Town of Kittery Planning Board Meeting April 27, 2023

ITEM 3 – Buoy Shack Site Plan and Shoreland Development Plan Modification Review

Action: 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.

<u>Property</u>: 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)

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

 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 porth of the Buoy Shack, on the west side of Newmarch Street/

 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.

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

16.7.11 General Development (Site Plan) Requirements

F.4.l: 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.

Recommendation:

 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:

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 condition:

 The applicant and any future owner(s) of the subject restaurant use shall provide an updated Parking Lot Rental Agreement or similar verification of adequate parking supply to the Kittery Planning and Development Department annually, prior to installing or utilizing the outdoor seating authorized in this modification. Failure to provide this verification will constitute a code violation subject to enforcement by 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.

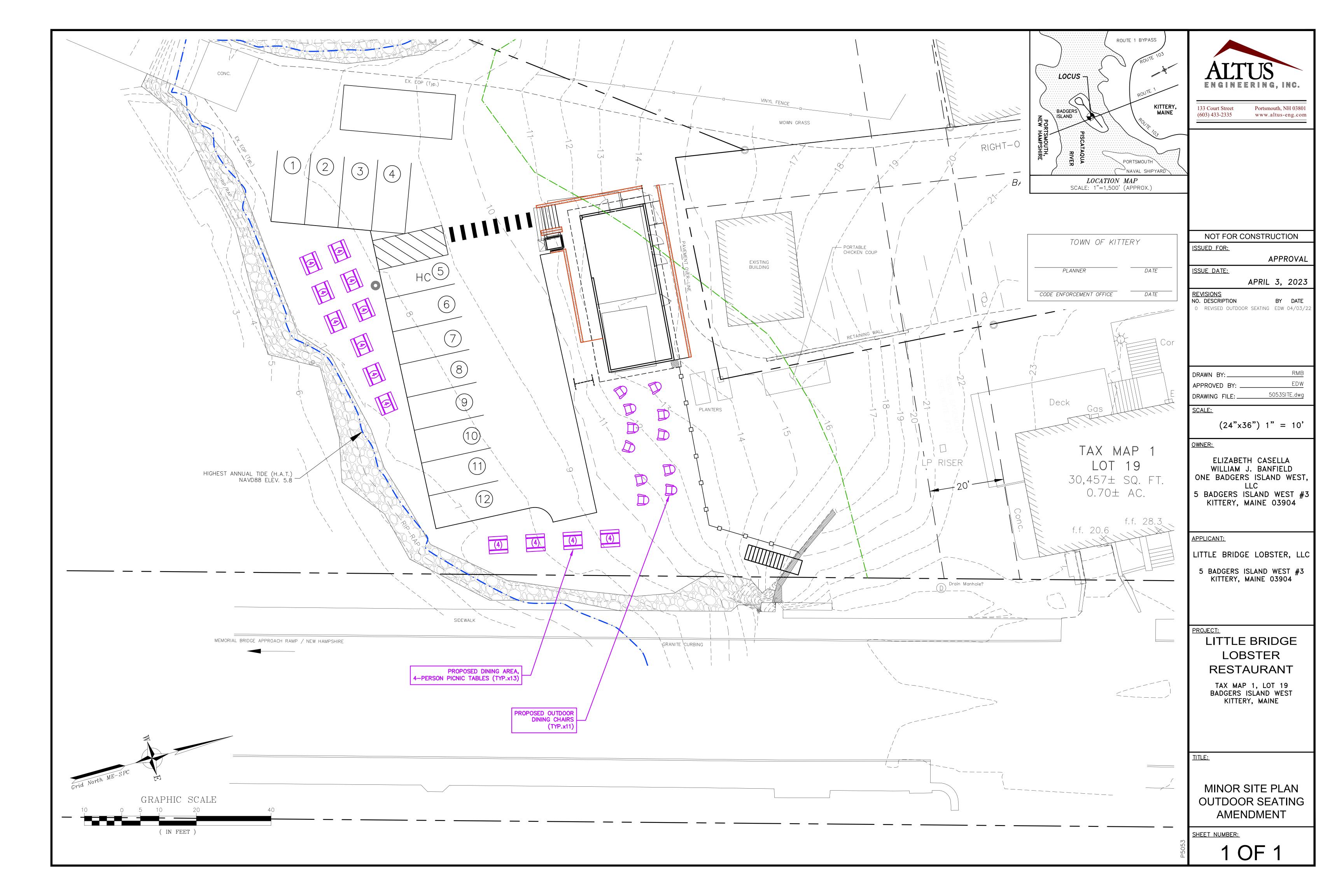
APPROVED BY THE KITTERY PLANNING BOARD ON ______

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.



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 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

JA

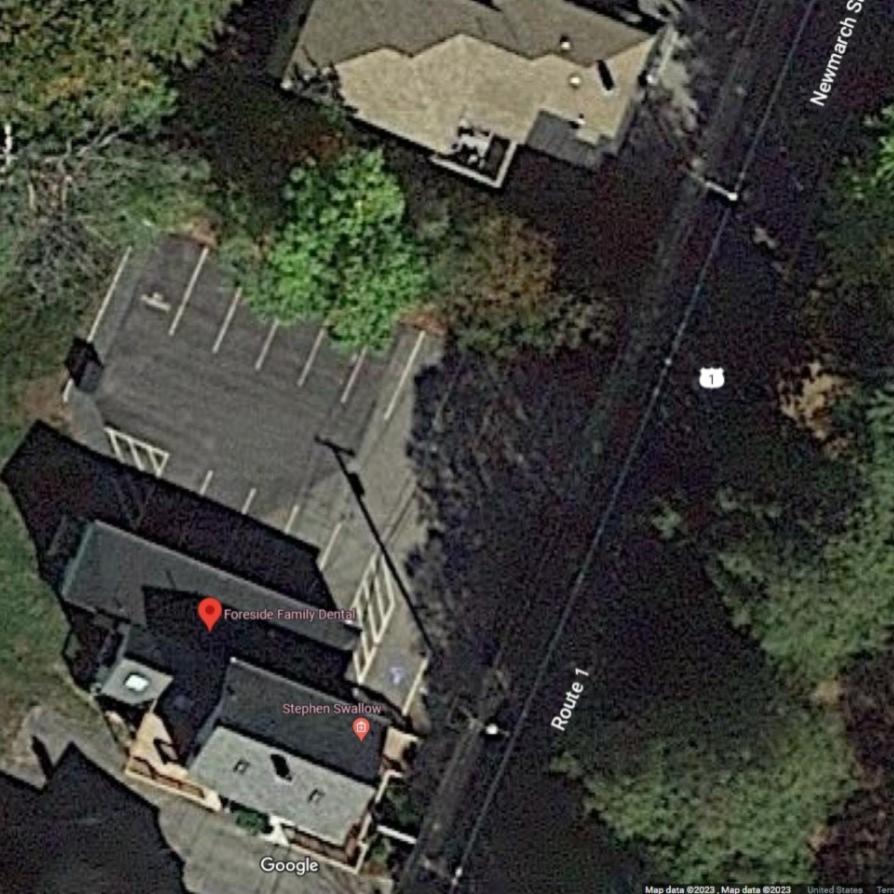
This agreement was signed on March 30, 2023.

Lessor's Signature.

Heartland Dental, LLC., Delaware limited liability company

Lessee's Signature

Little Bridge Lobster dba. Buoy Shack





LITTLE BRIDGE LOBSTER RESTAURANT

BADGERS ISLAND WEST

KITTERY, MAINE

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

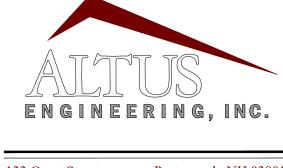
5 Badgers Island West #3 Kittery, ME 03904 (802) 477-2845

Arichitect:



7 WALLINGORD SQUARE, UNIT 2099 KITTERY, MAINE 03904

Civil Engineer:



Surveyor:

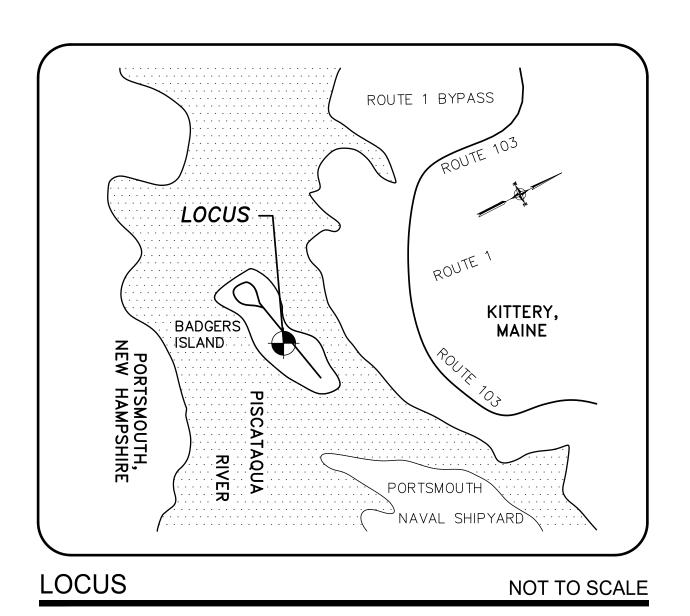


KITTERY, MAINE 03904

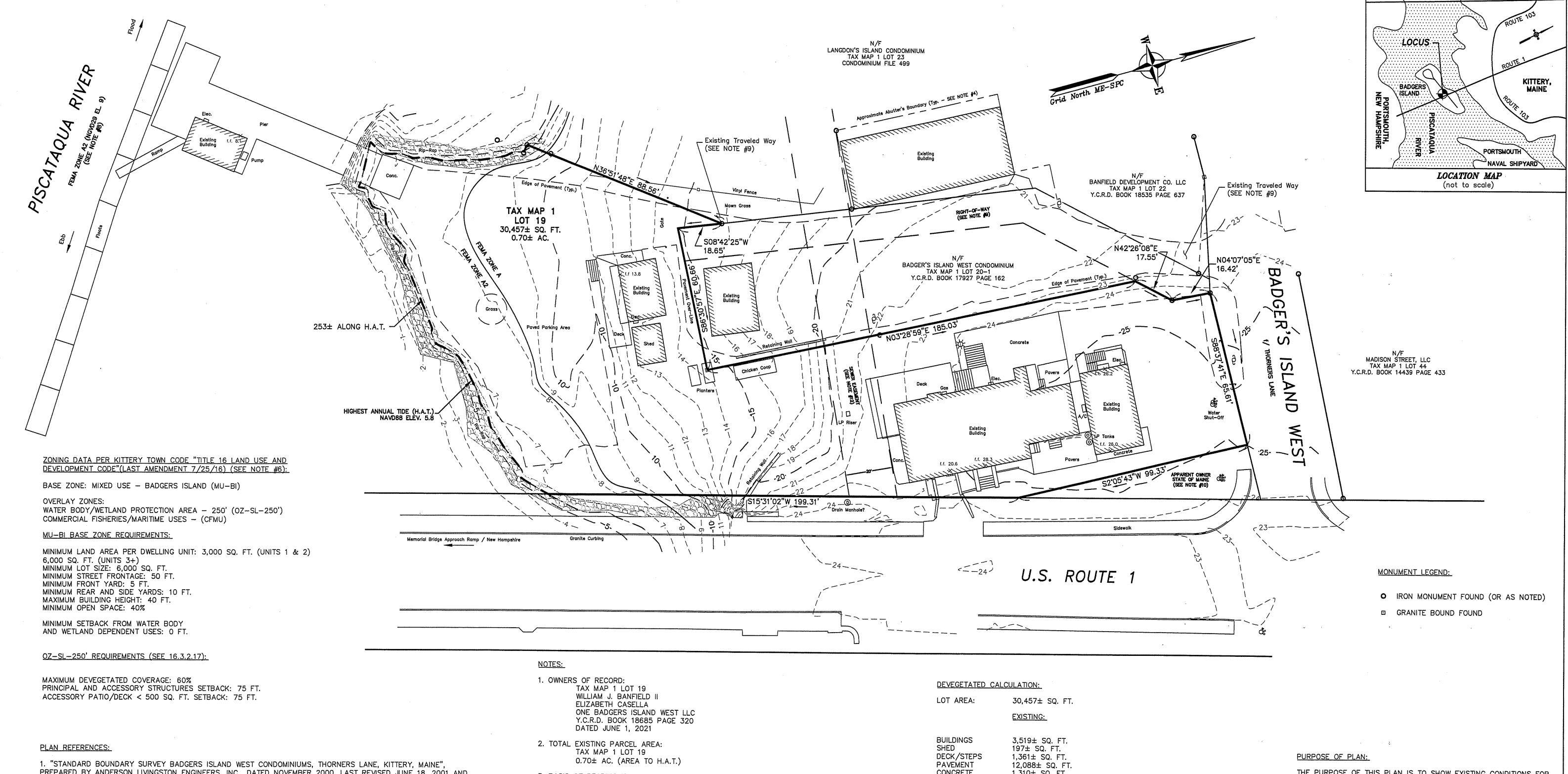
Assessor's Parcel 1, Lot 19

Plan Issue Date:

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



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



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.

2. "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.

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.

4. "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.

5. "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.

6. "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.

7. "TOWN ROAD, BADGER'S ISLAND, KITTERY, ME.", SURVEYED BY ALBERT MOULTON, DATED APRIL 17, 1951.

8. "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.

9. "MAINE HIGHWAY COMMISSION PLAN 16-74", RECORDED AUGUST 15, 1922 AS PLAN BOOK 9 PAGE 4.

3. BASIS OF BEARING IS GRID NORTH, ME SPC, PER ONSITE GPS OBSERVATION.

4. APPROXIMATE ABUTTER'S LINES SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.

5. EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.

6. ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES.

CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF YORK PRIOR TO DESIGN OR CONSTRUCTION. 7. 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. 8. 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. 9. 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.

10. THE TRIANGULAR AREA SHOWN APPEARS TO BE OWNED BY THE STATE OF MAINE. SEE MDOT PLAN REFERENCE #8 AND PLAN REFERENCE #9. 11. 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) 12. 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.

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%)

REV. DATE

.



GRAPHIC SCALE (IN FEET)

1 inch = 20 ft.Vertical Datum is NAVD88 Contour Interval = 1'

STATUS

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.

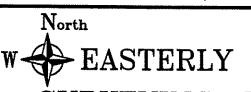
ROUTE 1 BYPASS

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

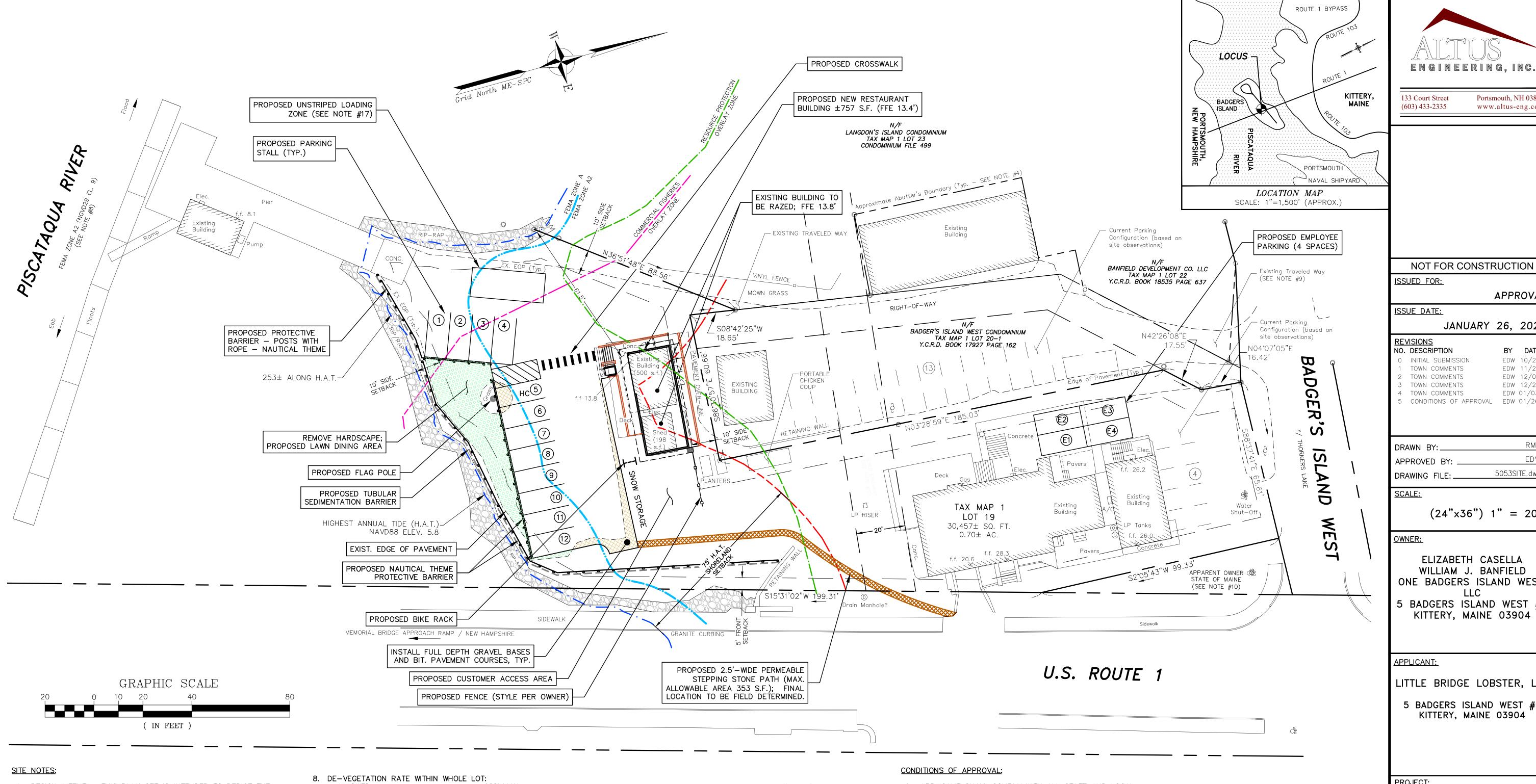
c/o Altus Engineering 133 Court Street, Portsmouth, NH 03801



SURVEYING, Inc.

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

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



- 1. 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.
- 2. APPROXIMATE LOT AREA: $\pm 30,457$ S.F.
- 3. ZONE: MIXED USE BADGERS ISLAND (MU-BI)
- 4. DIMENSIONAL REQUIREMENTS MIN. LOT AREA: 6,000 S.F. MIN. STREET FRONTAGE: 50' FRONT SETBACK: SIDE SETBACK: 10' REAR SETBACK: MAX. BUILDING HEIGHT: 40' MINIMUM OPEN SPACE: 40%
- 5. 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'
- 6. STRUCTURE DISTANCE FROM H.A.T. (WATER BODY): **EXISTING** ±61.5 FT. **PROPOSED** ±61.5 FT.
- 7. OPEN SPACE WITHIN WHOLE LOT: ALLOWED

30% MIN. **EXISTING** ±11,163 S.F. (36.6%) ±11,173 S.F. (36.6%) PROPOSED -

- ALLOWED 60% MAX. **EXISTING** ±19,294 S.F. (63.3%) ±19,284 S.F. (63.3%) PROPOSED
- **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%)

9. BUILDING COVERAGE WITHIN WHOLE LOT:

- 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 SEATS 16 SEATS 4 LAWN CHAIRS SUBTOTAL 28 SEATS (PROVIDED) TOTAL SEATING PROVIDED
 - 28 SEATS @ 1 SPACE PER 3 SEATS 9 SPACES EMPLOYEE PARKING 4 SPACES (OTHER SITE) 3 SPACES 16 SPACES REQUIRED FISHING OPERATION TOTAL SPACES 16 SPACES PROVIDED

- 9' X 19' 13. PARKING STALL SIZE:
- 14. RESTAURANT WILL OPERATE FROM 11:00 AM TO 9:00 PM, 7 DAYS A WEEK.
- 15. AMPLIFIED MUSIC WILL OCCUR DURING BUSINESS HOURS.
- 16. VALET PARKING MAY BE PROVIDED.
- 17. A 12'x30' LOADING ZONE IS PROVIDED. ALL DELIVERIES TO OCCUR DURING NON-BUSINESS HOURS.
- 18. TRASH/RECYCLABLES TO BE STORED IN TOTES AND REMOVED FROM THE SITE DAILY OR AS NEEDED.
- 19. WAY FINDING DIRECTIONAL SIGNS WITHOUT BUSINESS LOGOS ARE ALLOWED, 2 S.F. (MAX.) PER SIGN.
- AND SEED. 21. ALL PROPOSED/EXISTING VEGETATION WILL BE MAINTAINED IN

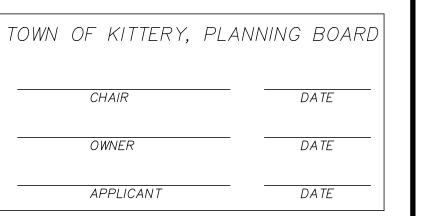
20. ALL NON-HARDSCAPE SURFACES SHALL RECEIVE 6" OF LOAM

22. SNOW STORAGE AREAS ARE DEPICTED ON THE PLANS. IF ADEQUATE STORAGE IS NOT AVAILABLE, SNOW WILL BE REMOVED FROM THE SITE & LEGALLY DISPOSED.

PLAN REFERENCE:

1. 'EXISTING CONDITIONS PLAN FOR PROPERTY AT 1 & 3 BADGER'S ISLAND WEST, KITTERY, MAINE' BY NORTHEAST SURVEYING, INC., DATED JUNE 21, 2021

- 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.
- 5. 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.
- 6. ALL NOTICES TO APPLICANT CONTAINED HEREIN (FINDINGS OF FACT DATED 1/13/2022).



YORK	ss REGIS	STRY OF	DEEDS 20
AT	H RDED IN I		M., AND
			REGISTER

NOT FOR CONSTRUCTION

APPROVAL

Portsmouth, NH 03801

www.altus-eng.com

JANUARY 26, 2022 <u>REVISIONS</u> NO. DESCRIPTION BY DATE

EDW 10/28/2

TOWN COMMENTS EDW 11/23/2 EDW 12/09/2 TOWN COMMENTS 3 TOWN COMMENTS EDW 12/22/2 4 TOWN COMMENTS EDW 01/03/2 5 CONDITIONS OF APPROVAL EDW 01/26/22

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

 $(24" \times 36")$ 1" = 20'

ELIZABETH CASELLA WILLIAM J. BANFIELD ONE BADGERS ISLAND WEST,

5 BADGERS ISLAND WEST #3 KITTERY, MAINE 03904

APPLICANT:

LITTLE BRIDGE LOBSTER, LLC

5 BADGERS ISLAND WEST #3 KITTERY, MAINE 03904

LITTLE BRIDGE LOBSTER **RESTAURANT**

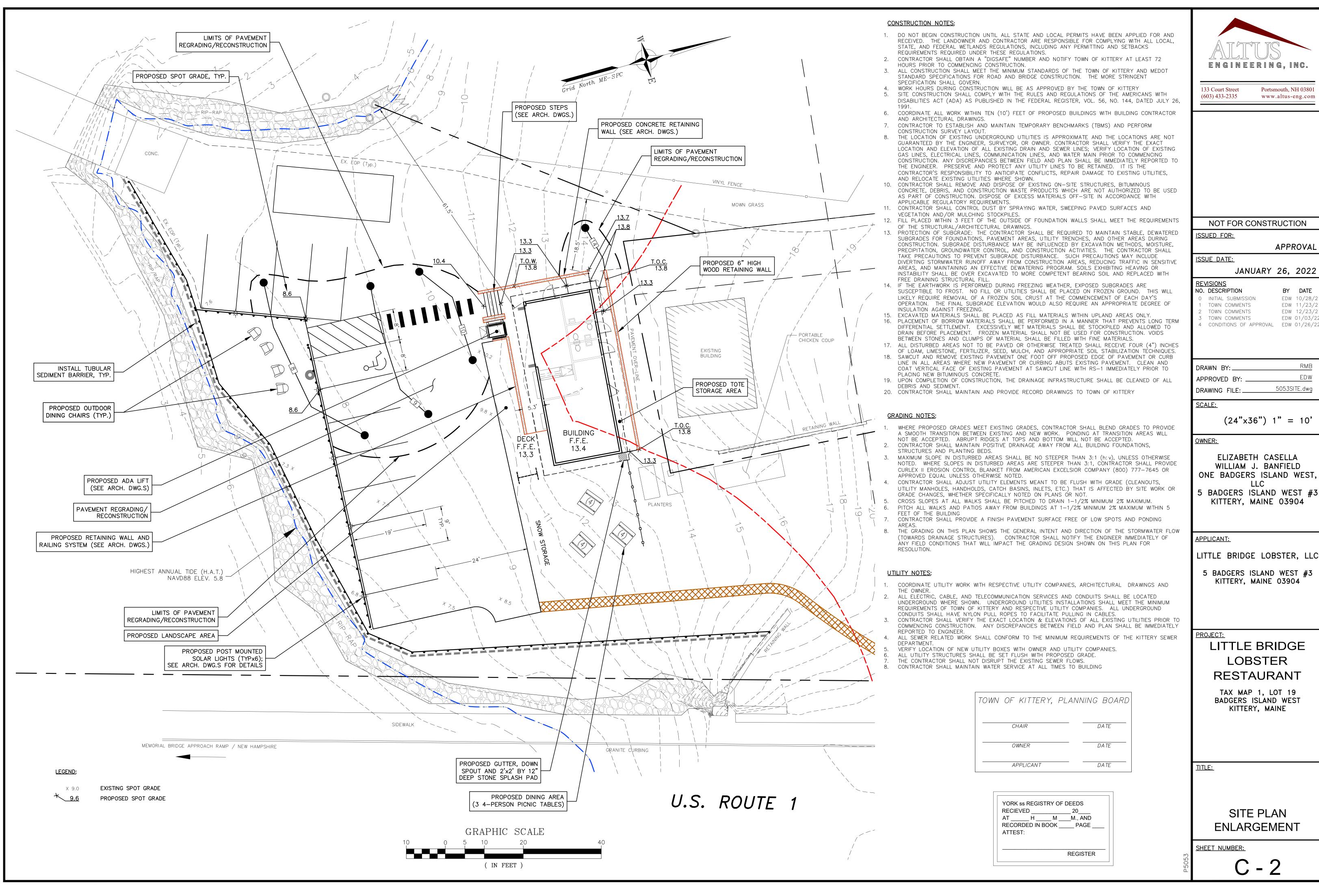
TAX MAP 1, LOT 19 BADGERS ISLAND WEST KITTERY, MAINE

TITLE:

SITE PLAN FOR SHORELAND **DEVELOPMENT PERMIT**

SHEET NUMBER:

(-



ENGINEERING, INC.

- EDW 10/28/2 EDW 11/23/2 EDW 12/23/2 EDW 01/03/2:

ONE BADGERS ISLAND WEST,

5 BADGERS ISLAND WEST #3

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

DESCRIPTION

Kittery, Maine

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

All 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

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

- 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
- * 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).

Type of Mulch Hav 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

Erosion 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.

blowing shall be anchored via: netting; peg and twine or tracking.

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.

- 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
- * On slopes between 3:1 and 2:1, 4 inch plus an additional 1/2 inch per 20 feet of slope up to
- 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.

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

- 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. * Temporary seeding shall be used extensively in sensitive areas (ponds and lake watersheds, steep
- slopes, streambanks, etc.). * Late fall seeding may fail and cause water quality deterioration in spring runoff events, thus

<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).

other measures such as mulching shall be implemented.

- * 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.
- * 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. Seeding rates must be increased 10% when hydroseeding.

Apply mulch over seeded area according to the TEMPORARY MULCHING BMP.

Temporary seeding shall be periodically inspected. At a minimum, 95% of the soil surface should be covered by vegetation. If any evidence of erosion or sedimentation is apparent, repairs shall be made and other temporary measures used in the interim (mulch, filter barriers, check dams, etc.).

<u>Temporary S</u> Seed	Seeding Rates and Lb./Ac	<u>d Dates</u> 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 w and/or without dorn			10/1-4/1	Refer to TEMPORARY MULCHING BMP PERMANENT VEGETATION BMP.

D. FILTERS

Tubular Sediment Barrier

- a. To be provided by an approved manufacturer or supplier: b. Installed per manufacturer's specifications;
- c. Barrier shall be removed when they have served their useful purpose but not before the upslope areas has been permanently stabilized.

<u>Straw/Hay Bales</u>

- Bales shall be placed in a single row, lengthwise on the contour, with ends of adjacent bales tightly abutting one another
- * All bales shall be either wire-bound or string-tied. Bales shall be installed so that bindings are 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 and the length of the proposed barrier to a minimum depth of 4 inches.
- * After the bales are staked and chinked, the excavated soil shall be backfilled against the barrier.
- 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. * 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

<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.

- * 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, sediment barriers shall be replaced with a temporary check dam. * Should the fabric on a sedimentation barrier or filter barrier decompose or become ineffective prior to the end of the expected usable life and the barrier still is necessary, the fabric shall be
- replaced promptly. * Sediment deposits should be removed when deposits reach approximately one third (1/3) the
- height of the barrier.
- * Filter berms should be reshaped as needed. * 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.

PERMANENT SEEDING

- 1. Bedding stones larger than $1\frac{1}{2}$, 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 lime and fertilizer should be based on an evaluation of soil tests.

3. Seed Mixture (See Landscape Drawings for additional information):

- 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 germination of each variety.
- 3.2. Seed mixture shall conform to landscape specifications 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 erodible soils (fine sand/silt), etc.

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.

The contractor shall be responsible for installing, monitoring, maintaining, repairing, replacing and removing

- all of the erosion and sedimentation controls or appointing a qualified 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. Stabilize the soil with temporary vegetation and erosion control mats: 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. Stabilize the slope with stone riprap: 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. Stabilize the soil with temporary vegetation: 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. Stabilize the soil with sod: 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

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: l. <u>sedimentation barrier</u>: 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
- 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

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.

mulched in accordance with the rates previously stated.

- 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.

- l. 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.

- 3. 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
- Note: Dewatering a stream without a permit from the department violates state water quality standards and the Natural Resources Protection Act.
- 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
- 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 Management Rules; Maine Hazardous Waste Management Rules; Maine Oil Conveyance and Storage Rules; and Maine Pesticide requirements.
- 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.
- Note: For guidance on dewatering controls, consult the Maine Erosion and Sediment Control BMPs, published by the Maine Department of Environmental Protection.
- 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:
 - Discharges from firefighting activities Fire hydrant flushings • Vehicle washwater if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage, and transmission washing is prohibited
 - Dust control runoff in accordance with permit conditions • Routine external building washdown, not including surface paint removal, that does not involve
 - 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
 - Uncontaminated air conditioning or compressor condensate Uncontaminated groundwater or spring water
 - Foundation or footer drain—water where flows are not contaminated Uncontaminated excavation dewatering
- Potable water sources including waterline flushings 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: • Wastewater from the washout or cleanout of concrete, stucco, paint, form release oils, curing
- compounds or other construction materials; Fuels, oils, or other pollutants used in vehicle and equipment operations and maintenance;
- Soaps, solvents or detergents used in vehicle and equipment wash; • Toxic or hazardous substances from a spill or other release.
- 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.

STAKE ON 10' LINEAR SPACING

PROTECTED

∽ FILTREXX®

COMPOST

SILT-SOXXTM

. SILTSOXX MAY BY USED IN PLACE OF SILT FENCE OR OTHER SEDIMENT BARRIERS.

4. ALL SEDIMENT TRAPPED BY SILTSOXX SHALL BE DISPOSED OF PROPERLY.

TUBULAR SEDIMENT BARRIER

3. SILTSOXX COMPOST/SOIL/ROCK/SEED FILL MATERIAL SHALL BE ADJUSTED AS NECESSARY TO MEET THE

WATER FLOW

WORK AREA

PLAN VIEW

2. ALL MATERIAL TO MEET FILTREXX SPECIFICATIONS.

REQUIREMENTS OF THE SPECIFIC APPLICATION.

 \Longrightarrow

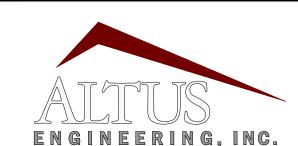
FILTREXX®

12" SILT-SOXX^{IM}—

WORK AREA

This project has a written erosion control plan and stormwater maintenance plan. Modifications to the plan

must be approved by the Town. 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.



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



NOT FOR CONSTRUCTION

SSUED FOR:

<u>ISSUE DATE:</u>

APPROVAL

NOVEMBER 23, 2021

TOWN COMMENTS

<u>REVISIONS</u> NO. DESCRIPTION BY DATE EDW 10/28/2 INITIAL SUBMISSION

EDW 11/23/2

5053SITE.dwg

RMB DRAWN BY:. EDW APPROVED BY:

SCALE:

NOT TO SCALE

DRAWING FILE: __

ELIZABETH CASELLA WILLIAM J. BANFIELD ONE BADGERS ISLAND WEST,

5 BADGERS ISLAND WEST #3

KITTERY, MAINE 03904

APPLICANT:

5 BADGERS ISLAND WEST #3 KITTERY, MAINE 03904

LITTLE BRIDGE LOBSTER, LLC

____ 2" × 2" WOODEN

STAKE (TYP.);

SECTION

REBAR W/ORANGE SAFETY

AREA TO BE

PROTECTED

NOT TO SCALE

CAP MAY BE USED IN

PAVED SURFACE ONLY

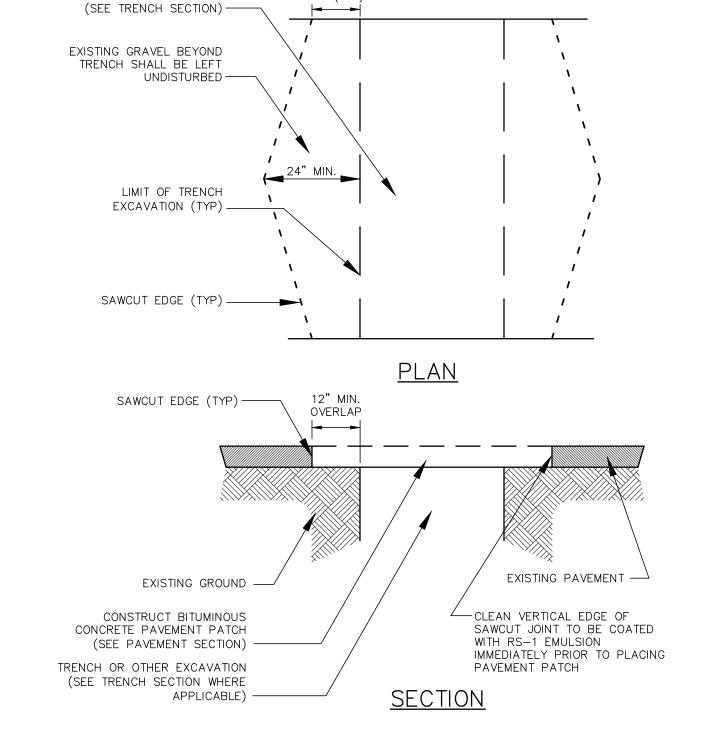
LITTLE BRIDGE LOBSTER RESTAURANT

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

TITLE:

EROSION CONTROL NOTES

SHEET NUMBER:



12" (MIN)

<u>NOTES</u>

THERMOPLASTIC

NOT TO SCALE

1. MACHINE CUT EXISTING PAVEMENT.

CURB RAMP (SEE SITE PLAN FOR TYPE AND LAYOUT)

→ SIDEWALK → ►

EXCAVATED UTILITY TRENCH

- 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

PAINTED

PAINTED HANDICAP SYMBOL (TYP, SEE DETAIL) -

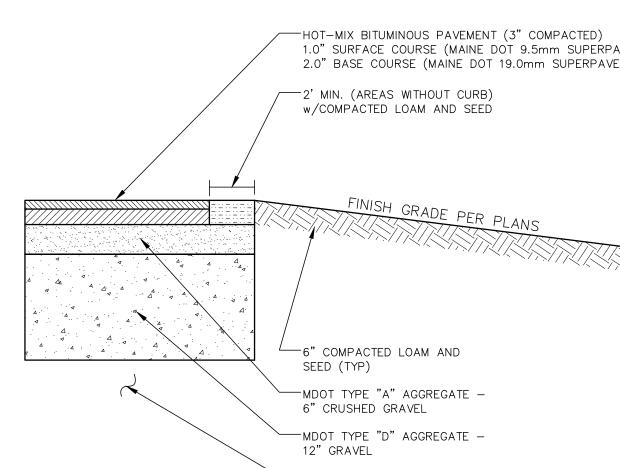
LINES (TYP)

NOT TO SCALE

- POST OR BUILDING MOUNTED \ R7-8 (R7-8P ADDED AT VAN

NOT TO SCALE

SPACES, SEE SITE PLAN)



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.

-COMPACTED NATIVE SUBGRADE OR FILL WHERE REQUIRED

- PIPING/UTILITIES TO DEPTHS RECOMMENDED IN GEOTECHNICAL REPORT.
- 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

WEARING COURSE -BINDER COURSE -3,000 psi CONCRETE — (TYP BOTH SIDES) 6" COMPACTED CRUSHED GRAVEL MDOT TYPE "A" - COMPACTED NATIVE SUBGRADE OR FILL

NOTES:

1. SEE PLANS FOR CURB LOCATION. 2. ADJOINING STONES SHALL HAVE THE SAME OR APPROXIMATELY THE SAME LENGTH.

GRANITE CURB STRAIGHT OR CURVED —

- 3. MINIMUM LENGTH OF CURB STONES = 34. 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

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'

— HARDSCAPE OR

LOAM & SEED (SEE SITE PLANS)

ENGINEERING, INC.

WEINRIEB

No. 6658

NOT FOR CONSTRUCTION

NOVEMBER 23, 2021

133 Court Street

(603) 433-2335

ISSUED FOR:

ISSUE DATE:

<u>REVISIONS</u>

DRAWN BY:.

OWNER:

APPLICANT:

APPROVED BY:

DRAWING FILE: _

NO. DESCRIPTION

D INITIAL SUBMISSION

TOWN COMMENTS

Portsmouth, NH 03801

www.altus-eng.com

APPROVAL

BY DATE

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ELIZABETH CASELLA

WILLIAM J. BANFIELD

ONE BADGERS ISLAND WEST,

5 BADGERS ISLAND WEST #3

KITTERY, MAINE 03904

LITTLE BRIDGE LOBSTER, LLC

5 BADGERS ISLAND WEST #3

KITTERY, MAINE 03904

VERTICAL GRANITE CURB

ON THE PLANS.

NOT TO SCALE

1.0" SURFACE COURSE (MAINE DOT 9.5mm SUPERPAVE) 2.0" BASE COURSE (MAINE DOT 19.0mm SUPERPAVE)

<u>NOTES</u>

- 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
- 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.

SITE PAVEMENT CROSS SECTION

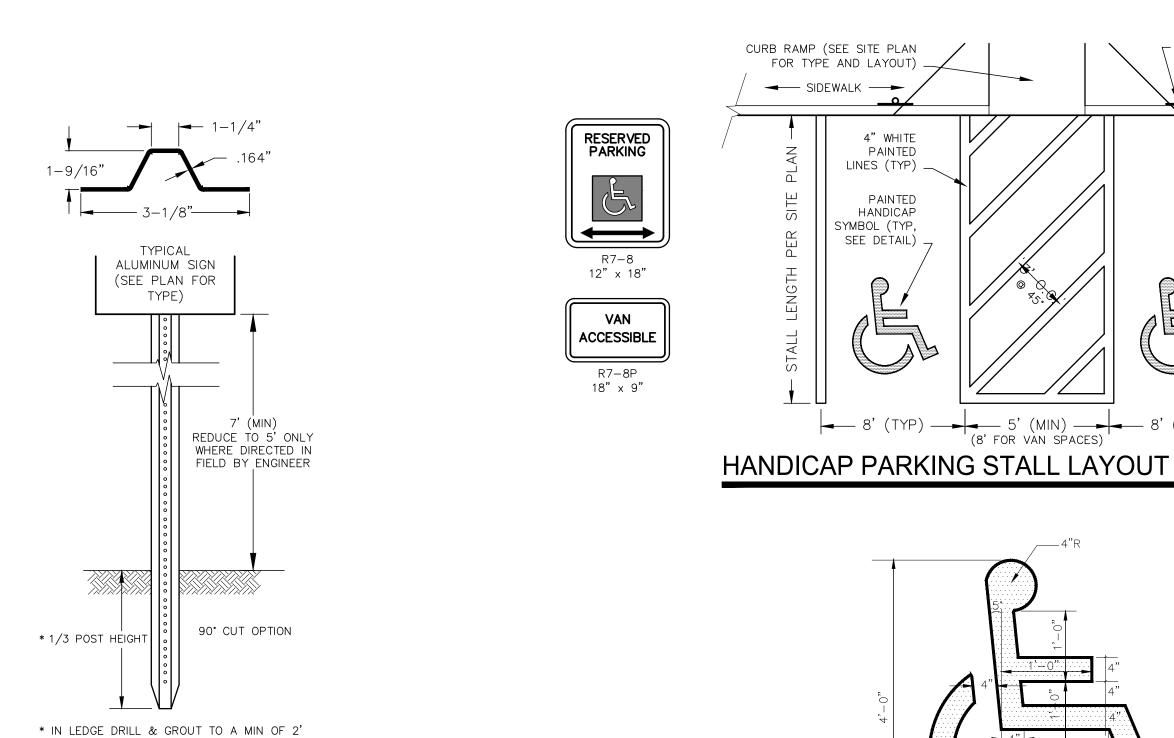
NOT TO SCALE

DETAIL SHEET

LITTLE BRIDGE LOBSTER **RESTAURANT**

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

SHEET NUMBER: C - 4



<u>LENGTH:</u> AS REQUIRED WEIGHT PER LINEAR FOOT: 2.50 LBS (MIN.) HOLES: 3/8" DIAMETER, 1" C-C FULL LENGTH

CROSSWALK STRIPING DETAIL

STEEL: SHALL CONFORM TO ASTM A-499 (GRADE 60) OR ASTM A-576 (GRADE 1070 - 1080) LATEST EDITION.

SIGN DETAILS

<u>NOTES</u>

 ALL SIGNS SHALL MEET THE REQUIREMENTS OF AND BE INSTALLED AS INDICATED IN THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES,

NOT TO SCALE

PAINTED HANDICAP SYMBOL

(8' FOR VÀN SPACES)

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

NOT TO SCALE



WOMEN'S HESTROOM
RESTROOM
107
108

INDOOR SPACE [101]

LOOSE

LOOSE

TABLE

UNISEX RESTROOM 103

WARE WASH [104]

102

-EXTERIOR LED STRIP LIGHTING BUILT INTO LOWER CANOPY TO LIGHT DECK AND ENTRIES

EXTERIOR WALL PACK LIGHTING AT ALL DOORS

KITCHEN 105





-CONCRETE LANDSCAPE WALL

-REAR WALKWAY

ROOF ABOVE

-CONCRETE PAD AND PROPANE TANKS

EXTERIOR TABLES

-EDGE OF DECK TO MATCH EXISTING

-WOOD DECK AND RAILING SYSTEM

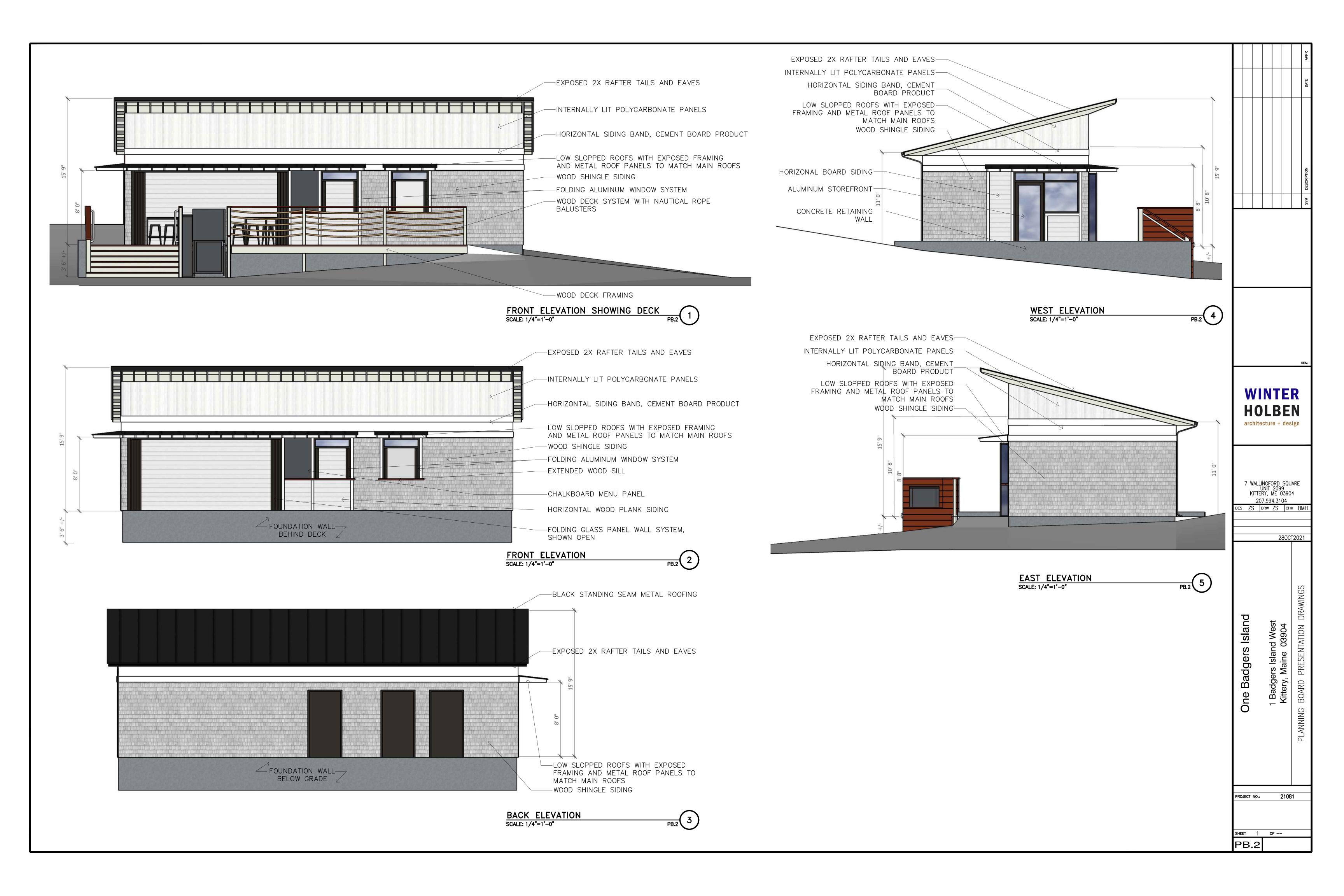
WINTER **HOLBEN** architecture + design

			SYM DESCRIPTION
			SYM

7 WALLINGFORD SQUARE
UNIT 2099
KITTERY, ME 03904
207.994.3104

DES ZS DRW ZS CHK BMH 280CT2021

PB.1



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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 abstaining

16.6.6.B Factors of consideration

§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;

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 **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: 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.

Vote: 5 in favor 0 against 0 abstaining

§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: 5 in favor 0 against 0 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.

Vote: 5 in favor 0 against 0 abstaining

§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: 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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 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.

Vote: 5 in favor 0 against 0 abstaining

§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: 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 (<u>DOES / DOES NOT</u>) anticipate and eliminates potential nuisances crated by its location.

Conclusion: The requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining

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

Conclusion: This requirement appears to be met.

Vote: 5 in favor 0 against 0 abstaining)

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: 5 in favor 0 against 0 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: 5 in favor 0 against 0 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.

Vote: 5 in favor 0 against 0 abstaining

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: 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: 5 in favor 0 against 0 abstaining

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

Waivers: None.

Conditions of Approval (to be depicted on final plan 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.
- 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.

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Vote: 5 in favor 0 against 0 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON January 13, 2022

Rutch Dynkelberger, Planning Board Chair

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