

PLAN REVIEW NOTES  
 16 Norton Road  
 Map 56 Lot 26  
 Major Plan Modification and Special Exemption Request

December 10, 2020

**Town of Kittery Maine  
 Town Planning Board Meeting  
 December 10 , 2020**

**ITEM 4—16 Norton Road—Major Subdivision Modification**

Action: Accept or deny plan as complete; continue application to a subsequent meeting; schedule site walk and/or public hearing; approve or deny plan. Pursuant to §16.10.9.3.B *Major modifications* and §16.6.4.D *Special exception use request* of the Town of Kittery Land Use and Development Code, owner/applicant Gallo Rentals, LLC requests approval for a major modification to an approved cluster subdivision and special exception request proposing the installation of twelve 24’x12’ garages of which six (6) are centered in the Resource Protection Overlay Zone located on real property with an address of 16 Norton Road, Tax Map 56 Lot 26 in the Rural Residential Zone (R-RL) and Stream Protection (OZ-SP-75) and Recourse Protection (OZ-RP) Overlay Zones..

**PROJECT TRACKING**

REQ'D	ACTION	COMMENTS	STATUS
NO	Sketch Plan Review	None.	N/A
No	Site Visit	At the Board’s discretion	TBD
YES	Determination of Completeness/Acceptance	December 10, 2020	Ongoing
No	Public Hearing	At the Board’s discretion	TBD
YES	Plan Approval		PENDING

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4” HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.L - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

**Project Introduction**

16 Norton Road (“Project”) is located within the Rural-Residential (R-RL) zoning district, Resource Protection (OZ-RP) and Stream Protection (OZ-SL-75) Overlay Zones and FEMA Flood Hazard Zone (A-100 year). The project’s current conditions comprise 11 dwelling units, a large storage structure located to the southeast of the lot and small individual storage units for each dwelling unit scattered around the lot. Abutting and in the general vicinity of the Project are single-family dwelling units consisting of a similar nature. The applicant is before the Planning Board (“Board”) requesting to construct 12 garages totaling 3,456-sf, of which six (6) totaling 1,728-sf are located in the OZ-RP. This request necessitates a major subdivision modification review and special exception request for development within the Resource Protection.

**Analysis and Staff Commentary**

The property of 16 Norton Road has a long development history. In 1985, six (6) units (3 duplexes) were approved and constructed, and subsequently, the Planning Board in on August 14, 1987, approved and additional five (5) units comprising one (1) duplex and one (1) triplex with associated improvements and open space. On August 25, 1995, the Board approved an additional accessory structure with a subdivision modification request.

The current application is another subdivision modification request along with a special exception request to permit 6 new accessory structures to be located in the OZ-RP. The Board should first turn its attention

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to the development standards for Resource Protection as more scrutiny is required since the proposed development therein requires a special exception permit to exist.

### *Structures located in Resource Protection*

The Board should initially examine the following sections to determine whether or not the proposed 6 accessory units are permitted within the OZ-RP: §16.3.2.19.B(1)(b) *Special exceptions*; §16.3.2.19.D *Standards*<sup>1</sup>, and §16.8.28.1 *Dwellings in Resource Protection and Shoreland Overlay Zone*<sup>2</sup>. It stands true that the proposed garages are permitted by special exception, thereby the Board is the permit granting authority since the proposed development is within OZ-RP. Turning to the standards of the OZ-RP Zone, it appears the Board may want to inquire with the applicant whether or not there are alternative locations outside the OZ-RP for the garages to be located. The Board also needs more information with regard to building coverage as only the buildings within the OZ-RP were calculated and the rest of the buildings from the development were absent. As regards to the standards, pursuant to §16.8.28.1 *Dwellings in Resource Protection and Shoreland Overlay Zone*, it appears that the proposed development contravenes subsection F., as the total square footage allowed in the OZ-RP is 1,500-sf. and the proposed development is added 1,728-sf therein. Moreover, this development has a pre-existing building footprint of 7,700-sf within the OZ-RP, which is well over the permitted amount of area allowed under §16.8.28.1.F. Furthermore, it appears that subsection A. needs addressing as well as there may be viable alternative locations outside the Resource Protection Overlay Zone to place the garages. Taken together, the location of the proposed garages within the OZ-RP appears to be an issue that needs to be resolved before the application moved forward.

### **Procedural Steps and Recommendations**

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At this juncture, the Board should direct the applicant to submit a revised modification plan showing alternative locations of the 6 garages outside the OZ-RP before moving to vote on the applications

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#### <sup>1</sup> Standards:

1. The design and performance standards of Chapters 16.8 and 16.9 and Shoreland Overlay Zone provisions of § 16.3.2.17 apply, where applicable, in addition to the following standards, whichever is the most restrictive.
2. Dimensional standards such as front, side and rear yards, building coverage, height and the like are the same as those in the underlying zone.
3. Road construction and parking facilities are allowed in the Resource Protection Overlay Zone only where no reasonable alternative route or location is available outside the Resource Protection Overlay Zone, in which case a permit or site plan or subdivision plan approval is required by the Planning Board.
4. Clearing or removal of vegetation for uses, other than timber harvesting as limited per Chapter 16.9, Article V, Design and Performance Standards, in a Resource Protection Overlay Zone, is prohibited within the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere in a Resource Protection Overlay Zone, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in the Resource Protection Overlay Zone.

<sup>2</sup> The Code Enforcement Officer may issue a permit for a new dwelling unit outside the base zone setback in the Shoreland Overlay Zone only provided the structure is conforming with all base zone setbacks. In addition to the criteria specified in §§ 16.6.6 and 16.10.8.3D, applicable to the granting of a special exception use request, the Planning Board may approve an application for a single-family dwelling special exception use request, within the Resource Protection Overlay Zone, provided the applicant demonstrates all of the following conditions are met:

- A. There is no location on the property, other than a location within Resource Protection Overlay Zones, where a single-family dwelling can be built, provided the structure is conforming with all base zone standards
- B. The lot on which the structure is proposed is undeveloped and was established and recorded in the York County Registry of Deeds before inclusion in the Shoreland or Resource Protection Overlay Zones.
- C. All proposed buildings, sewage disposal systems, other than municipal sewer, and other improvements are located:
  - (1) On natural ground slopes of less than 20%;
  - (2) Outside the floodway of the one-hundred-year floodplain along rivers; and
  - (3) Outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
- D. The lowest floor elevation or openings of all buildings and structures, including basements, must be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record or, in the absence of these, the flood as defined by soil types identified as recent floodplain soils.
- E. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the one-hundred-year floodplain.
- F. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation may not be altered by variance.
- G. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent but not less than 75 feet horizontal distance. In determining the greatest practical extent, the Planning Board must consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain and its proximity to the wetlands

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completeness. The applicant also will need to revise the modification plan to incorporate more dimensional information and floodplain information pursuant to Title 16.

### **Recommended motion**

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Below are recommended motions for the Board's use and consideration:

#### *Motion to continue application*

Move to continue the major subdivision plan modification and special exception use request application from owner/applicant Gallo Rentals, LLC requesting approval of a major modification to an approved cluster subdivision proposing the installation of twelve 24'x12' garages of which six (6) are centered in the Resource Protection Overlay Zone located on real property with an address of 16 Norton Road, Tax Map 56 Lot 26 in the Rural Residential Zone (R-RL) and Stream Protection (OZ-SP-75) and Recourse Protection (OZ-RP) Overlay Zones.

# TOWN OF KITTERY, MAINE

## TOWN PLANNING AND DEVELOPMENT DEPARTMENT

200 Rogers Road, Kittery, Maine 03904  
 PHONE: (207) 475 -1323 FAX: (207) 439 -6806  
[www.kittery.org](http://www.kittery.org)



### APPLICATION: MAJOR MODIFICATION TO AN APPROVED PLAN- SITE PLAN

<b>FEE FOR SITE PLAN AMENDMENT REVIEW: (TITLE 16.10.9.3)</b>	<input checked="" type="checkbox"/> <b>\$300.00 PLUS THE GREATER OF</b>	<input type="checkbox"/> <b>\$50/ADDITIONAL USE OF UNIT; OR</b>	<input type="checkbox"/> <b>\$5.00/100 SQ FT OF ADDITIONAL GROSS FLOOR AREA</b>	Application Fee Paid: \$ _____ Date: _____  ASA Fee Paid: (TITLE 3.3 TOWN CODE) \$ _____ Date: _____
		<input type="checkbox"/> <b>\$0.50/LINEAR FOOT OF ADDITIONAL DOCK, SLIP &amp; FLOAT; OR</b>	<input type="checkbox"/> <b>\$20.00/ADDITIONAL UNIT INTENDED TO PROVIDE OVERNIGHT SLEEPING ACCOMODATIONS</b>	

PROPERTY DESCRIPTION	Parcel ID	Map	<b>56</b>	Lot	<b>26</b>	Zone(s):	Rural Res.	Total Land Area (Square Feet)	<b>591,431</b>
	Physical Address	<b>16 Norton Road</b>				Base:	Res. Prof.		
						Overlay:	<input type="checkbox"/> YES <input type="checkbox"/> NO		
						MS4:			

PROPERTY OWNER'S INFORMATION	Name	Gallo Rentals, LLC	Mailing Address	71 Haybrook Drive Alfred, Maine 04002
	Phone	207-651-7396		
	Fax			
	Email	gallomag1@aol.com		

APPLICANT'S AGENT INFORMATION	Name	SAME	Mailing Address	
	Phone			
	Fax			
	Email			

<b>PROJECT DESCRIPTION</b>	Project Name: <b>YANKEE PROPOERTIES CONDOMINIUM</b>
	Existing Use: <b>RESIDENTIAL</b>
	Proposed Amendment Please describe how the approved plan is proposed to be amended. State any known areas of non-compliance to the Town Code and how this amendment will decrease or remove non-compliance, if applicable.
	<b>ADDITION OF 12 GARAGE UINTS TO BENEFIT THE EXISTING CONDOMINIUM UNITS. SEE PLAN SHEET, LOT COVERAGE TABLE FOR CONFORMANCE OF THE TOWN LOT COVERAGE REQUIREMENTS</b>

I certify, to the best of my knowledge, this application information is true and correct and I will not deviate from the plan submitted without notifying the Kittery Town Planning Department of any changes.

Applicant's Signature: _____	Owner's Signature: _____
Date: <u>10-28-20</u>	Date: _____



## Minimum Plan Submittal Requirements

- 15 COPIES OF THIS APPLICATION
- 15 COPIES OF THE APPROVED SITE PLAN – 12 REDUCED SIZE AT 11"X17" AND 3 FULL SIZE AT 24"X36"
- 15 COPIES OF THE PROPOSED AMENDED SITE PLAN– 12 REDUCED SIZE AT 11"X17" AND 3 FULL SIZE AT 24"X36"
- 1 PDF OF THE SITE PLAN SHOWING GPS COORDINATES

**PRIOR TO BEGINNING THE REVIEW PROCESS, THE PLANNING BOARD WILL DECIDE WHETHER SUFFICIENT INFORMATION HAS BEEN PROVIDED AND WILL VOTE TO DETERMINE COMPLETENESS/ACCEPTANCE.**

**THE APPLICANT IS RESPONSIBLE TO PRESENT A CLEAR UNDERSTANDING OF THE PROPOSED AMENDMENT.**

- A) Paper size:
  - No less than 11" X 17" (reduced) or greater than 24" X 36" (full)
- B) Scale size:
  - Under 10 acres: no greater than 1" = 30'
  - 10 + acres: 1" = 50'
- C) Title block:
  - Applicant's name and address
  - Name of preparer of plans with professional information and professional seal
  - Date of plan preparation
  - PARCEL'S TAX MAP ID (MAP/LOT) 1/4" TALL IN LOWER RIGHT
  - 'SITE PLAN AMENDMENT' CLEARLY PART OF TITLE
- D) Clearly show how the approved plan will be amended.
- E) Provide signature blocks for amended approval.
- F) Provide all associated reference material and or documentation that clarifies and or supports the purpose of the proposed amendment.
- G) Revisions to the boundary, internal lots and or parcels must be signed and sealed by a surveyor licensed in the State of Maine.
- H) Revisions to the proposed site must be signed and sealed by a professional engineer licensed in the State of Maine.

**SEE TITLE 16.10.5.2 FOR COMPLETE LIST OF SUBMITTAL INFORMATION**

NOTE TO APPLICANT: PRIOR TO THE SITE WALK, TEMPORARY MARKERS MUST BE ADEQUATELY PLACED THAT ENABLE THE PLANNING BOARD TO READILY LOCATE AND APPRAISE THE LAYOUT OF DEVELOPMENT.

### Waiver Request

	Ordinance Section	Describe why this request is being made.
<b>DESCRIPTION</b>	***EXAMPLE*** 16.32.560 (B)- OFFSTREET PARKING.	***EXAMPLE*** Requesting a waiver of this ordinance since the proposed professional offices have a written agreement with the abutting Church owned property to share parking.

**16.10.8.2.5 Conditions or Waivers.**

Conditions required by the Planning Board at the final plan review phase must have been met before the final plan may be given final approval unless so specified in the condition or specifically waived, upon written request by the applicant, by formal Planning Board action wherein the character and extent of such waivers which may have been requested are such that they may be waived without jeopardy to the public health, safety and general welfare.

**16.7.4.1 Objectives Met.** In granting modifications or waivers, the Planning Board must require such conditions as will, in its judgment, substantially meet the objectives of the requirements so waived or modified.

**SUBMITTALS THE TOWN PLANNER DEEMS SUFFICIENTLY LACKING IN CONTENT WILL NOT BE SCHEDULED FOR PLANNING BOARD REVIEW.**

COMPLETED BY OFFICE STAFF

ASA CHARGE	AMOUNT	ASA CHARGE	AMOUNT
<b>REVIEW</b>		<b>SERVICES</b>	
LEGAL FEES (TBD)		RECORDER	\$35
ENGINEERS REVIEW (TBD)		FACT FINDING (TBD)	
<b>ABUTTER NOTICES</b>		3 <sup>RD</sup> PARTY INSPECTIONS (TBD)	
POSTAGE	\$20	OTHER PROFESSIONAL SERVICES	\$50
<b>LEGAL NOTICES</b>		<b>PERSONNEL</b>	
ADVERTISING	\$300	SALARY CHARGES IN EXCESS OF 20 HOURS	
<b>SUPPLIES</b>			
OFFICE	\$5		
SUB TOTAL		SUB TOTAL	
		<b>TOTAL ASA REVIEW FEES</b>	



**REFERENCE PLANS:**

- "MAINE - STATE HIGHWAY COMMISSION - R.O.W. PLAN - STATE AID HIGHWAY NO. 2 - KITTERY - YORK COUNTY - "HALEY ROAD" SCALE: 1"=50' SEPT. 1945.
- "BOUNDARY - PLAN OF LOTS - YANKEE PROPERTIES - KITTERY, ME." SCALE: 1"=50' DEC. 18, 1984 BY THOMAS P. MORAN INC. Y.C.R.D. PLAN BOOK 136, PAGE 4.
- "AMENDED AS-BUILT SITE PLAN PREPARED FOR YANKEE PROPERTIES CONDOMINIUM - KITTERY, ME." SCALE: 1"=50' MAY 11, 1989 BY THOMAS P. MORAN INC. Y.C.R.D. CONDOMINIUM FILE 328, PAGE 5.

**NOTES:**

- \*OWNER OF RECORD IS GALLO RENTALS, LLC, SEE BOOK 16497, PAGE 590 THE YORK COUNTY REGISTRY OF DEEDS
- 56-26 DENOTES TAX MAP AND LOT NUMBER.
- TOTAL AREA OF PARCEL IS 13.605 ACRES.
- PARCEL IS ZONED: RURAL/ RESIDENTIAL.
- ALL UTILITIES ARE UNDERGROUND, EXCEPT AS SHOWN, AND ARE DESIGNATED AS COMMON AREA.
- BOUNDARY INFORMATION IS TAKEN FROM REFERENCE PLAN # 2.
- PRIVATE WAY TO REMAIN PRIVATE. ALL DEEDS TO CONTAIN RESTRICTION THAT PRIVATE WAY IS TO REMAIN FOREVER PRIVATE AND NEVER BE MAINTAINED BY THE TOWN. THE 40' RIGHT OF WAY WILL SERVE ONLY 11 UNITS AND ANY FURTHER INTENSIFICATION OF USE WOULD REQUIRE RECONSIDERATION OF THE REDUCTION IN THE RIGHT OF WAY WIDTH BY THE PLANNING BOARD.
- SEE ADDITIONAL CONDOMINIUM PLANS Y.C.R.D. FILE # 328, PAGES 1-3.

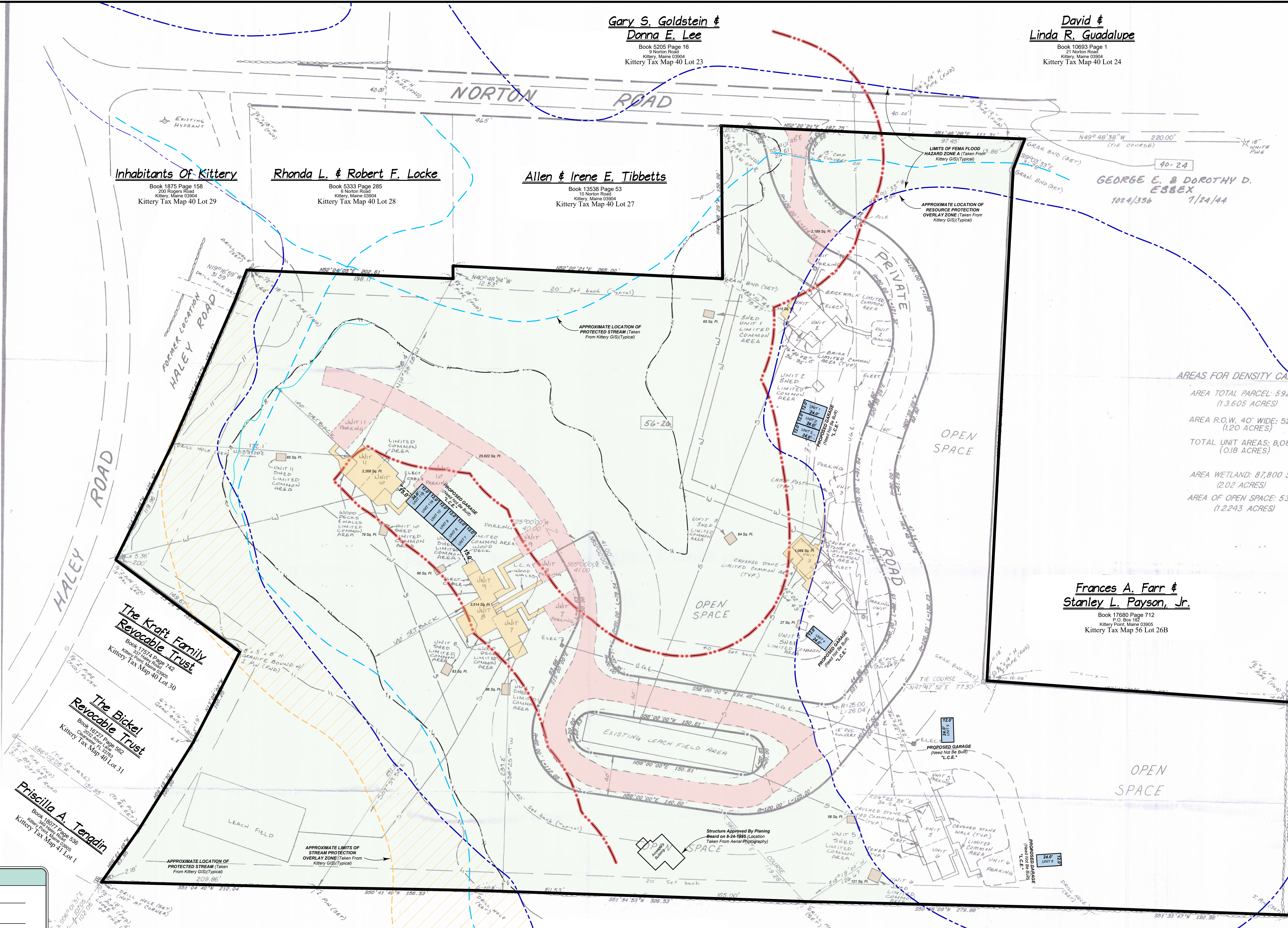
**NOTES (11-23-2020):**

- Zoning Information:**  
§16.3.2.1 Residential - Rural (R-3L)  
Minimum Land Area Per Dwelling Unit: **40,000 Square Feet**  
Minimum Street Frontage: **150.0'**  
Minimum Front Yard: **40.0'**  
Minimum Rear & Side Yards: **20.0'**  
Maximum Building Coverage: **15%**  
Maximum Building Height: **35.0'**  
Minimum Setback From Streams, Water Bodies and Wetlands: **100.0'**
- Purpose of Revision:**  
To provide garages for the individual unit owners at their option.

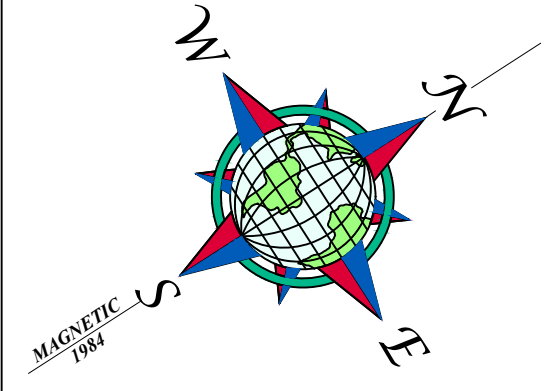
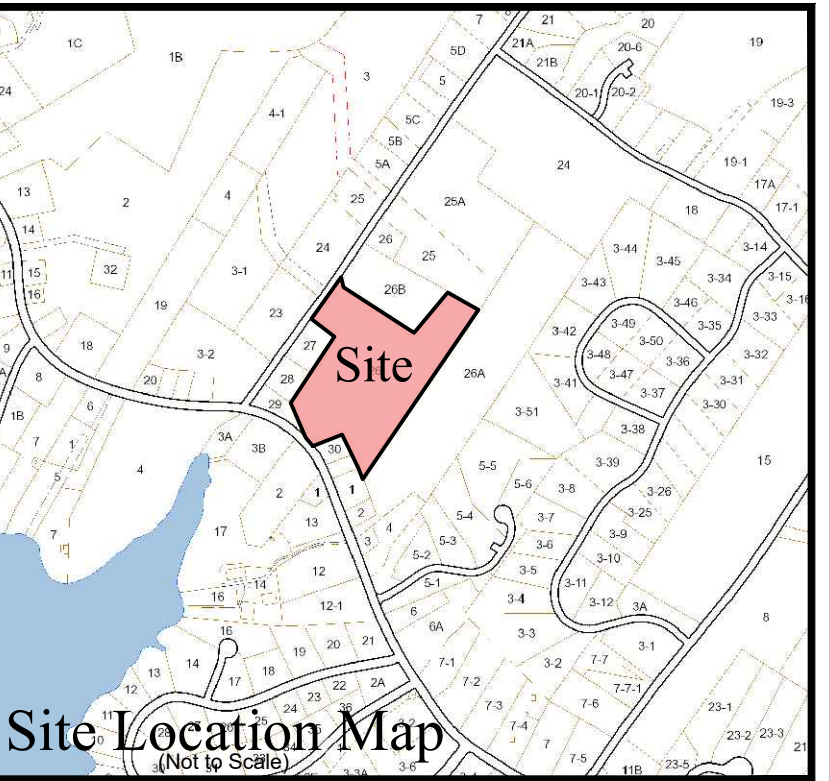
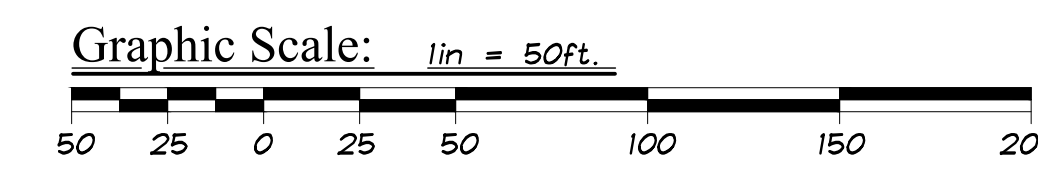
Lot Coverage Calculations:	
Total Area Within Resource Protection District:	
<b>404,129 Square Feet</b>	
Combined Area of Existing Sheds	734 Square Feet
Combined Area of Existing Units	6,966 Square Feet
Combined Area of Roadway/Driveways	27,811 Square Feet
Combined Area of Proposed Garages	1,728 Square Feet
<b>Total Area of Coverage</b>	<b>37,239 Square Feet</b>
<b>Percentage of Coverage</b>	<b>9.21%</b>

Approved By:	Date:

Planning Board



- Legend:**
- Limits of Stream Protection Overlay Zone
  - Approximate Location of Protected Stream
  - Approximate Location of FEMA Flood Hazard Zone A/Resource Protection Overlay Zone
  - Building Setback Lines
  - Building Setback Lines

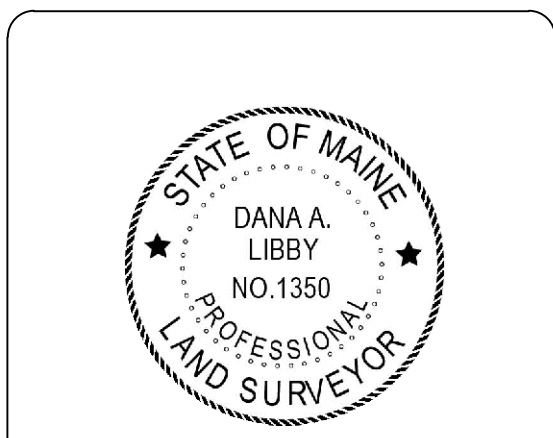


YORK, ss REGISTRY OF DEEDS  
Received: \_\_\_\_\_  
at \_\_\_\_\_ h \_\_\_\_\_ m \_\_\_\_\_ M., and  
Filed in Plan Book \_\_\_\_\_ Page \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
Register

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Survey File Name:	2016082.crd	
CAD File Name:	2016082.dwg	
Drawn By:	KAL	
Job Number:	2016082	
Revisions	Date	By

Second Amended As-Built Site Plan  
**Yankee Properties Condominium**  
Prepared For  
**Gallo Rentals, LLC**  
71 Haybrook Road  
Alfred, Maine 04002  
This Plan Revises Condominium File 328 Page 5  
Property Located Off Of Norton Road  
In Kittery, Maine  
October 19, 2020  
Scale: 1in. = 50ft.



Dana A. Libby  
Professional Land Surveyor 1350  
10-19-2020