

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 December 1, 2022 6:00 P.M.

- 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
 - a. The Kittery Port Authority moves to hold a public hearing and approve 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.
- 8. Piers, Wharves & Floats
- 9. Public Segment (Three Mins.)
 - a. Letter from Rebecca & Michael Hall
- 10. Unfinished Business
- 11. New Business
- 12. Committee and Other Reports
- 13. Communications from the Chairperson
- 14. Board Member Issues or Comments
- 15. Executive Session
- 16. Adjournment



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

Application for

PIERS, WHARFS, FLOATS AND OTHER MARINE-RELATED STRUCTURES

Contact: kpa@kittervme.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 30' float secured by two (2) helical moorings and chains. 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 Property Owner(s): G. Christopher Miller Revocable Trust Property Address: 8 Moultons Way, Kittery Point, ME 03905 Telephone Number: 508-561-9517 Email: acmiller521@amail.com (REOURED) (REOUIRED) Property Size (Acres/SF): 1.13 ACx Zoning District(s): Residential Rural (R-RL) The shore frontage of this property is ~140 feet, measured at the high water line in a straight line, stake to stake. This is my first Kittery Port Authority application **for this property**: Yes 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. 603-430-9282 Agent Phone: Agent Email: sdr@ambitengineering.com (REQUIRED) (REQUIRED) **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 <u>first Thursday of every month</u>. 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.
- 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.



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

Passamaquoddy Tribe of Indians-Pleasant Point Reservation

Penobscot Nation

From: <u>Maine Dept. of Environmental Protection</u>

To: <u>Steve Riker</u>

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: SteveLast 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: 545Additional Comments:

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

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 Miane 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 G. Christopher Miller Revocable Trust 1. Name of Applicant: 5.Name of Agent: Steven D. Riker Ambit Engineering, Inc. George Christopher & Dianne Kimberley Miller Trustees 2. Applicant's 6. Agent's Mailing PO Box 295, Kittery Point, ME 03905 Mailing Address: 200 Griffin Road, Unit 3, Portsmouth, NH 03801 Address: 3. Applicant's 7. Agent's Daytime 603-430-9282 508-561-9517 Daytime Phone #: Phone #: 4. Applicant's Email Address 8. Agent's Email Address: gcmiller521@gmail.com (Required from either applicant sdr@ambitengineering.com or agent): 9. Location of Activity: 10. 11. County: Kittery Point 8 Moultons Way York (Nearest Road, Street, Rt.#) Town: 13. Name of Resource: River, stream or brook 12. Type of Spruce Creek ☐ Great Pond Resource: (Check all that apply) Coastal Wetland □ Freshwater Wetland 14. Amount of Impact: Fill: 560 sq. ft. indirect for shading ■ Wetland Special Significance (Sq.Ft.) Dredging/Veg Removal/Other: ☐ Significant Wildlife Habitat 210 sq. ft. direct above HAT for accessw 8 sq. ft. direct impact for pile installation ☐ Fragile Mountain 15. Type of Wetland: Forested FOR FRESHWATER WETLANDS ☐ Scrub Shrub (Check all that apply) Tier 1 Tier 2 Tier 3 ■ Emergent ■ Wet Meadow □ 0 - 4,999 sq ft. \square 15,000 – 43,560 sq. ft. \square > 43,560 sq. ft. or ■ Peatland **□** 5,000-9,999 sq ft □ smaller than 43,560 ■ Open Water **1**0.000-14.999 sq. ft., not eligible Other tidal wetland sq ft for Tier 1 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 16. Brief Activity 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 shot eline Description: of the subject property demonstrating the least impacting alternative to provide recreational boating access to Spruce Creek. 17. Size of Lot or Parcel 43.0989 X 1.13 49,344 square feet, or UTM Northing: acres **UTM Easting:** & UTM Locations: 18. Title, Right or Interest: 🖾 own □ lease purchase option □ written agreement Book#: 18341 Page: 784 20. Map and Lot Numbers: Map #: 33 Lot #: 19. Deed Reference Numbers: ☐ Yes 21. DEP Staff Previously 22. Part of a larger After-the-□ Yes project: Fact: ☑ No Contacted: ■ No. 23. Resubmission **Previous project** □ Yes
→ If yes, previous of Application?: ☑ No application # manager: 24. Written Notice of □ Yes → If yes, name of DEP 25. Previous Wetland ☐ Yes enforcement staff involved: Violation?: ⊠ No Alteration: □ No 26. Detailed Directions to the Project Site: **TIER 2/3 AND INDIVIDUAL PERMITS** 27. TIER 1 ☑ Title, right or interest documentation ☐ Title, right or interest documentation ☑ Erosion Control/Construction Plan □ Topographic Map Topographic Map ■ Narrative Project Description ☐ Copy of Public Notice/Public required ☑ Plan or Drawing (8 1/2" x 11") Information Meeting Documentation Compensation Plan (Attachment 4), if ☐ Wetlands Delineation Report required □ Photos of Area (Attachment 1) that contains the Appendix A and others, if required Information listed under Site Conditions ☐ Statement/Copy of cover letter to MHPC Description of Previously Mined Peatland, including description of how wetland if required impacts were Avoided/Minimized \$564.00 28. FEES Amount Enclosed:

CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2

PAGE 2 08/08

<u>IMPORTANT</u>: 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 fines 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)."

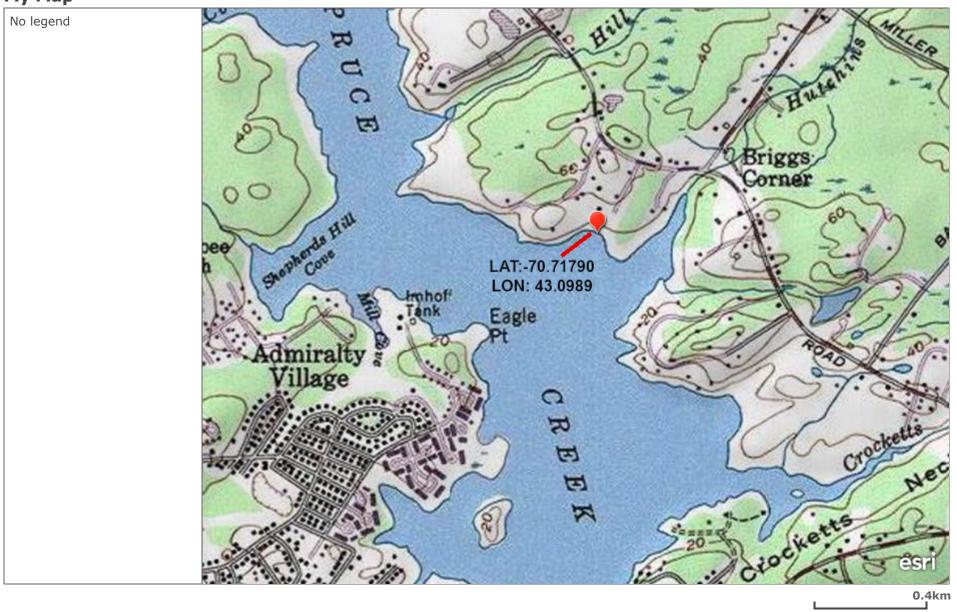
Steven Riker	Date:	September 6, 2022
SIGNATURE OF AGENT/APPLICANT		

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)

9/6/22, 1:40 PM ArcGIS - My Map

My Map



 $\label{lem:copyright:@2013} \textbf{National Geographic Society, i-cubed}$



34-14

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 Mille	r Revocable Trust	Phone: _	508-561-9517			
Application Type:Maine DEP NRPA I	ndividual					
Activity Type: (brief activity descrip	tion) Construction of a tida	l docking s	structure			
Activity Location: Town: Kittery	Court	:York				
GIS Coordinates, if known: La	at:-70.71790	Lon:43.	0989			
Date of Survey: August 18, 2022	Observer: Steven D. Riker		Phone:	603-430-928	2	
			Distance Betwe Activity and R			
1. Would the activity be visible fr	rom:		0-1/4	½-1	1+	
A. A National Natural Landmari natural feature?	k or other outstanding				x	
B. A State or National Wildlife F Preserve or a State Ga					X	
C. A state or federal trail?					x	
D. A public site or structure liste Register of Historic Pl					χ Bray Hous	е
E. A National or State Park?					X Fort McCla	ry
F. 1) A municipal park or public	open space?				X Fort McCla	ıry
2) A publicly owned land visite observation, enjoymen natural or man-made	nt and appreciation of				χ Fort McCla	ary
3) A public resource, such as t a great pond or a navi			х			
2. What is the closest estimated	distance to a similar acti	vity? .	x			
3. What is the closest distance to intended for a similar use?4. Is the visibility of the activity	•		х	× Yes	No	
(i.e., screened by summer fol		other sea	asons)	~ 1 08	110	
Are any of the resources chec during the time of year durin				x Yes	No	

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

(pink)

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

NAME OF APPLICANT: G. Chris	topher Miller R	evocableTrust	PHONE:	508-561-9517	
APPLICATION TYPE: Maine DEF	NRPA Individ	lual			
APPLICATION TYPE: Maine DEFACTIVITY LOCATION: TOWN	N: Kittery		COUNTY:	York	
ACTIVITY DESCRIPTION: □ fil	l ⊠ pier	□ lobster por	und □ shoreli		
DATE OF SURVEY: August 15,	2022	OBSERVE	R: Steven D. Ri	ker	
TIME OF SURVEY: 9:30 A.M.		TIDE AT S	SURVEY: Low ti	de @ 8:32 AM Seavey Isl	and
SIZE OF DIRECT IMPACT OR Formula Intertidal area:sq. ft.			ea: None		-
SIZE OF INDIRECT IMPACT, if I Intertidal area:sq. ft.	known (squa	are feet):Subtida	al area· None		
HABITAT TYPES PRESENT(che □ sand beach □ boulder/cobble □ ledge □ rocky shore □ m	ck all that aj beach □	pply): sand flat ⊠n	nixed coarse & fi		
ENERGY: □ protected □ ser	ni-protected	l ∑ pa	artially exposed	\square exposed	
DRAINAGE: □ drains completely	□ stand	ing water	□ pools □	Istream or channel	
SLOPE: □ >20% □ 10-209	√ ₀ □	5-10%	☑ 0-5%	□ variable	
SHORELINE CHARACTER: □ bluff/bank (height from sp	ring high tic	le: <u>2'</u>) □ be	each □rocky	☑ vegetated	
FRESHWATER SOURCES: □ str	eam 🛭	a river	□ wetland		
MARINE ORGANISMS PRESEN					
			common		
mussels	X				
clams			⊠ —		
marine worms		\square			
rockweed			X		
eelgrass					
lobsters	\mathbf{x}				
other Periwinkle			X		
SIGNS OF SHORELINE OR INTE	ERTIDAL E	ROSION?	□ yes	⊠ no	
PREVIOUS ALTERATIONS?			□ yes	□ no	
CURRENT USE OF SITE AND A □ undeveloped □ residential		UPLAND: nmercial	□ degraded	□ recreational	
PLEASE SUBMIT THE FOLLO ☑ Photographs ☑ Overh		<u>r</u>		(r	oink)

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
\square 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 SX250, 24' 6' length, 19" draft My boat(s) requires a draft of19" feet. My boat(s) is24'6"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:
SCENIC CONSIDERATIONSPlease complete Appendix A of the NRPA application. Appendix A attached WHAT FACILITIES ARE NEARBY?
The nearest public boat launch is located inKitteryapproximately1miles from the project location. (town) (distance)
The nearest public, commercial, or private marina is located inKittery approximately miles from the project location. (town)
\square 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
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TELL US	ABOUT YOUR PROPOSED PIER, DOCK OR WHARF
MATERIA	ALS:
x	The structure will be supported by pilings. 4 pilings of12 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:
DIMENSI	ONS:
Width of Length Dimens Distance Depth of Depth of	feet of fixed section: of fixed section: of fixed section: of ramp: sions of float: the structure will extend below mean low water (MLW): of water at the fixed end of the structure: of water at the float at low tide: of water at the float at high tide: of water at the float at high tide: of water at the float at high tide: feet high by feet wide by feet long feet long feet long feet wide by feet long
ACCESS:	
Dur	ring construction, my project site will be accessed via:
	√ Land

During con	istruction, my project site win be accessed
\Box	Land
	Beach/intertidal area

₩ Water/barge

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 (<i>Portland, Augusta or Bangor</i>)(circle one) during normal working hours. A copy of the application may also be seen at the municipal offices in
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 <u>and</u> 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	
<u> </u>	Date	-
ApproximatelyN/A members of the public a	ttended the Public Informational Me	eting.
Steven Riker	May 19, 2022	
Signature of Applicant or authorized agent	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 cobblegravel 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, degredation, 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.



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.



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

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Ambit Engineering, Inc.

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

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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.

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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NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

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

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NH Certified Wetland Scientist/Permitting Specialist
Ambit Engineering, Inc.

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

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

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

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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.

Ambit Engineering Abutter List

G. Christopher Miller Revocable Trust 8 Moultons Way Kittery, ME Job # 3402.22

Applicant/Owner(s)

Мар	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 #	3402.22		Abutters					
Мар	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 Abutter List

Job#	3402.22	F	Abutters						
Мар	Lot	Deed	Owner(s) First/Trust	Owner(s) Last /Trustee	Mailing Address	City	State	Zip	
								+	

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 Scientsist/Permitting Specialist

CERTIFIED MAIL/Return Receipt Requested

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.

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CERTIFIED MAIL/Return Receipt Requested

745	U.S. Postal Service [™] CERTIFIED MAIL [®] RECEIPT Domestic Mail Only				
77	For delivery information, visit our websi	te at www.usps.com®.			
2 601.5	Certified Mail Fee \$ Extra Services & Fees (check box, add fee as appropriate) Return Receipt (hardcopy) \$	STOFFICE			
0410 0002	☐ Return Receipt (electronic) \$ ☐ Certified Mail Restricted Delivery \$ ☐ Adult Signature Required \$ ☐ Adult Signature Restricted Delivery \$ Postage \$	Postmark Here			
	Total Postage and Fees	1595			
7022	Sent To BROWN ING Street and Apt. No., or PO Box No. PO Box IS3 City, State, 219+48 KITTERY POINT, HE 68905				
	PS Form 3800, April 2015 PSN 7530-02-000-9047	See Reverse for Instructions			















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: September 06, 2022

Project Code: 2022-0082388

Project Name: 8 Moultons Way Tidal Dock

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

09/06/2022 2

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.

09/06/2022

Attachment	(~)	١.
Attachment	S	١.

Official Species List

09/06/2022 1

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 09/06/2022

Project Summary

Project Code: 2022-0082388

Project Name: 8 Moultons Way Tidal Dock

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

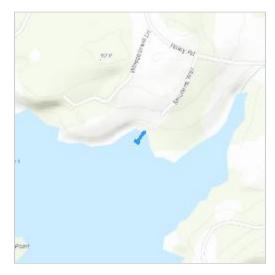
Project Description: This project proposes the construction of a tidal docking structure on the

above referenced site along Spruce Creek. The construction includes the installation of a 6' \times 35' accessway, a 6' \times 45' fixed wood pier, a 3' \times 30' gangway, and a 10' \times 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

09/06/2022 3

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 Myotis septentrionalis

Threatened

No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045

Birds

NAME **STATUS**

Roseate Tern Sterna dougallii dougallii

Endangered

Population: Northeast U.S. nesting population No critical habitat has been designated for this species.

Species profile: https://ecos.fws.gov/ecp/species/2083

Critical habitats

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

09/06/2022 4

IPaC User Contact Information

Agency: Ambit Engineering, Inc.

Name: Steven Riker

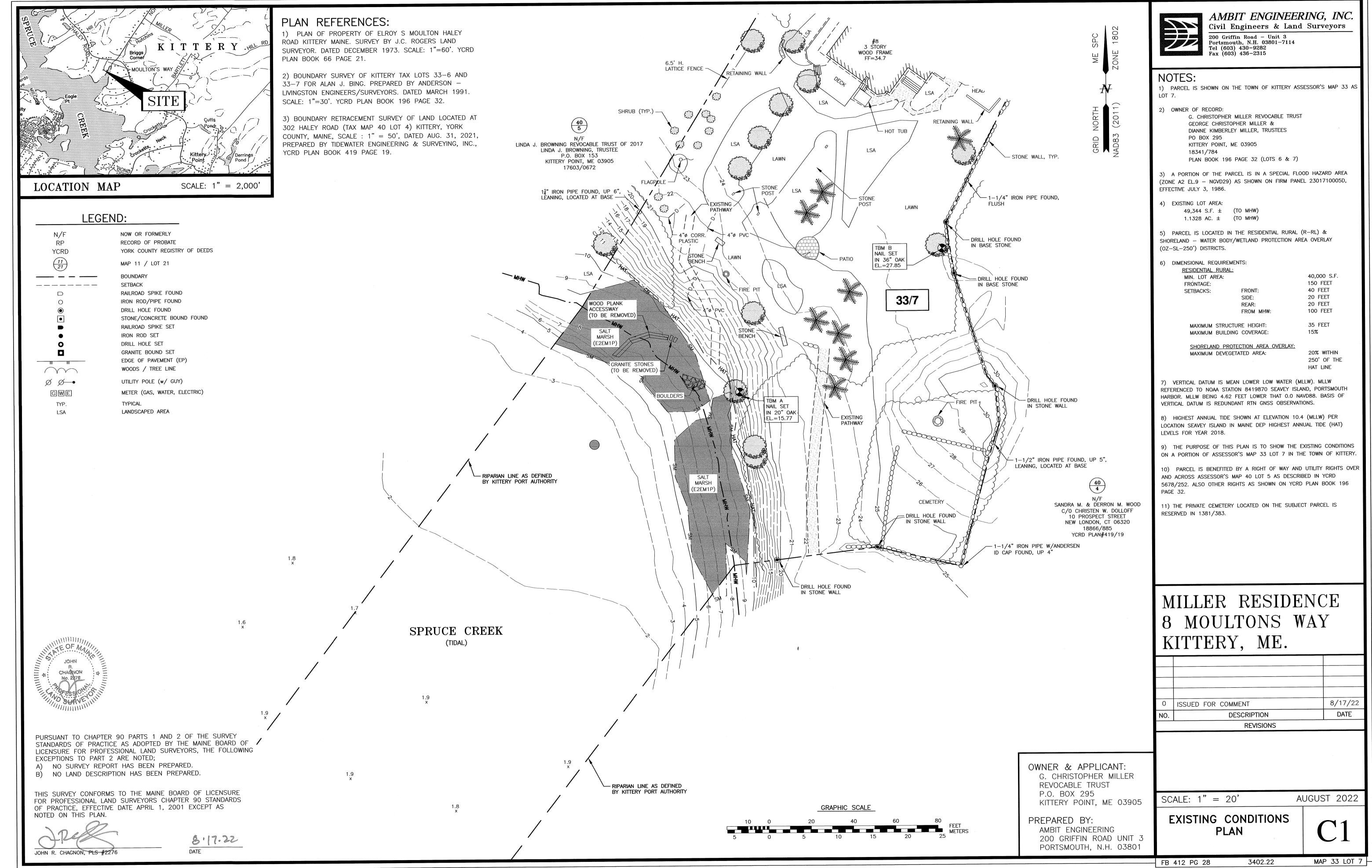
Address: 200 Griffin Road, Unit 3

City: Portsmouth

State: NH Zip: 03801

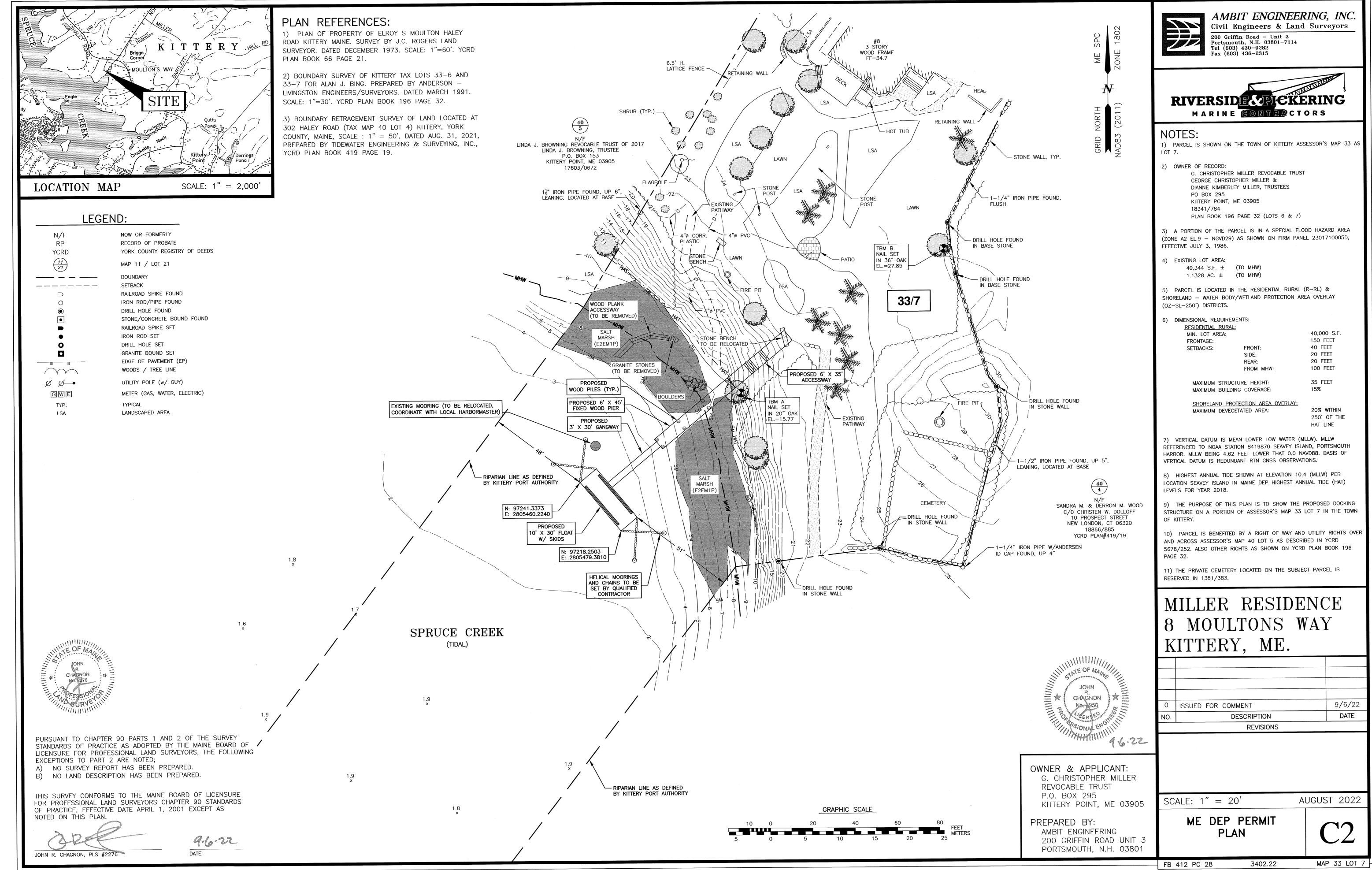
Email sdr@ambitengineering.com

Phone: 6034309282



IA IORSANIN 3400% 3400% 12402 RR P3402.22 Miller & Moultons Way, Kittery, ME/2022 Dock Permit/Plans & Specs/Site

412 PG 28 34



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.NAE.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

(NO WORK) NON-TIDAL WATERS OCT. 01 THROUGH JUL. 14

TIDAL WATERS

(WORK ALLOWED) JUL. 15 THROUGH SEP. 30 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.

APR. 10 THROUGH NOV. 07

FLOODPLAINS AND FLOODWAYS

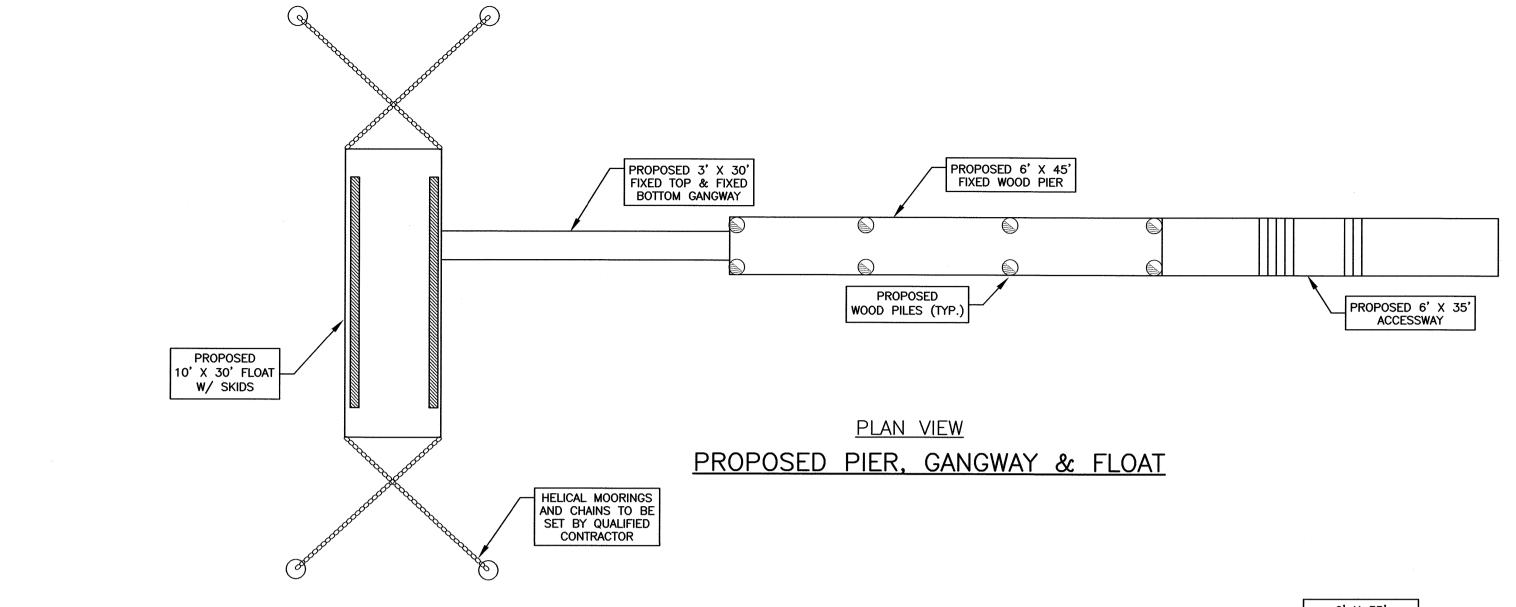
- A. APPROPRIATE MEASURES MUST BE TAKEN TO MINIMIZE FLOODING TO THE MAXIMUM EXTENT PRACTICABLE.
- ACTIVITIES WITHIN 100-YEAR FLOODPLAINS MUST COMPLY WITH APPLICABLE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)-APPROVED STATE AND/OR LOCAL FLOODPLAIN MANAGEMENT PERMITTING REQUIREMENTS. PROPONENTS MAY NEED 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.
- PROPONENTS 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/

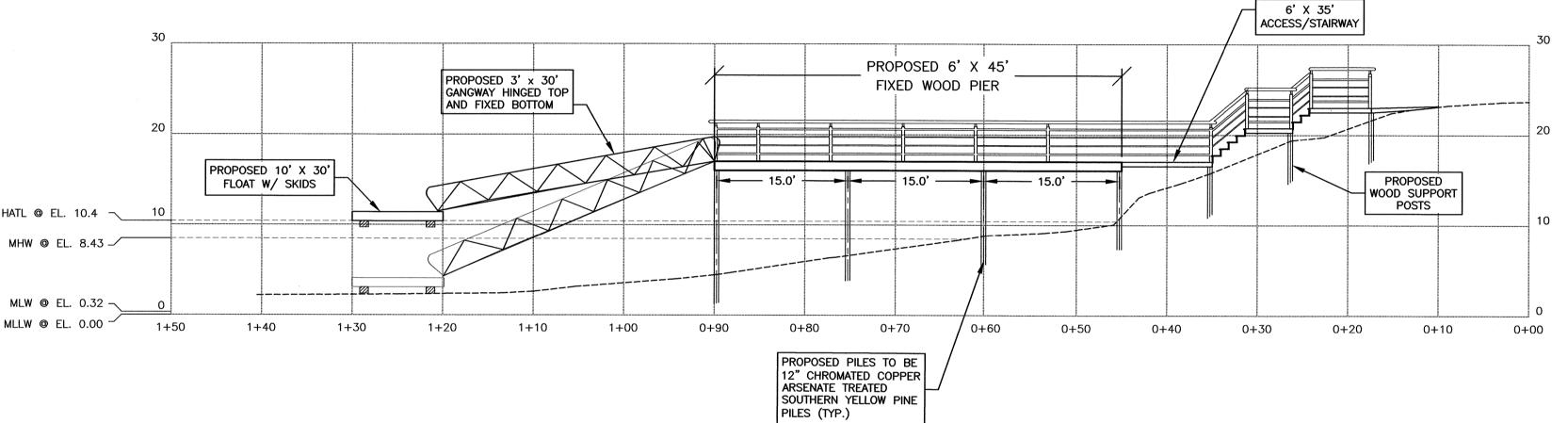
STORAGE OF SEASONAL STRUCTURES.

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.

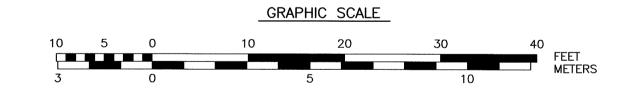
SPAWNING, BREEDING, AND MIGRATORY AREAS.

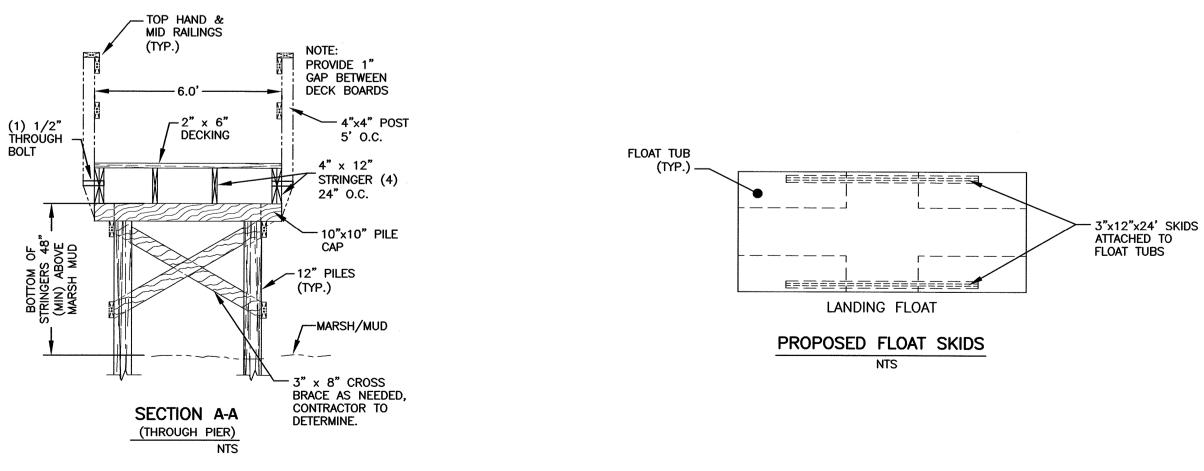
- A. JURISDICTIONAL ACTIVITIES AND IMPACTS SUCH AS EXCAVATIONS. DISCHARGES OF DREDGED OR FILL MATERIAL, AND/OR SUSPENDED SEDIMENT PRODUCING ACTIVITIES IN JURISDICTIONAL WATERS THAT PROVIDE VALUE AS FISH MIGRATORY AREAS, FISH AND SHELLFISH SPAWNING OR NURSERY AREAS. OR AMPHIBIAN AND MIGRATORY BIRD BREEDING 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





PROPOSED PIER DETAIL

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



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



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 THAT 0.0 NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

MILLER RESIDENCE 8 MOULTONS WAY KITTERY, ME.

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

SCALE: AS SHOWN

AUGUST 2022

DOCK DETAILS

3402.22

FB 412 PG 28

MAP 33 LOT 7

Attn: Kendra Amaral/Kittery Port Authority

At this time, we are requesting that the Kittery Port Authority consider amending the current Rules and Regulations. We are asking that rule 3.12.1.C be amended and at the same time excluded from Rule 4.3.2.

Current Rule 3.12.1.C

Float size may not exceed 10'x24' dimensions for commercial uses and 8'x24' dimensions for recreational uses, unless otherwise permitted by the Kittery Port Authority.

Amended Rule 3.12.1.C

Float size may not exceed 10'x24' dimensions for commercial uses and 8'x24' dimensions for recreational uses.

Amended Rule 4.3.2

The Kittery Port Authority may grant a waiver from the specifications of these regulations **excepting Rule 3.12.1.C** providing that the Kittery Port Authority finds that, due to special circumstances of specific application, the granting of a waiver will not adversely impair the public health, safety and general welfare, the use of the public waters, navigation, Or harm the environment. All such waiver must be supported by sufficient findings of fact.

In summary all moored floats are to be sizes stated in rule 3.1.1.C and waivers by the Kittery Port Authority to allow larger lengths and widths not to be permitted.

Thank you.

Rebien Hall

Rebecca Hall and Michael Hall

From: <u>Debbie</u>

To: <u>Harbor Master; Charles Patten; Steve Lawrence; John McCollett</u>

Subject: KPA 12/1/22 Letter of Support for Hall Request **Date:** Monday, November 28, 2022 9:38:15 PM

Dear Kittery Port Authority,

I am writing in support of Becky and Michael Hall's request to maintain the maximum float sizes without exception.

Thank you for your consideration,

Debbie Driscoll Bowen Road Property Owner (207)439-0449 h (207)451-4021 c

Sent from the all new Aol app for iOS

From: Nicholas Clainos
To: Charles Patten

Cc:debbie driscoll; Rebecca HallSubject:Removal of Waivers 3.12.1.C

Date: Wednesday, November 30, 2022 8:20:44 AM

I reside at 8 Bowen Rd. and am writing to enthusiastically support the effort by Becky and Michael Hall to amend your section 3.12.1.C to disallow waivers on the sizes of floats.

We have seen recently how arbitrary and distorted such waivers can become in the denials of waivers for residential floats then the affirmation of waivers for twenty times more float size for the Safe Harbor Boat Yard. The Safe Harbor requested waivers are, essentially, for recreational us as well and the only possible reason for the waivers is to increase revenue for the business that is non conforming in our RU neighborhood to begin with. Apparently, Safe Harbor has outgrown the original function which allowed them to exist in RU and, rather than use waivers to protect our waters for our residents, their waiver was used to limit the public use of the waterway in favor of increasing their revenue. This makes no sense and shows very clearly why there is no need for the right to a waiver.

Please listen to Becky Hall as the spokesperson for all of us and remove KPA from the process of configuring the business model for Safe Harbor by use of waivers you have denied individuals.

Thank you.

Nicholas and Cindy Clainos 8 Bowen Rd.

From: <u>Cathy Smilovitz Jackson</u>

To: Harbor Master; Charles Patten; stb26713@yahoo.com; John McCollett

Subject: Safe Harbor Kittery Point Expansion Application **Date:** Wednesday, November 30, 2022 12:17:39 PM

Dear Kittery Port Authority Members,

Please consider the following:

- 1) With respect to the expansion application of Safe Harbor we concur with Rebecca and Michael Hall's recommendation to retain the maximum float sizes as they are without exception.
- 2) Both Bowen Road and Ferry Lane service a residential neighborhood. These are narrow roads, which already pose difficulties for ambulances and fire trucks. In addition, we are very concerned about a significant increase in traffic if the expansion proceeds.
- 3) With any significant expansion of the moorings, we have a concern regarding the additional parking required for boat trailers and patrons.

Thank you, Carl Jackson 2 Bowen Road Kittery