.3%)	9. BUILDING COVERAGE WITHIN WHOLE LOT: EXISTING ±3,717 S.F. (12.2%) PROPOSED ±3,926 S.F. (12.9%)	10. DE-VEGETATION RATE WITHIN H.A.T. 75' SETBACK: EXISTING ±9,160 S.F. (57.3%) PROPOSED ±8,891 S.F. (55.6%)	11. BUILDING COVERAGE WITHIN H.A.T. 75' SETBACK EXISTING ±495 S.F. (3.1%) PROPOSED ±549 S.F. (3.4%)
12. PARKING REQUIREMENTS: RESTAURANT: 1 SPACE/3 SEATS. SEATING IS CALCULATED BY DIVIDING THE TOTAL FLOOR AREA WITH THE CUSTOMER ACCESS BY 15.			
INDOOR SEATING CUSTOMER ACCESS 180 S.F./15 = 12 SEATS OUTDOOR SEATING 3 PICNIC TABLES (4 SEATS/TABLE) = 12 SEATS 4 LAWN CHAIRS = 4 SEATS SUBTOTAL 16 SEATS TOTAL SEATING PROVIDED 28 SEATS (PROVIDED)			
28 SEATS @ 1 SPACE PER 3 SEATS 9 SPACES EMPLOYEE PARKING 4 SPACES (OTHER SITE) FISHING OPERATION 3 SPACES TOTAL SPACES 16 SPACES REQUIRED 16 SPACES PROVIDED			

- CONDITIONS OF APPROVAL:**
- APPLICANT SHALL COMPLY WITH ALL STATE AND LOCAL REGULATIONS RELATING TO PROXIMITY BETWEEN RESTAURANTS AND ANIMAL HUSBANDRY AREAS.
 - NO CHANGES, ERASURES, MODIFICATIONS OR REVISIONS MAY BE MADE TO ANY PLANNING BOARD APPROVED FINAL PLAN. (TITLE 16.10.9.1.2)
 - APPLICANT/CONTRACTOR WILL FOLLOW MAINE DEP BEST MANAGEMENT PRACTICES FOR ALL WORK ASSOCIATED WITH SITE AND BUILDING CONSTRUCTION TO ENSURE ADEQUATE EROSION CONTROL AND SLOPE STABILIZATION
 - WITH THE EXCEPTION OF THE VEGETATION IDENTIFIED ON THE PLAN FOR REMOVAL, NO VEGETATION WILL BE REMOVED 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.
 - 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.
 - ALL NOTICES TO APPLICANT CONTAINED HEREIN (FINDINGS OF FACT DATED 1/13/2022).
- PLAN REFERENCE:**
- 'EXISTING CONDITIONS PLAN FOR PROPERTY AT 1 & 3 BADGERS ISLAND WEST, KITTERY, MAINE' BY NORTHEAST SURVEYING, INC., DATED JUNE 21, 2021

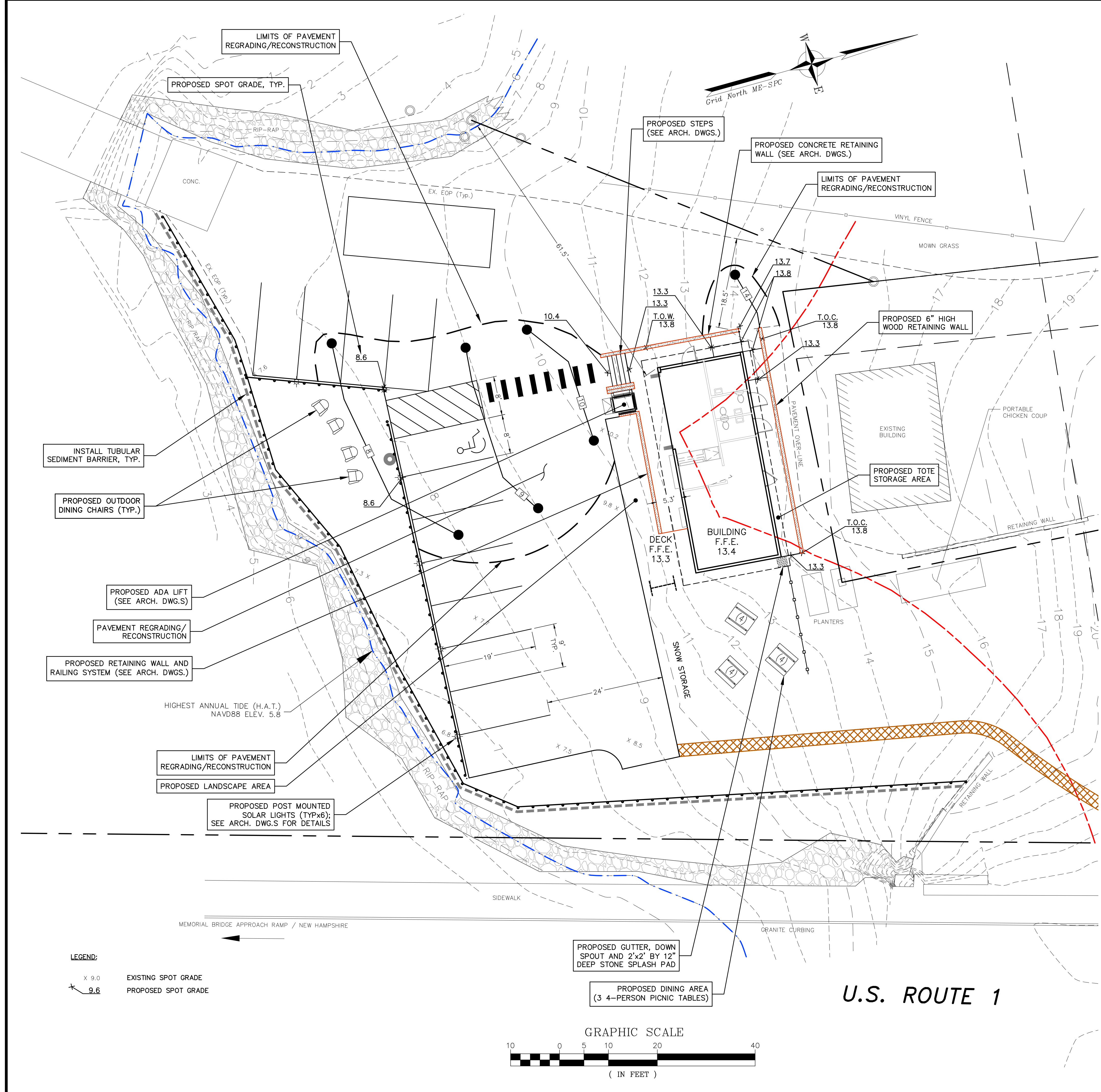
- CONDITIONS OF APPROVAL:**
- PARKING STALL SIZE: 9' X 19'
 - RESTAURANT WILL OPERATE FROM 11:00 AM TO 9:00 PM, 7 DAYS A WEEK.
 - AMPLIFIED MUSIC WILL OCCUR DURING BUSINESS HOURS.
 - VALET PARKING MAY BE PROVIDED.
 - A 12'X30' LOADING ZONE IS PROVIDED. ALL DELIVERIES TO OCCUR DURING NON-BUSINESS HOURS.
 - TRASH/RECYCLABLES TO BE STORED IN TOTES AND REMOVED FROM THE SITE DAILY OR AS NEEDED.
 - WAY FINDING DIRECTIONAL SIGNS WITHOUT BUSINESS LOGOS ARE ALLOWED. 2 S.F. (MAX.) PER SIGN.
 - ALL NON-HARDSCAPE SURFACES SHALL RECEIVE 6" OF LOAM AND SEED.
 - ALL PROPOSED/EXISTING VEGETATION WILL BE MAINTAINED IN PERPETUITY.
 - SNOW STORAGE AREAS ARE DEPICTED ON THE PLANS. IF ADEQUATE STORAGE IS NOT AVAILABLE, SNOW WILL BE REMOVED FROM THE SITE & LEGALLY DISPOSED.

TOWN OF KITTERY, PLANNING BOARD

CHAIR	DATE
OWNER	DATE
APPLICANT	DATE

YORK ss REGISTRY OF DEEDS
 RECEIVED _____ 20____
 AT _____ H _____ M _____ AND
 RECORDED IN BOOK _____ PAGE _____
 ATTEST:
 REGISTER

P5053



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.
- CONTRACTOR SHALL OBTAIN A "DIGSAFE" NUMBER AND NOTIFY TOWN OF KITTERY AT LEAST 72 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.
- SITE CONSTRUCTION SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA) AS PUBLISHED IN THE FEDERAL REGISTER, VOL. 56, NO. 144, DATED JULY 26, 1991.
- 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.
- 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 OF THE STRUCTURAL/ARCHITECTURAL DRAWINGS.
- PROTECTION OF SUBGRADE: THE CONTRACTOR SHALL BE REQUIRED TO MAINTAIN STABLE, DEWATERED SUBGRADES FOR FOUNDATIONS, PAVEMENT AREAS, UTILITY TRENCHES, AND OTHER AREAS DURING CONSTRUCTION. SUBGRADE DISTURBANCE MAY BE INFLUENCED BY EXCAVATION METHODS, MOISTURE, PRECIPITATION, GROUNDWATER CONTROL, AND CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL TAKE PRECAUTIONS TO PREVENT SUBGRADE DISTURBANCE. SUCH PRECAUTIONS MAY INCLUDE DIVERTING STORMWATER RUNOFF AWAY FROM CONSTRUCTION AREAS, REDUCING TRAFFIC IN SENSITIVE AREAS, AND MAINTAINING AN EFFECTIVE DEWATERING PROGRAM. SOILS EXHIBITING HEAVING OR INSTABILITY SHALL BE OVER EXCAVATED TO MORE COMPETENT BEARING SOIL AND REPLACED WITH FREE DRAINING STRUCTURAL FILL.
- IF THE EARTHWORK IS PERFORMED DURING FREEZING WEATHER, EXPOSED SUBGRADES ARE 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 OPERATION. THE FINAL SUBGRADE ELEVATION WOULD ALSO REQUIRE AN APPROPRIATE DEGREE OF INSULATION AGAINST FREEZING.
- EXCAVATED MATERIALS SHALL BE PLACED AS FILL MATERIALS WITHIN UPLAND AREAS ONLY. PLACEMENT OF BORROW MATERIALS SHALL BE PERFORMED IN A MANNER THAT PREVENTS LONG TERM 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.
- 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. 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 COAT VERTICAL FACE OF EXISTING PAVEMENT AT SAWCUT LINE WITH RS-1 IMMEDIATELY PRIOR TO PLACING NEW BITUMINOUS CONCRETE.
- UPON COMPLETION OF CONSTRUCTION, THE DRAINAGE INFRASTRUCTURE SHALL BE CLEANED OF ALL DEBRIS AND SEDIMENT.
- CONTRACTOR SHALL MAINTAIN AND PROVIDE RECORD DRAWINGS TO TOWN OF KITTERY.

GRADING NOTES:

- 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.
- CONTRACTOR SHALL MAINTAIN POSITIVE DRAINAGE AWAY FROM ALL BUILDING FOUNDATIONS, STRUCTURES AND PLANTING BEDS.
- 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 PROVIDE CURLEX II EROSION CONTROL BLANKET FROM AMERICAN EXCELSIOR COMPANY (800) 777-7645 OR APPROVED EQUAL UNLESS OTHERWISE NOTED.
- CONTRACTOR SHALL ADJUST UTILITY ELEMENTS MEANT TO BE FLUSH WITH GRADE (CLEANOUTS, UTILITY MANHOLES, HANDHOLDS, CATCH BASINS, INLETS, ETC.) THAT IS AFFECTED BY SITE WORK OR GRADE CHANGES, WHETHER SPECIFICALLY NOTED ON PLANS OR NOT.
- 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 AREAS.
- 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 ANY FIELD CONDITIONS THAT WILL IMPACT THE GRADING DESIGN SHOWN ON THIS PLAN FOR RESOLUTION.

UTILITY NOTES:

- COORDINATE UTILITY WORK WITH RESPECTIVE UTILITY COMPANIES, ARCHITECTURAL DRAWINGS AND THE OWNER.
- 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.
- ALL SEWER RELATED WORK SHALL CONFORM TO THE MINIMUM REQUIREMENTS OF THE KITTERY SEWER DEPARTMENT.
- VERIFY LOCATION OF NEW UTILITY BOXES WITH OWNER AND UTILITY COMPANIES.
- ALL UTILITY STRUCTURES SHALL BE SET FLUSH WITH PROPOSED GRADE.
- THE CONTRACTOR SHALL NOT DISRUPT THE EXISTING SEWER FLOWS.
- CONTRACTOR SHALL MAINTAIN WATER SERVICE AT ALL TIMES TO BUILDING.

TOWN OF KITTERY, PLANNING BOARD

CHAIR	DATE
OWNER	DATE
APPLICANT	DATE

YORK ss REGISTRY OF DEEDS

RECEIVED _____ 20____

AT _____ H _____ M _____, AND

RECORDED IN BOOK _____ PAGE _____

ATTEST:

REGISTER

NOT FOR CONSTRUCTION

ISSUED FOR: APPROVAL

ISSUE DATE: JANUARY 26, 2022

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION	EDW	10/28/21
1	TOWN COMMENTS	EDW	11/23/21
2	TOWN COMMENTS	EDW	12/23/21
3	TOWN COMMENTS	EDW	01/03/22
4	CONDITIONS OF APPROVAL	EDW	01/26/22

DRAWN BY: RMB

APPROVED BY: EDW

DRAWING FILE: 5053SITE.dwg

SCALE: (24"x36") 1" = 10'

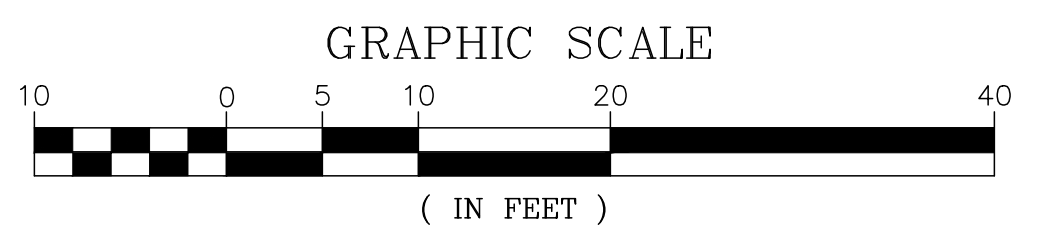
OWNER: ELIZABETH CASELLA
 WILLIAM J. BANFIELD
 ONE BADGERS ISLAND WEST, LLC
 5 BADGERS ISLAND WEST #3
 KITTERY, MAINE 03904

APPLICANT: LITTLE BRIDGE LOBSTER, LLC
 5 BADGERS ISLAND WEST #3
 KITTERY, MAINE 03904

PROJECT: LITTLE BRIDGE LOBSTER RESTAURANT
 TAX MAP 1, LOT 19
 BADGERS ISLAND WEST
 KITTERY, MAINE

TITLE: SITE PLAN ENLARGEMENT

SHEET NUMBER: C-2

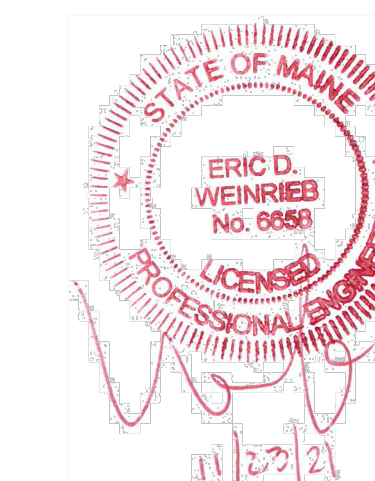


LEGEND:

X 9.0 EXISTING SPOT GRADE

X 9.6 PROPOSED SPOT GRADE

P5053



NOT FOR CONSTRUCTION

ISSUED FOR: APPROVAL

ISSUE DATE: NOVEMBER 23, 2021

REVISIONS NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION	EDW	10/28/21
1	TOWN COMMENTS	EDW	11/23/21

DRAWN BY: RMB

APPROVED BY: EDW

DRAWING FILE: 5053SITE.dwg

SCALE: 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

PROJECT:
LITTLE BRIDGE
LOBSTER
RESTAURANT
TAX MAP 1, LOT 19
BADGERS ISLAND WEST
KITTERY, MAINE

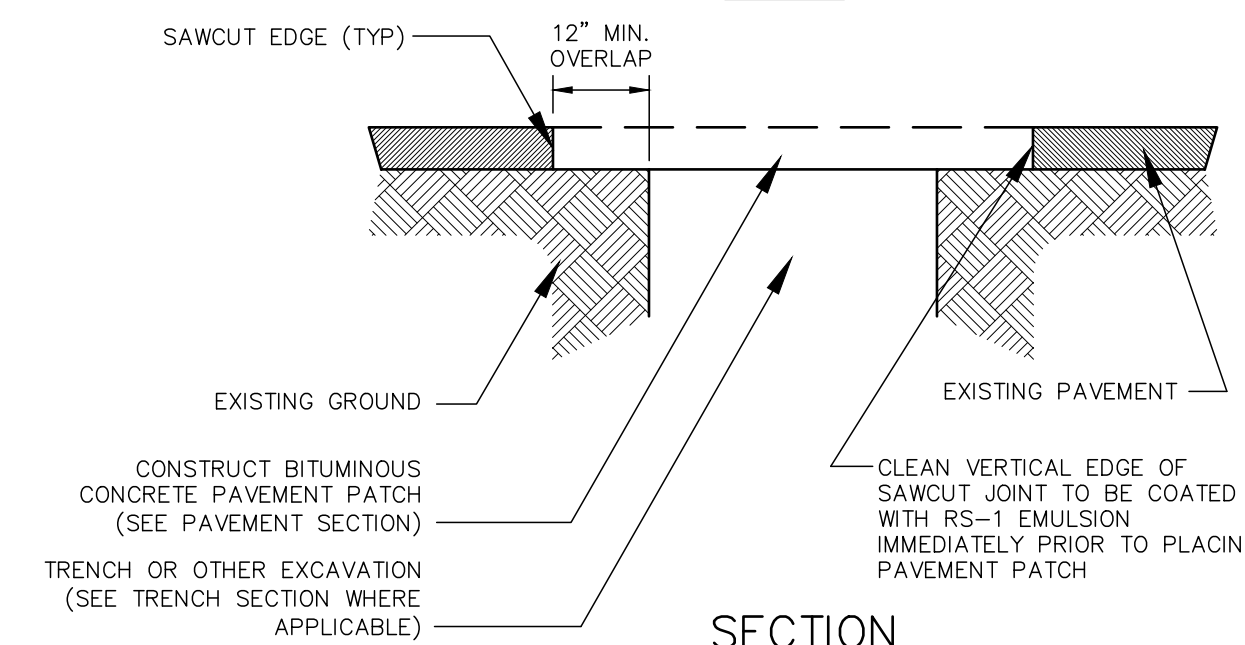
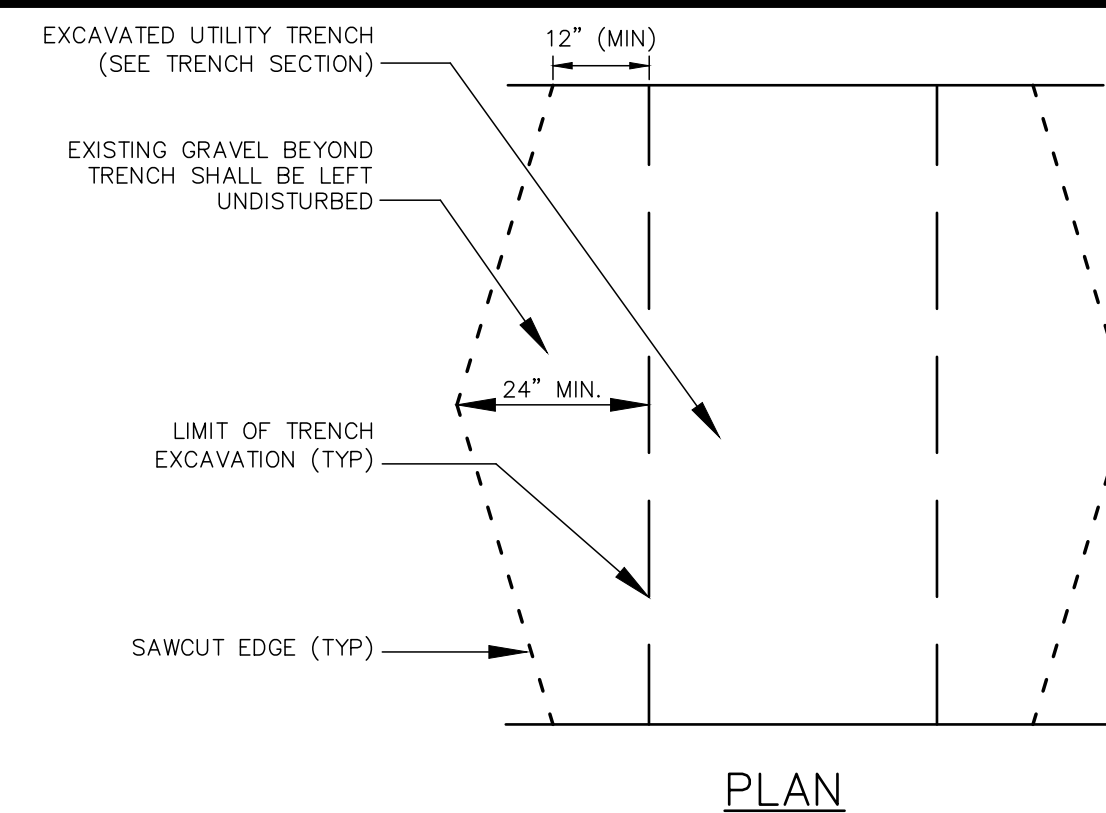
TITLE:

DETAIL SHEET

SHEET NUMBER:

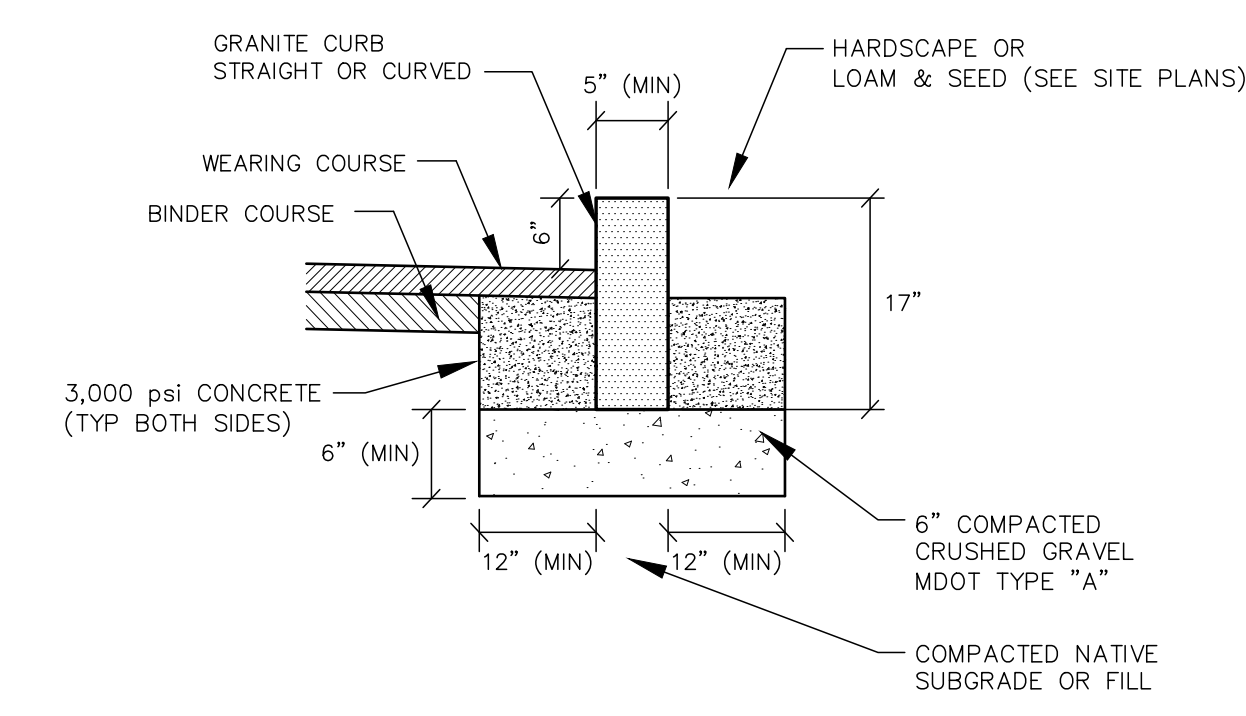
C - 4

P5053



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

TYPICAL TRENCH PATCH NOT TO SCALE

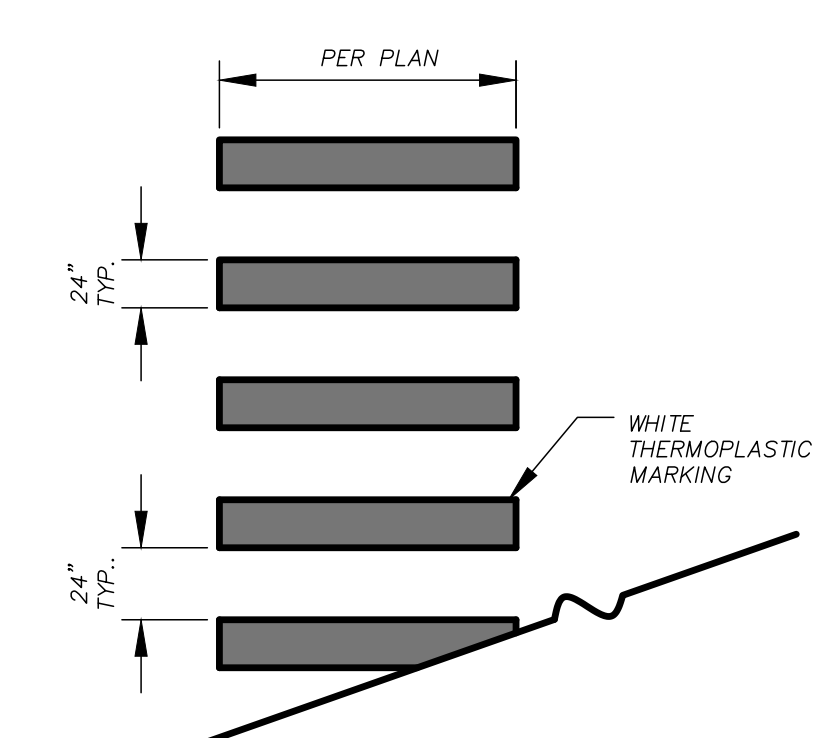


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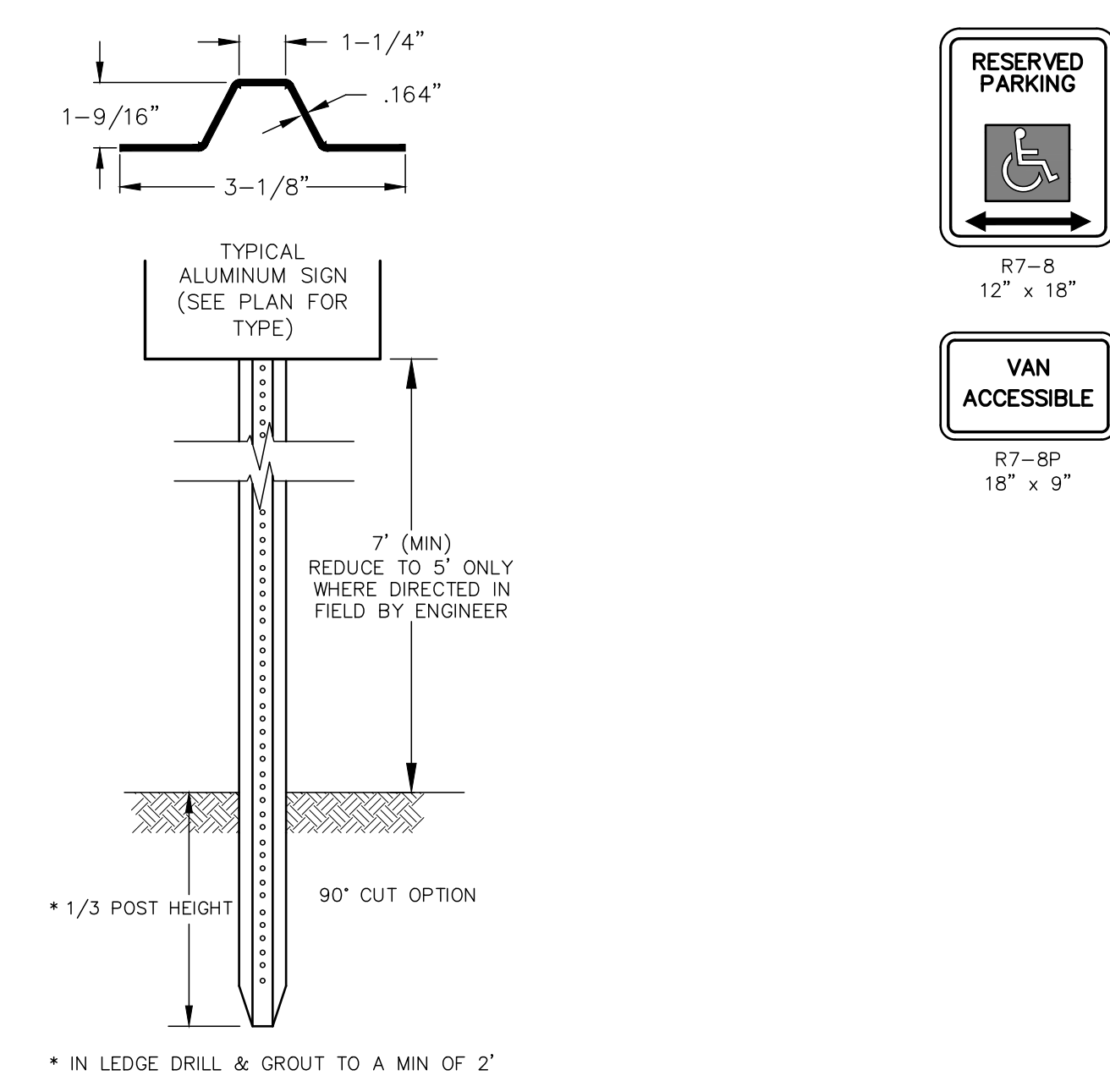
1. SEE PLANS FOR CURB LOCATION.
2. ADJOINING STONES SHALL HAVE THE SAME OR APPROXIMATELY THE SAME LENGTH.
3. MINIMUM LENGTH OF CURB STONES = 3'
4. MAXIMUM LENGTH OF CURB STONES = 10'
5. MAXIMUM LENGTH OF STRAIGHT CURB STONES LAID ON CURVES - SEE CHART.
6. CURB ENDS TO ROUNDED AND BATTERED FACES TO BE CUT WHEN CALLED FOR ON THE PLANS.

RADIUS	MAX. LENGTH
21'	3'
22'-28'	4'
29'-35'	5'
36'-42'	6'
43'-49'	7'
50'-56'	8'
57'-60'	9'
OVER 60'	10'

VERTICAL GRANITE CURB NOT TO SCALE

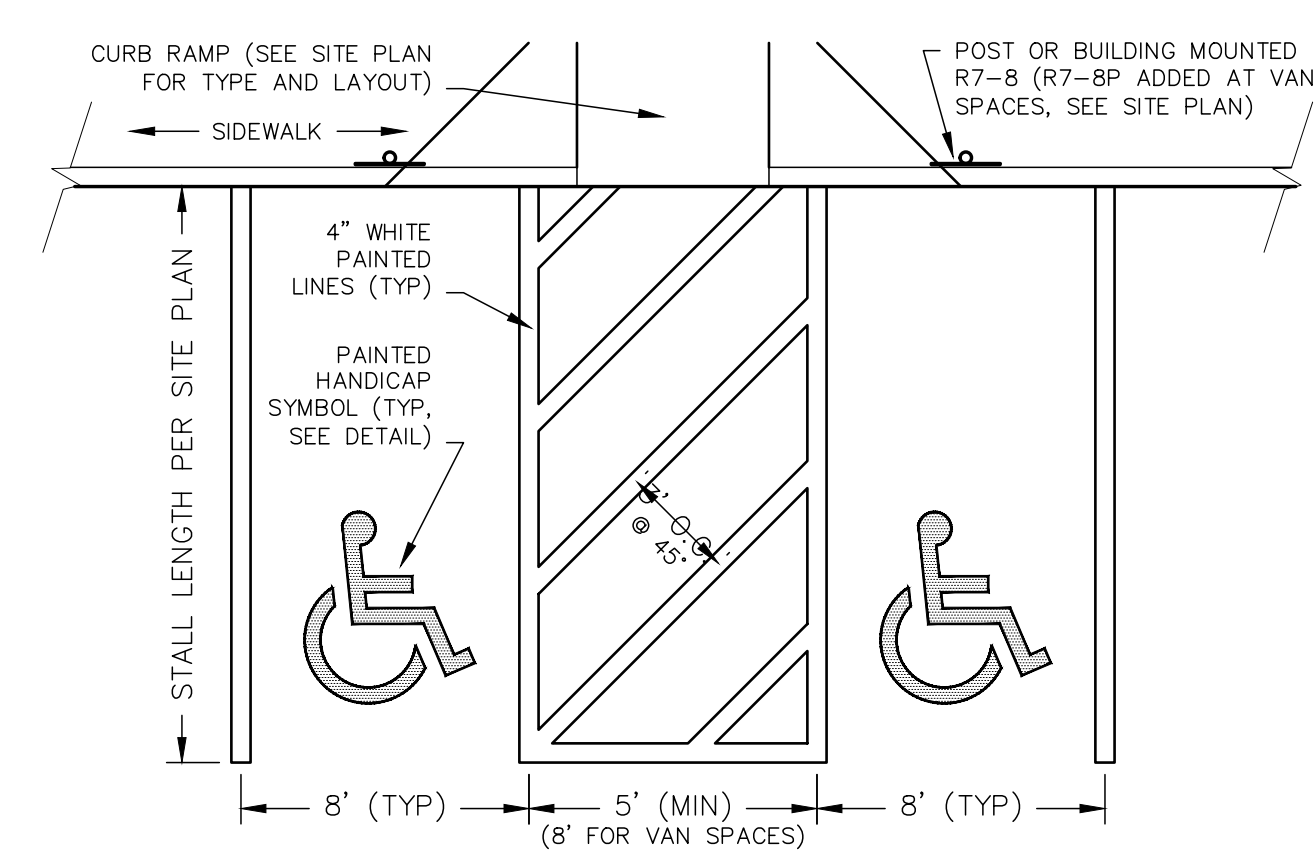


CROSSWALK STRIPING DETAIL NOT TO SCALE

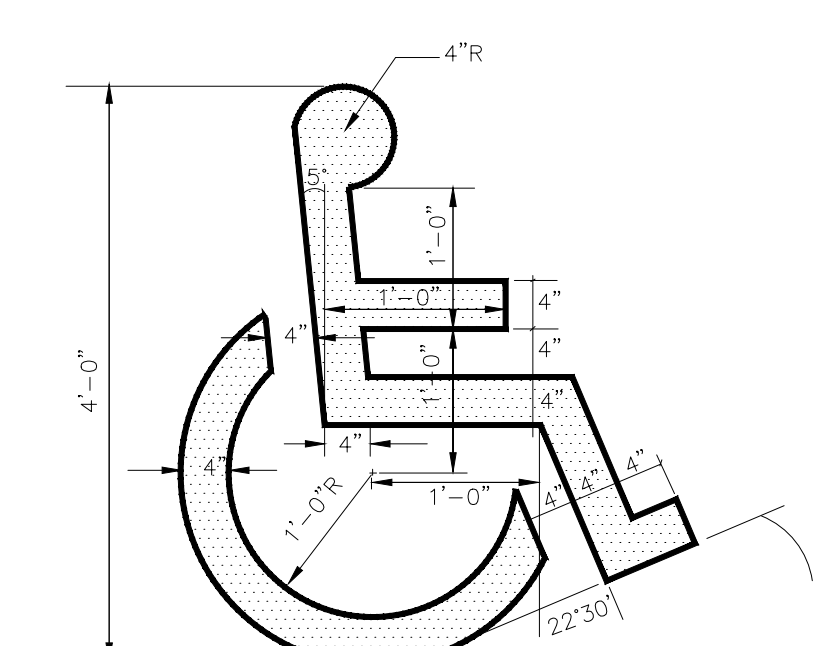


- NOTES:**
1. ALL SIGNS SHALL MEET THE REQUIREMENTS OF AND BE INSTALLED AS INDICATED IN THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, LATEST EDITION.

SIGN DETAILS NOT TO SCALE

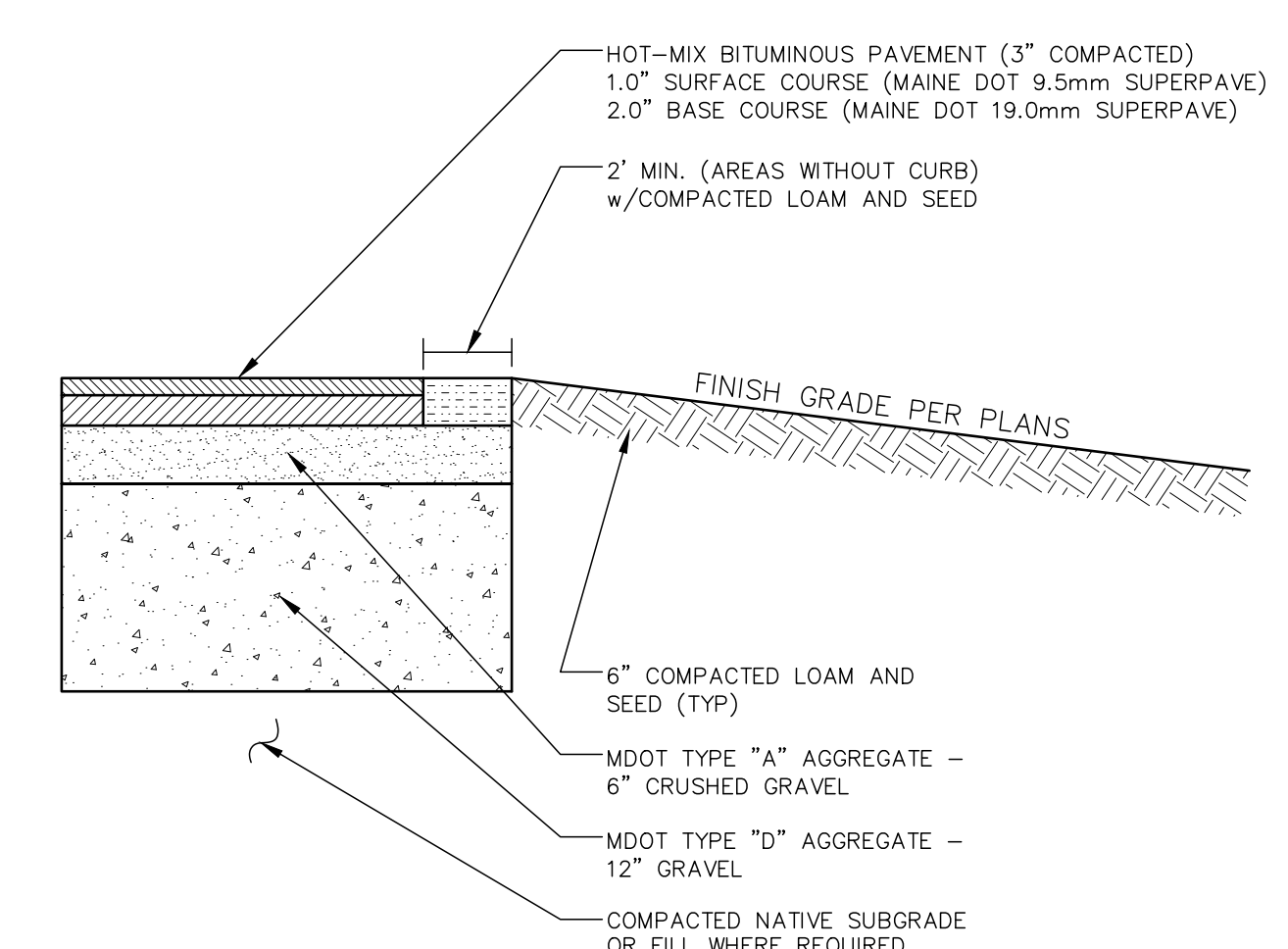


HANDICAP PARKING STALL LAYOUT NOT TO SCALE



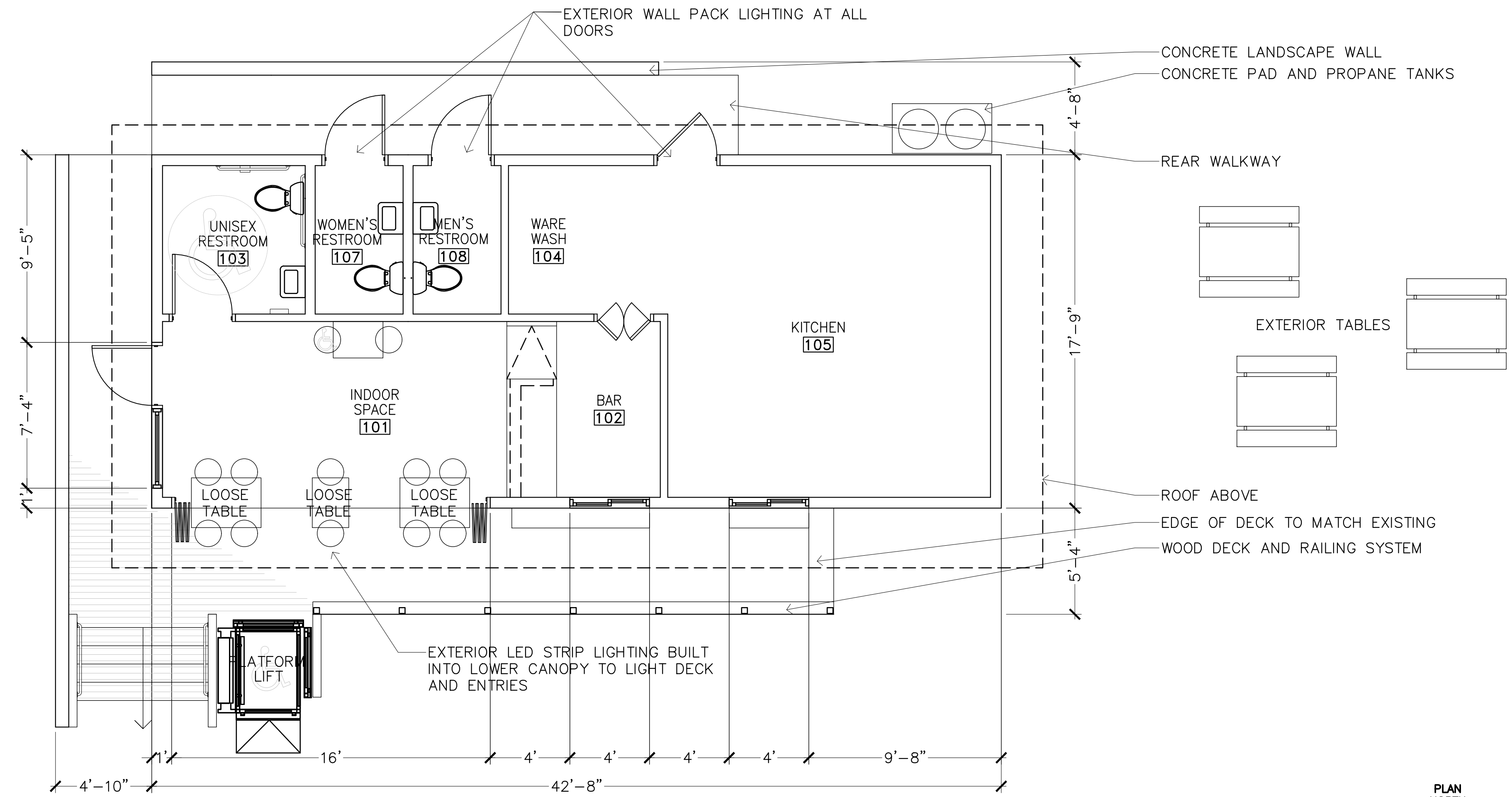
- NOTES:**
1. SYMBOL TO BE PAINTED IN ALL HANDICAPPED ACCESSIBLE SPACES IN WHITE PAINT (BLUE-PAINTED SQUARE BACKGROUND OPTIONAL).

PAINTED HANDICAP SYMBOL NOT TO SCALE



- NOTES:**
1. PROJECT GEOTECHNICAL REPORT MAY REQUIRE A DIFFERENT PAVEMENT CROSS SECTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR READING AND FOLLOWING ALL RECOMMENDATIONS IN THE GEOTECHNICAL REPORT. IN THE EVENT THAT THE REPORT AND CIVIL PLANS DIFFER, THE MORE STRINGENT SPECIFICATION SHALL APPLY.
 2. ALL EXISTING FILL, BURIED ORGANIC MATTER, CLAY, LOAM, MUCK, AND/OR OTHER QUESTIONABLE MATERIAL SHALL BE REMOVED FROM BELOW ALL PAVEMENT, SHOULDERS AND UNDERGROUND PIPING/UTILITIES TO DEPTHS RECOMMENDED IN GEOTECHNICAL REPORT.
 3. SUBGRADE SHALL BE PROOFROLLED A MINIMUM OF 6 PASSES WITH A 10-TON VIBRATORY COMPACTOR OPERATING AT PEAK RATED FREQUENCY OR BY MEANS APPROVED BY THE ENGINEER.
 4. FILL BELOW PAVEMENT GRADES SHALL BE GRANULAR BORROW COMPACTED PER MDOT REQUIREMENTS.
 5. SITEWORK CONTRACTOR SHALL COORDINATE GEOTECHNICAL ENGINEERING INSPECTIONS WITH THE CONSTRUCTION MANAGER PRIOR TO PLACING GRAVELS.
 6. TACK COAT SHALL BE APPLIED BETWEEN SUCCESSIVE LIFTS OF ASPHALT.
 7. THE BITUMINOUS PAVEMENT SHALL BE COMPACTED TO 92 TO 97 PERCENT OF ITS THEORETICAL MAXIMUM DENSITY AS DETERMINED BY ASTM D-2041. THE BASE AND SUBBASE MATERIALS SHOULD BE COMPACTED TO AT LEAST 95 PERCENT OF THEIR MAXIMUM DRY DENSITIES AS DETERMINED BY ASTM D-1557.

SITE PAVEMENT CROSS SECTION NOT TO SCALE



PROPOSED FLOOR PLAN
SCALE: 1/4"=1'-0" PB.1 1



PROPOSED RENDER
SCALE: N/A PB.1 2



EXISTING STRUCTURES
SCALE: N/A PB.1 3

SYN	DESCRIPTION	DATE	APPR

--

--

WINTER HOLBEN
architecture + design

7 WALLINGFORD SQUARE
UNIT 2099
KITTERY, ME 03904
207.994.3104

DES ZS DRW ZS CHK BMH

28OCT2021

One Badgers Island
1 Badgers Island West
Kittery, Maine 03904
PLANNING BOARD PRESENTATION DRAWINGS

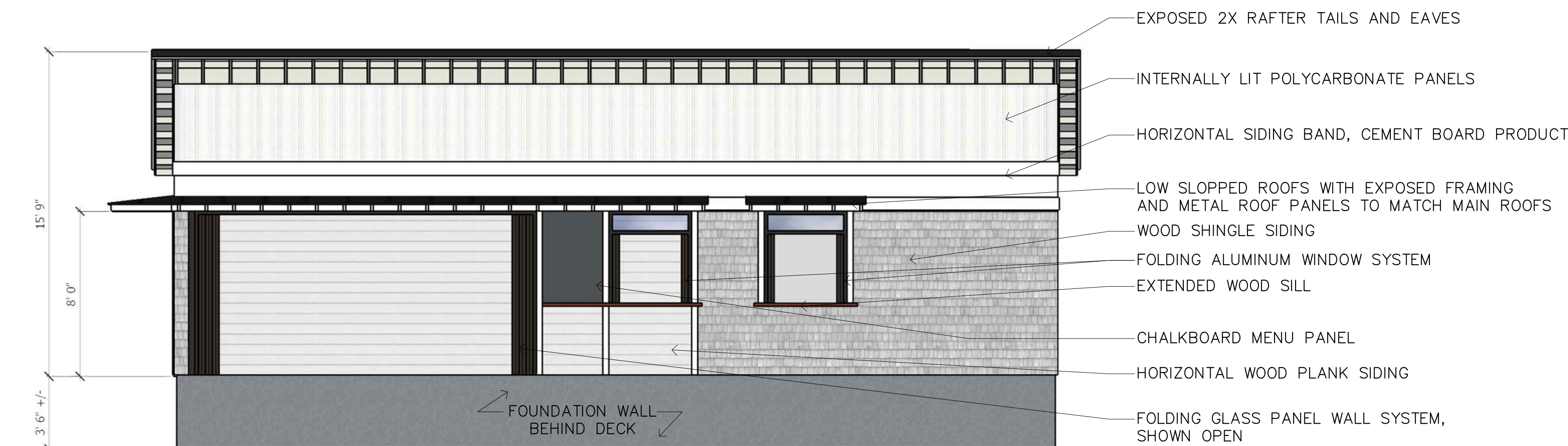
PROJECT NO.: 21081

SHEET 1 OF ---

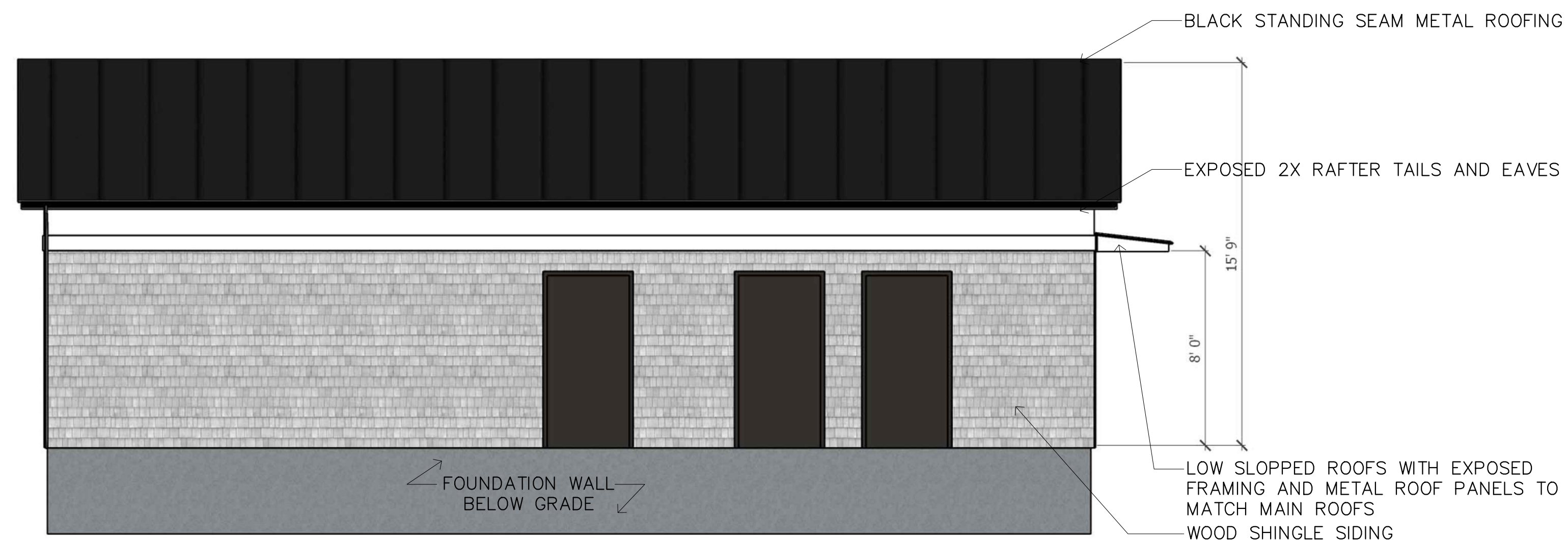
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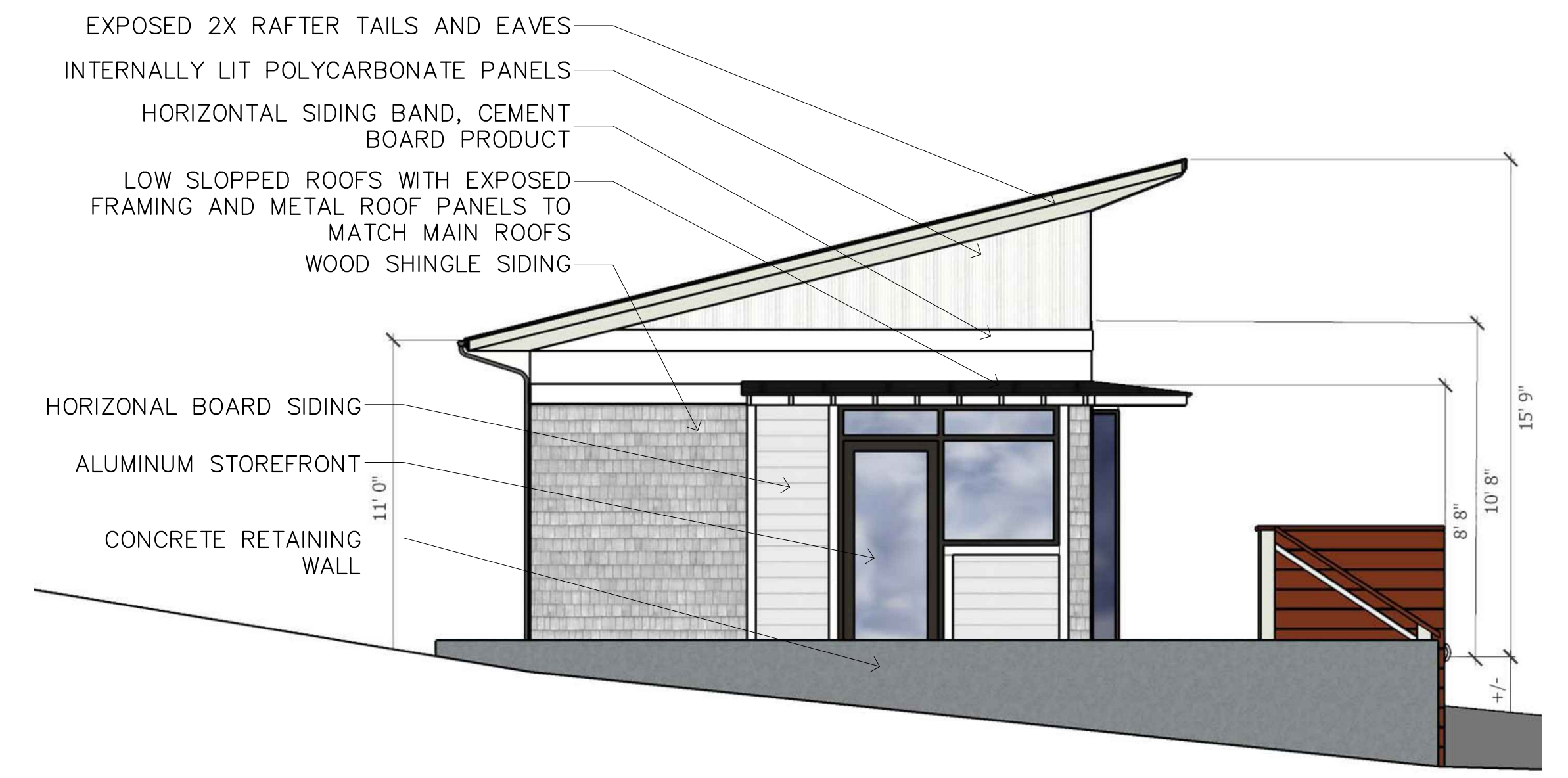
FRONT ELEVATION SHOWING DECK
SCALE: 1/4"=1'-0" PB.2 1



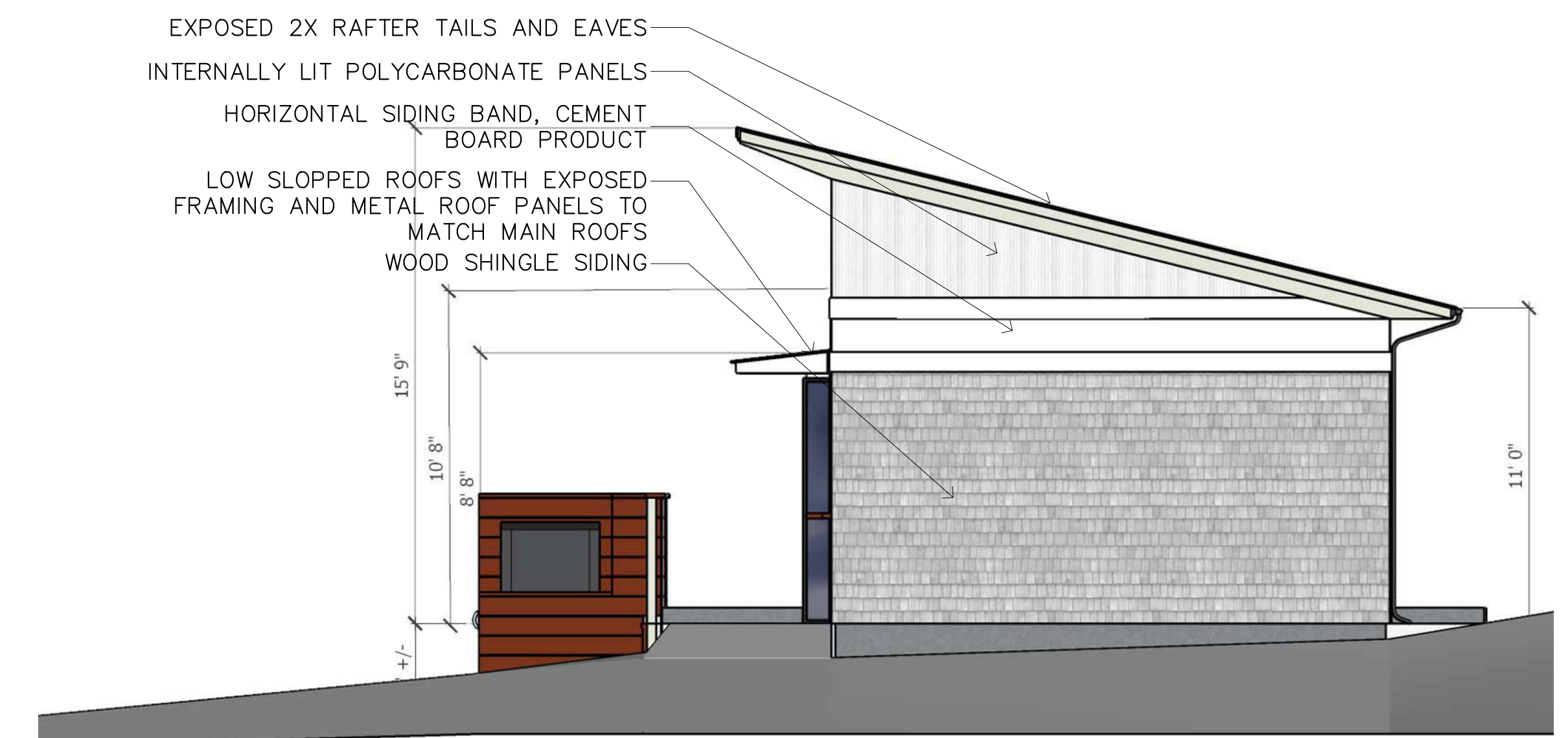
FRONT ELEVATION
SCALE: 1/4"=1'-0" PB.2 2



BACK ELEVATION
SCALE: 1/4"=1'-0" PB.2 3



WEST ELEVATION
SCALE: 1/4"=1'-0" PB.2 4



EAST ELEVATION
SCALE: 1/4"=1'-0" PB.2 5

APPR	DATE
SYM	DESCRIPTION
WINTER HOLBEN architecture + design	
7 WALLINGFORD SQUARE UNIT 2099 KITTERY, ME 03904 207.994.3104	
DES ZS	DRW ZS CHK BMH
28OCT2021	
One Badgers Island 1 Badgers Island West Kittery, Maine 03904	
PLANNING BOARD PRESENTATION DRAWINGS	
PROJECT NO.:	21081
SHEET 1	OF ---
PB.2	

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	ACCEPCTED
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

<p>16.3.2.17.D(1)(D)</p> <p>Standard: <i>The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...</i></p> <p>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%.</p> <p>Conclusion: The standard appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>16.3.2.17.D(2)(b)</p> <p>Standard: <i>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.</i></p> <p>Finding: The proposed deck is within the existing footprint of the structure and plans on not encroaching any closer to the HAT.</p> <p>Conclusion: The standard appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>

**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: 5 in favor 0 against 0 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 **DOES NOT** 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 **DOES 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.
Conclusion: The requirement appears to be met.
Vote: 5 in favor 0 against 0 abstaining
§16.6.6.A(2)(c)
Standard: <i>The safety, the health and the welfare of the Town will not be adversely affected by the proposed use or its location; and</i>
Finding: It appears that the proposed development DOES NOT adversely affect the safety, the health and the welfare of the Town.
Conclusion: The requirement appears to be met.
Vote: 5 in favor 0 against 0 abstaining
§16.6.6.A(2)(d)
Standard: <i>The use will be in harmony with and promote the general purposes and intent of this title.</i>
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: 5 in favor 0 against 0 abstaining
16.6.6.B Factors of consideration
§16.6.6.B(1)
Standard: <i>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;</i>
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: <i>The conservation of property values and the encouragement of the most appropriate uses of land;</i>
Finding: It appears that the proposed development DOES promote the conservation of property values and IS / IS NOT an appropriate use of the land.
Conclusion: The requirement appears to be met.
Vote: 5 in favor 0 against 0 abstaining
§16.6.6.B(3)
Standard: <i>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;</i>
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.
Vote: 5 in favor 0 against 0 abstaining
§16.6.6.B(4)
Standard: <i>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;</i>
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: <i>Whether the use, or materials incidental thereto, or produced thereby, may give off obnoxious gases, odors, smoke or soot;</i>
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: <i>Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration or noise;</i>	
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: <i>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;</i>	
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.	Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining
§16.6.6.B(8)	
Standard: <i>The necessity for paved off-street parking;</i>	
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</u> in favor <u>0</u> against <u>0</u> abstaining
§16.6.6.B(9)	
Standard: <i>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;</i>	
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: <i>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;</i>	
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: <i>Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof;</i>	
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)	

<p>Standard: <i>Whether the proposed use will be adequately screened and buffered from contiguous properties;</i></p> <p>Finding: It appears that the proposed development (DOES / DOES NOT) adequate screening and buffer space from contiguous properties.</p> <p>Conclusion: The requirement appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>
§16.6.6.B(13)	
<p>Standard: <i>The assurance of adequate landscaping, grading and provision for natural drainage;</i></p> <p>Finding: It appears that the proposed development (DOES / DOES NOT HAVE) assurances of adequate landscaping, grading and provision for natural drainage;</p> <p>Conclusion: The requirement appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>
§16.6.6.B(14)	
<p>Standard: <i>Whether the proposed use will provide for adequate pedestrian circulation;</i></p> <p>Finding: It appears that the proposed development (DOES / DOES NOT) provide for adequate pedestrian circulation.</p> <p>Conclusion: The requirement appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>
§16.6.6.B(15)	
<p>Standard: <i>Whether the proposed use anticipates and eliminates potential nuisances created by its location; and</i></p> <p>Finding: It appears that the proposed development (DOES / DOES NOT) anticipate and eliminates potential nuisances created by its location.</p> <p>Conclusion: The requirement appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>
§16.6.6.B(16)	
<p>Standard: <i>The satisfactory compliance with all applicable performance standard criteria contained in Chapters 16.8 and 16.9.</i></p> <p>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.</p> <p>Conclusion: The requirement appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS
Article III Nonconformance

16.7.3.1 Prohibitions and Allowances	
<p>Standard: <i>A. Except as otherwise provided in this Article, a nonconforming condition must not be permitted to become more nonconforming</i></p> <p>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.</p> <p>Conclusion: The requirement appears to be met.</p>	<p>Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining</p>
§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: 5 in favor 0 against 0 abstaining

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

16.10.10.2 Procedure for Administering Permits

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

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: 5 in favor 0 against 0 abstaining

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: 5 in favor 0 against 0 abstaining

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: 5 in favor 0 against 0 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 that appears to add more vegetation closer to the Piscataqua River.

Conclusion: This requirement appears to be met.

Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining)
Standard: 6. <i>Protect archaeological and historic resources;</i>
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. <i>Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i>
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. <i>Avoid problems associated with floodplain development and use;</i>
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.
Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining
Standard: 9. <i>Is in conformance with the provisions of this code;</i>
Finding: The proposed development complies with the applicable standards of Title 16.
Conclusion: This requirement appears to be met.
Vote: <u>5</u> in favor <u>0</u> against <u>0</u> abstaining
Standard: 10. <i>Be recorded with the York county Registry of Deeds.</i>
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

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: 5 in favor 0 against 0 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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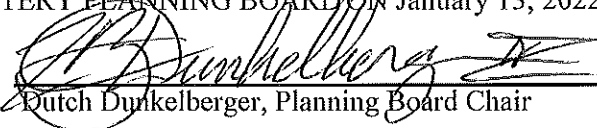
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The Planning Board authorizes the Planning Board Chair, or Vice Chair, to sign the Final Plan and the Findings of Fact upon confirmation of required plan changes.

Vote: 5 in favor 0 against 0 abstaining

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Jason Garnham

From: Jeff Nawrocki <jeff@jsneng.com>
Sent: Tuesday, April 25, 2023 2:59 PM
To: 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
To: 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 <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,

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: [Planning Board Meeting | Kittery ME](#)

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. Their 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>
Sent: Wednesday, April 26, 2023 11:59 PM
To: 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 <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. Their 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

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,

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: [Planning Board Meeting | Kittery ME](#)

Regards,
-Jason

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

From: Kearsten Metz <KMetz@kitteryme.org>
Sent: Tuesday, April 25, 2023 12:23 PM
To: Jason Garnham <JGarnham@kitteryme.org>
Subject: FW: Thursday night Planning Board Meeting

From: Jeff Nawrocki <jeff@jsneng.com>
Sent: Tuesday, April 25, 2023 12:07 PM
To: Kearsten Metz <KMetz@kitteryme.org>
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



Dwr fldwhv/DOF

[Over 35 Years of JSN](#)

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>
Sent: Monday, May 15, 2023 5:24 PM
To: 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

>

>

> -----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>
Sent: Thursday, April 27, 2023 10:31 AM
To: 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>
Sent: Thursday, April 27, 2023 12:14 PM
To: 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 is 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 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