



**KITTERY PORT AUTHORITY
TOWN HALL
200 ROGERS RD.
KITTERY, ME 03904**

Phone: 207-439-0452 ext 301
Email: kpa@kitteryme.org
<http://www.kitteryme.gov/>

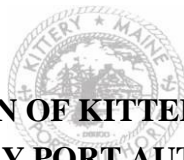
**Meeting Agenda
November 3, 2022
6:00 P.M.**

The public may attend the meeting in person or remotely via Zoom. Attendees via Zoom will be recognized during the public hearing and public segment portion of the meeting. Please note: every effort will be made to make this run smoothly, however some technical difficulties may occur. To register via Zoom visit:

https://us02web.zoom.us/webinar/register/WN_QuBmPgu-Sjq5baseEsx7oA

1. Call to Order / Attendance
2. Pledge of Allegiance
3. Agenda Amendments and Adoption
4. Acceptance of Previous Minutes: none
5. Harbormaster Report and Budget Report
6. All Items involving Town Officials or Invited Guests
7. Public Hearing
8. Piers, Wharves & Floats
 - a. The Kittery Port Authority moves to accept an application from G. Christopher Miller Revocable Trust, 8 Moultons Way, Kittery Point, ME 03905 (Map 33, Lot 7) to construct a 6'x35' accessway, a 6'x45' fixed wood pier, a 3'x30' gangway, and a 10'x20' float. Agent: Steven Riker, Ambit Engineering, Inc.
9. Public Segment (Three Mins.)
10. Unfinished Business
 - a. The Kittery Port Authority moves to accept the findings of fact for the application from SHM Kittery Point, 48 Bowen Road, Kittery, ME 03904 (Map 17, Lot 10) for the conversion of 28 single point moorings in the Back Channel into fourteen (14) 8' x 80' floats. Agent: Sandra Guay, Archipelago Law, LLP.
11. New Business

- a. Election of Acting Vice Chair
- 12. Committee and Other Reports
- 13. Communications from the Chairperson
- 14. Board Member Issues or Comments
- 15. Executive Session
- 16. Adjournment



TOWN OF KITTERY
KITTERY PORT AUTHORITY

Map: 33
Lot: 7
Date Submitted: September 19, 2022

Application for
PIERS, WHARFS, FLOATS AND OTHER MARINE-RELATED STRUCTURES

Contact: kpa@kitteryme.org Website: kitteryme.gov

NOTE: Ten (10) sets of plans, applications, maps and other necessary information are required at submittal.

The following application is submitted for the construction, modification, reconstruction of a:

The project proposes a tidal docking structure consisting of a 6' x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains.

1. This project is an in-kind repair/replacement, which will not expand, move, or modify the style of the existing structure:

Yes, it is in-kind repair No, there will be modifications

2. Property Owner(s): G. Christopher Miller Revocable Trust

3. Property Address: 8 Moultons Way, Kittery Point, ME 03905

4. Telephone Number: 508-561-9517 Email: gcmiller521@gmail.com

5. Property Size (Acres/SF): 1.13 ACx Zoning District(s): Residential Rural (R-RL)

6. The shore frontage of this property is ~140 feet, measured at the high water line in a straight line, stake to stake.

7. This is my first Kittery Port Authority application for this property: Yes No

If No, please explain:

8. LEGAL INTEREST: The applicant demonstrates a legal interest in the property by including a copy of the following: Deed, Purchase and Sale Agreement

9. CONSTRUCTION PLAN: Provide a description of the property showing all proposed construction showing the lot lines and exact positions of the proposed structure with dimensions and elevations from readily identifiable reference points.

Applicant Signature: Date:

Property Owner Signature: Steven Riker Date: September 16, 2022

Agent Name: Steven D. Riker Agent Firm: Ambit Engineering, Inc.

Agent Phone: 603-430-9282 Agent Email: sdr@ambitengineering.com

APPLICATION FEE (\$125). Include a check payable to the Town of Kittery. Additional fees may be charged for direct costs (i.e. legal notices, engineering review, etc.) necessary to complete the review of the application per Town Code, Title 3, Chapter 3.3

Fee Paid, Amount: \$125.00 Date: September 16, 2022

INSTRUCTIONS FOR FILLING OUT PORT AUTHORITY APPLICATION

- a. Attach Town Tax Map of Lot.
- b. Attach Plan of lot with location and dimensions of the proposed structures or alterations to existing structures.
- c. Attach list of abutters within 150 ft. (include those over water) of applicant’s shorefront property line.
- d. Attach proof of legal interest in property.
- e. Attach a drawing of the proposed structure showing the top, side and end views with all principal dimensions. Side view showing elevation of top of deck above mean low water:

- A. Identify a fixed reference point on shore from which all seaward measurements are to be made.
- B. Piers are not to exceed 100 feet beyond the normal high water mark nor extend below the mean low water mark, whichever is shorter. Pier, ramp and floats may not extend more than 150 feet beyond high watermark.
- C. The maximum height of pier deck surface may not exceed 6 feet above the normal high water mark, and the handrails shall not exceed a height above the deck surface of 42” without the specific approval of the KPA.
- D. The Port Authority may grant a waiver from the specifications of these regulations provided that, due to special circumstances of the specific application, the granting of a waiver will not adversely impair the public health, safety and general welfare, use of public waters, navigation or harm the environment. All such waivers must be supported by sufficient findings of fact.

Submittals must be received a minimum of 21 days prior to a scheduled Port Authority meeting.

Port Authority Procedure (Sequence of Events):

- 1. The Port Authority meets the first Thursday of every month. The Chairperson prepares the agenda seven days prior to the meeting.
- 2. The Port Authority Chairperson reviews the application for completeness and, if complete, places the application on the KPA agenda for discussion at the next meeting.
- 3. The Port Authority reviews the application. Once accepted, a site walk may be scheduled, and a public hearing set for the following meeting.
- 4. The Port Authority issues a notice of decision following review at the public hearing.
- 5. Once the Port Authority approval is granted, an applicant must apply for a building permit with the Code Enforcement Officer. **No building permit will be issued until all approvals and permits are received, and application related fees are paid in full.**

Other Permits required by State and Federal Agencies (not inclusive):

Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103
(207) 822-6300

US Army Corps of Engineers
Maine Project Office
675 Western Avenue, #3
Manchester, ME 04351
(207) 623-8367

Department of Conservation (for structures below mean low water mark)
Bureau of Parks and Lands
State House Station #22
Augusta, ME 04333

Planning Board review may be required if there is upland development (Title 16.11 Marine Related Development). All Port Authority applications are reviewed by planning and code enforcement staff for Title 16 applicability at the time of application submittal and prior to review by the Port Authority.



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

**Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME**

To Whom it May Concern:

This letter transmits a Maine Department of Environmental Protection, Natural Resources Protection Act Individual Permit Application request to permit the construction of a tidal docking structure on the above referenced site along Spruce Creek. The construction includes the installation of a 6' x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains. The proposed structure will be located along the shoreline of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek.

Attached to this application you will find an Existing Conditions Plan-Sheet C1, a ME DEP Permit Plan-Sheet C2 and a Dock Details Plan-Sheet D1. The plan set depicts the existing lot, jurisdictional areas, abutting parcels, existing structures, proposed work, and impact areas. Also attached to this application you will find the following: USGS Project location map, tax map, recorded deed, certified mail receipts for abutter notification, a field survey checklist, a coastal wetland characterization, a photo log, project description worksheets for docks, and a notice of intent to file.

Lastly, in utilizing the Maine Office of GIS, the site is located directly adjacent to Tidal Wading Bird and Waterfowl Habitat and Shellfish Beds.

Please contact me if you have any questions or concerns regarding this application.

Respectfully submitted,

Steven D. Riker, CWS
NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

Cc: US Army Corp of Engineers, Maine Project Office
Maine Bureau of Lands
Kittery Town Clerk
Maine Historic Preservation Commission
Houlton Band of Maliseet Indians
Aroostook Band of Micmacs
Passamaquoddy Tribe of Indians-Indian Township Reservation
Passamaquoddy Tribe of Indians-Pleasant Point Reservation
Penobscot Nation

From: [Maine Dept. of Environmental Protection](#)
To: [Steve Riker](#)
Subject: Dept. of Environmental Protection Payment Portal
Date: Monday, September 12, 2022 2:45:39 PM

Thank you for submitting this payment to the Dept. of Environmental Protection. Below is a copy of the information and payment the agency will receive.

- Applicant Name: **G. Christopher Miller Rev Trust / Miller, George Christopher & Diane**
- Activity Location: **Kittery, ME**
- First Name: **Steve**
- Last Name: **Riker**
- Company Name: **Ambit Engineering, Inc**
- Street Address: **200 Griffin Road Unit #3**
- Town/City: **Portsmouth**
- State or Province: **New Hampshire**
- Country: **United States**
- Zip Code: **03801**
- Phone Number: **603-430-9282**
- Email Address: **sdr@ambitengineering.com**
- Fee Type: **Natural Resources Protection Act (Individual Permit)**
- Customer Number:
- Invoice Number:
- Spill Number:
- Payment Amount: **545**
- Additional Comments:

Your information will be reviewed and you may be contacted if more information is needed or if there are additional questions.

6 September, 2022

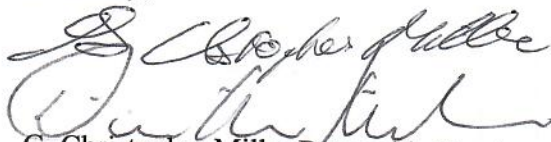
To Whom It May Concern

RE: Maine Department of Environmental Protection, Natural Resources Protection Act Application and Town of Kittery Port Authority Permit Application for a proposed tidal docking structure for G. Christopher Miller Revocable Trust, 8 Moultons Way, Kittery Point, ME.

This letter is to inform the Maine Department of Environmental Protection and the Town of Kittery, in accordance with State Law that Ambit Engineering, Inc. and Riverside & Pickering Marine Contractors, Inc. are individually authorized to represent us as agents and obtain approvals in regards to the above referenced property.

Please feel free to call me if there is any question regarding this authorization.

Sincerely,



G. Christopher Miller Revocable Trust
George Christopher & Dianne Kimberley Miller, Trustees
8 Moultons Way
Kittery Point, ME 03905
508-561-9517

APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN **BLACK INK ONLY**

1. Name of Applicant: G. Christopher Miller Revocable Trust George Christopher & Dianne Kimberley Miller Trustees		5. Name of Agent: Steven D. Riker Ambit Engineering, Inc.	
2. Applicant's Mailing Address: PO Box 295, Kittery Point, ME 03905		6. Agent's Mailing Address: 200 Griffin Road, Unit 3, Portsmouth, NH 03801	
3. Applicant's Daytime Phone #: 508-561-9517		7. Agent's Daytime Phone #: 603-430-9282	
4. Applicant's Email Address (Required from either applicant or agent): gcmiller521@gmail.com		8. Agent's Email Address: sdr@ambitengineering.com	
9. Location of Activity: (Nearest Road, Street, Rt.#) 8 Moultons Way		10. Town: Kittery Point	11. County: York
12. Type of Resource: (Check all that apply) <input checked="" type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input checked="" type="checkbox"/> Coastal Wetland <input type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain		13. Name of Resource: Spruce Creek	
		14. Amount of Impact: (Sq.Ft.) 210 sq. ft. direct above HAT for accessway	Fill: 560 sq. ft. indirect for shading Dredging/Veg Removal/Other: 8 sq. ft. direct impact for pile installation
15. Type of Wetland: (Check all that apply) <input type="checkbox"/> Forested <input type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input checked="" type="checkbox"/> Other <u>tidal wetland</u>		FOR FRESHWATER WETLANDS	
		<i>Tier 1</i>	<i>Tier 2</i>
		<input type="checkbox"/> 0 - 4,999 sq ft. <input type="checkbox"/> 5,000-9,999 sq ft <input type="checkbox"/> 10,000-14,999 sq ft	<input type="checkbox"/> 15,000 – 43,560 sq. ft. <input type="checkbox"/> > 43,560 sq. ft. or smaller than 43,560 sq. ft., not eligible for Tier 1
16. Brief Activity Description:		This project proposes the construction of a tidal docking structure on the above referenced site along Spruce Creek. The construction includes the installation of a 6 x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains. The structure will be built along the shoreline of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek.	
17. Size of Lot or Parcel & UTM Locations:		<input checked="" type="checkbox"/> 49,344 square feet, or <input checked="" type="checkbox"/> 1.13 acres UTM Northing: -70.71790 UTM Easting: 43.0989	
18. Title, Right or Interest:		<input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement	
19. Deed Reference Numbers:		20. Map and Lot Numbers:	
Book#: 18341 Page: 784		Map #: 33 Lot #: 7	
21. DEP Staff Previously Contacted:		22. Part of a larger project: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
23. Resubmission of Application?: <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		After-the-Fact: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
24. Written Notice of Violation?: <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		25. Previous Wetland Alteration: <input type="checkbox"/> Yes <input type="checkbox"/> No	
23. Resubmission of Application?: <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		Previous project manager:	
24. Written Notice of Violation?: <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		If yes, name of DEP enforcement staff involved:	
26. Detailed Directions to the Project Site:			
27. TIER 1		TIER 2/3 AND INDIVIDUAL PERMITS	
<input checked="" type="checkbox"/> Title, right or interest documentation <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Narrative Project Description <input checked="" type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input checked="" type="checkbox"/> Photos of Area <input checked="" type="checkbox"/> Statement of Avoidance & Minimization <input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC		<input type="checkbox"/> Title, right or interest documentation <input type="checkbox"/> Topographic Map <input type="checkbox"/> Copy of Public Notice/Public Information Meeting Documentation <input type="checkbox"/> Wetlands Delineation Report (Attachment 1) that contains the Information listed under Site Conditions <input checked="" type="checkbox"/> Alternatives Analysis (Attachment 2) including description of how wetland impacts were Avoided/Minimized <input checked="" type="checkbox"/> Erosion Control/Construction Plan <input checked="" type="checkbox"/> Functional Assessment (Attachment 3), if required <input type="checkbox"/> Compensation Plan (Attachment 4), if required <input checked="" type="checkbox"/> Appendix A and others, if required <input type="checkbox"/> Statement/Copy of cover letter to MHPC <input type="checkbox"/> Description of Previously Mined Peatland, if required	
28. FEES Amount Enclosed:		\$564.00	
CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2			

IMPORTANT: IF THE SIGNATURE BELOW IS NOT THE APPLICANT'S SIGNATURE, ATTACH LETTER OF AGENT AUTHORIZATION SIGNED BY THE APPLICANT.

By signing below the applicant (or authorized agent), certifies that he or she has read and understood the following :

DEP SIGNATORY REQUIREMENT

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor a permit be issued.

CORPS SIGNATORY REQUIREMENT

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is subject to this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

DEP SIGNATORY REQUIREMENT

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Further, I hereby authorize the DEP to send me an electronically signed decision on the license I am applying for with this application by emailing the decision to the address located on the front page of this application (see #4 for the applicant and #8 for the agent)."

Steven Riker
SIGNATURE OF AGENT/APPLICANT

Date: September 6, 2022

NOTE: Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.

(pink)

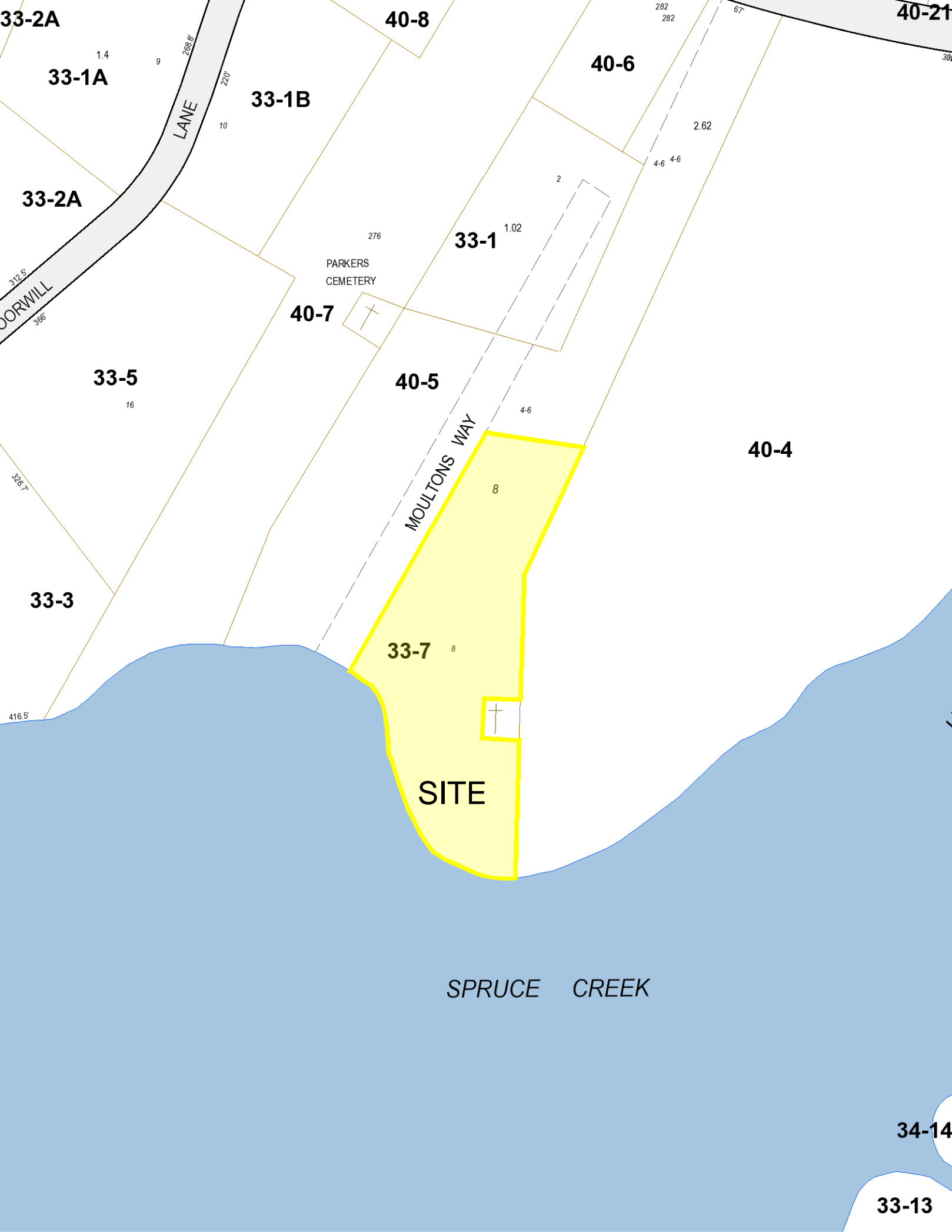
My Map

No legend



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33-2A

40-8

40-21

33-1A

33-1B

40-6

33-2A

33-1

DOORWILL

PARKERS
CEMETERY

40-7

33-5

40-5

40-4

33-3

MOULTONS WAY

33-7

SITE

SPRUCE CREEK

34-14

33-13

**APPENDIX A: MDEP VISUAL EVALUATION
FIELD SURVEY CHECKLIST**
(Natural Resources Protection Act, 38 M.R.S.A. §§ 480 A - Z)

Name of applicant: G. Christopher Miller Revocable Trust Phone: 508-561-9517
 Application Type: Maine DEP NRPA Individual
 Activity Type: (brief activity description) Construction of a tidal docking structure
 Activity Location: Town: Kittery Court: York
 GIS Coordinates, if known: Lat: -70.71790 Lon: 43.0989
 Date of Survey: August 18, 2022 Observer: Steven D. Riker Phone: 603-430-9282

**Distance Between the Proposed Visibility
Activity and Resource (in Miles)**

1. Would the activity be visible from:	0-1/4	1/4-1	1+	
A. <i>A National Natural Landmark or other outstanding natural feature?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
B. <i>A State or National Wildlife Refuge, Sanctuary, or Preserve or a State Game Refuge?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
C. <i>A state or federal trail?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
D. <i>A public site or structure listed on the National Register of Historic Places?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bray House
E. <i>A National or State Park?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Fort McClary
F. 1) <i>A municipal park or public open space?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Fort McClary
2) <i>A publicly owned land visited, in part, for the use, observation, enjoyment and appreciation of natural or man-made visual qualities?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Fort McClary
3) <i>A public resource, such as the Atlantic Ocean, a great pond or a navigable river?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. What is the closest estimated distance to a similar activity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. What is the closest distance to a public facility intended for a similar use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Is the visibility of the activity seasonal? (i.e., screened by summer foliage, but visible during other seasons)			<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5. Are any of the resources checked in question 1 used by the public during the time of year during which the activity will be visible?			<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

A listing of National Natural Landmarks and other outstanding natural features in the State of Maine can be found at: www.nature.nps.gov/nnl/Registry/USA_map/states/Maine/maine.htm . In addition, unique natural areas are listed in the Maine Atlas and Gazetteer published by DeLorme.

(pink)

**APPENDIX B: MDEP COASTAL WETLAND CHARACTERIZATION:
INTERTIDAL & SHALLOW SUBTIDAL FIELD SURVEY CHECKLIST**

NAME OF APPLICANT: G. Christopher Miller Revocable Trust PHONE: 508-561-9517

APPLICATION TYPE: Maine DEP NRPA Individual

ACTIVITY LOCATION: TOWN: Kittery COUNTY: York

ACTIVITY DESCRIPTION: fill pier lobster pound shoreline stabilization
 dredge other: _____

DATE OF SURVEY: August 15, 2022 OBSERVER: Steven D. Riker

TIME OF SURVEY: 9:30 A.M. TIDE AT SURVEY: Low tide @ 8:32 AM Seavey Island

SIZE OF DIRECT IMPACT OR FOOTPRINT (square feet):
Intertidal area: sq. ft. Subtidal area: None

SIZE OF INDIRECT IMPACT, if known (square feet):
Intertidal area: sq. ft. Subtidal area: None

HABITAT TYPES PRESENT (check all that apply):
 sand beach boulder/cobble beach sand flat mixed coarse & fines salt marsh
 ledge rocky shore mudflat (sediment depth, if known: _____)

ENERGY: protected semi-protected partially exposed exposed

DRAINAGE: drains completely standing water pools stream or channel

SLOPE: >20% 10-20% 5-10% 0-5% variable

SHORELINE CHARACTER:
 bluff/bank (height from spring high tide: 2') beach rocky vegetated

FRESHWATER SOURCES: stream river wetland stormwater

MARINE ORGANISMS PRESENT:

	absent	occasional	common	abundant
mussels	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
clams	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
marine worms	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
rockweed	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
eelgrass	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
lobsters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
other Periwinkle	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

SIGNS OF SHORELINE OR INTERTIDAL EROSION? yes no

PREVIOUS ALTERATIONS? yes no

CURRENT USE OF SITE AND ADJACENT UPLAND:
 undeveloped residential commercial degraded recreational

PLEASE SUBMIT THE FOLLOWING:
 Photographs Overhead drawing (pink)

Natural Resource Protection Act Application
APPENDIX D: Project Description Worksheet for a Dock, Pier or Wharf Application.



Help us process your application more efficiently by completing this worksheet, which is supplemental to a NRPA application for a dock, pier or wharf. A completed Appendix D may be substituted for Block 14 of the application page.



THIS IS AN APPLICATION FOR A.....

- Commercial wharf
If yes, indicate type of commercial activity: _____
License number: _____
Number of fishermen using this wharf: _____
- Public pier, dock or wharf
- Common or shared recreational pier, dock or wharf
- Private recreational pier, dock or wharf
- Expansion or modification of an existing structure
- Other, please indicate: _____



TELL US ABOUT YOUR BOAT....

Property owners currently in need of kayak access, but have ordered a Yamaha

My boat(s) requires a draft of 19" feet. SX250, 24' 6" length, 19" draft
My boat(s) is 24'6" feet long.



TELL US ABOUT YOUR PROJECT SITE.... For coastal piers and wharves, please complete Appendix B of the NRPA application. For freshwater docks, please describe the substrate and any vegetation: _____

Appendix B attached



SCENIC CONSIDERATIONS... Please complete Appendix A of the NRPA application.

Appendix A attached



WHAT FACILITIES ARE NEARBY?

The nearest public boat launch is located in Kittery approximately 1 miles from the project location.
(town) (distance)

The nearest public, commercial, or private marina is located in Kittery approximately 1 miles from the project location.
(distance) (town)

I have inquired about slip or mooring availability at the nearest marina or public facility.

Yes, a slip or mooring is available. No, a slip or mooring is not available.

Approximate expected time on waiting list: 95 on "Back Channel" wait list as of July 10, 2021

I have contacted the local Harbor Master. Name: John Brosnihan

Phone: 207-451-0829

I currently use the following for my boat: Mooring Marina



TELL US ABOUT YOUR PROPOSED PIER, DOCK OR WHARF...

MATERIALS:

- The structure will be supported by pilings.
 _____ ⁴ pilings of _____ ¹² inches in diameter
- The structure will be supported by stacked, flow-through granite cribs.
 _____ blocks, measuring _____ feet by _____ feet
- The structure will be supported by solid fill.
 _____ square feet of solid fill
- Other: _____

DIMENSIONS:

Length of fixed section: _____ ²⁴ feet
Width of fixed section: _____ ⁴ feet
Length of ramp: _____ ³⁰ feet
Dimensions of float: _____ ¹⁰ feet wide by _____ ²⁰ feet long
Distance the structure will extend below mean low water (MLW): _____ ⁰ feet
Depth of water at the fixed end of the structure: _____ ^{0 at low tide} feet
Depth of water at the float at low tide: _____ ^{0 at low tide} feet
Depth of water at the float at high tide: _____ ⁹ feet
Dimensions of any proposed buildings (e.g. bait shed):
_____ feet high by _____ feet wide by _____ feet long

ACCESS:

During construction, my project site will be accessed via:

- Land
- Beach/intertidal area
- Water/barge

08/08

**PUBLIC NOTICE:
NOTICE OF INTENT TO FILE**

Please take notice that

G. Christopher Miller Revocable Trust

8 Moultons Way, Kittery Point, ME 03905

(Name, Address and Phone # of Applicant)

is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A thru 480-BB on or about

September 9, 2022

(anticipated filing date)

The application is for

Construction of a tidal dock

(description of the project)

at the following location:

8 Moultons Way, Kittery Point, Maine 03905

(project location)

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over this application must be received by the Department in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

For Federally licensed, permitted, or funded activities in the Coastal Zone, review of this application shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act, 16 U.S.C. § 1456. (Delete if not applicable.)

The application will be filed for public inspection at the Department of Environmental Protection's office in *(Portland, Augusta or Bangor)*(circle one) during normal working hours. A copy of the application may also be seen at the municipal offices in _____, Maine.
Kittery
(town)

Written public comments may be sent to the regional office in Portland, Augusta, or Bangor where the application is filed for public inspection:

- MDEP, Central Maine Regional Office, 17 State House Station, Augusta, Maine 04333
- MDEP, Southern Maine Regional Office, 312 Canco Road, Portland, Maine 04103
- MDEP, Eastern Maine Regional Office, 106 Hogan Road, Bangor, Maine 04401

(blue)

PUBLIC NOTICE FILING AND CERTIFICATION

Department Rules, Chapter 2, require an applicant to provide public notice for all Tier 2, Tier 3 and individual Natural Resources Protect Act projects. In the notice, the applicant must describe the proposed activity and where it is located. **“Abutter”** for the purposes of the notice provision means any person who owns property that is BOTH (1) adjoining and (2) within one mile of the delineated project boundary, including owners of property directly across a public or private right of way.

1. **Newspaper:** You must publish the Notice of Intent to File in a newspaper circulated in the area where the activity is located. The notice must appear in the newspaper within 30 days prior to the filing of the application with the Department. You may use the attached Notice of Intent to File form, or one containing identical information, for newspaper publication and certified mailing.
2. **Abutting Property Owners:** You must send a copy of the Notice of Intent to File by certified mail to the owners of the property abutting the activity. Their names and addresses can be obtained from the town tax maps or local officials. They must receive notice within 30 days prior to the filing of the application with the Department.
3. **Municipal Office:** You must send a copy of the Notice of Intent to File and a **duplicate of the entire application** to the Municipal Office.

ATTACH a list of the names and addresses of the owners of abutting property.

CERTIFICATION

By signing below, the applicant or authorized agent certifies that:

1. A Notice of Intent to File was published in a newspaper circulated in the area where the project site is located within 30 days prior to filing the application;
2. A certified mailing of the Notice of Intent to File was sent to all abutters within 30 days of the filing of the application;
3. A certified mailing of the Notice of Intent to File, and a duplicate copy of the application was sent to the town office of the municipality in which the project is located; and
4. Provided notice of and held a public informational meeting, if required, in accordance with Chapter 2, Rules Concerning the Processing of Applications, Section 13, prior to filing the application. Notice of the meeting was sent by certified mail to abutters and to the town office of the municipality in which the project is located at least ten days prior to the meeting. Notice of the meeting was also published once in a newspaper circulated in the area where the project site is located at least seven days prior to the meeting.

The Public Informational Meeting was held on _____ N/A _____
Date

Approximately _____ N/A _____ members of the public attended the Public Informational Meeting.

Steven Riker
Signature of Applicant or authorized agent

May 19, 2022
Date

(blue)

CONSTRUCTION DETAILS-SEQUENCE

This project proposes the construction of a tidal docking structure on the above referenced site along Spruce Creek. The construction includes the installation of a 6' x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains. The structure will be built over the narrowest portion of saltmarsh located along the shoreline of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek.

The fixed pier will be constructed of wood with an associated wooden railing for safety. The fixed pier will be supported by 8 piles. The installation of piles will be completed using a combination of a crane barge equipped with a vibratory hammer during low tide hours only. The piles will be CCA treated lumber which shall be cured on dry land in a manner that exposes all surfaces to the air for 21 days prior to the start of construction. Details for the fixed pier, gangway, and floats are provided in the plan set, located on "Dock Details-Sheet D1".

Construction of the dock is anticipated to take approximately 1 week. A crane barge will mobilize to the site with equipment and materials. The gangway and float are pre-fabricated off site and are mobilized to the site via crane barge. The crane barge is used to bring the pier superstructure, float and gangway into place for installation. A construction sequence is also provided in the plan set, located on "Details-Sheet D2".

The proposed float and gangway will be seasonal structures. The gangway will be stored on the fixed pier, and the float will be removed and towed from the site for winter storage.

No erosion control devices are required for the tidal docking component of the project. There will be no exposed soils or vegetation removal required to complete the installation of the float and gangway. Proposed work will be performed in the dry during low tide hours only eliminating the need for erosion and sediment controls. Foot traffic and trenching for standard silt fence installation would cause disturbance far in excess of those from the project itself. There is nothing in regards to the proposed construction that would provide an opportunity for erosion. Work on all portions of the structure located over wetland resource will be performed utilizing a crane barge at low tide eliminating erosion and potential for sedimentation.

ALTERNATIVES ANALYSIS

This project proposes the construction of a tidal docking structure on the above referenced site along Spruce Creek. The construction includes the installation of a 6' x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains. The structure will be built over the narrowest portion of saltmarsh located along the shoreline of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek.

Other alternatives to provide the same use and function include constructing a dock in another location along the properties shoreline which would not represent the least impacting alternative.

Project design alternatives have been explored to provide safe boating access/dockage, safe foot access to the structure itself, maintaining a 25' setback to riparian lines as required by USACOE, while also minimizing impacts to the adjacent tidal resource to the greatest extent practicable. Installing a dock in the proposed location represents the least impacting alternative.

The property owners require a tidal docking structure on their property as the public boat launch/marina is located 2.3 miles from the project site in Kittery, ME, and is very congested during the boating season. The Town of Kittery Harbormaster has 95 people on the "back channel" wait list as of July 10, 2021. Additionally, the nearest privately owned marina, Great Cove Boat Club, has a waiting list over 1 year for a slip.

Lastly, the length of the structure will only provide partial use due to the tidal cycle as the proposed float will rest on the bottom substrate on an average tide. The proposed float skids will provide bottom protection for the float during low tide further reducing impact to the substrate.

The shoreline associated with the site consists of a bluff that peaks at approximate elevation 21', with a slope leading to the tidal resource area with an average approximate grade of 34% that extends to the H.A.T. located at elevation 10.4'. A saltmarsh area exists along the length of the subject property's shoreline and seaward below the H.A.T. the substrate is characterized as a combination of mixed coarse & fines and which is occasionally vegetated with rockweed (*Ascophyllum* spp. and *Fucus* spp.).

In conclusion, the construction of the docking structure in the proposed location, combined with the project design and components demonstrate that the project is the least impacting alternative while providing reasonable use for the property owners.

WETLAND FUNCTIONS AND VALUES ASSESSMENT

INTRODUCTION

This report provides an assessment of the functions and values of the tidal wetland system located within a parcel of land located at 8 Moultons Way, Kittery Point, Maine. The property is identified as Tax Map 33, Lot 7, is approximately 1.13 acres in size, and is located at the terminal end of Moultons Way and to the north of Spruce Creek. The lot is developed and contains a single family home with associated driveway. The surrounding land use is residential.

Wetlands on the project site were assessed by Steven D. Riker, New Hampshire Certified Wetland Scientist on August 18, 2022 in accordance with the 1987 United States Army Corps of Engineers' Wetlands Delineation Manual (Routine Delineation Method), and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, Version 2.0, January 2012. The functions and values of these wetlands were assessed using the United States Army Corp of Engineers' Highway Methodology Workbook Supplement (ACOE, September 1999).

Thirteen functions/values were assessed and evaluated for the wetland area, which include groundwater recharge/discharge, floodflow alteration, fish/shellfish habitat, sediment/toxicant retention, nutrient removal, production export, sediment shoreline stabilization, wildlife habitat, endangered species habitat, visual quality aesthetics, educational/scientific value, recreation and uniqueness/heritage. Functions are considered "principal" if they are found to be an important or critical component of the wetland. Functions and values may also be "principal" if they provide a special or unique value to society.

DISCUSSION

For the purpose of this assessment, the tidal wetland directly associated with the subject parcel was evaluated. This tidal wetland is contiguous with other wetlands located along Spruce Creek, the Piscataqua River, and on a larger scale, the Atlantic Ocean. This assessment examines those functions and values of the tidal wetland area located directly adjacent to the subject parcel, and the proposed tidal docking structure. Also, for the purposes of the assessment, the freshwater wetland and tidal wetland will be referred to as Wetland A, as both systems are located directly adjacent to each other, and also provide similar functions and values.

As described above, the wetland, herein referred to as Wetland A, receives hydrology from the daily tide cycle, and surrounding upland runoff, to a lesser extent. Tidal flow associated with Spruce Creek and the Piscataqua River provides hydrology to Wetland A. During a dropping tide, water flows southwesterly within the Piscataqua River where it empties into the Atlantic Ocean.

There are 3 wetland classes associated with the wetland resources that exist on the subject parcel. According to the "Classification of Wetlands and Deepwater Habitats of the United States" (USFWS 1979). The tidal flat associated with the parcel would be classified as an estuarine intertidal unconsolidated shore cobble-gravel wetland system and an estuarine intertidal emergent persistent wetland system that is regularly flooded by the tides (E2US1N & E2EM1P). The subtidal area associated with the parcel would be classified as a marine subtidal unconsolidated bottom mud wetland system (M2UB3L).

Wetland A performs sediment/toxicant retention, nutrient removal, floodflow alteration, sediment/shoreline stabilization and uniqueness/heritage as principal functions and values and is also capable of providing fish and shellfish habitat, production export, wildlife habitat, recreation, and educational/scientific value.

IMPACT ASSESSMENT

This project proposes the construction of a tidal docking structure on the above referenced site along Spruce Creek. The construction includes the installation of a 6' x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains. The structure will be built over the narrowest portion of saltmarsh located along the shoreline of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek.

Given the nature of the project, it is anticipated that there will be no affect on the wetland's ability to perform the above identified functions and values. The tidal docking structure will not impede tidal flow or alter hydrology, it will not deter use by wildlife species that currently use the wetland area, it will not impede any migrational fish movement, it will not contribute to pollution, degradation, or erosion, and it will not have a visual impact as the surrounding properties are previously developed and some already contain similar structures. Impacts associated with tidal docking structures are insignificant as tidal docks are designed to minimize impact, do not contribute to additional stormwater or pollution, and do not impede fish migration or deter use by wildlife species. Given that the tidal dock will be supported by piles it will therefore not impede tidal flow or alter hydrology, will not impact migrational movement of fish and wildlife, and will not provide a barrier or alter hydrology, therefore preserving the functionality of the adjacent wetland resources.

The tidal docking structure is comparable to others in the immediate area, therefore having no impact from an aesthetic or navigational standpoint.

Lastly, following construction, the wetland will still be able to perform its principal functions which are sediment/toxicant retention, nutrient removal, floodflow alteration, sediment/shoreline stabilization and uniqueness/heritage as the tidal docking structure will have no interference with the natural processes that are integral to these functions.



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Maine Historic Preservation Commission
55 Capitol Street
65 State House Station
Augusta, ME 04333

Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME

To Whom it May Concern:

This letter transmits a request to review the attached Maine Department of Environmental Protection, Natural Resources Protection Act Individual Permit Application, per Section 106 of the National Historic Preservation Act of 1996.

Please contact me if you have any questions or concerns regarding this application, or if you need any additional information to complete a review.

Respectfully submitted,

Steven D. Riker, CWS
NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Maine Bureau of Parks and Lands
Maine Department of Agriculture, Conservation & Forestry
22 State House Station
Augusta, ME 04333

Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME

To Whom it May Concern:

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Steven D. Riker, CWS
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Ambit Engineering, Inc.



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Tribal Historic Preservation Officer
Penobscot Nation
Cultural and Historic Preservation Department
12 Wabanaki Way
Indian Island, ME 04468

Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME

To Whom it May Concern:

Enclosed for your use is a Maine Department of Environmental Protection, Natural Resources Protection Act Individual Permit Application request for the construction of a tidal docking structure on the above referenced site along Spruce Creek.

The project proposes a 6' x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains. The proposed structure will be located along the shoreline of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek.

Attached to this application you will find a "MEDEP Permit Plan- Sheet C2" which depicts the existing lot, jurisdictional areas, abutting parcels, existing structures, proposed work, and impact areas. Also attached to this application you will find the following: USGS Project location map, tax map, recorded deed, certified mail receipts for abutter notification, a field survey checklist, a coastal wetland characterization, a photo log, project description worksheets for docks, and a notice of intent to file.

Lastly, in utilizing the Maine Office of GIS, the site is located directly adjacent to Tidal Wading Bird and Waterfowl Habitat and Shellfish Beds.

Respectfully submitted,

Steven D. Riker, CWS
NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

Cc: US Army Corp of Engineers, Maine Project Office



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Tribal Historic Preservation Officer
Passamaquoddy Tribe of Indians
Pleasant Point Reservation
PO Box 343
Perry, ME 04667

**Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME**

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Respectfully submitted,

Steven D. Riker, CWS
NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

Cc: US Army Corp of Engineers, Maine Project Office



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Tribal Historic Preservation Officer
Passamaquoddy Tribe of Indians
Indian Township Reservation
PO Box 301
Princeton, ME 04668

**Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME**

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Respectfully submitted,

Steven D. Riker, CWS
NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

Cc: US Army Corp of Engineers, Maine Project Office



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Tribal Historic Preservation Officer
Aroostook Band of Micmacs
7 Northern Road
Presque Isle, ME 04769

**Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME**

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Respectfully submitted,

Steven D. Riker, CWS
NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

Cc: US Army Corp of Engineers, Maine Project Office



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September 2022

Tribal Historic Preservation Officer & Environmental Planner
Houlton Band of Maliseet Indians
88 Bell Road
Littleton, ME 04730

Re: NRPA Individual Permit Application
Tax Map 33, Lot 7
8 Moultons Way
Kittery Point, ME

To Whom it May Concern:

Enclosed for your use is a Maine Department of Environmental Protection, Natural Resources Protection Act Individual Permit Application request for the construction of a tidal docking structure on the above referenced site along Spruce Creek.

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Respectfully submitted,

Steven D. Riker, CWS
NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

Cc: US Army Corp of Engineers, Maine Project Office

Ambit Engineering Abutter List

G. Christopher Miller Revocable Trust
 8 Moultons Way
 Kittery, ME

Job # 3402.22

Applicant/Owner(s)

Map	Lot	Deed	Owner (s) First/Trust	Owner(s) Last, Trustee	Mailing Address	City	State	Zip
33	7	18341/784	G. Christopher Miller Revocable Trust	George Christopher & Dianne Kimberle	PO Box 295	Kittery Point	ME	03905
Engineer			Ambit Engineering Civil Engineers & Land Surveyors		200 Griffin Road, Unit #3	Portsmouth	NH	03801
Other Consultants								
Other Consultants								
Other Consultants								

Job #	Abutters								
3402.22	Map	Lot	Deed	Owner(s) First/Trust	Owner(s) Last /Trustee	Mailing Address	City	State	Zip
	40	4	18866/885	Sandra M. & Derron M. Wood	C/O Christen W. Doloff	10 Prospect Street	New London	CT	06320
	40	5	17603/0672	Linda J. Browning Rev. Trust of 2017	Linda J. Browning, Trustee	PO Box 153	Kittery Point	ME	03905



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September, 2022

Sandra M. & Derron M. Wood
C/O Christen W. Dolloff
10 Prospect Street
New London, CT 06230

RE: Maine Department of Environmental Services, Natural Resources Protection Act Permit Application for construction of a tidal docking structure for G. Christopher Miller Revocable Trust, 8 Moultons Way, Kittery Point, ME.

Dear Property Owner,

Under the Maine Department of Environmental Protection, this letter is to inform you in accordance with State Law that a Natural Resources Protection Act Permit Application will be filed with the Maine Department of Environmental Protection (DEP) for a permit to construct a tidal docking structure, **at the above mentioned property** on behalf of your abutter **G. Christopher Miller Revocable Trust**.

This letter is sent to inform you as an abutter to the above-referenced property (according to local Municipal records) that the **G. Christopher Miller Revocable Trust** proposes a project that requires construction in areas under jurisdiction of the Maine DEP.

Plans are on file at this office, and once the application is filed, plans that show the proposed project will be available for viewing during normal business hours at the office of the **Kittery clerk, Kittery Town Offices**, or once received by Maine DEP, at the offices of the Maine DEP, 312 Canco Road, Portland, ME 04103, (207)822-6300. It is suggested that you call ahead to the appropriate office to ensure the application is available for review.

Please feel free to call if you have any questions or comments.

Sincerely,

Steven D. Riker
NH Certified Wetland Scientist/Permitting Specialist

CERTIFIED MAIL/Return Receipt Requested



AMBIT ENGINEERING, INC. CIVIL ENGINEERS AND LAND SURVEYORS
200 Griffin Road, Unit 3, Portsmouth, NH 03801 Phone (603) 430-9282 Fax 436-2315

14 September, 2022

Linda J. Browning Revocable Trust of 2017
Linda J. Browning Trustee
PO Box 153
Kittery Point, ME 03905

RE: Maine Department of Environmental Services, Natural Resources Protection Act Permit Application for construction of a tidal docking structure for G. Christopher Miller Revocable Trust, 8 Moultons Way, Kittery Point, ME.

Dear Property Owner,

Under the Maine Department of Environmental Protection, this letter is to inform you in accordance with State Law that a Natural Resources Protection Act Permit Application will be filed with the Maine Department of Environmental Protection (DEP) for a permit to construct a tidal docking structure, **at the above mentioned property** on behalf of your abutter **G. Christopher Miller Revocable Trust**.

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Please feel free to call if you have any questions or comments.

Sincerely,

Steven D. Riker
NH Certified Wetland Scientist/Permitting Specialist

CERTIFIED MAIL/Return Receipt Requested

7022 0410 0002 6015 7746

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only 3402.22	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$ _____	
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy) \$ _____	
<input type="checkbox"/> Return Receipt (electronic) \$ _____	
<input type="checkbox"/> Certified Mail Restricted Delivery \$ _____ <input type="checkbox"/> Adult Signature Required \$ _____ <input type="checkbox"/> Adult Signature Restricted Delivery \$ _____	
Postage \$ _____	
Total Postage and Fees \$ _____	
Sent To BROWNING Street and Apt. No., or PO Box No. PO Box 153 City, State, ZIP+4® KITSEY POINT, ME 03905	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7022 0410 0002 6015 7739

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only 3402.22	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$ _____	
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy) \$ _____	
<input type="checkbox"/> Return Receipt (electronic) \$ _____	
<input type="checkbox"/> Certified Mail Restricted Delivery \$ _____ <input type="checkbox"/> Adult Signature Required \$ _____ <input type="checkbox"/> Adult Signature Restricted Delivery \$ _____	
Postage \$ _____	
Total Postage and Fees \$ _____	
Sent To WOOD Street and Apt. No., or PO Box No. 10 PROSPECT STREET City, State, ZIP+4® NEW LONDON, CT 06230	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

Site Photograph #1

August 2022



Site Photograph #2

August 2022



Site Photograph #3

August 2022



Site Photograph #4

August 2022







United States Department of the Interior



FISH AND WILDLIFE SERVICE
Maine Ecological Services Field Office
P. O. Box A
East Orland, ME 04431
Phone: (207) 469-7300 Fax: (207) 902-1588

In Reply Refer To:
Project Code: 2022-0082388
Project Name: 8 Moultons Way Tidal Dock

September 06, 2022

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Maine Ecological Services Field Office

P. O. Box A

East Orland, ME 04431

(207) 469-7300

Project Summary

Project Code: 2022-0082388

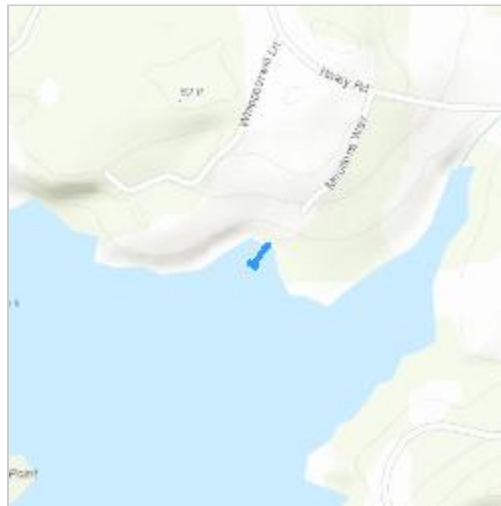
Project Name: 8 Moultons Way Tidal Dock

Project Type: Boatlift/Boathouse/Dock/Pier/Piles - New Construction

Project Description: This project proposes the construction of a tidal docking structure on the above referenced site along Spruce Creek. The construction includes the installation of a 6' x 35' accessway, a 6' x 45' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float secured by two (2) helical moorings and chains. The structure will be built over the narrowest portion of saltmarsh located along the shoreline of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.09899405,-70.71846219504556,14z>



Counties: York County, Maine

Endangered Species Act Species

There is a total of 2 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

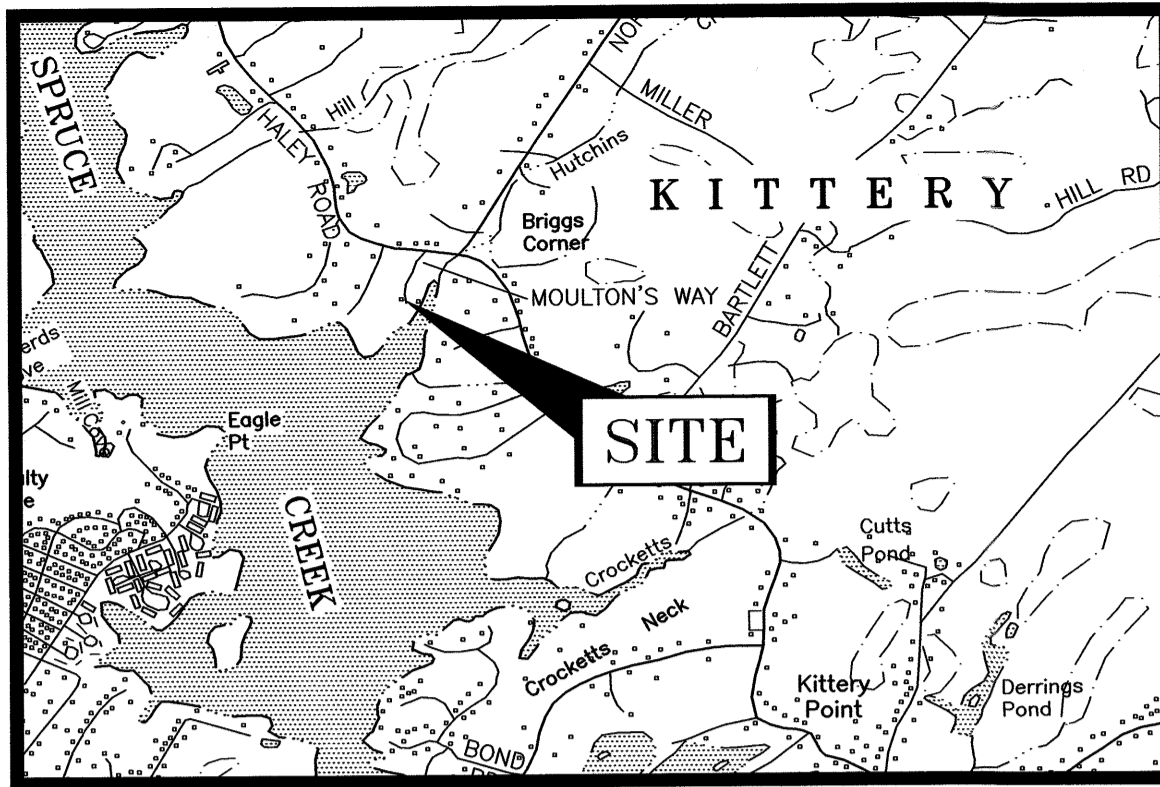
NAME	STATUS
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

IPaC User Contact Information

Agency: Ambit Engineering, Inc.
Name: Steven Riker
Address: 200 Griffin Road, Unit 3
City: Portsmouth
State: NH
Zip: 03801
Email: sdr@ambitengineering.com
Phone: 6034309282



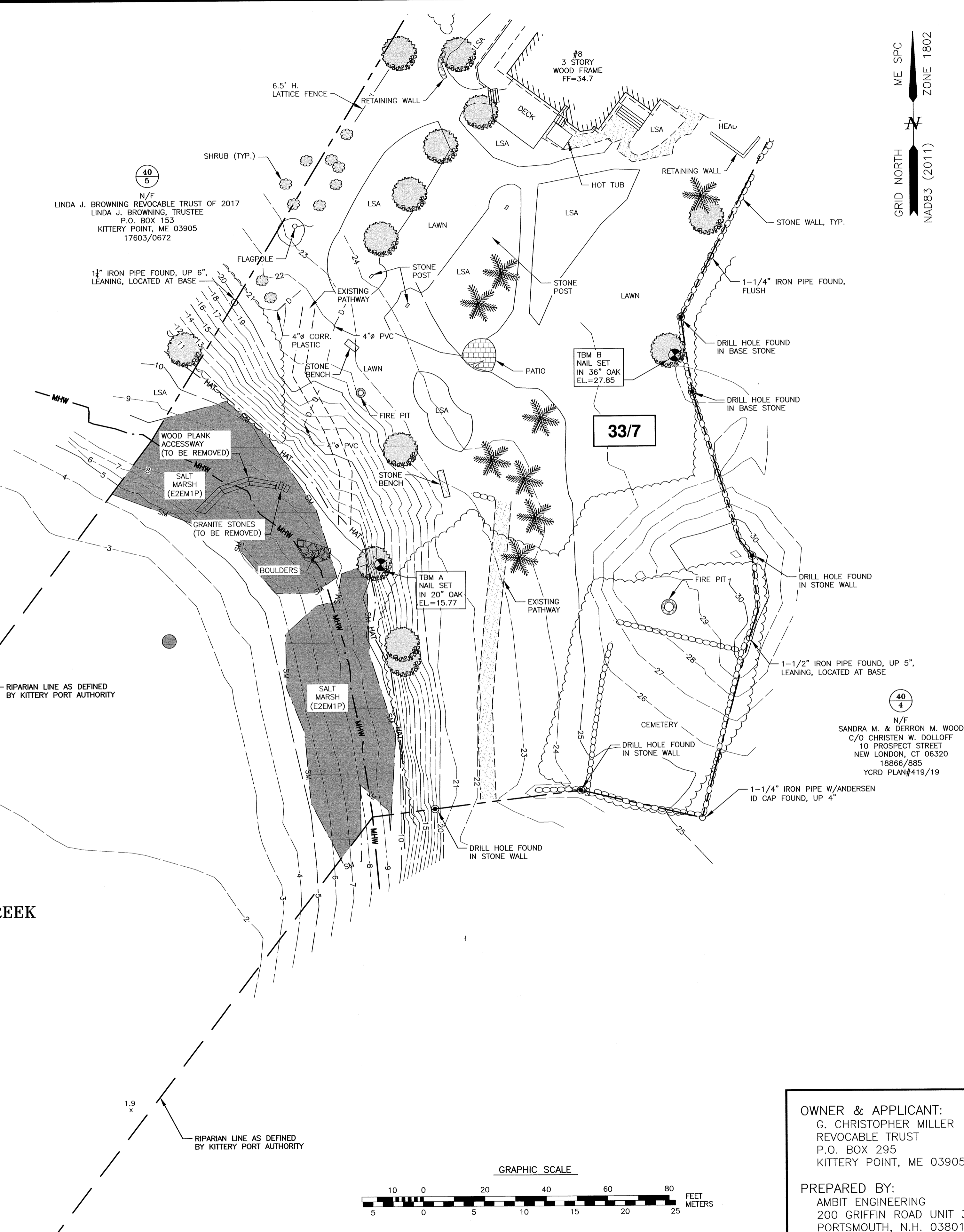
LOCATION MAP SCALE: 1" = 2,000'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- YCRD YORK COUNTY REGISTRY OF DEEDS
- MAP 11 / LOT 21
- BOUNDARY
- SETBACK
- RAILROAD SPIKE FOUND
- IRON ROD/PIPE FOUND
- DRILL HOLE FOUND
- STONE/CONCRETE BOUND FOUND
- RAILROAD SPIKE SET
- IRON ROD SET
- DRILL HOLE SET
- GRANITE BOUND SET
- EDGE OF PAVEMENT (EP)
- WOODS / TREE LINE
- UTILITY POLE (w/ GUY)
- METER (GAS, WATER, ELECTRIC)
- TYPICAL
- LSA LANDSCAPED AREA

PLAN REFERENCES:

- 1) PLAN OF PROPERTY OF ELROY S MOULTON HALEY ROAD KITTERY MAINE. SURVEY BY J.C. ROGERS LAND SURVEYOR. DATED DECEMBER 1973. SCALE: 1"=60'. YCRD PLAN BOOK 66 PAGE 21.
- 2) BOUNDARY SURVEY OF KITTERY TAX LOTS 33-6 AND 33-7 FOR ALAN J. BING. PREPARED BY ANDERSON - LIVINGSTON ENGINEERS/SURVEYORS. DATED MARCH 1991. SCALE: 1"=30'. YCRD PLAN BOOK 196 PAGE 32.
- 3) BOUNDARY RETRACEMENT SURVEY OF LAND LOCATED AT 302 HALEY ROAD (TAX MAP 40 LOT 4) KITTERY, YORK COUNTY, MAINE, SCALE : 1" = 50', DATED AUG. 31, 2021, PREPARED BY TIDEWATER ENGINEERING & SURVEYING, INC., YCRD PLAN BOOK 419 PAGE 19.



AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 430-9282
 Fax (603) 436-2315

- NOTES:**
- 1) PARCEL IS SHOWN ON THE TOWN OF KITTERY ASSESSOR'S MAP 33 AS LOT 7.
 - 2) OWNER OF RECORD:
 G. CHRISTOPHER MILLER REVOCABLE TRUST
 GEORGE CHRISTOPHER MILLER &
 DIANNE KIMBERLEY MILLER, TRUSTEES
 PO BOX 295
 KITTERY POINT, ME 03905
 18341/784
 PLAN BOOK 196 PAGE 32 (LOTS 6 & 7)
 - 3) A PORTION OF THE PARCEL IS IN A SPECIAL FLOOD HAZARD AREA (ZONE A2 EL.9 - NGVD29) AS SHOWN ON FIRM PANEL 2301710005D, EFFECTIVE JULY 3, 1986.
 - 4) EXISTING LOT AREA:
 49,344 S.F. ± (TO MHW)
 1.1328 AC. ± (TO MHW)
 - 5) PARCEL IS LOCATED IN THE RESIDENTIAL RURAL (R-RL) & SHORELAND - WATER BODY/WETLAND PROTECTION AREA OVERLAY (OZ-SL-250') DISTRICTS.
 - 6) DIMENSIONAL REQUIREMENTS:

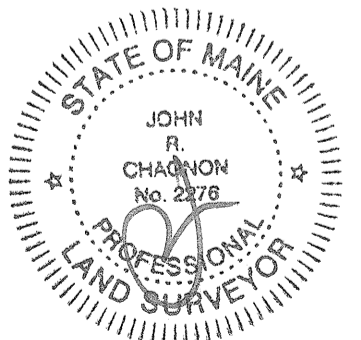
RESIDENTIAL RURAL:		
MIN. LOT AREA:		40,000 S.F.
FRONTAGE:		150 FEET
SETBACKS:	FRONT:	40 FEET
	SIDE:	20 FEET
	REAR:	20 FEET
	FROM MHW:	100 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		15%
SHORELAND PROTECTION AREA OVERLAY:		
MAXIMUM DEVEGETATED AREA:		20% WITHIN 250' OF THE HAT LINE
 - 7) VERTICAL DATUM IS MEAN LOWER LOW WATER (MLLW). MLLW REFERENCED TO NOAA STATION 8419870 SEAVEY ISLAND, PORTSMOUTH HARBOR. MLLW BEING 4.62 FEET LOWER THAN 0.0 NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
 - 8) HIGHEST ANNUAL TIDE SHOWN AT ELEVATION 10.4 (MLLW) PER LOCATION SEAVEY ISLAND IN MAINE DEP HIGHEST ANNUAL TIDE (HAT) LEVELS FOR YEAR 2018.
 - 9) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON A PORTION OF ASSESSOR'S MAP 33 LOT 7 IN THE TOWN OF KITTERY.
 - 10) PARCEL IS BENEFITED BY A RIGHT OF WAY AND UTILITY RIGHTS OVER AND ACROSS ASSESSOR'S MAP 40 LOT 5 AS DESCRIBED IN YCRD 5678/252. ALSO OTHER RIGHTS AS SHOWN ON YCRD PLAN BOOK 196 PAGE 32.
 - 11) THE PRIVATE CEMETERY LOCATED ON THE SUBJECT PARCEL IS RESERVED IN 1381/383.

**MILLER RESIDENCE
 8 MOULTONS WAY
 KITTERY, ME.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	8/17/22
REVISIONS		

OWNER & APPLICANT:
 G. CHRISTOPHER MILLER
 REVOCABLE TRUST
 P.O. BOX 295
 KITTERY POINT, ME 03905

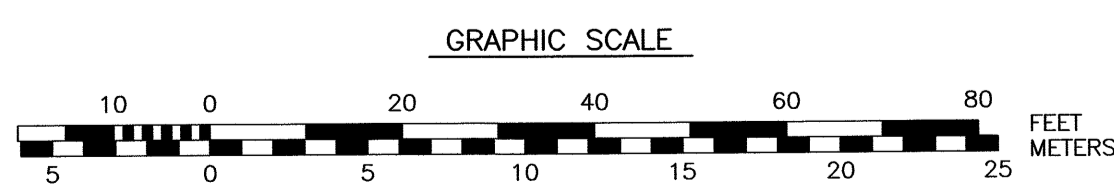
PREPARED BY:
 AMBIT ENGINEERING
 200 GRIFFIN ROAD UNIT 3
 PORTSMOUTH, N.H. 03801



PURSUANT TO CHAPTER 90 PARTS 1 AND 2 OF THE SURVEY STANDARDS OF PRACTICE AS ADOPTED BY THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS, THE FOLLOWING EXCEPTIONS TO PART 2 ARE NOTED:
 A) NO SURVEY REPORT HAS BEEN PREPARED.
 B) NO LAND DESCRIPTION HAS BEEN PREPARED.

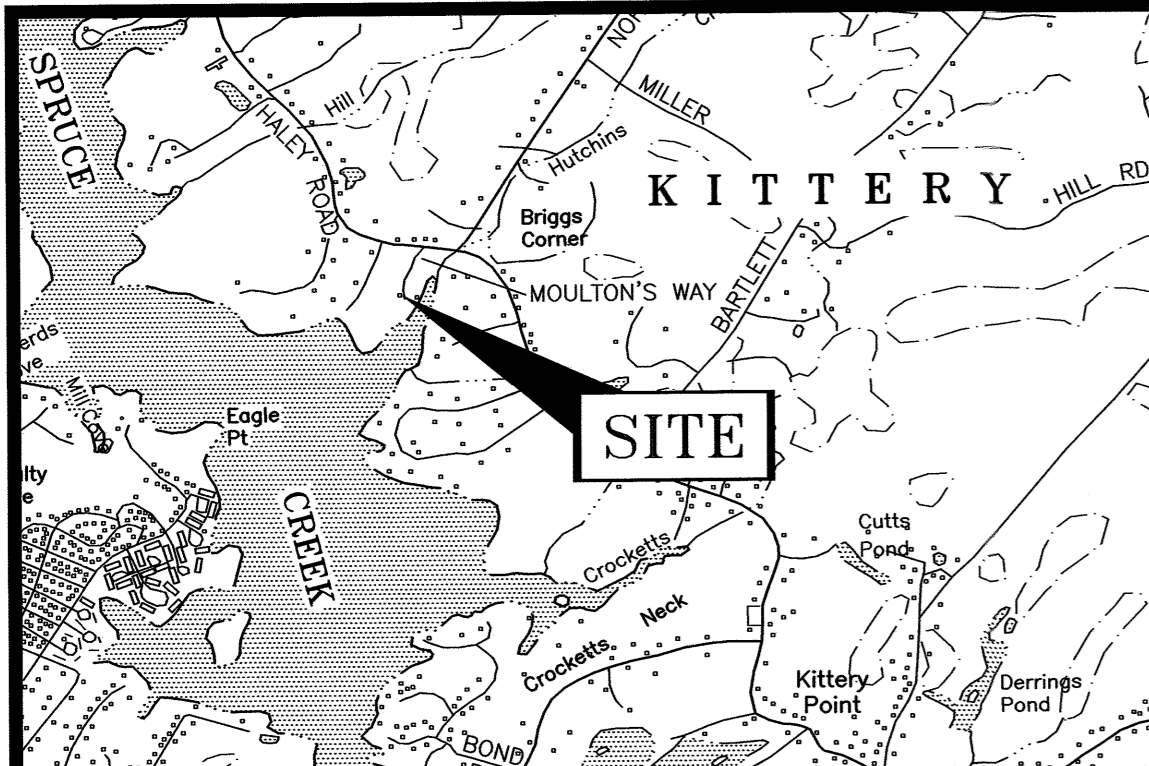
THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CHAPTER 90 STANDARDS OF PRACTICE, EFFECTIVE DATE APRIL 1, 2001 EXCEPT AS NOTED ON THIS PLAN.

JOHN R. CHAGNON, PLS #2276
 DATE 8.17.22



SCALE: 1" = 20' AUGUST 2022

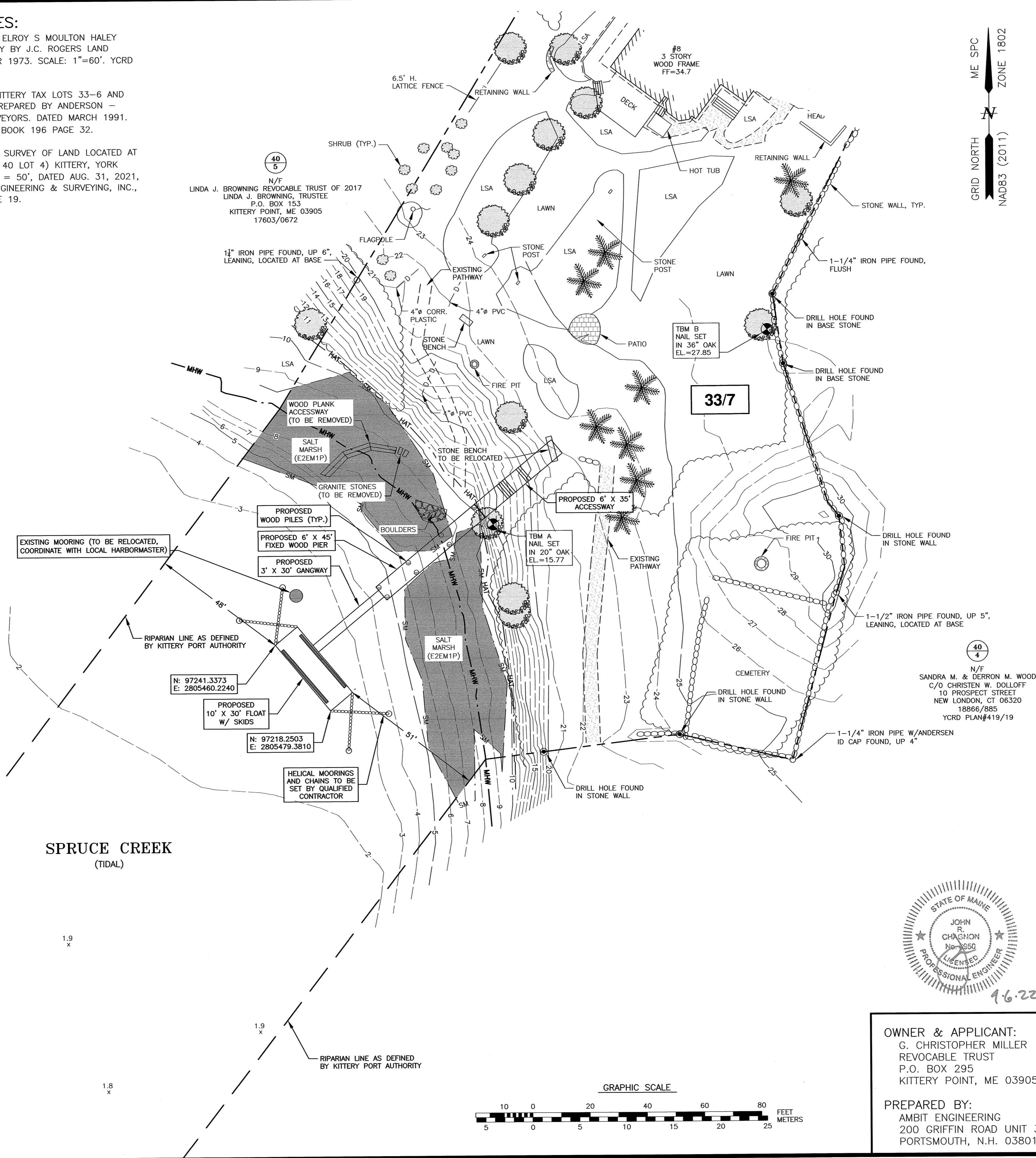
EXISTING CONDITIONS PLAN **C1**



LOCATION MAP SCALE: 1" = 2,000'

- LEGEND:**
- N/F NOW OR FORMERLY
 - RP RECORD OF PROBATE
 - YCRD YORK COUNTY REGISTRY OF DEEDS
 - MAP 11 / LOT 21
 - BOUNDARY
 - SETBACK
 - RAILROAD SPIKE FOUND
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200 Griffin Road - Unit 3
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Tel (603) 430-9282
Fax (603) 436-2315

RIVERSIDE & PICKERING
MARINE CONTRACTORS

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 - 2) OWNER OF RECORD:
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PO BOX 295
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 - 6) DIMENSIONAL REQUIREMENTS:
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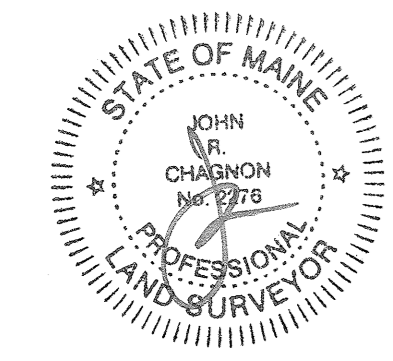
**MILLER RESIDENCE
8 MOULTONS WAY
KITTERY, ME.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	9/6/22
REVISIONS		

SCALE: 1" = 20' AUGUST 2022

ME DEP PERMIT PLAN

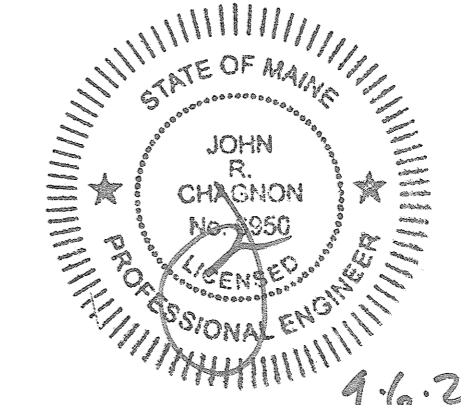
C2



PURSUANT TO CHAPTER 90 PARTS 1 AND 2 OF THE SURVEY STANDARDS OF PRACTICE AS ADOPTED BY THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS, THE FOLLOWING EXCEPTIONS TO PART 2 ARE NOTED:
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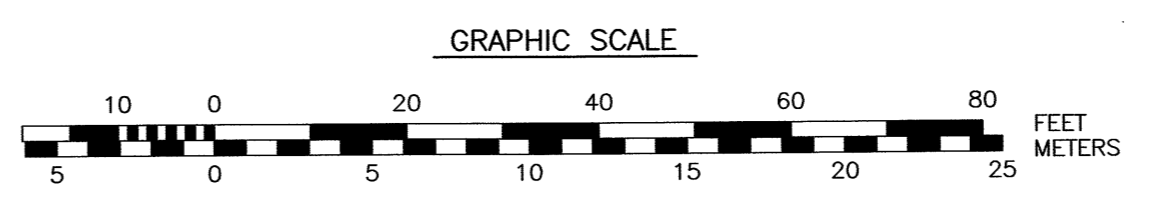
THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CHAPTER 90 STANDARDS OF PRACTICE, EFFECTIVE DATE APRIL 1, 2001 EXCEPT AS NOTED ON THIS PLAN.

JOHN R. CHAGNON, PLS #2276 DATE 9.6.22



OWNER & APPLICANT:
G. CHRISTOPHER MILLER
REVOCABLE TRUST
P.O. BOX 295
KITTERY POINT, ME 03905

PREPARED BY:
AMBIT ENGINEERING
200 GRIFFIN ROAD UNIT 3
PORTSMOUTH, N.H. 03801



JOHN R. CHAGNON, PLS #2276
 STATE OF MAINE
 PROFESSIONAL LAND SURVEYOR
 LICENSE NO. 9778
 EXPIRES 12/31/2025
 JOHN R. CHAGNON, PLS #2276
 STATE OF MAINE
 PROFESSIONAL LAND SURVEYOR
 LICENSE NO. 9850
 EXPIRES 12/31/2025

SEQUENCE OF CONSTRUCTION

- 1) MOBILIZATION OF A CRANE BARGE, PUSH BOAT, WORK SKIFF, MATERIALS AND PREFABRICATED COMPONENTS SUCH AS THE GANGWAY AND FLOAT TO THE SITE VIA AVAILABLE ACCESS.
- 2) MOBILIZATION OF EQUIPMENT TRUCKS TO THE SITE.
- 3) THE BARGE WILL BE POSITIONED ALONGSIDE THE PROPOSED LOCATION OF THE NEW DOCK AND WATERWARD OF ANY EMERGENT VEGETATION TO MINIMIZE IMPACTS.
- 4) INSTALLATION OF THE SUB STRUCTURE WILL BE PERFORMED FROM A CRANE BARGE OR SKIFF TO REDUCE THE AMOUNT OF FOOT TRAFFIC IN THE INTERTIDAL AREA.
- 5) ALL WORK WILL BE PERFORMED AT LOW TIDE TO MINIMIZE SEDIMENTATION.
- 6) SUPER STRUCTURE OF THE PIER IS BUILT. MATERIALS ARE LIFTED FROM THE BARGE AND SET INTO POSITION BY THE CRANE.
- 7) ONCE THE PIER IS COMPLETE, THE GANGWAY AND FLOAT ARE BROUGHT INTO POSITION AND INSTALLED.

HEAVY EQUIPMENT IN WETLANDS OR MUDFLATS

OPERATING HEAVY EQUIPMENT OTHER THAN FIXED EQUIPMENT (DRILL RIGS, FIXED CRANES, ETC.) WITHIN WETLANDS SHALL BE MINIMIZED, AND SUCH EQUIPMENT SHALL NOT BE STORED, MAINTAINED OR REPAIRED IN WETLANDS, TO THE MAXIMUM EXTENT PRACTICABLE. WHERE CONSTRUCTION REQUIRES HEAVY EQUIPMENT OPERATION IN WETLANDS, THE EQUIPMENT SHALL EITHER HAVE LOW GROUND PRESSURE (TYPICALLY <3 PSI), OR IT SHALL BE PLACED ON SWAMP/CONSTRUCTION/TIMBER MATS (HEREIN REFERRED TO AS "CONSTRUCTION MATS" AND DEFINED AT APPENDIX A, ENDNOTE 4) THAT ARE ADEQUATE TO SUPPORT THE EQUIPMENT IN SUCH A WAY AS TO MINIMIZE DISTURBANCE OF WETLAND SOIL AND VEGETATION. CONSTRUCTION MATS ARE TO BE PLACED IN THE WETLAND FROM THE UPLAND OR FROM EQUIPMENT POSITIONED ON SWAMP MATS IF WORKING WITHIN A WETLAND. DRAGGING CONSTRUCTION MATS INTO POSITION IS PROHIBITED. OTHER SUPPORT STRUCTURES THAT ARE CAPABLE OF SAFELY SUPPORTING EQUIPMENT MAY BE USED WITH WRITTEN CORPS AUTHORIZATION (CATEGORY 2 AUTHORIZATION OR INDIVIDUAL PERMIT). SIMILARLY, THE PERMITTEE MAY REQUEST WRITTEN AUTHORIZATION FROM THE CORPS TO WAIVE USE OF MATS DURING FROZEN, DRY OR OTHER CONDITIONS. AN ADEQUATE SUPPLY OF SPILL CONTAINMENT EQUIPMENT SHALL BE MAINTAINED ON SITE. CONSTRUCTION MATS SHOULD BE MANAGED IN ACCORDANCE WITH THE CONSTRUCTION MAT BMPs AT [WWW.NAF.USACE.ARMY.MIL/MISSIONS/REGULATORY](http://www.naf.usace.army.mil/missions/regulatory)

TIME OF YEAR WORK WINDOWS/RESTRICTIONS

FOR ACTIVITIES WHERE WORK IS AUTHORIZED IN STREAMS AND TIDAL WATERS THAT CAUSES TURBIDITY OR SEDIMENT RE-SUSPENSION OR OTHER CONSTRUCTION RELATED DISTURBANCES, WORK MUST BE CONDUCTED DURING THE FOLLOWING T.O.Y. WORK WINDOWS (NOT DURING THE T.O.Y. RESTRICTIONS) UNLESS OTHERWISE AUTHORIZED BY THE CORPS UNDER CATEGORY 2 REVIEW:

	T.O.Y. RESTRICTION	T.O.Y. WORK WINDOW
NON-TIDAL WATERS	(NO WORK)	(WORK ALLOWED)
TIDAL WATERS	OCT. 01 THROUGH JUL. 14	JUL. 15 THROUGH SEP. 30
	APR. 10 THROUGH NOV. 07	NOV. 08 THROUGH APR. 09

ALTERNATE WINDOWS AUTHORIZED UNDER CATEGORY 2 MAY INCLUDE SPECIES SPECIFIC WINDOWS RECOMMENDED BY THE MAINE DEPT. OF MARINE RESOURCES AND/OR MAINE DEPT. OF INLAND FISHERIES & WILDLIFE.

FLOODPLAINS AND FLOODWAYS

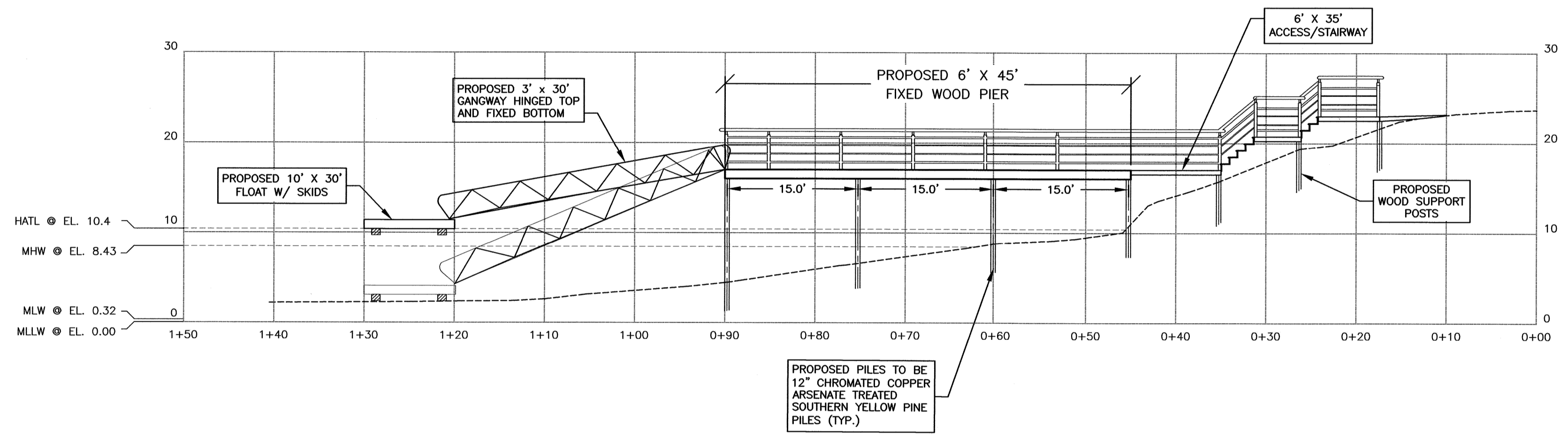
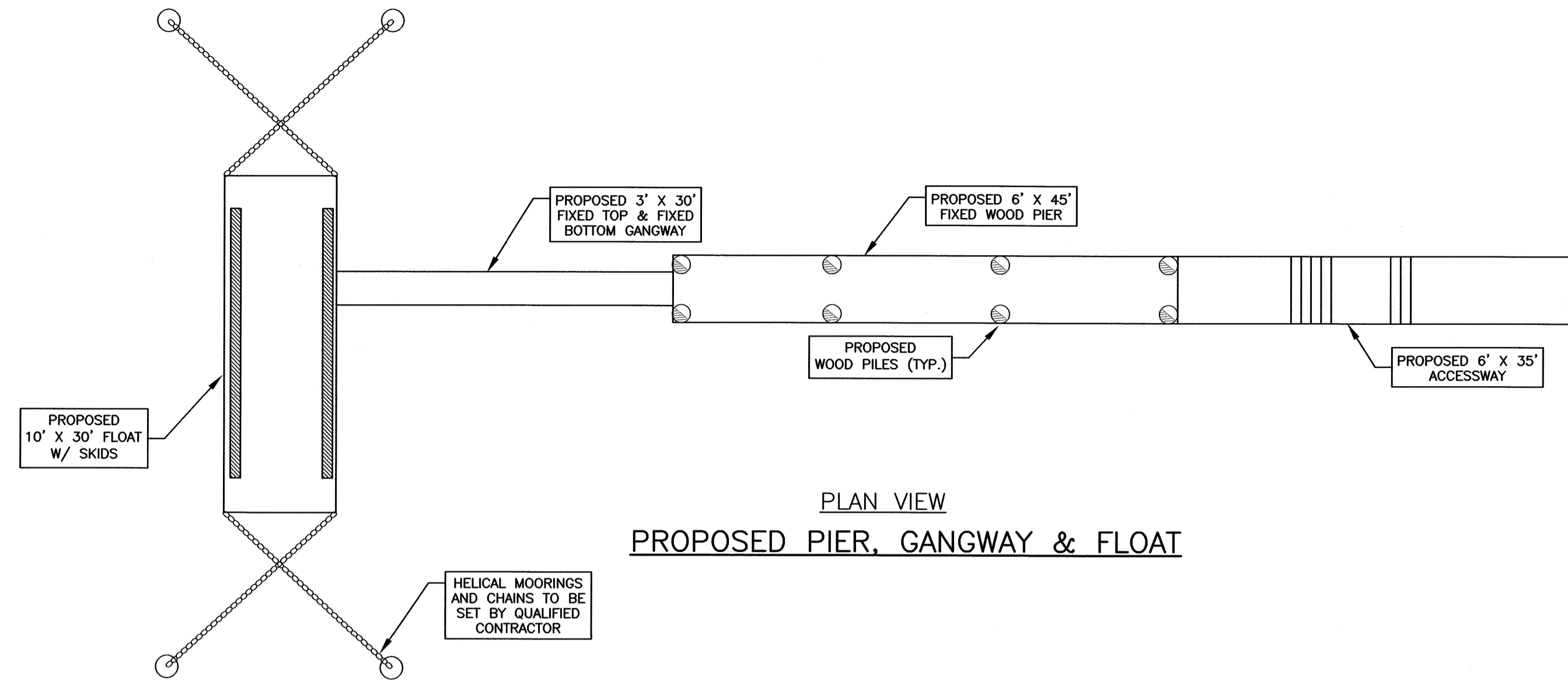
- APPROPRIATE MEASURES MUST BE TAKEN TO MINIMIZE FLOODING TO THE MAXIMUM EXTENT PRACTICABLE.
- ACTIVITIES WITHIN 100-YEAR FLOODPLAINS MUST COMPLY WITH APPLICABLE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)-APPROVED STATE AND/OR LOCAL FLOODPLAIN MANAGEMENT PERMITTING REQUIREMENTS. PROPONENTS MAY NEED TO COORDINATE WITH FEMA AND APPLY FOR A FORMAL CHANGE TO THE FLOOD INSURANCE STUDY PRODUCTS OR FORWARD A SET OF PROJECT PLANS AND RELEVANT TECHNICAL DOCUMENTATION IN A DIGITAL FORMAT TO THE RISK ANALYSIS BRANCH CHIEF, MITIGATION DIVISION, FEMA, REGION 1, 99 HIGH STREET, BOSTON, MASSACHUSETTS 02110. APPLICANTS SHOULD PROVIDE A COPY OF ANY DOCUMENTATION TO THE CORPS ALONG WITH THE PCN.
- PROONENTS MAY HAVE TO OBTAIN A FLOOD HAZARD DEVELOPMENT PERMIT ISSUED BY THE TOWN. INQUIRIES MAY BE DIRECTED TO THE MUNICIPALITY OR TO THE MAINE FLOODPLAIN MANAGEMENT COORDINATOR AT (207) 287-8063. SEE [HTTP://WWW.MAINE.GOV/DACF/FLOOD/](http://www.maine.gov/dacf/flood/)

STORAGE OF SEASONAL STRUCTURES.

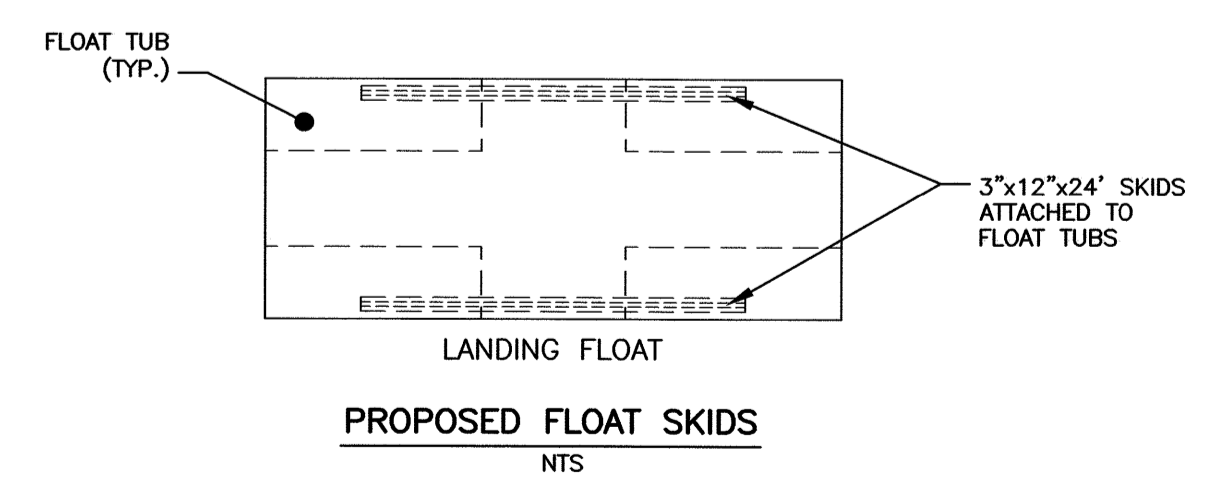
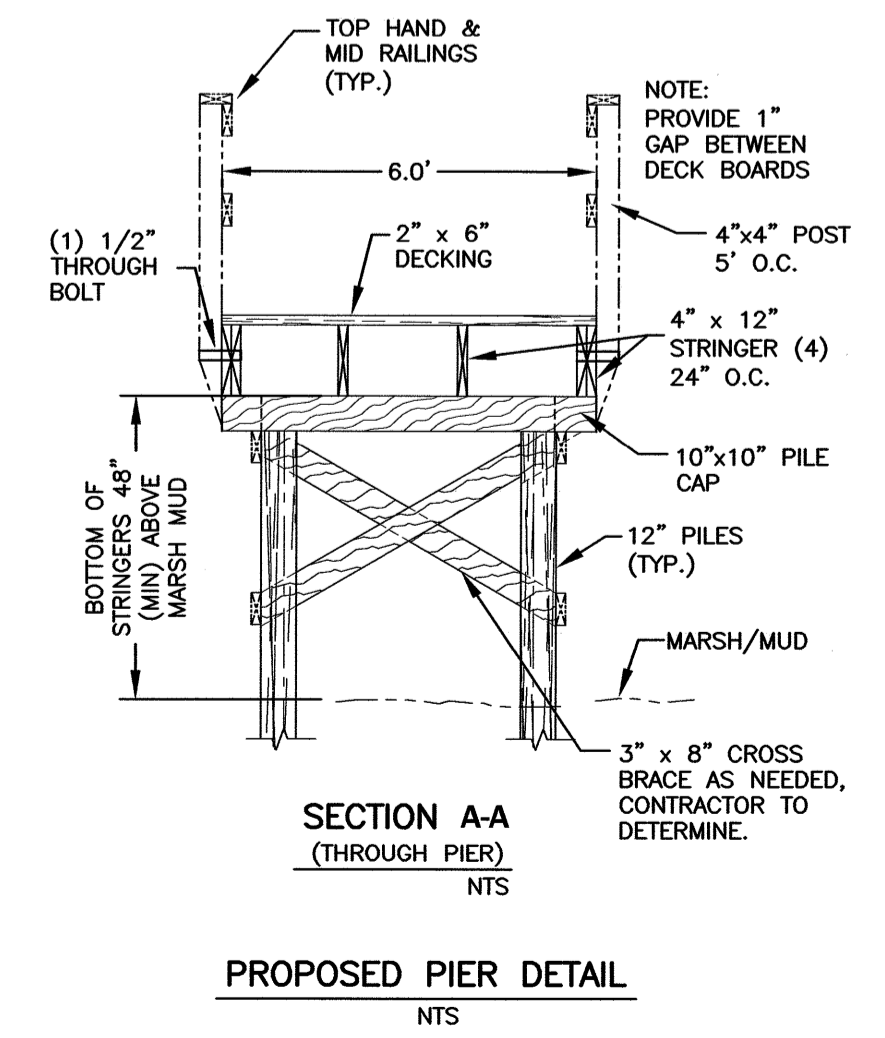
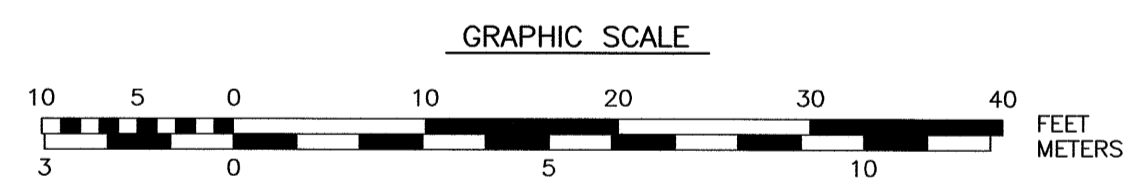
SEASONAL OR RECREATIONAL STRUCTURES SUCH AS PIER SECTIONS, FLOATS, AQUACULTURE STRUCTURES, ETC. THAT ARE REMOVED FROM THE WATERWAY FOR A PORTION OF THE YEAR (OFTEN REFERRED TO AS SEASONAL STRUCTURES) SHALL BE STORED IN AN UPLAND LOCATION LANDWARD OF HIGHEST ANNUAL TIDE (H.A.T.) OR ORDINARY HIGH WATER (OHW) AND NOT IN WETLANDS, TIDAL WETLANDS, THEIR SUBSTRATE OR ON MUDFLATS. THESE SEASONAL STRUCTURES MAY BE STORED ON THE FIXED, PILE-SUPPORTED PORTION OF THE STRUCTURE THAT IS WATERWARD OF H.A.T. OR OHW. SEASONAL STORAGE OF STRUCTURES IN NAVIGABLE WATERS, E.G., IN A PROTECTED COVE ON A MOORING, REQUIRES CORPS APPROVAL AND LOCAL HARBORMASTER APPROVAL.

SPAWNING, BREEDING, AND MIGRATORY AREAS.

- JURISDICTIONAL ACTIVITIES AND IMPACTS SUCH AS EXCAVATIONS, DISCHARGES OF DREDGED OR FILL MATERIAL, AND/OR SUSPENDED SEDIMENT PRODUCING ACTIVITIES IN JURISDICTIONAL WATERS THAT PROVIDE VALUE AS FISH MIGRATORY AREAS, FISH AND SHELLFISH SPAWNING OR NURSERY AREAS, OR AMPHIBIAN AND MIGRATORY BIRD BREEDING AREAS, DURING SPAWNING OR BREEDING SEASONS SHALL BE AVOIDED AND MINIMIZED TO THE MAXIMUM EXTENT PRACTICABLE.
- JURISDICTIONAL ACTIVITIES IN WATERS OF THE UNITED STATES THAT PROVIDE VALUE AS BREEDING AREAS FOR MIGRATORY BIRDS MUST BE AVOIDED TO THE MAXIMUM EXTENT PRACTICABLE. THE PERMITTEE IS RESPONSIBLE FOR OBTAINING ANY "TAKE" PERMITS REQUIRED UNDER THE USFWS'S REGULATIONS GOVERNING COMPLIANCE WITH THE MIGRATORY BIRD TREATY ACT OR THE BALD AND GOLDEN EAGLE PROTECTION ACT. THE PERMITTEE SHOULD CONTACT THE APPROPRIATE LOCAL OFFICE OF THE USFWS TO DETERMINE IF SUCH "TAKE" PERMITS ARE REQUIRED FOR A PARTICULAR ACTIVITY.



DOCK ELEVATION
PROPOSED PIER, GANGWAY & FLOAT



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

RIVERSIDE & PICKERING
MARINE CONTRACTORS

- NOTES:**
- 1) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY.
 - 2) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.
 - 3) EROSION CONTROL MEASURES SHALL BE IN ACCORDANCE WITH MAINE EROSION AND SEDIMENT CONTROL PRACTICES FIELD GUIDE FOR CONTRACTORS, MARCH 2015.
 - 4) NUMBER OF PILES TO BE DRIVEN FOR DOCKING STRUCTURE NOT TO EXCEED 8 AS DEPICTED ON PROPOSED DOCK ELEVATION. ALSO NOTE TIME OF YEAR AND NOISE RESTRICTIONS FOR DRIVING OF PILES.
 - 5) VERTICAL DATUM IS MEAN LOWER LOW WATER (MLLW). MLLW REFERENCED TO NOAA STATION 8419870 SEAVEY ISLAND, PORTSMOUTH HARBOR. MLLW BEING 4.62 FEET LOWER THAN 0.0 NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

MILLER RESIDENCE
8 MOULTONS WAY
KITTERY, ME.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	9/6/22

REVISIONS

9.6.22

OWNER & APPLICANT:
G. CHRISTOPHER MILLER
REVOCABLE TRUST
P.O. BOX 295
KITTERY POINT, ME 03905

PREPARED BY:
AMBIT ENGINEERING
200 GRIFFIN ROAD UNIT 3
PORTSMOUTH, N.H. 03801

SCALE: AS SHOWN AUGUST 2022

DOCK DETAILS **D1**

KITTERY MAINE PORT AUTHORITY

FINDINGS OF FACT

APPROVED

For: SHM Kittery Point, LLC, 48 Bowen Road, TAX MAP 17, LOT 10

Re: Shoreland Development Plan Review: Piers, Wharfs, Floats and Other Marine-Related Structures

WHEREAS, Owner and Applicant, SHM Kittery Point, LLC of 48 Bowen Road, Tax Map 17, Lot 10, located in the Commercial Fisheries/Maritime Uses Overlay Zone, submitted an application for Piers, Wharfs, Floats and other Marine-Related Structures, dated June 15, 2022 (the “Application”), requesting to convert 28 single point moorings into Twelve (12) 8’ x 80’ floats and one (1) 8” x 160’ float (hereinafter, the “Development”); and

WHEREAS, pursuant to the procedures set forth in the Town of Kittery Code of Ordinances, the Kittery Port Authority (hereinafter, the “Port Authority”) deemed the Application complete at its July 7, 2022 hearing and placed the Application on its agenda for a public hearing on August 4, 2022, the public hearing was continued by agreement of the Applicant until October 6, 2022; and

WHEREAS, the Application and other documents considered to be a part of the Application for review by the Port Authority consist of: (1) an application for Piers, Wharfs, Floats and Other Marine-Related Structures, dated June 15, 2022; (2) agent authorization for Archipelago; (3) a copy of the Town of Kittery Tax Map for Tax Map 17, Lot 10; (4) a list of abutters to 48 Bowen Road; (5) a project narrative; (6) a recorded deed demonstrating the Applicant’s right, title or interest in 48 Bowen Road; (7) an aerial site plan; (8) a design showing the Applicant’s mooring construction and specifications; (9) an Army Corps of Engineers Authorization Letter, dated April 7, 2022; (10) published studies and surveys related to the environmental impacts of single point moorings; and (11) supplemental materials provided on September 15, 2022, including additional engineering documents for the proposed floats, a Town of Yarmouth mooring plan, letters of support from the community, and a letter authorizing the transfer of the Kittery Point Yacht Yard Corp. U.S. Army Corps of Engineers permit to the Applicant.

NOW THEREFORE, based on the Application and materials before the Port Authority and pursuant to the applicable standards in the Land Use and Development Code and the Port Authority’s Rules and Regulations, the Port Authority makes the following factual findings and conclusions:

FINDINGS OF FACT AND CONCLUSIONS

Port Authority Rules and Regulations, Waiver (§ 4.3.3)

§ 4.3.3. The Port Authority may grant a waiver from the specifications of these regulations provided that the Port Authority finds that due to special circumstances of the specific application the granting of a waiver will not adversely impair the public health, safety and general welfare, the use of public waters, navigation, or harm the environment. All such waivers must be supported by sufficient findings of fact.

Findings: The Application requests a waiver from the maximum float dimensions contained in Section 3.12.1.C for the purpose of constructing twelve 8' x 80' moored floats and one 8' x 160' moored float. The Applicant indicated during the public hearing that it will replace the single 8' x 160' float with two 8' x 80' floats, designed in the same manner as the other proposed floats, for a total of fourteen 8' x 80' floats.

C. Float size may not exceed 10' x 24' dimensions for commercial uses and 8' x 24' dimensions for recreational uses, unless otherwise permitted by the Port Authority.

- A. **Special Circumstances:** The Application indicates that the proposed moored floats would replace 28 single-point moorings. The Application indicates that the floats must exceed the maximum size permitted to allow it to moor additional vessels at the floats and recover the capital costs of constructing and installing the floats.
- B. **No Adverse Impact:** The Application indicates that the moored floats would not take up any more space than the 28 single-point moorings that will be removed. The Application has provided evidence that the moored floats will enable additional access to vessels by older or disabled boaters; provide a safer platform for vessel maintenance and boaters during adverse weather conditions; will offer more secure mooring locations for numerous vessels; and more clearly define the channel and reduce navigability issues created by swinging vessels, dinghies and launches on the existing single-point moorings. The Application has also provided evidence that the moored floats will be less harmful to the environment than the existing single-point moorings they will replace by reducing disturbances to the bottom and destruction of eelgrass habitats.

Conclusion: The Application has satisfied the standard contained in Section 4.3.3 for the Port Authority to grant a waiver of the maximum float dimensions contained in Section 3.12.1.C for the construction of fourteen (14) 8' x 80' moored floats.

Motion; Second: Chair Patten; Mr. Johnston

Vote: Vote of 4 in favor; 1 against; 0 abstaining. Motion is Approved.¹

¹ Chair Patten moved for reconsideration of this motion on the basis of statements made by Mr. Pinkham, Mr. Pinkham seconded. The motion for reconsideration failed with two votes for and three against. Chair Patten subsequently moved for reconsideration of this motion, seconded by Mr. Pinkham, to address statements made by Mr. Pinkham and Mr. McCollett. The second motion for reconsideration also failed with two votes for and three against.

<p>Port Authority Rules and Regulations, Moored Floats (§ 3.12)</p>
<p><i>§ 3.12.1.A. Moored floats are authorized only with the expressed permission of the Port Authority and only after receiving an Army Corps of Engineers Permit. Permits are issued in accordance with Section 4 of these Rules and Regulations.</i></p>
<p>Findings: The Application demonstrates that the Army Corps of Engineers have issued a permit for the Development. The Port Authority has approved a waiver for the maximum size of the moored floats as proposed in the Application.</p>
<p>Conclusion: The Development has obtained the necessary approvals from Army Corps of Engineers and the requested waiver from the Port Authority. Motion; Second: Chair Patten; Mr. Johnston. Vote: Vote of <u>3</u> in favor; <u>2</u> against; <u>0</u> abstaining. Motion is Deemed Denied.²</p>
<p><i>§ 3.12.1.B. Floats are prohibited in Pepperell Cove.</i></p>
<p>Findings: This standard is not applicable to the Application because the Development is not located in Pepperell Cove.</p>
<p>Conclusion: N/A.</p>
<p><i>§ 3.12.1.C. Float size may not exceed 10' x 24' dimensions for commercial uses and 8' x 24' dimensions for recreational uses, unless otherwise permitted by the Port Authority.</i></p>
<p>Findings: The Application requests to install moored floats with dimensions greater than those permitted for moored floats under Section 3.12,1.C and requests a waiver of the maximum moored float dimensions pursuant to Section 4.3.3 of the Port Authority Rules and Regulations. The Port Authority has approved the Applicant's request for a waiver.</p> <p style="text-align: center;"><i>§ 4.3.3. The Port Authority may grant a waiver from the specifications of these regulations provided that the Port Authority finds that due to special circumstances of the specific application the granting of a waiver will not adversely impair the public health, safety and general welfare, the use of public waters, navigation, or harm the environment. All such waivers must be supported by sufficient findings of fact.</i></p>
<p>Conclusion: This standard has been met. Motion; Second: Chair Patten; Mr. Johnston. Vote: Vote of <u>3</u> in favor; <u>2</u> against; <u>0</u> abstaining. Motion is Deemed Denied.</p>
<p><i>§ 3.12.1.D. All floats are required to have a minimum of two (2) moorings.</i></p>
<p>Findings: The Application indicates that all floats will be anchored by four granite anchors weighing at least 4,000 pounds.</p>

² As a jurisdictional body, an affirmative vote of a majority of the Port Authority's seven members is necessary for approval of any motion. See 1 M.R.S.A. § 71(3). As a result, a motion receiving fewer than four affirmative votes is deemed denied.

Conclusion: This standard has been met.
Motion; Second: Chair Patten; Mr. Johnston.
Vote: Vote of 5 in favor; 0 against; 0 abstaining. Motion is Approved.

§ 3.12.1.E. All shackles and fasteners must be hot dipped galvanized steel and structurally sound and proportional in size to the chain use.

Findings: The Application indicates that all shackles will consist of ¾ inch hot-dipped galvanized steel and all fasteners on the floats will consist of hot-dipped galvanized steel. Based on the information contained in the Application, shackles and fasteners of this size are proportional in size to the proposed floats and will be structurally sound.

Conclusion: The standard has been met.
Motion; Second: Chair Patten; Mr. Johnston.
Vote: Vote of 5 in favor; 0 against; 0 abstaining. Motion is Approved.

§ 3.12.1.F. All floats must be identified with assigned registration numbers on both ends of the float in contrasting colors and be a minimum of three (3) inches in height.

Findings: The Application indicates that all floats will be appropriately identified, and that the Applicant will comply with this requirement prior to placing any floats.

Conclusion: This standard has been met.
Motion; Second: Chair Patten; Mr. Pinkham.
Vote: Vote of 5 in favor; 0 against; 0 abstaining. Motion is Approved.

§ 3.12.1.G. All floats must be buoyant so as not to become submerged at any time and must remain above water and visible at all times.

Findings: The Application indicates that the purpose of the floats is to provide a mooring site for vessels that will at all times remain above water and visible. The Application further indicates that the floats will consist of buoyant 40' x 8' floating platforms constructed using pressure treated lumber.

Conclusion: This standard has been met.
Motion; Second: Chair Patten; Mr. Pinkham.
Vote: Vote of 5 in favor; 0 against; 0 abstaining. Motion is Approved.

§ 3.12.1.H. All gear, traps, fish and dunnage must be stored or secured so as not to be discharged or fall into the water or to pollute or to create a navigational hazard. All fuel, foul waste, decaying matter and/or hazardous material must be removed promptly from the floats after use and disposed of properly.

Findings: The Application does not address these requirements; however, the Applicant will be responsible for ensuring future compliance with these requirements.

Conclusion: This standard has been met.
Motion; Second: Chair Patten; Mr. Johnston.
Vote: Vote of 5 in favor; 0 against; 0 abstaining. Motion is Approved.

Town Code, Performance Standards (Code § 16.9.2(D)). *Development involving piers, wharves, marinas and other uses projecting into water bodies must conform to the following standards:*

- (1) *In accordance with 38 M.R.S.A. § 435 et seq., mandatory shoreland zoning, all dimensional and other standards (excluding setbacks from water bodies) of this title apply to structures and uses projecting into a water body beyond the highest annual tide.*
- (2) *Boathouses, while convenient to locate near the water, are not considered functionally water-dependent uses and must meet the same setback requirement as principal structures. The State of Maine no longer issues permits for construction of boathouses below the highest annual tide due to the adverse environmental impact; therefore, new boathouses must be located on uplands.*

Findings: These standards are not applicable because the Application does not include a proposal to create any structures projecting beyond the highest annual tide or a boathouse.

Conclusion: N/A

- (3) *Only functionally water-dependent uses are allowed on, over or abutting a pier, wharf or other structure beyond the highest annual tide.*

Findings: The Application proposes to locate moored floats for the mooring of recreational and commercial vessels beyond the highest annual tide. The Port Authority finds that this constitutes a functionally water-dependent use within the meaning of the Code.

Conclusion: This standard has been met.
Motion; Second: Chair Patten; Mr. Johnston.
Vote: Vote of 5 in favor; 0 against; 0 abstaining. Motion is Approved.

- (4) *Access from shore must be developed on soils appropriate for such uses and constructed so as to control erosion.*

Findings: This standard is not applicable because the Application does not propose development of any access to the moored floats.

Conclusion: N/A

- (5) *The location must not interfere with existing developed recreational and maritime commerce or natural beach areas.*

Findings: The Application indicates that the moored floats will be located within the existing single-point mooring fields and outside of the existing channel. As a result, the moored floats will not interfere with the navigability of the Back Channel or its use for recreational or maritime commerce. The moored floats will be accessed by existing facilities and will not affect access to or use of any natural beach areas. Despite concerns regarding the potential impact of mooring anchors and chains on recreational and commercial diving in the area, the Port Authority finds that the Applicant has demonstrated that, due to the limited movement and footprint of the anchors and chains, the Development will not interfere with either existing recreational and maritime commerce or natural beach areas.

Conclusion: This standard has been met.

Motion; Second: Chair Patten; Mr. Pinkham.

Vote: Vote of 4 in favor; 1 against; 0 abstaining. Motion is Approved.

(6) The facility must be located so as to minimize adverse effects on fisheries.

Findings: The Application indicates that the moored floats will each be anchored by four granite blocks with connecting chains under tension to minimize disturbance of the bottom. The installation of four anchor chains on each float and the limited movement and predictable location of the anchors and chains decreases the risk of gear entanglement and gear loss within the Back Channel and the Applicant has provided evidence of the positive impact that the reduced use of single-point moorings within the Back Channel may have on existing eelgrass beds and associated marine life. These positive impacts outweigh any adverse effects the proposed development may have on fisheries. As a result, the proposed development will minimize adverse effects on fisheries.

Conclusion: This standard has been met.

Motion; Second: Chair Patten; Mr. Johnston.

Vote: Vote of 3 in favor; 2 against; 0 abstaining. Motion is Deemed Denied.

(7) The facility must be a water-dependent use and no larger in dimension than necessary to carry on the activity and must be consistent with existing conditions, use and character of the area.

Findings: The Port Authority has determined that the proposed Development is a functionally water-dependent use. The dimensions of the moored floats, while significantly larger than existing single-point moorings and floats within the area, are consistent with and no larger than necessary to moor multiple vessels, as the Applicant proposes. Additionally, the installation of moored floats is consistent with the existing conditions, use and character of the area as a mooring field.

Conclusion: This standard has been met.

Motion; Second: Chair Patten; Mr. Pinkham.

Vote: Vote of 3 in favor; 2 against; 0 abstaining. Motion is Deemed Denied.

- (8) *No new structure may be built on, over or abutting a pier, wharf, dock or other structure extending beyond the highest annual tide of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.*
- (9) *No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the highest annual tide of a water body or within a wetland may be converted to residential dwelling units in any district.*
- (10) *Except in the Commercial Fisheries/Maritime Uses Overlay Zone, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the highest annual tide of a water body or within a wetland must not exceed 20 feet in height above the pier, wharf, dock or other structures.*

Findings: These standards are not applicable because the Application does not include any structures to be built on, over or abutting a pier, wharf, dock or other structure extending beyond the highest annual tide or within a wetland.

Conclusion: N/A

- (11) *Applicants proposing any construction or fill activities in a waterway or wetland requiring approval by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act, Section 9 of 10 of the Rivers and Harbors Act, or Section 103 of the Marine Protection, Research and Sanctuaries Act, must submit proof of a valid permit issued.*

Findings: The Applicant has provided proof of a valid permit in the form of an authorization from the U.S. Army Corps of Engineers issued pursuant to Section 10 of the Rivers and Harbors Act for the installation of the Development.

Conclusion: This standard has been met.

Motion; Second: Chair Patten; Mr. Pinkham.

Vote: Vote of 5 in favor; 0 against; 0 abstaining. Motion is Approved.

- (12) *Proposals for any principal marine structure use, any residential joint- and/or shared-use pier, or any residential-development-use pier require Planning Board approval.*
- (13) *A residential development containing five or more lots in a zone permitting a residential-development-use pier may construct only one residential-development-use pier.*
- (14) *Commercial development of the shorefront must provide for access by the general public as part of a shorefront development plan.*
- (15) *Only one pier, ramp and float structure is permitted on any noncommercial or nonindustrial lot.*

Findings: These standards are not applicable to the Application because the Application only proposes moored floats located below the highest annual tide and does not propose the construction of any piers or structures falling under the Shorefront Development Plan.

Conclusion: N/A

(16) *Marine-related permanent structures located below the mean low-water line require the following permits, leases and approvals:*

- a. *Port Authority approval;*
- b. *Department of Environmental Protection permit pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C;*
- c. *Army Corps of Engineers permit;*
- d. *Maine State Department of Conservation, Bureau of Parks and Lands, Submerged Land Coordinator approval; and*
- e. *Building permit.*

Findings: The Application contains the required authorization from the Army Corps of Engineers pursuant to Section 10 of the Rivers and Harbors Act. The Development does not require permits from the Department of Environmental Protection or Submerged Land Coordinator approval. The Applicant will obtain all necessary building permits prior to beginning construction of the Development. The Port Authority has granted the Applicant’s requested waiver from the performance standards contained in Section 3.12.1.C; however, the Port Authority has determined that the Applicant has not satisfied certain performance standards set forth in the Port Authority Rules and Regulations and Town Code necessary for Port Authority approval.

Conclusion: This standard has been met.

Motion; Second: Chair Patten; Mr. Johnston.

Vote: Vote of 3 in favor; 2 against; 0 abstaining. Motion is Deemed Denied.

(17) *Any other performance standards as enumerated in the Port Authority’s rules and regulations.*

Findings: The Application proposed moored floats that are larger than those permitted under Section 3.12.1.C of the Rules and Regulations. The Port Authority has approved the Applicant’s request for a waiver from the applicable maximum dimensions; however, the Port Authority has determined that the Application has not met the performance standard regarding maximum float size contained in Section 3.12.1.C.

Conclusion: This standard has been met.

Motion; Second: Chair Patten; Mr. Pinkham.

Vote: Vote of 3 in favor; 2 against; 0 abstaining. Motion is Deemed Denied.

Port Authority Rules and Regulations, Performance Standards (§ 4.7)

§ 4.7.1. All applications for permits under this section must comply wholly with the requirements of Title 16, §3.2.17 (Shoreland Overlay Zone), and Title 38 MRS §435-439, and any other applicable federal or state requirements. These requirements apply to all development within 250 feet, horizontal distance, of the normal high-water mark of any river or saltwater body. These requirements also apply to any structure built on, over, or abutting a dock wharf or pier, or any other structure extending beyond the normal high- water mark of a water body or within a coastal wetland shown on the Official Shoreland Zoning Map.

Findings: The Application has not satisfied all applicable standards of Title 16, including those provided by Section 16.9.2(D)(5-7) and (16-17). The Port Authority has found that the Application failed to satisfy several standards required by Title 16 of the Town Code.

Conclusion: This standard has been met.

Motion; Second: Chair Patten; Mr. Pinkham.

Vote: Vote of 1 in favor; 4 against; 0 abstaining. Motion is Denied.

§ 4.7.2. The construction of any piers, docks, wharves, and other structures and uses extending over or beyond the normal high-water mark of a water body or within a wetland must comply with all applicable requirements of Title 16.

§ 4.7.3. Non-commercial private piers may have a maximum width of 6 feet as measured parallel to the shoreline and be limited to the minimum size necessary to accomplish their purpose. Except for temporary ramps and floats, the total length of a ramp, pier and float structure may not extend more than 150 feet beyond the normal high-water mark and piers not extend more than 100 feet beyond the normal high-water mark nor extend below the mean low water mark, whichever is shorter.

§ 4.7.4. The maximum height of the pier deck may not exceed six (6) feet above the normal high-water mark, and the handrails not exceed 42" without the specific approval of the Port Authority.

§ 4.7.5. Commercial piers are limited to the minimum size necessary to accomplish their purpose. They may not extend beyond the mean low water mark except with credible proof by the applicant that the extension is necessary for the water-dependent use of the pier. The maximum height of the pier deck may not exceed six (6) feet above mean high water mark and the handrails not exceed 42", without a showing of necessity and specific approval of the Port Authority. Documentation required for an application for a commercial pier, in addition to all other requirements of these Rules and Regulations, must set forth credible proof of the commercial usage and include at least the following:

§ 4.7.6. Piers, wharves, and pilings must be set back at least 25 feet from property lines and 50 feet from other structures that are fixed in place below the normal high- water mark and not owned or controlled by the applicant unless a letter of permission is granted by abutting or other controlling property owner. If abutting property owners reach a mutual agreement regarding structures which have a lesser setback, which does not interfere with navigation, is practical and is consistent with the intent of these regulations, that setback may be authorized by the Port Authority if the applicant agrees to record any ensuing permit (which will have that agreement as a condition) and the abutters' letters of no objection, with the Registrar of Deeds, or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property in the Town

Findings: These standards are not applicable because the Application does not propose the construction of any commercial or non-commercial private piers, docks, wharves or other structures beyond the normal high-water mark or within a wetland.

Conclusion: N/A

MAIN MOTION:

Motion: Based on the foregoing Findings and Conclusions, the Applicant's Piers, Wharfs, Floats and other Marine-Related Structures Application for the Development located at 48 Bowen Road (Tax Map 17, Lot 10) is approved.

Motion; Second: Chair Patten; Mr. Pinkham.

Vote: Vote of 0 in favor; 5 against 0 abstaining. The Application is DENIED.

THESE FINDINGS OF FACT AND CONCLUSIONS WERE APPROVED BY THE
KITTERY PORT AUTHORITY ON NOVEMBER _____, 2022.

KITTERY PORT AUTHORITY

BY: Charles Patten, Chair

BY: Alan Johnston

BY: H. Scott Mason

BY: John McCollett

BY: Niles Pinkham

NOTICE OF APPEAL RIGHTS: The Applicant has the right to request reconsideration of this decision within fifteen (15) days of its issuance pursuant to the Kittery Port Authority Rules and Regulations, Section 7.2. The Applicant, and any aggrieved party, has the right to appeal this decision to the Superior Court within forty-five (45) days of its issuance pursuant to the Kittery Port Authority Rules and Regulations, Section 7.3.