



**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 2, 2023
6:00 P.M.**

1. Call to Order / Attendance
2. Pledge of Allegiance
3. Agenda Amendments and Adoption
4. Acceptance of Previous Minutes: 10/05/2023
5. Harbormaster Report and Budget Report
6. All Items involving Town Officials or Invited Guests
 - a. Cameron Wake, Climate Action Plan Work Group Strategies
7. Public Hearing
 - a. The Kittery Port Authority moves to hold a public hearing and vote on an application from Gary Pelletier, 7 Hutchins Cove Drive, Kittery, ME 03904 (Tax Map 39, Lot 3-4) for the modification and replacement of an existing structure consisting of a 4' x 50' fixed pier, 3' x 30' gangway and a 10' x 20' float supported by chains and ledge pins. Agent is Matthew Cardin, Cardin Environmental.
 - b. The Kittery Port Authority moves to hold a public hearing and vote on an application from Langdon Island West Condominium Association, 9 Badgers Island West, Kittery, ME 03904 (Tax Map 1, Lot 23) for the modification of an existing structure consisting of a 4' x 8' float extension, a 4' x 34' (2 – 17') float, and two (2) 6' x 24' finger floats, as shown on ME DEP PERMIT PLAN-2022 AERIAL Drawing C3, REV. 3, dated 10/10/23, showing a railing on the short leg of the existing 28 foot long float that prohibits the berthing of boats on that slip, as well as outlines of six, 24 foot long boats in each slip, shown not extending more than 1 foot beyond the end of each finger float. Agent is Steven Riker, Ambit Engineering – Haley Ward, Inc. This public hearing is continued from the September 7, 2023 meeting.
8. Piers, Wharves & Floats
 - a. The Kittery Port Authority moves to accept an application from Darren Lapiere, 27 Badgers Island West, Kittery, ME 03904 (Tax Map 1, Lot 30) for the installation of a 110' x 4' float along the existing pier.

9. Public Segment (Three Mins.)
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



**PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

Port Authority Meeting Date: November 2, 2023

STAFF REPORT – 7 HUTCHINS COVE DRIVE

Project Name: 7 Hutchins Cove Drive Pier, Gangway & Float

Applicant: Matthew Cardin, Cardin Environmental

Owner: Gary Pelletier

Proposed Development: Replacement in kind of a 3.25' x 56.5' pier, addition of a new 3' x 30' seasonal gangway, and addition of a new 10' x 20' float.

Waivers: None

Map & Lot Numbers: Map 39, Lot 3-4

Staff Recommendation: Approval of request

Riparian Line Determination:

Riparian lines are not shown on the plan; however, the pier is roughly 105' from the North property line and 180' from the South property line.

Description of Request:

The applicant requests the replacement in kind of a 3.25' x 56.5' pier, addition of a new 3' x 30' seasonal gangway, and addition of a new 10' x 20' float.

Performance Standards:

(1) KPA Rules 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 Town Code Title 16.

- **Town Code Title 16 incorporates by reference the 2015 International Residential Building Code. Compliance with this code will be ensured through the building permitting process.**

(2) *KPA Rules 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.*

- **Based on the application materials, the pier will have a maximum deck width of 3.25 feet. The total length of the pier, ramp, and float is 96 feet, although it only extends approximately 78 feet past the normal high-water mark. The pier, ramp, and float system ends before the mean low water mark.**

(3) *KPA Rules 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.*

- **Based on the application materials, the pier has an overall height of 3.75 feet above the normal high-water mark. Handrails are roughly 37" tall.**

(4) *KPA Rules 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.*

- **This application is for a residential use pier, this standard is not applicable.**

(5) *KPA Rules Chapter 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.*

- **The pier is roughly 105 feet from the Northern property line and roughly 180 feet from the Southern property line. There are no existing structures below the normal high-water mark within 600 feet.**

Surrounding Land Uses:

North: Residential – Waterfront, no marine structures.

South: Residential – Waterfront, no marine structures.

West: Spruce Creek.

East: Residential – no waterfront, no marine structures.

Findings of Fact:

Section 16.9.2.E requires the Kittery Port Authority to use the following process when hearing requests:

Findings of fact. An application shall be approved or approved with conditions if the Port Authority makes a positive finding based on the information presented. The application must be demonstrated that the proposed use will shall:

(1) Maintain safe and healthful conditions;

- **Staff does not believe that this development will cause any safety or health concerns.**

(2) Not result in water pollution, erosion or sedimentation to surface waters;

- **Staff does not believe that this development will result in any water pollution, erosion, or sedimentation to surface waters.**

(3) Adequately provide for the disposal of all wastewater;

- **This development will not produce any wastewater.**

(4) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

- **Staff does not believe that this development will have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.**

(5) Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

- **Staff believes that this development conserves shore cover and visual, as well as actual points of access.**

(6) Protect archaeological and historic resources;

- **Staff does not believe this development will have any impact on archeological or historic resources.**

(7) Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

- **This standard is not applicable, as there are no commercial fisheries or maritime activity districts in the area.**

(8) Avoid problems associated with floodplain development and use; and

- **Staff believes this development will avoid problems associated with floodplain development and use.**

(9) Is in conformance with the provisions of this title.

- **Staff believes that this development is in conformance with the provisions of Title 16.**

Using the standards and criteria found in the LUDC as well as the standards found in the Kittery Port Authority Rules and Regulations, Staff recommends **APPROVAL** of the proposed development.

KPA-23-15

Port Authority Application

Status: Active

Submitted On: 8/26/2023

Primary Location





7 HUTCHINS COVE DRIVE

KITTERY, ME 03904

Owner

CERIK PROPERTIES 1 LLC

6 COVE LANDING KITTERY, ME 03904

Applicant Matthew Cardin 603-988-6635 matt@cardinenvironmental.com 30 Old Post Road
Newington, NH 03801

Project Discription**Description of Project***

Repairing/replacing existing pier in-kind/in-place and replacing the existing seasonal gangway and float with a 30' x 3' gangway and 10' x 20' float.

Is any work being performed upland of the Highest Annual Tide?*

Yes

Are any waivers from the performance standards in the Kittery Port Authority Rules & Regulations requested?*

No

Type of Project**Is this project an in-kind repair/replacement?***

No

Property Information**Name of the property owner(s)**

Gary Pelletier

Property Address

7 Hutchins Cove Road

Telephone Number

603-759-9057

Email Address

gary.pelletier@yahoo.com

Size of the Property

1.81 acres

Zoning District

Residential - R-RL

150 feet

Property History

This is my first Kittery Port Authority Application for this property

I have submitted an application to the Kittery Port Authority in the past for this property

If you have submitted a previous application to the Kittery Port Authority for this property, please explain:

A KPA application for the existing dock was submitted in 2/23/05 and the dock was installed and inspected by bulding inspector on 5/1/06.

Acknowledgements

I understand that additional permits and/or approvals may be required by the Army Corps of Engineers, the Maine Department of Environmental Protection, the Maine Department of Conservation, and/or another legal entity not listed here. Furthermore, I have submitted the additional permits and/or approvals with this application.

I certify that all information on this application is complete and true to the best of my knowledge. I understand any false, misleading, or incomplete information will result in the denial of this application.

I certify that I have submitted this application at least 21 days prior to a scheduled Kittery Port Authority Meeting. I understand that failure to submit this application at least 21 days prior will result in my request going before the Kittery Port Authority at a later date.

I certify that in addition to uploading the required documentation, I will also provide 10 paper copies of each document to the Kittery Planning and Development Office at least 21 days prior to a scheduled Kittery Port Authority Meeting.

Applicant Information

Name of Applicant

Gary Pelletier

Date Application Completed

8/26/23

Name of Property Owner

The Pelletier Living Family Trust

Agent Name

Matthew Cardin

Agent Firm

M. Cardin Environmental

Agent Phone

603-988-6635

Agent Email

matt@cardinenvironmental.com

Attachments

Proof of Legal Interest in Property

7 Hutchins Cove Dr DEED.pdf
_Sat_Aug 26, 2023 10:36:09.pdf?sp=Aug 26, 2023 at 10:36 AM
159Z&se=2023-09-

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Construction Plans

7 Hutchins Cove Kittery-Plan Set 080123.pdf
-Plan_Set_080123b5MatAug 26, 2023 10:38 AM
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Other Documents

7 Hutchins Cove Dr KPA_Application Complete.pdf
_Application Complete Set Aug 26, 2023 10:40 AM
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!ULsOUtHnLarlsukdfpBWysYUBGgkihZO8xY%3D)

Town Tax Map of Lot

7 Hutchins Cove Dr Tax Map.PDF
Tax_Map_Sat_Aug 26, 2023 10:40:40.pdf?
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AOdsgkrf9GUvY1rliE8cXp9piLpKmmj6io%3D)

List of Abutters within 150 feet (including over the water) of applicant's

shorefront property line

7 Hutchins Cove Dr Abutters List.pdf
_List_Sat_Aug 26, 2023 10:40:40.pdf?
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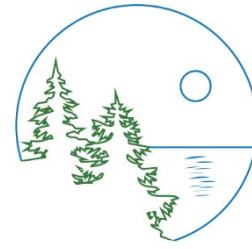
7 Hutchins Cove Dr KPA_Application Complete Rev01.pdf

7 Hutchins Cove Dr KPA_Application Complete Rev01.pdf
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August 23, 2023

Town of Kittery Port Authority
200 Rogers Road
Kittery, ME 33904



Re: KPA Application for Replacement Pier
7 Hutchins Cove Drive, Kittery, Maine
Map 39, Lot 3-4

Dear Kittery Port Authority,

Please find enclosed for your review and consideration an application for the replacement of an existing structure of an existing pier located at 7 Hutchins Cove Drive, Kittery, Maine. Enclosed are the following:

1. Kittery Port Authority Application & Application Fee - \$125
2. Attachment A – Tax map w/subject property highlighted
3. Attachment B – Application Plans
4. Attachment C – Abutters List
5. Attachment D – Proof of Property Legal Interest – Property Deed
6. Attachment E – Site Photographs
7. Attachment F – Department of Marine Resources Time-of-Year Correspondence

Existing Conditions

The subject property is a 1.81-acre property located at 7 Hutchins Cove Drive, Kittery Maine with approximately 150 feet of water frontage on Spruce Creek/Piscataqua River. The property is a residentially developed property containing a single dwelling area and maintained lawn. The property is stabilized along the waterfront with a combination of natural ledge/boulder shoreline and un-disturbed vegetated slope leading to the mean high water. The subject marine structure is located at the south western side of the property line which fronts along Spruce Creek. The subject structure is a 3.25' by 38' fixed pier, 3' by 20' gangway, a 8' by 10' float which is supported by chains and ledge pins. The pier is in need repair/replacement, which is the subject of this application. The application also includes replacing the existing 3' x 20' gangway with a 3' x 30' gangway to allow for safer access to the float during periods of low tide, and replacing the 8' x 10' float with a 10' x 20' float to provide a more stable platform and improved wave attenuation that will allow for safer use and ultimately safer boarding onto and off a vessel. A 3.25' x 18' access way from the maintained lawn to the existing pier also exists and is proposed for in-kind/in-place replacement on an account of the condition of the timbers. The existing structure is approximately 105 feet from the northern property line.

The mean high-water line intersects with the stabilized shoreline consisting primarily of rock ledge and vegetated bank. At the location of the marine structure, the mean low water extends beyond the entire structure.

The intertidal zone extending at this location consists of mostly native rock/ledge, mud and gravel.

Proposed Construction

Due to the deteriorating condition of the main support stringers, decking and support piles, this application is for the replacement of the entire pier, gangway, float and supporting chains and pins. The pier will be replaced in-kind and in-place of the existing structure along with the proposed seasonal float and gangway.

Replacement of the pier will be conducted in dry conditions during low tide intervals. The float and gangway, to be replaced, will be pre-assembled off site and hoisted into position.

Permit Application

For the Port Authority's review and consideration, all materials required by the KPA are enclosed here in. I trust that the information included in this letter and the attachments enclosed completes the application.

Additionally, an application will be sent to Maine Department of Environmental Protection and a Self-Verification Form will be sent to the US Army Corps of Engineers. Correspondence with the Department of Marine Resources regarding time-of-year for construction has been received and is enclosed as Attachment F for your information.

If there are any questions regarding the application or completion of the application, please don't hesitate to contact me at Matt@CardinEnvironmental.com , or by phone at (603) 988-6635.

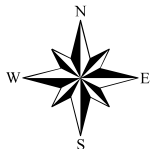
Best Regards,

A handwritten signature in blue ink, appearing to read "Matt Cardin".

Matthew R. Cardin, NH CWS

Attachment A

Tax Map Figure



7 Hutchins Cove Drive

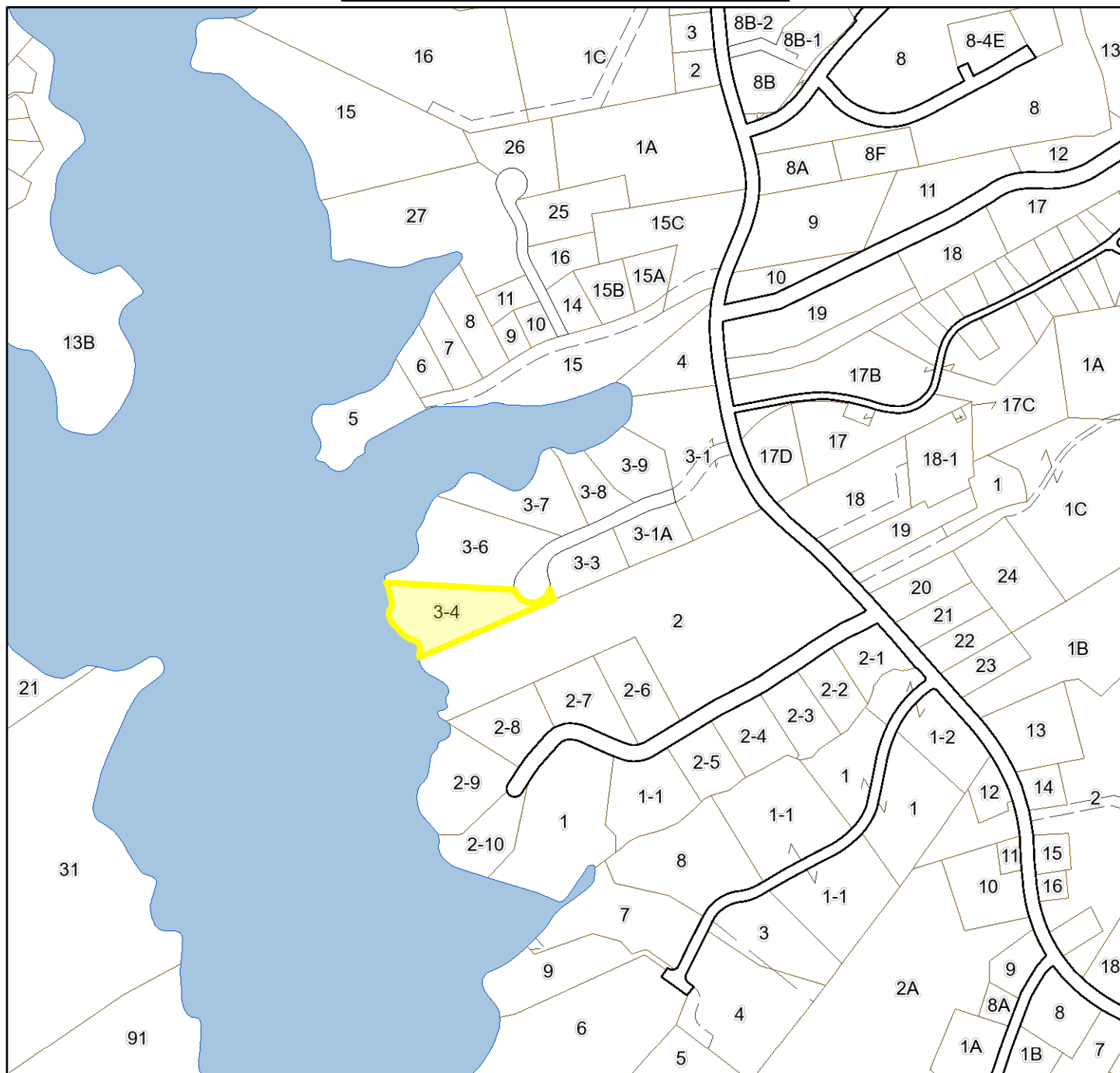
Kittery, ME

1 inch = 550 Feet



www.cai-tech.com

August 9, 2023



	Water-poly
	Tract Line
	Right of Way
	Cemetery
	Property Hook

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

Attachment B
Application Plans

EXISTING SITE PLAN

SCALE: 1" = 40'

APPLICANT:
GARY PELLETIER
PELLETIER LIVING TRUST
7 HUTCHINS COVE DRIVE, KITTERY, ME 0354
TAX MAP 39, LOT 3-4
FRONTAGE ON SPRUCE CREEK
(PISCATAQUA RIVER)

Spruce
Creek

Existing 18.5 x 3.25'
Pier Access

Existing 38 x 3.25' Pier,
3' x 20' Gangway
8' x 10' Float
Secured w/chains
and ledge pins

-Edge of
Shoreline

EI. 0'

EI. 5'

EI. 10'

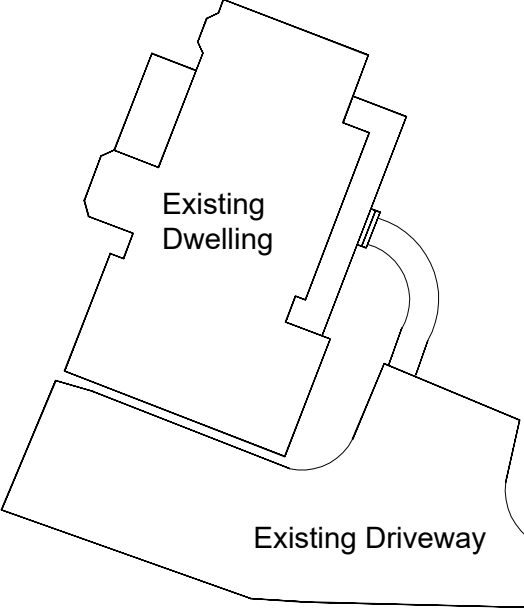
EI. -2'

HAT EI. 5.2'

EI. 15'

Map 39, Lot 3-4

Map 39, Lot 3-4

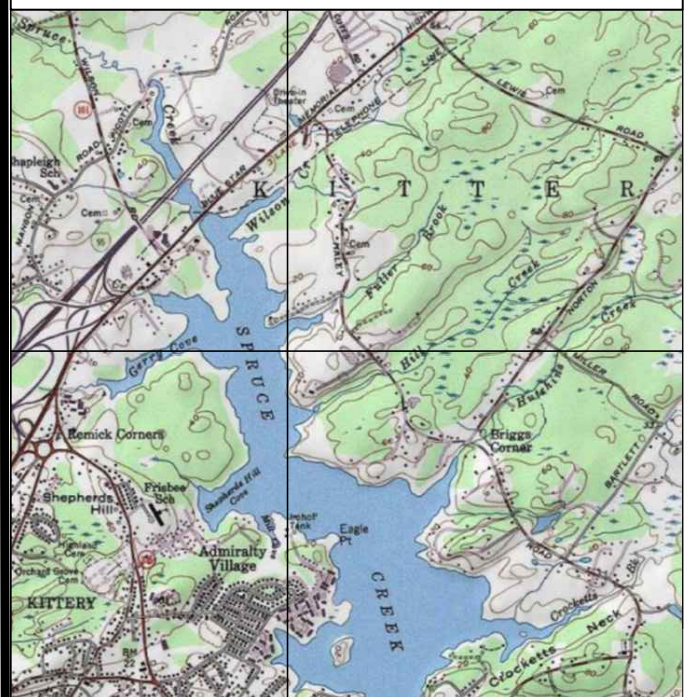


Existing
Dwelling

Existing Driveway

Map 39, Lot 2

VICINITY MAP

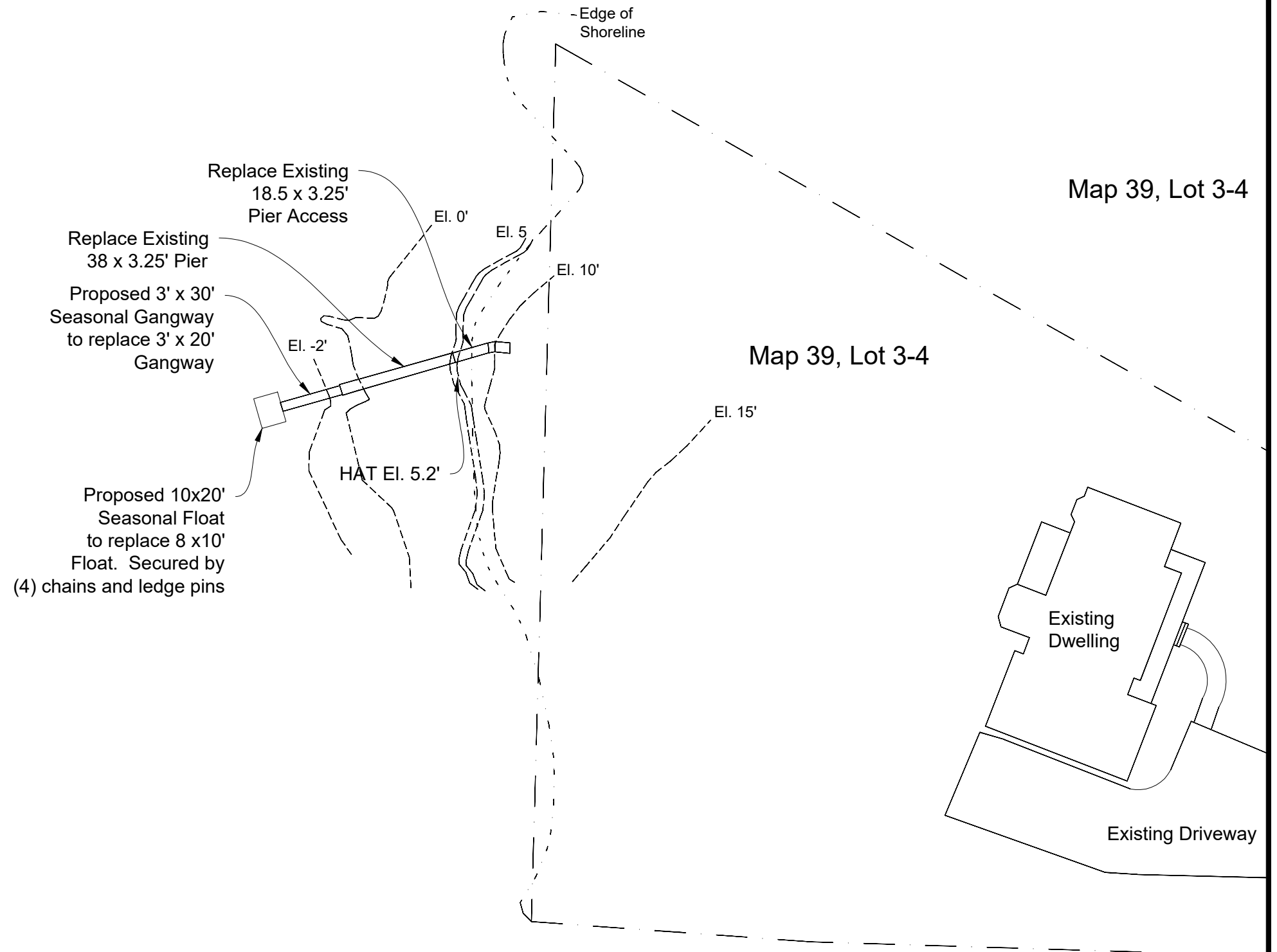


Prepared For:
GARY PELLETIER
PELLETIER LIVING TRUST
7 HUTCHINS COVE DRIVE
KITTERY, ME 03854

Prepared By:
Matthew Cardin, NH CWS

EXISTING CONDITIONS PROPOSED: MAINTAIN EXISTING DOCKING STRUCTURE
ON: SPRUCE CREEK (PISCATAQUA RIVER)
TOWN: KITTERY, ME AT: 7 HUTCHINS COVE DRIVE STATE: ME
SHEET: 1 of 2 DATE: AUGUST 1, 2023

Spruce Creek



Permitting Notes:

1. The lawfully existing 38' x 3.25' pier is based on start of pier from the highest annual tide, El. 5.2'. Landward of the start of pier is an 18' x 3.25' access way.
2. The lawfully existing pier and access way are proposed for in-kind/in-place replacement in order to continue to function safely and reliably.
3. The existing gangway, 20' x 3' and existing float, 10' x 8', are undersized for the intended use of the pier and are proposed for replacement with a 30' x 3' gangway and a 10' x 20' float. The float will be secured in the same fashion as the existing float, utilizing (4) chain and ledge pins.

Construction Notes & Sequence:

1. All materials with dock structure to be CCA treated lumber and galvanized hardware
2. Float and gangway are to be pre-assembled off-site. CCA treated lumber to be pre-treated prior to arrival at site.
3. Barge, push boat and skiff to be mobilized during high-tide and positioned alongside proposed float location and close enough to shore to shore to not negatively affect navigability.
4. All work to be done during low-tide intervals where there is no flowing water within the work area.
5. Temporary turbidity curtain to be placed around work area during high tide to once construction has temporarily stopped.
6. The pre-assembled float and gangway to be lifted from the barge via crane and placed into position and installed.

Prepared For:

GARY PELLETIER
PELLETIER LIVING TRUST
7 HUTCHINS COVE DRIVE
KITTERY, ME 03854

Prepared By:

Matthew Cardin, NH CWS

PROPOSED PLANS

ON: SPRUCE CREEK (PISCATAQUA RIVER)

TOWN: KITTERY, ME

SHEET: 2 OF 3

PROPOSED: MAINTAIN EXISTING DOCKING STRUCTURE

AT: 7 HUTCHINS COVE DRIVE STATE: ME

DATE: AUGUST 1, 2023

PROPOSED NEW DOCK

SCALE: 1" = 40'

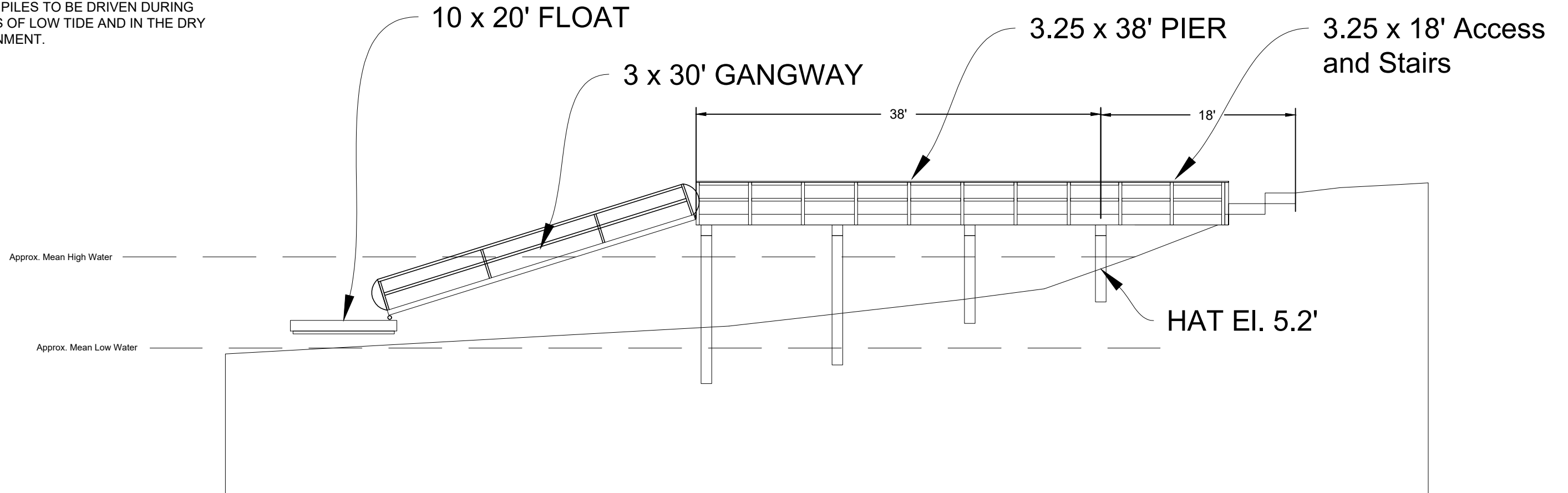
Map 39, Lot 2

CONSTRUCTION NOTES:

1. PIER TO BE MAINTAINED IN-KIND AND IN PLACE. EXISTING PIER IS 3.25' X 38' PIER SUPPORTED BY (4) PILE BENTS EACH CONSISTING OF (2) 12" TIMBER PILES, AND 12"X12" TOP CAPS, 3' X 30' GANGWAY, 10' X 20' FLOAT SECURED BY CHAINS AND LEDGE PINS.

2. REPLACE EXISTING GANGWAY WITH A 30' X 3' GANGWAY AND EXISTING FLOAT WITH A 10' X 20' FLOAT SECURED BY (4) CHAIN AND LEDGE PINS.

3. ALL CONSTRUCTION TO BE DONE VIA BARGE. PILES TO BE DRIVEN DURING PERIODS OF LOW TIDE AND IN THE DRY ENVIRONMENT.



**PROPOSED DOCK
CROSS-SECTION**

A-A

SCALE: 1" = 10'

Prepared For:
GARY PELLETIER
PELLETIER LIVING TRUST
7 HUTCHINS COVE DRIVE
KITTERY, ME 03854

PROPOSED PLANS PROPOSED: MAINTAIN EXISTING DOCKING STRUCTURE
ON: SPRUCE CREEK (PISCATAQUA RIVER)
TOWN: KITTERY, ME AT: 7 HUTCHINS COVE DRIVE STATE: ME
SHEET: 2 of 2 DATE: AUGUST 1, 2023

Prepared By:
Matthew Cardin, NH CWS

Attachment C

Abutter List

Town of Kittery Port Authority Application
Abutters List for Pier Maintenance at
7 Hutchins Cove Drive, Kittery, ME
Map 36, Lot 3-4

Abutters List:

1. 200 Haley Road
Map 39, Lot 2
Jon Civitarese
200 Haley Road
Kittery, ME 03904
2. 5 Hutchins Cove Drive
Map 39, Lot 3-3
James Powers
PO Box 12
Kittery Point, ME 03905
3. 8 Hutchins Cove Drive
Map 39, Lot 3-6
TR Leslie N. Rankin
8 Hutchins Cove Drive
Kittery, ME 03904

Attachment D

Proof of Legal Interest in Property – Deed

DLN: 1002140128888

Warranty Deed

Know all by these presents that CERIK PROPERTIES I, LLC, a New Hampshire limited liability company with a principal place of business and mailing address of 175 Market Street, Portsmouth, New Hampshire 03801, hereby grant to GARY W. PELLETIER AND ROBIN J. PELLETIER, TRUSTEES OF THE PELLETIER LIVING TRUST, with a mailing address of 24 Strafford Lane, Bedford, New Hampshire 03110, with WARRANTY COVENANTS, the real property located in the Town of Kittery, County of York and State of Maine, described as follows:

SEE EXHIBIT A ATTACHED HERETO

The current property address is 7 Hutchins Cove Drive, Kittery Tax Map 39, Lot 3-4

IN WITNESS WHEREOF, the said CERIK PROPERTIES I, LLC, has caused this instrument to be signed in its company name by CAROLYN ERIKSON its Manager, duly authorized, this 15th day of January 2021.

Signed, sealed and delivered in the presence of:

CERIK PROPERTIES I, LLC
By:

Michelle Haskell
WITNESS

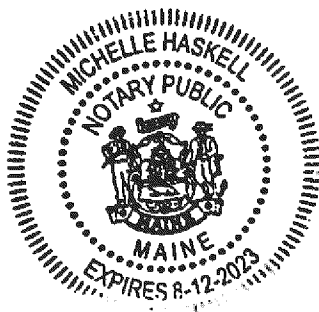
Carolyn Erikson
CAROLYN ERIKSON, ITS MANAGER

STATE OF MAINE

York, ss.

January 15th, 2021

Then personally appeared the above named Carolyn Erikson and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.



Before me,

Michelle Haskell
Attorney at Law/Notary Public
Print Name:
Commission Expires:

Maine R.E. Transfer Tax Paid

EXHIBIT A

Property Address: 7 Hutchins Cove Drive, Kittery

A certain lot or parcel of land together with the buildings thereon located on the westerly side of, but not adjacent to, Haley Road, so-called, in Kittery, York County and State of Maine, and being Lot No. 4 as shown on a plan entitled "Revised Plan of Hutchins Cove Development prepared for James Austin, Kittery, Maine", by Thomas F. Moran, Inc., dated May 10, 1990 and recorded at the York County Registry of Deeds in Plan Book 201, Page 21, to which plan reference is made for a more particular description.

Subject to any and all easements, restrictions, conditions, notes and other matters set forth on the Plan above referenced.

The above-described premises are also conveyed together with an easement and right of way in common with others, for the purposes of passage, utility installation and maintenance, as well as, road and drainage construction and maintenance over Hutchins Cove Drive, including "Lot 1 "B"" as shown on the above-referenced plan and also as shown on a plan entitled "Plan of Hutchins Cove Development prepared for James Austin, Kittery, Maine", by Thomas F. Moran, Inc., dated May 10, 1990 and recorded at the York County Registry of Deeds in Plan Book 199, Page 49.

The above-described premises are also conveyed together with the benefits of and subject to the Hutchins Cove Declaration of Protective Covenants and Common Easements dated May 8, 1991 and recorded at the York County Registry of Deeds in Book 5715, Page 186, all of which are incorporated herein by reference to said Protective Covenants and Covenant Easements with the same force and effect as if fully set forth herein. The Grantee hereby assumes and agrees to observe and perform the obligations imposed thereby and does accept the benefits thereof.

Being the same premises conveyed from Camille Duval and Jacqueline Duval to Cerik Properties I, LLC by deed dated February 7, 2008 and recorded at the York County Registry of Deeds in Book 15348, Page 540.

Attachment E

Photographs



Photo 1: Existing Pier Structure Facing North



Photo 2: Existing Pier Structure Facing Northwest



Photo 3: Existing Pier Structure Facing Southwest



Photo 4: Existing Pier Structure Facing Northeast – Damaged Stringers

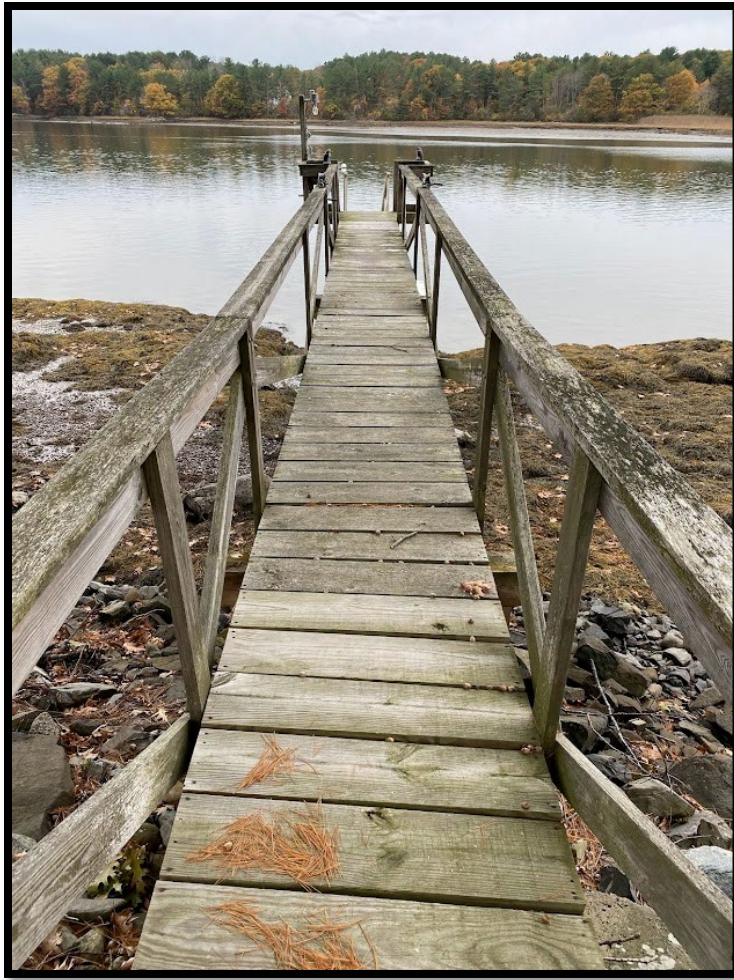


Photo 5: Existing Pier Deck - Facing West

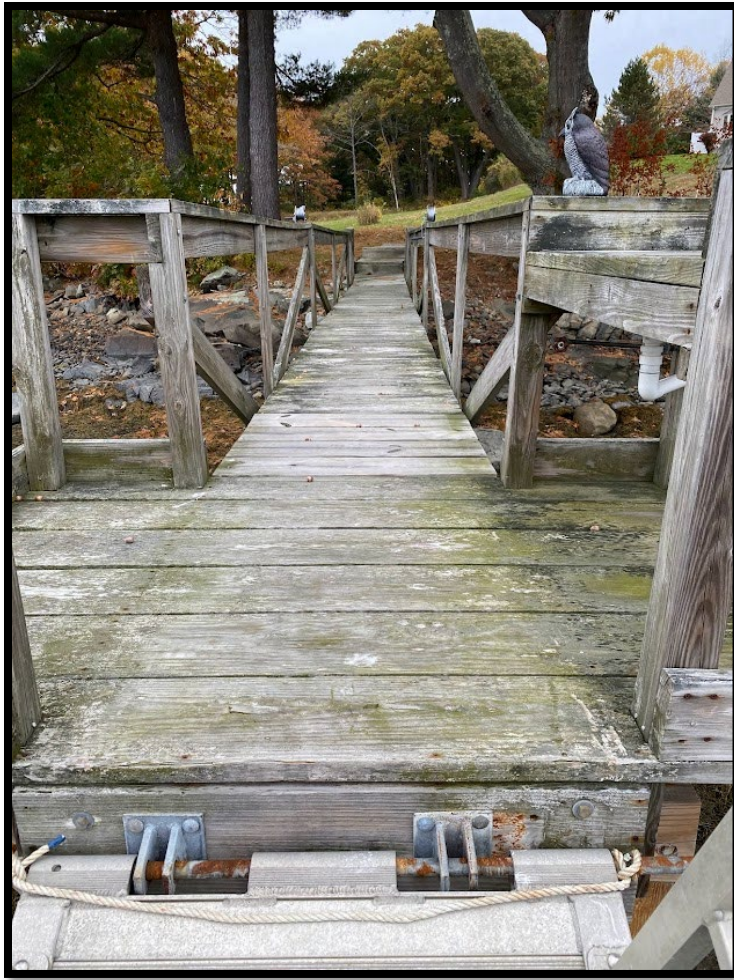


Photo 6: Existing Pier Deck – Facing East

Attachment F

Dept. of Marine Resources Time of Year Review

**REQUEST FOR APPROVAL
OF TIMING OF ACTIVITY
(DMR)**

This form is for use in obtaining approval from the **Department of Marine Resources (DMR)** for the timing of certain projects in accordance with Chapter 305 Permit by Rule Standards.

To be filled out by applicant: (Instructions are on the back of this form)"

"

1. **Applicant's name:** _____
Address: _____

telephone: _____

2. I plan to perform the following activity (please check the appropriate box):
 Sec. 3 Intake pipes (tidal waters only)
 Sec. 4 Replacement of structures (tidal waters only)
 Sec. 7 Outfall pipes (tidal waters only)
 Sec. 9 Utility crossings (any location if performed between Oct. 2 and July 14)
 Sec. 12 Restoration of natural areas (tidal waters only)
 Sec. 15 Public boat ramps (tidal waters only)
 Sec. 18 Maintenance dredging (tidal waters only)

3. Brief description of project: [please include the name of the stream or waterbody, if known]

4. I plan to perform this activity between the dates of _____ and _____.
(start date) (end date)

5. I have included a map showing the location of my project.
***[Please note that if no location map is provided, no approval will be granted by DMR]**

6. Send completed form to: DMR Environmental Coordinator
P.O. Box : .West Boothbay Harbor, ME 22: /26797

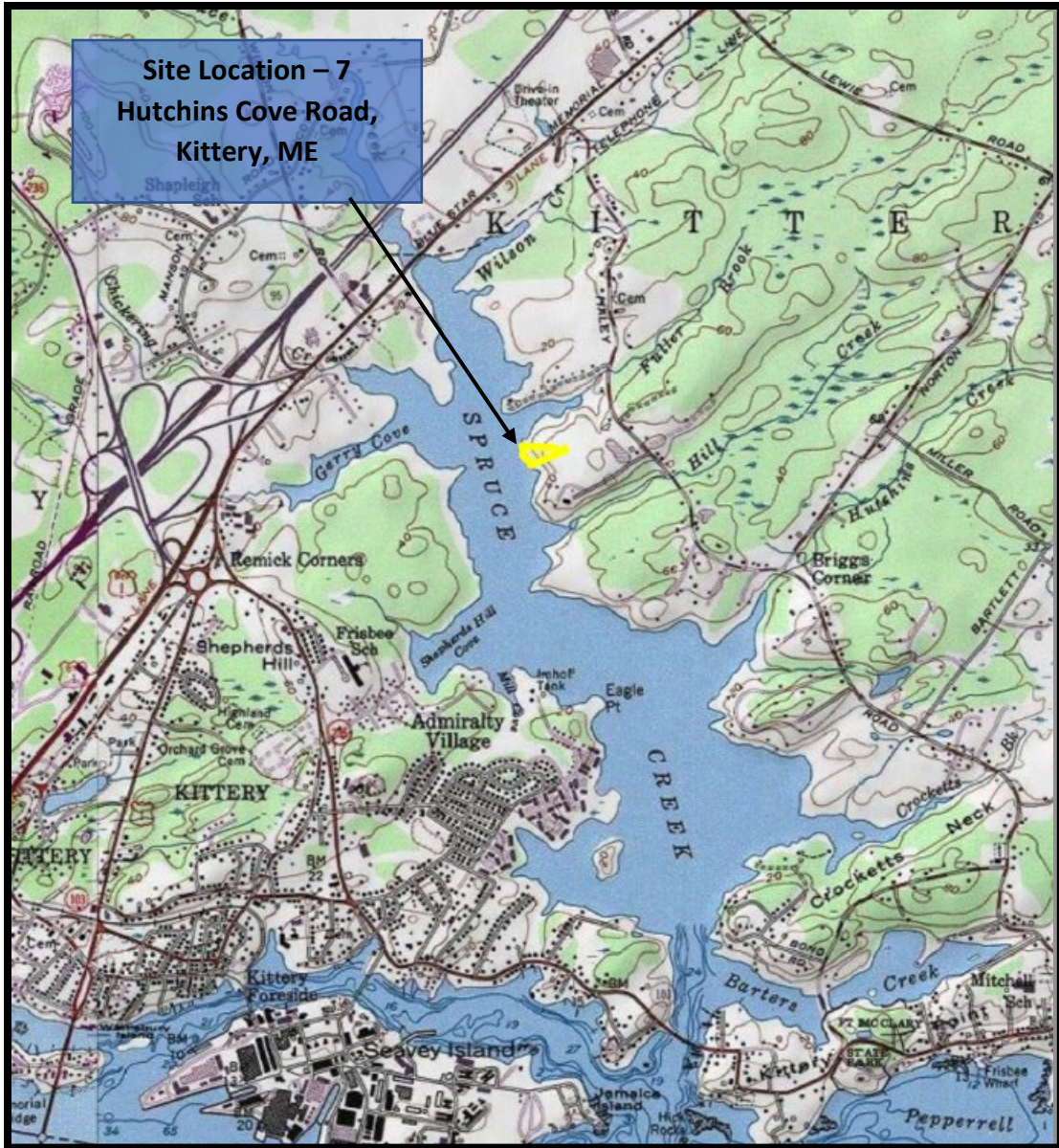
For agency use only:

The Department has reviewed the proposed timing of the activity identified above and:

approves of the project's timing as proposed.
 requires that the project's timing be changed to occur between _____ and _____
(end date) (start date)

Other comments: _____

Katie Miller _____
DMR Environmental Coordinator Date



PIER MAINTENANCE – Spruce Creek – Piscataqua River

7 Hutchins Cove Road, Kittery, ME

Map 39, Lot 3-4

EXISTING SITE PLAN

SCALE: 1" = 40'

APPLICANT:
GARY PELLETIER
PELLETIER LIVING TRUST
7 HUTCHINS COVE DRIVE, KITTERY, ME 0354
TAX MAP 39, LOT 3-4
FRONTAGE ON SPRUCE CREEK
(PISCATAQUA RIVER)

Spruce
Creek

Existing 18.5 x 3.25'
Pier Access

Existing 38 x 3.25' Pier,
3' x 20' Gangway
8' x 10' Float
Secured w/chains
and ledge pins

-Edge of
Shoreline

EI. 0'

EI. 5'

EI. 10'

EI. -2'

HAT EI. 5.2'

Map 39, Lot 3-4

EI. 15'

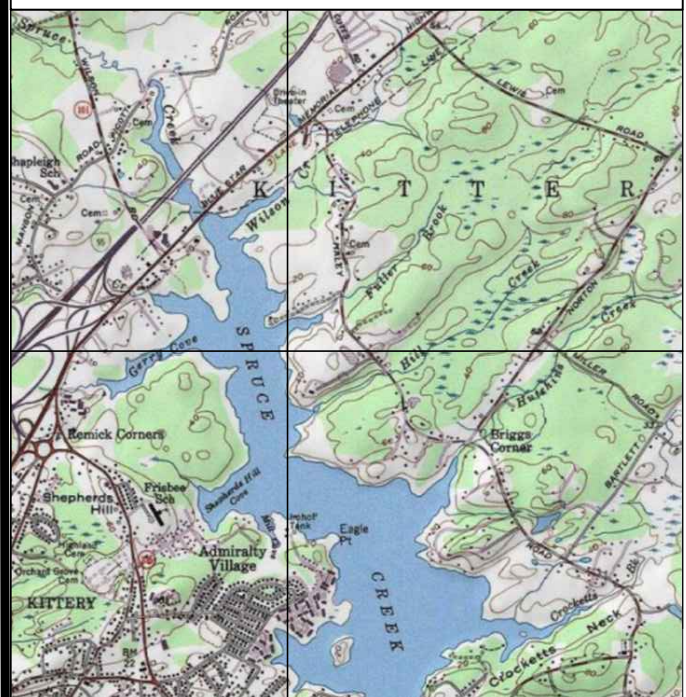
Map 39, Lot 3-4

Existing
Dwelling

Existing Driveway

Map 39, Lot 2

VICINITY MAP



Prepared For:
GARY PELLETIER
PELLETIER LIVING TRUST
7 HUTCHINS COVE DRIVE
KITTERY, ME 03854

Prepared By:
Matthew Cardin, NH CWS

EXISTING CONDITIONS PROPOSED: MAINTAIN EXISTING DOCKING STRUCTURE
ON: SPRUCE CREEK (PISCATAQUA RIVER)
TOWN: KITTERY, ME AT: 7 HUTCHINS COVE DRIVE STATE: ME
SHEET: 1 of 2 DATE: AUGUST 1, 2023

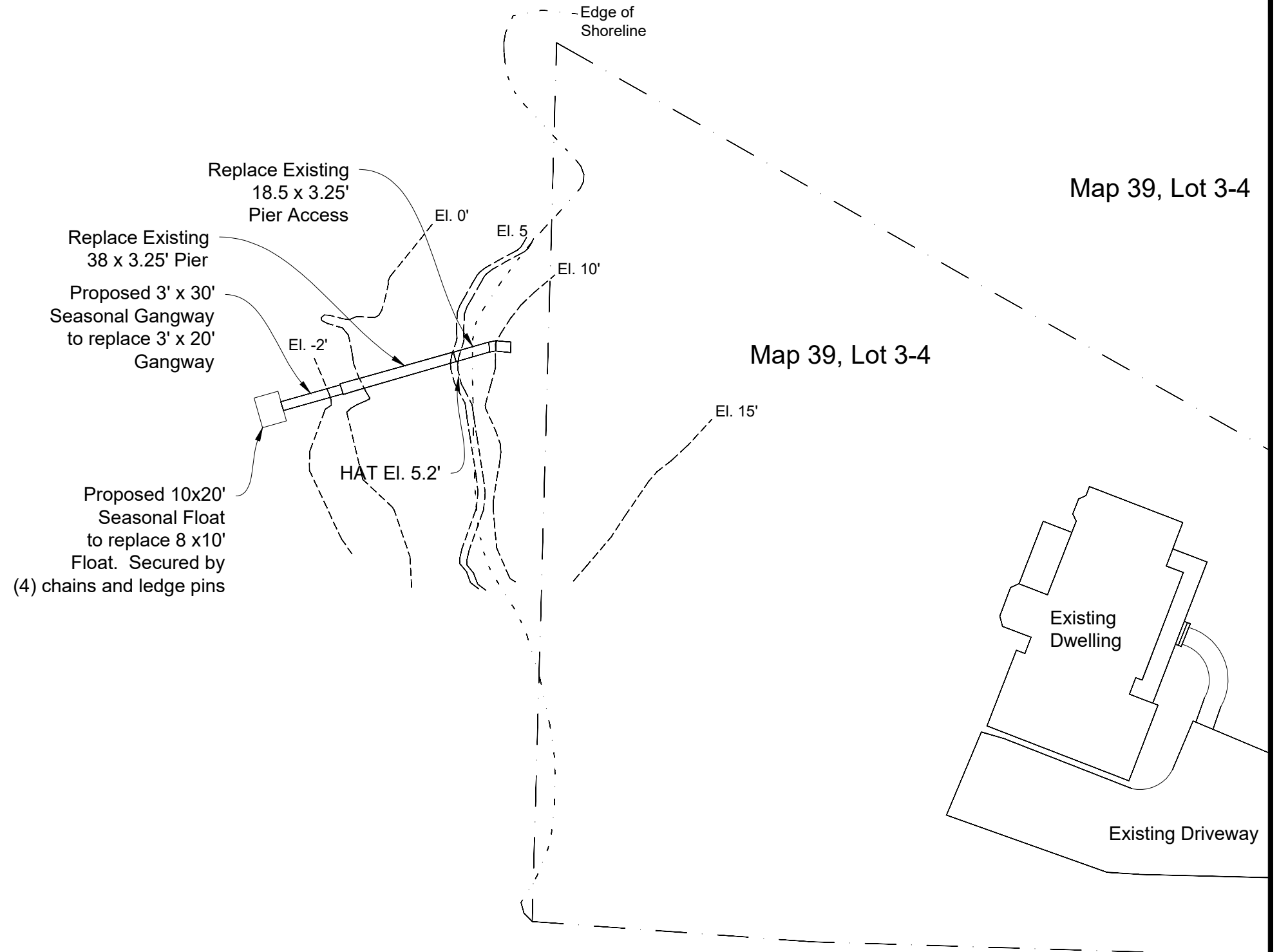
Permitting Notes:

1. The lawfully existing 38' x 3.25' pier is based on start of pier from the highest annual tide, El. 5.2'. Landward of the start of pier is an 18' x 3.25' access way.
2. The lawfully existing pier and access way are proposed for in-kind/in-place replacement in order to continue to function safely and reliably.
3. The existing gangway, 20' x 3' and existing float, 10' x 8', are undersized for the intended use of the pier and are proposed for replacement with a 30' x 3' gangway and a 10' x 20' float. The float will be secured in the same fashion as the existing float, utilizing (4) chain and ledge pins.

Construction Notes & Sequence:

1. All materials with dock structure to be CCA treated lumber and galvanized hardware
2. Float and gangway are to be pre-assembled off-site. CCA treated lumber to be pre-treated prior to arrival at site.
3. Barge, push boat and skiff to be mobilized during high-tide and positioned alongside proposed float location and close enough to shore to shore to not negatively affect navigability.
4. All work to be done during low-tide intervals where there is no flowing water within the work area.
5. Temporary turbidity curtain to be placed around work area during high tide to once construction has temporarily stopped.
6. The pre-assembled float and gangway to be lifted from the barge via crane and placed into position and installed.

Spruce Creek



Prepared For:
 GARY PELLETIER
 PELLETIER LIVING TRUST
 7 HUTCHINS COVE DRIVE
 KITTERY, ME 03854

Prepared By:
 Matthew Cardin, NH CWS

PROPOSED PLANS **PROPOSED: MAINTAIN EXISTING DOCKING STRUCTURE**

ON: SPRUCE CREEK (PISCATAQUA RIVER)

TOWN: KITTERY, ME AT: 7 HUTCHINS COVE DRIVE STATE: ME

SHEET: 2 OF 3 DATE: AUGUST 1, 2023

PROPOSED NEW DOCK
 SCALE: 1" = 40'

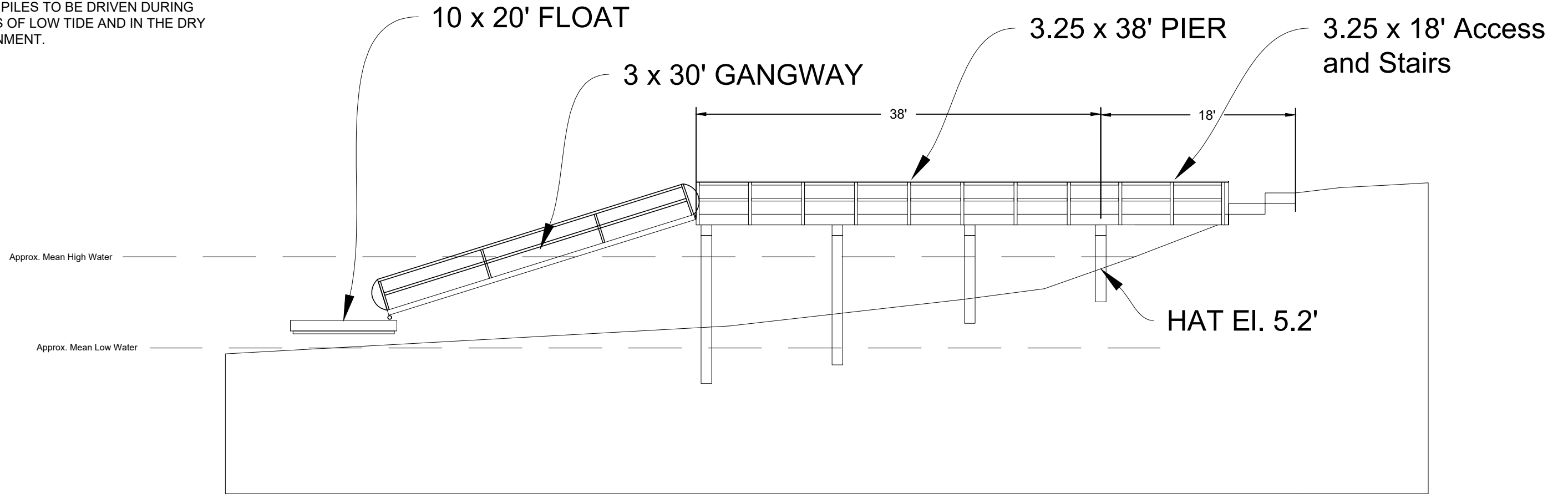
Map 39, Lot 2

CONSTRUCTION NOTES:

1. PIER TO BE MAINTAINED IN-KIND AND IN PLACE. EXISTING PIER IS 3.25' X 38' PIER SUPPORTED BY (4) PILE BENTS EACH CONSISTING OF (2) 12" TIMBER PILES, AND 12"X12" TOP CAPS, 3' X 30' GANGWAY, 10' X 20' FLOAT SECURED BY CHAINS AND LEDGE PINS.

2. REPLACE EXISTING GANGWAY WITH A 30' X 3' GANGWAY AND EXISTING FLOAT WITH A 10' X 20' FLOAT SECURED BY (4) CHAIN AND LEDGE PINS.

3. ALL CONSTRUCTION TO BE DONE VIA BARGE. PILES TO BE DRIVEN DURING PERIODS OF LOW TIDE AND IN THE DRY ENVIRONMENT.



**PROPOSED DOCK
CROSS-SECTION**

A-A

SCALE: 1" = 10'

Prepared For:
GARY PELLETIER
PELLETIER LIVING TRUST
7 HUTCHINS COVE DRIVE
KITTERY, ME 03854

PROPOSED PLANS PROPOSED: MAINTAIN EXISTING DOCKING STRUCTURE
ON: SPRUCE CREEK (PISCATAQUA RIVER)
TOWN: KITTERY, ME AT: 7 HUTCHINS COVE DRIVE STATE: ME
SHEET: 2 of 2 DATE: AUGUST 1, 2023

Prepared By:
Matthew Cardin, NH CWS

DLN: 1002140128888

Warranty Deed

Know all by these presents that CERIK PROPERTIES I, LLC, a New Hampshire limited liability company with a principal place of business and mailing address of 175 Market Street, Portsmouth, New Hampshire 03801, hereby grant to GARY W. PELLETIER AND ROBIN J. PELLETIER, TRUSTEES OF THE PELLETIER LIVING TRUST, with a mailing address of 24 Strafford Lane, Bedford, New Hampshire 03110, with WARRANTY COVENANTS, the real property located in the Town of Kittery, County of York and State of Maine, described as follows:

SEE EXHIBIT A ATTACHED HERETO

The current property address is 7 Hutchins Cove Drive, Kittery Tax Map 39, Lot 3-4

IN WITNESS WHEREOF, the said CERIK PROPERTIES I, LLC, has caused this instrument to be signed in its company name by CAROLYN ERIKSON its Manager, duly authorized, this 15th day of January 2021.

Signed, sealed and delivered in the presence of:

CERIK PROPERTIES I, LLC
By:

Michelle Haskell
WITNESS

Carolyn Erikson
CAROLYN ERIKSON, ITS MANAGER

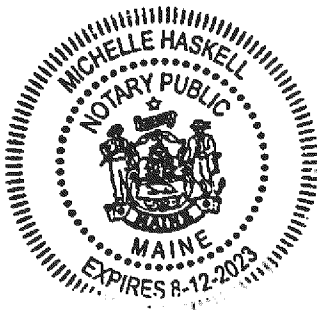
STATE OF MAINE

York, ss.

January 15th, 2021

Then personally appeared the above named Carolyn Erikson and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,



Michelle Haskell
Attorney at Law/Notary Public
Print Name:
Commission Expires:

Maine R.E. Transfer Tax Paid

EXHIBIT A

Property Address: 7 Hutchins Cove Drive, Kittery

A certain lot or parcel of land together with the buildings thereon located on the westerly side of, but not adjacent to, Haley Road, so-called, in Kittery, York County and State of Maine, and being Lot No. 4 as shown on a plan entitled "Revised Plan of Hutchins Cove Development prepared for James Austin, Kittery, Maine", by Thomas F. Moran, Inc., dated May 10, 1990 and recorded at the York County Registry of Deeds in Plan Book 201, Page 21, to which plan reference is made for a more particular description.

Subject to any and all easements, restrictions, conditions, notes and other matters set forth on the Plan above referenced.

The above-described premises are also conveyed together with an easement and right of way in common with others, for the purposes of passage, utility installation and maintenance, as well as, road and drainage construction and maintenance over Hutchins Cove Drive, including "Lot 1 "B"" as shown on the above-referenced plan and also as shown on a plan entitled "Plan of Hutchins Cove Development prepared for James Austin, Kittery, Maine", by Thomas F. Moran, Inc., dated May 10, 1990 and recorded at the York County Registry of Deeds in Plan Book 199, Page 49.

The above-described premises are also conveyed together with the benefits of and subject to the Hutchins Cove Declaration of Protective Covenants and Common Easements dated May 8, 1991 and recorded at the York County Registry of Deeds in Book 5715, Page 186, all of which are incorporated herein by reference to said Protective Covenants and Covenant Easements with the same force and effect as if fully set forth herein. The Grantee hereby assumes and agrees to observe and perform the obligations imposed thereby and does accept the benefits thereof.

Being the same premises conveyed from Camille Duval and Jacqueline Duval to Cerik Properties I, LLC by deed dated February 7, 2008 and recorded at the York County Registry of Deeds in Book 15348, Page 540.



7 Hutchins Cove Drive

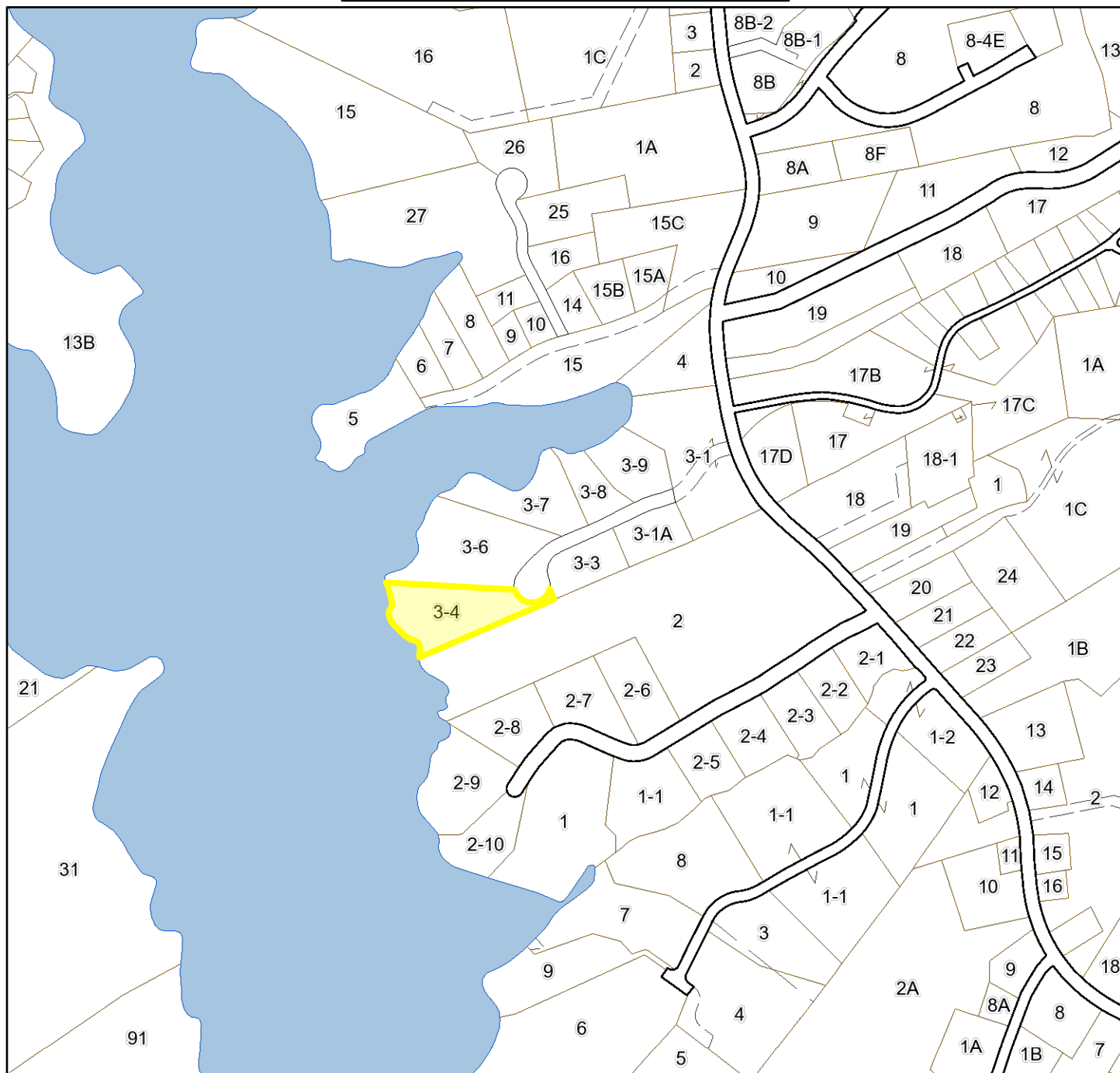
Kittery, ME

1 inch = 550 Feet



www.cai-tech.com

August 9, 2023



	Water-poly
	Tract Line
	Right of Way
	Cemetery
	Property Hook

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

Town of Kittery Port Authority Application
Abutters List for Pier Maintenance at
7 Hutchins Cove Drive, Kittery, ME
Map 36, Lot 3-4

Abutters List:

1. 200 Haley Road
Map 39, Lot 2
Jon Civitarese
200 Haley Road
Kittery, ME 03904
2. 5 Hutchins Cove Drive
Map 39, Lot 3-3
James Powers
PO Box 12
Kittery Point, ME 03905
3. 8 Hutchins Cove Drive
Map 39, Lot 3-6
TR Leslie N. Rankin
8 Hutchins Cove Drive
Kittery, ME 03904



**PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

Port Authority Meeting Date: November 2, 2023

STAFF REPORT – 9 BADGERS ISLAND WEST

Project Name: 9 Badgers Island West Float Modification

Applicant: Steven Riker, Amit Engineering

Owner: Langdon Island West Condominium Association

Proposed Development: Installation of a 4'x8' float extension, 4'x34' float, and two 6'x24' finger floats

Waivers: 4.7.3 Overall length

Map & Lot Numbers: Map 18, Lot 27

Staff Recommendation: Denial of request

Riparian Line Determination:

Riparian lines used by abutters for previous development were determined using the extension method. Riparian lines for the purpose of this development were determined using the colonial method.

Site Description:

The subject property is in the Mixed Use – Badgers Island district, in close proximity to other water dependent uses and structures.

Description of Request:

The applicant requests addition of a 4'x8' float extension, a 4'x34' float, and two 6'x24' finger floats to an existing pier, ramp and float system that is 165' long.

Performance Standards:

***For the purposes of this report, and the application before the Board, the normal high-water mark referenced in the KPA Rules is equivalent to the mean high-water mark referenced in the*

*application and survey***

(1) *KPA Rules 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 Town Code Title 16.*

- **Town Code Title 16 incorporates by reference the 2015 International Residential Building Code. Compliance with this code will be ensured through the building permitting process.**

(2) *KPA Rules 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.*

- **This application does not propose any change to the existing pier width. The application proposes the addition of new floats that extend 34' further from the normal high-water mark. Based on the Town's GIS map, the existing structure extends approximately 165' from the normal high-water mark. This would result in an overall length of 199', exceeding the allowable 150 feet.**

(3) *KPA Rules 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.*

- **This application does not propose any change to the existing pier height.**

(4) *KPA Rules 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.*

- **This application is for a residential use pier, this standard is not applicable.**

(5) *KPA Rules Chapter 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.

- **The addition of the proposed floats will be closer than 50 feet from the abutters float to the East (33 feet). This abutter has provided a letter in support of the project. To the West, the float will be 39 feet from the abutters float. This abutter has not submitted any documentation in regard to the encroachment.**

Surrounding Land Uses:

North: Residential – No waterfront, no marine structures.

South: Piscataqua River

East: Commercial – Dock, pier & float.

West: Commercial – Dock, pier & float.

Findings of Fact:

Section 16.9.2.E requires the Kittery Port Authority to use the following process when hearing requests:

Findings of fact. An application shall be approved or approved with conditions if the Port Authority makes a positive finding based on the information presented. The application must be demonstrated that the proposed use will shall:

(1) Maintain safe and healthful conditions;

- **Staff believes that navigation issues could occur due to the proximity of the float to the existing float to the West. This issue could be mitigated by preventing a boat from tying up on that side of the float by adding railings.**

(2) Not result in water pollution, erosion or sedimentation to surface waters;

- **Staff does not believe that this development will result in water pollution, erosion or sedimentation to surface waters.**

(3) Adequately provide for the disposal of all wastewater;

- **No subsurface wastewater or septic work are proposed for this project.**

(4) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

- **Staff does not believe that this development would have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.**

(5) Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

- **Staff does not believe that this development would have an adverse impact on shore cover or points of access.**

(6) *Protect archaeological and historic resources;*

- **Staff does not believe that this development would have an adverse impact on archeological or historic resources.**

(7) *Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;*

- **Staff believes that navigation issues may arise from the proximity of abutting floats. This possibility should be discussed by the Port Authority.**

(8) *Avoid problems associated with floodplain development and use; and*

- **Staff does not believe that this development would have an adverse impact within the floodplain.**

(9) *Is in conformance with the provisions of this title.*

- **This project is *NOT* in conformance with the setbacks from abutting structures, or the overall length of pier, unless a waiver is granted.**

Using the standards and criteria found in the LUDC as well as the standards found in the Kittery Port Authority Rules and Regulations, Staff recommends **DENIAL** of the proposed development due to its encroachment into the 50-foot setback from abutting structures. For the Port Authority to waive either rule 4.7.3 or 4.7.6, the project cannot adversely impair the use of public waters or navigation per rule 4.3.2.

Kristin M. Collins
kcollins@preti.com
Direct Dial: 207.791.3292

MEMORANDUM

TO: Kittery Port Authority, Town Manager
FROM: Kristin M. Collins; Cameron Ferrante, Town Attorneys
DATE: August 30, 2023
RE: **Applicability of Setback Regulations to Proposed Floats**

You have asked that we examine whether a float constitutes a marine-related structure for the purposes of the performance standards contained in Section 4.7.6 of the Port Authority Rules and Regulations (the “Rules”). The following memo provides an overview of the general process for interpreting the language of an ordinance or statute and an analysis of the proper interpretation of “float” in the context of Section 4.7.6.

I. Interpreting Ordinances

There are four basic principles that apply when interpreting the meaning of specific words or phrases in a municipal ordinance. First, any interpretation must look to the plain language of the ordinance.¹ Second, undefined terms should be given their common and generally accepted meaning unless the context indicates otherwise.² Third, an ordinance should be interpreted reasonably, in light of its objectives and its general structure, to avoid absurd or illogical results.³ Last, the interpretation of an ordinance must not result in any part of it being “mere surplusage,” meaning irrelevant or inoperative, if a meaningful interpretation is possible.⁴

In general, courts are not required to defer to a municipal board’s interpretation of the language of an ordinance and will apply these principles to reach their own determination of the proper interpretation of an ordinance if the Port Authority’s interpretation is challenged.

¹ See *Gensenheimer v. Town of Phippsburg*, 2005 ME 22, ¶ 21, 868 A.2d 161 (“[We] first look to the plain language of the provisions to be interpreted.”).

² See *Zappia v. Town of Old Orchard Beach*, 2022 ME 15, ¶ 10, 271 A.3d 753 (“[U]ndefined terms should be given their common and generally accepted meaning unless the context requires otherwise…”).

³ See *Olson v. Town of Yarmouth*, 2018 ME 27, ¶ 11, 179 A.3d 920 (“We construe the terms of an ordinance reasonably, considering its purposes and structure and to avoid absurd or illogical results.”); *Peregrine Developers, LLC v. Town of Orono*, 2004 ME 95, ¶ 9, 854 A.2d 216 (“The terms or expressions in an ordinance are to be construed reasonably with regard to both the objectives sought to be obtained and the general structure of the ordinance as a whole.”)

⁴ See *Jade Realty Corp. v. Town of Eliot*, 2008 ME 80, ¶ 8, 946 A.2d 408 (“An ordinance may not be interpreted in such a way to read a provision out of existence or to render it surplusage.”)

II. Application of Section 4.7.6 to Floats

Section 4.7.6 provides, in pertinent part, that “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...” The Rules define a float as “a platform that floats and is anchored, moored or secured at or near the shore, used for landing or other purposes.” By its plain terms, Section 4.7.6 does not clearly apply to isolated moored floats; however, the setbacks required by Section 4.7.6 may reasonably be applied to pier, ramp and float systems or finger float systems, based on their treatment under the Rules.

Generally, the purpose of setback requirements is to ensure that the distances between structures and uses are sufficient to permit their reasonable use and to protect public health and safety. With respect to Section 4.7.6, the apparent purpose of the setback requirement is to allow adequate distances between all marine-related structures to protect the navigability of the Town’s waters. The Rules treat pier, ramp and float systems and finger float systems as single units and Section 4.7.3 applies dimensional requirements to “pier, ramp and float structures.”⁵ This suggests that floats installed as part of a pier, ramp and float system or finger float are intended to be subject to the same requirements applicable to the associated piers, wharves or pilings. Reading Section 4.7.6 to apply only to the piers, wharves and pilings that are installed as part of a pier, ramp and float system or finger float system would create absurd results. Namely, it would allow an applicant to place the float portion of a pier, ramp and float system within 50 feet of another pier, wharf or piling but prevent a different applicant from placing a pier, wharf or piling within 50 feet of those floats, even though they are equally obstructive to navigation. As a result, based upon the language and use of terms within the Rules, interpreting Section 4.7.6 to apply to floats that are part of a pier, ramp and float system or finger float system appears to be a reasonable and defensible interpretation.

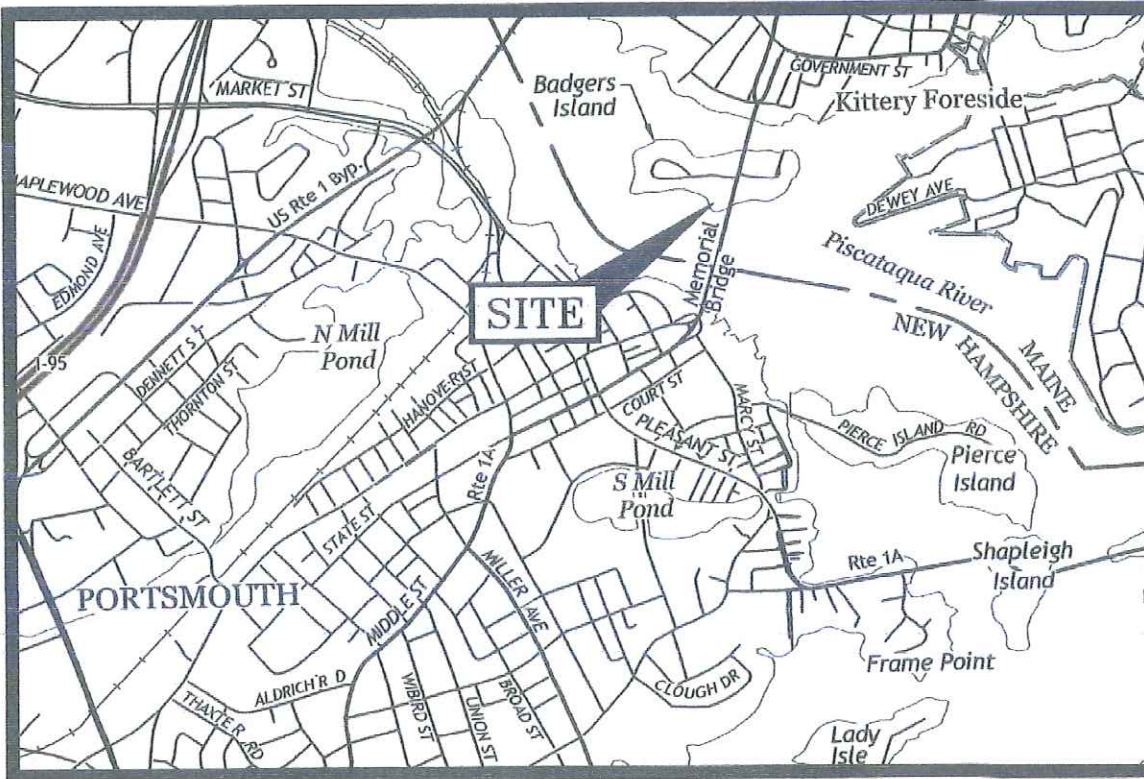
III. Conclusion and Recommendation

In conclusion, while the mandatory setbacks imposed by Section 4.7.6 of the Rules are unlikely to apply to isolated moored floats, they may reasonably be applied to floats that are part of a pier, ramp or float structure or finger float system, based on their inclusion as part of a single system. Reading Section 4.7.6 otherwise would have potentially illogical and absurd results.

This conclusion is based upon my interpretation of the Port Authority Rules and Regulations. There is always a risk that a reviewing court may have a different interpretation. As a result, I would recommend the Port Authority consider adopting an amendment to its Rules to explicitly state that the setbacks provided by Section 4.7.6 apply to piers, wharves, and pilings as well as any floats permanently or temporarily affixed to those structures. An amendment should also clarify how isolated moored floats are to be treated for setback purposes.

KMC:caf

⁵ The Rules separately define a “swim float” as “a structure that is moored on a temporary basis no earlier than May 15 and no later than October 15 for swimming purposes only” (Rules, §1).



LOCATION MAP SCALE: 1" = 2000'

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
YCRD	YORK COUNTY REGISTRY OF DEEDS
	MAP 11 / LOT 21
	IRON ROD/IRON PIPE FOUND
	STONE/CONCRETE BOUND FOUND
BOUNDARY	
	BUILDING SETBACK
	MEAN HIGH WATER LINE
	MEAN LOW WATER LINE
	MAINE DEP HIGHEST ANNUAL TIDE LINE (HAT)
	STORM DRAIN LINE
	OVERHEAD ELECTRIC/WIRES
	CONTOUR
	SPOT ELEVATION
	EDGE OF PAVEMENT (EP)
	UTILITY POLE (w/ GUY)
	ELECTRIC METER
	POLYVINYL CHLORIDE PIPE
	ELEVATION
	EDGE OF PAVEMENT
	INVERT
	TEMPORARY BENCHMARK
	TYPICAL
	FLARED END SECTION

PLAN REFERENCES:

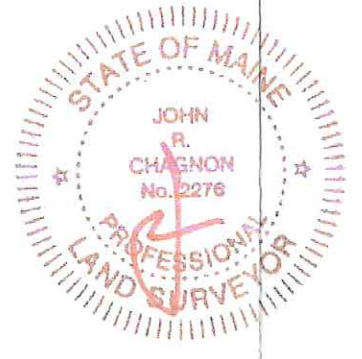
- 1) PLAN OF LAND FOR JOSEPHINE O. MARCONI, U.S. ROUTE ONE KITTERY, MAINE, SCALE 1 IN. = 30 FT., DATED FEB. 1997, PREPARED BY FRANK EMERY, JR., NOT RECORDED.
- 2) SITE PLAN OF LANGDON'S ISLAND CONDOMINIUM FOR 9 BADGERS ISLAND WEST L.L.C. PO BOX 368 NEW CASTLE, NH 03854 AT 9 BADGERS ISLAND WEST KITTERY, MAINE OCTOBER 26, 1999. PREPARED BY DOUCET SURVEY, INC DATED AUGUST 3, 1999. Y.C.R.D. CONDOMINIUM FILE 499 PAGE 1.
- 3) FINAL SUBDIVISION PLAN 9 BADGERS ISLAND WEST KITTERY, MAINE FOR LANGDON LLC C/O JOSEPH SAWTELLE PO BOX 368, NEW CASTLE, NH 03854 PREPARED BY ATTAR ENGINEERING, INC. DATED 9/16/98. Y.C.R.D. PLAN BOOK 255 PAGE 42.
- 4) PLAN OF LAND ON BADGERS ISLAND KITTERY, MAINE FOR THE PORTSMOUTH NAVIGATION CO. INC. PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS. DATED JANUARY 1968. Y.C.R.D. PLAN BOOK 47 PAGE 3.
- 5) PLAN OF LAND ON BADGERS ISLAND KITTERY, MAINE TO BE CONVEYED TO MEXICAN PETROLEUM CORP., SCALE 1 IN. = 20 FT., DATED JUNE 1924, PREPARED BY A.C. PETERS CIVIL ENGINEER, YCRD PLAN BOOK 9 PAGE 61.
- 6) PLAN SHOWING PORTION OF LAND OF ERNEST F. BONIN TO BE CONVEYED TO HUGO S. MARCONI ON BADGERS ISLAND KITTERY, MAINE, SCALE 1" = 20', DATED 9/10/79, PREPARED BY MOULTON ENGINEERING, CO., YCRD PLAN BOOK 79 PAGE 32.
- 7) LAND IN KITTERY, MAINE FERNANDO W. HARTFORD TO ELROY D. WITHAM, SCALE: 1 IN. = 20 FT., DATED: AUG. 1925, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, YCRD PLAN BOOK 10 PAGE 43.
- 8) STANDARD BOUNDARY SURVEY SEWER EASEMENT BADGERS ISLAND SEWER, CONTRACT NO. 88-1, KITTERY, MAINE, MADE FOR SEA CONSULTANTS, INC., SCALE 1 INCH = 20 FEET, DATED: OCTOBER 15, 1988, PREPARED BY TITCOMB ASSOCIATES, YCRD PLAN BOOK 189 PAGE 27.
- 9) STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, STATE HIGHWAY "T" KITTERY, YORK COUNTY, FEDERAL AID PROJECT NO. F-01-1(63) & BH-01-1(62), SCALE 1 INCH = 25 FEET, DATED FEBRUARY 1985, YCRD PLAN BOOK 155 PAGE 57.



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:

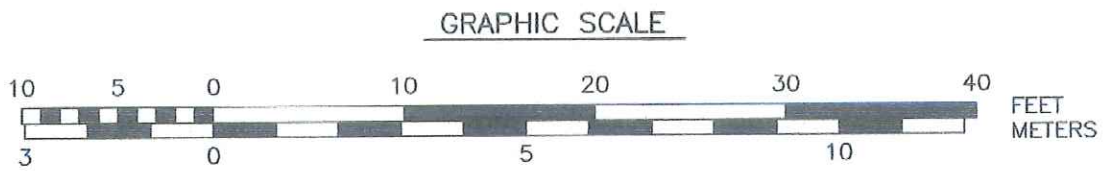
- NO SURVEY REPORT HAS BEEN PREPARED.
- NO LAND DESCRIPTION HAS BEEN PREPARED.
- MONUMENTS HAVE NOT BEEN SET.

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
JOHN R. CHAGNON, PLS #2276

10.10.23
DATE



NAD83(2011)
GRID NORTH
ZONE 1802
ME SPC

AMBIT ENGINEERING, INC.
A DIVISION OF HALEY WARD, INC.

200 Griffin Road, Unit 3
Portsmouth, NH 03801
603.430.9282

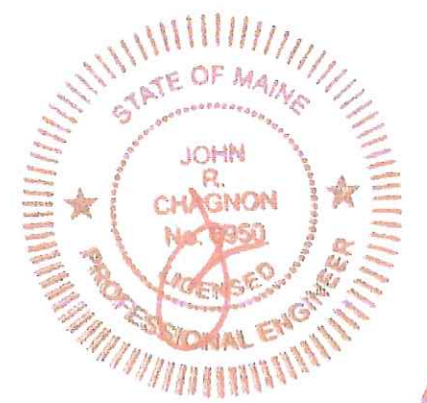
WWW.HALEYWARD.COM

- NOTES:**
- 1) PARCEL IS SHOWN ON THE TOWN OF KITTERY ASSESSOR'S MAP 1 AS LOT 23.
 - 2) OWNERS OF RECORD:
LANGDON ISLAND WEST CONDOMINIUM ASSOCIATION
9 BADGERS ISLAND WEST
KITTERY, ME 03904
9755/55
 - 3) A PORTION OF THE PARCEL IS LOCATED IN A FLOOD HAZARD ZONE A2 (EL. 9) AS SHOWN ON FIRM PANEL 230171 0008 D. DATED JULY 3, 1986.
 - 4) EXISTING LOT AREA:
30,413 S.F. ± (TO MHW)
0.6982 ACRES ± (TO MHW)
 - 5) PARCEL IS LOCATED IN THE MU-BI (MIXED USE - BADGER ISLAND) ZONING DISTRICT & ALSO IN THE OZ-CFMU (COMMERCIAL FISHERIES/MARITIME USES) ZONING DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS: (MU-BI) DISTRICT.
MIN. LOT AREA: 6,000 S.F.
FRONTAGE: 50 FEET
SETBACKS:
FRONT: 5 FEET
SIDE/REAR: 10 FEET
MAXIMUM BUILDING HEIGHT: 40 FEET
MINIMUM OPEN SPACE: 40%
SEE ZONING REGULATIONS FOR OZ-CFMU DISTRICT.
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DOCK FLOAT STRUCTURES ON ASSESSOR'S MAP 1 LOT 23 IN THE TOWN OF KITTERY
 - 8) RIPARIAN LINES DETERMINED BETWEEN LOTS 19, 23 & 24 AS DEFINED BY THE TOWN OF KITTERY, MAINE PORT AUTHORITY RULES AND REGULATIONS, AMENDED 2 JANUARY 2020.
 - 9) VERTICAL DATUM IS MEAN LOWER LOW WATER (MLLW). MLLW IS REFERENCED TO NOAA STATION 8419870 SEAVEY ISLAND, PORTSMOUTH HARBOR, ME. MLLW BEING 4.62 FEET LOWER THAN 0.0 NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
 - 10) HIGHEST ANNUAL TIDE SHOWN AT ELEVATION 10.2 PER LOCATION PORTSMOUTH IN MAINE DEP HIGHEST ANNUAL TIDE (HAT) LEVELS FOR YEAR 2018.

LANGDON ISLAND CONDOMINIUM 9 BADGERS ISLAND WEST KITTERY, ME

NO.	DESCRIPTION	DATE
3	ADD LINE OF LIMIT FOR BOAT DOCKING	10/10/23
2	ADD RAILING TO EXISTING FLOAT	7/27/23
1	ADD SLIP DIMENSIONS & LABELS	5/28/23
0	ISSUED FOR COMMENT	5/24/23

REVISIONS

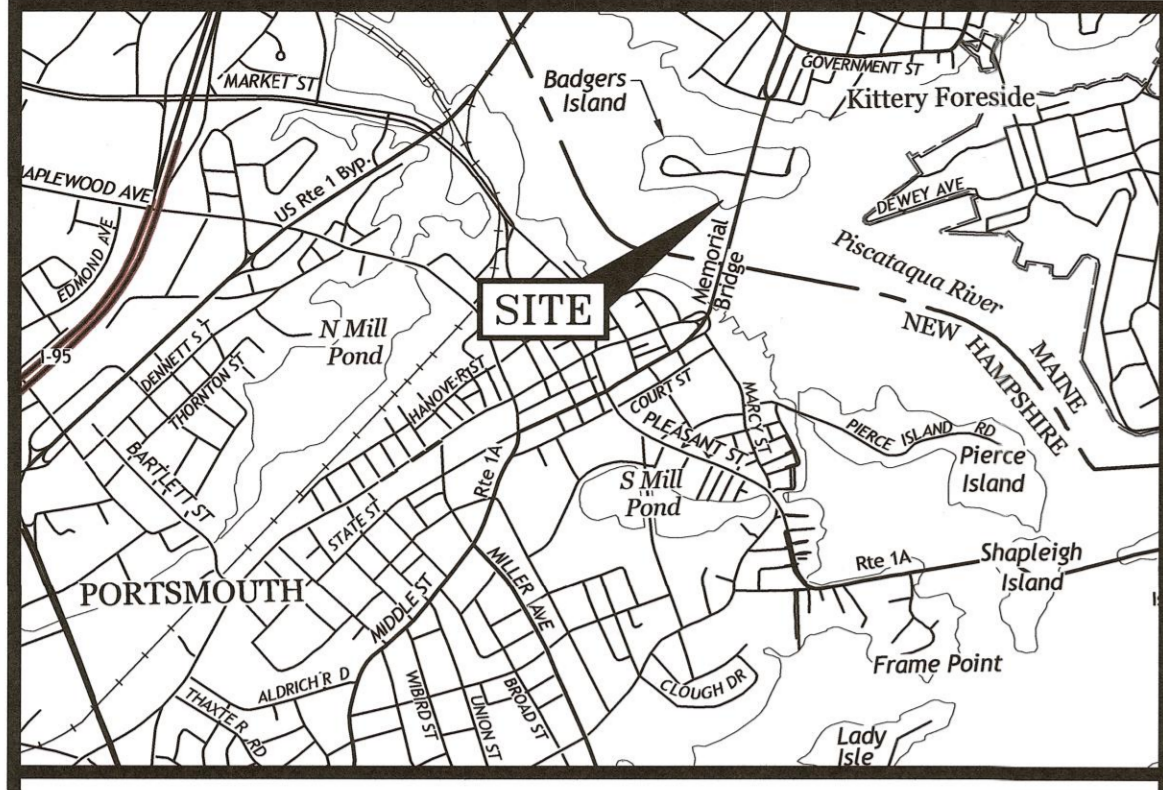


OWNER & APPLICANT:
LANGDON ISLAND CONDOMINIUM ASSOCIATION
BEN PORTER, PRESIDENT
9 BADGERS ISLAND WEST
KITTERY, ME ZIP 03904

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

SCALE: 1" = 10' MAY 2023

ME DEP PERMIT PLAN-2022 AERIAL **C3**



LOCATION MAP SCALE: 1" = 2000'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- YCRD YORK COUNTY REGISTRY OF DEEDS
- MAP 11 / LOT 21
- IRON ROD/IRON PIPE FOUND
- STONE/CONCRETE BOUND FOUND
- BOUNDARY
- BUILDING SETBACK
- MHW MEAN HIGH WATER LINE
- MLW MEAN LOW WATER LINE
- HAT MAINE DEP HIGHEST ANNUAL TIDE LINE (HAT)
- STORM DRAIN LINE
- OVERHEAD ELECTRIC/WIRES
- CONTOUR
- SPOT ELEVATION
- EDGE OF PAVEMENT (EP)
- UTILITY POLE (w/ GUY)
- ELECTRIC METER
- PVC POLYVINYL CHLORIDE PIPE
- EL. ELEVATION
- EP EDGE OF PAVEMENT
- INV. INVERT
- TBM TEMPORARY BENCHMARK
- TYP. TYPICAL
- FES FLARED END SECTION

PLAN REFERENCES:

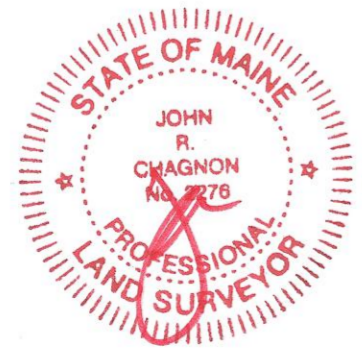
- 1) PLAN OF LAND FOR JOSEPHINE O. MARCONI, U.S. ROUTE ONE KITTERY, MAINE, SCALE 1 IN. = 30 FT., DATED FEB. 1997, PREPARED BY FRANK EMERY, JR., NOT RECORDED.
- 2) SITE PLAN OF LANGDON'S ISLAND CONDOMINIUM FOR 9 BADGERS ISLAND WEST L.L.C. PO BOX 368 NEW CASTLE, NH 03854 AT 9 BADGERS ISLAND WEST KITTERY, MAINE OCTOBER 26, 1999. PREPARED BY DOUCET SURVEY, INC DATED AUGUST 3, 1999. Y.C.R.D. CONDOMINIUM FILE 499 PAGE 1.
- 3) FINAL SUBDIVISION PLAN 9 BADGER'S ISLAND WEST KITTERY, MAINE FOR LANGDON LLC C/O JOSEPH SAWTELLE PO BOX 368, NEW CASTLE, NH 03854 PREPARED BY ATTAR ENGINEERING, INC. DATED 9/16/98. Y.C.R.D. PLAN BOOK 255 PAGE 42.
- 4) PLAN OF LAND ON BADGERS ISLAND KITTERY, MAINE FOR THE PORTSMOUTH NAVIGATION CO. INC. PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS. DATED JANUARY 1968. Y.C.R.D. PLAN BOOK 47 PAGE 3.
- 5) PLAN OF LAND ON BADGERS ISLAND KITTERY, MAINE TO BE CONVEYED TO MEXICAN PETROLEUM CORP., SCALE 1 IN. = 20 FT., DATED JUNE 1924. PREPARED BY A.C. PETERS CIVIL ENGINEER, YCRD PLAN BOOK 9 PAGE 61.
- 6) PLAN SHOWING PORTION OF LAND OF ERNEST F. BONIN TO BE CONVEYED TO HUGO S. MARCONI ON BADGERS ISLAND KITTERY, MAINE, SCALE 1" = 20', DATED 9/10/79, PREPARED BY MOULTON ENGINEERING, CO., YCRD PLAN BOOK 79 PAGE 32.
- 7) LAND IN KITTERY, MAINE FERNANDO W. HARTFORD TO ELROY D. WITHAM, SCALE: 1 IN. = 20 FT., DATED: AUG. 1925, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, YCRD PLAN BOOK 47 PAGE 3.
- 8) STANDARD BOUNDARY SURVEY SEWER EASEMENT BADGERS ISLAND SEWER, CONTRACT NO. 88-1, KITTERY, MAINE, MADE FOR SEA CONSULTANTS, INC., SCALE 1 INCH = 20 FEET, DATED: OCTOBER 15, 1988, PREPARED BY TITCOMB ASSOCIATES, YCRD PLAN BOOK 189 PAGE 27.
- 9) STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, STATE HIGHWAY "1" KITTERY, YORK COUNTY, FEDERAL AID PROJECT NO. F-01-1(63) & BH-01-1(62), SCALE 1 INCH = 25 FEET, DATED FEBRUARY 1985, YCRD PLAN BOOK 155 PAGE 57.



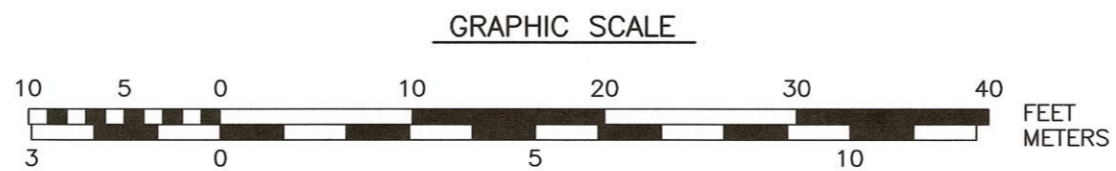
PURSUANT TO CHAPTER 90 PARTS 1 AND 2 OF THE SURVEY STANDARDS OF PRACTICE AS ADOPTED BY THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS, THE FOLLOWING EXCEPTIONS TO PART 2 ARE NOTED:

- NO SURVEY REPORT HAS BEEN PREPARED.
- NO LAND DESCRIPTION HAS BEEN PREPARED.
- MONUMENTS HAVE NOT BEEN SET.

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: 7-27-23



GRID NORTH NAD83(2011)
ZONE 1802
ME SPC

AMBIT ENGINEERING, INC.
A DIVISION OF HALEY WARD, INC.

200 Griffin Road, Unit 3
Portsmouth, NH 03801
603.430.9282

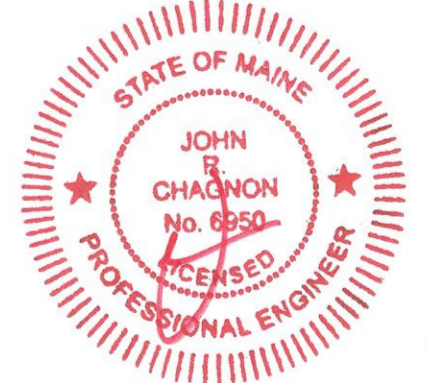
WWW.HALEYWARD.COM

- NOTES:**
- 1) PARCEL IS SHOWN ON THE TOWN OF KITTERY ASSESSOR'S MAP 1 AS LOT 23.
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SIDE/REAR: 10 FEET

MAXIMUM BUILDING HEIGHT: 40 FEET
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 - 10) HIGHEST ANNUAL TIDE SHOWN AT ELEVATION 10.2 PER LOCATION PORTSMOUTH IN MAINE DEP HIGHEST ANNUAL TIDE (HAT) LEVELS FOR YEAR 2018.

**LANGDON ISLAND CONDOMINIUM
9 BADGERS ISLAND WEST
KITTERY, ME**

NO.	DESCRIPTION	DATE
3	ADD RAILING TO EXISTING FLOAT	7/27/23
2	BLOCK MOORINGS	5/18/23
1	FLOAT CONFIGURATION	5/16/23
0	ISSUED FOR COMMENT	5/12/23



OWNER & APPLICANT:
LANGDON ISLAND CONDOMINIUM ASSOCIATION
BEN PORTER, PRESIDENT
9 BADGERS ISLAND WEST
KITTERY, ME ZIP 03904

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

SCALE: 1" = 10' MAY 2023

ME DEP PERMIT PLAN

C2



KPA-23-2

Kittery Port Authority

Application

Status: Active

Submitted On: 2/14/2023

Primary Location

9 BADGERS ISLAND WEST
KITTERY, ME 03904

Owner

Langdon Island West
Condominium Association
C/O Ben Porter, President
Badgers Island West 9 Kittery,
ME 03904

Applicant

Steven Riker
 603-430-9282
 sriker@haleyward.com
 200 Griffin Road, Unit 3
Portsmouth, NH 03801

Project Discription

Description of Project*

The project proposes the the modification of an exisitng tidal docking structure on the above referenced site along the Piscataqua River. The construction includes the installation of a 4' x 8' float extension, a 4' x 34' floats and two (2) 6' x 24' finger floats arranged to form a "T" shape. The proposed "T" shape float configuration. Due to current forces, wind forces and stability needed for docking, the proposed "T" shape float will require 4-5,000 pound block moorings (see attached Plan Set revised 5/18/23).

Is any work being performed upland of the Highest Annual Tide?*

No

Type of Project

Is this project an in-kind repair/replacement?*

No

Property Information

Name of the property owner(s)

Langdon Island West Condominium Association C/O Ben Porter, President

Property Address

9 Badgers Island West, Kittery, ME 03904

Telephone Number

617-571-2317

Email Address

langdon.condo@gmail.com

Size of the Property ?

.69 AC

Zoning District

MU-BI

Shore Frontage Footage ?

150 feet

Property History

This is my first Kittery Port Authority Application for this property

I have submitted an application to the Kittery Port Authority in the past for this property

If you have submitted a previous application to the Kittery Port Authority for this property, please explain:

Acknowledgements

I understand that additional permits and/or approvals may be required by the Army Corps of Engineers, the Maine Department of Environmental Protection, the Maine Department of Conservation, and/or another legal entity not listed here. Furthermore, I have submitted the additional permits and/or approvals with this application.



I certify that all information on this application is complete and true to the best of my knowledge. I understand any false, misleading, or incomplete information will result in the denial of this application.



I certify that I have submitted this application at least 21 days prior to a scheduled Kittery Port Authority Meeting. I understand that failure to submit this application at least 21 days prior will result in my request going before the Kittery Port Authority at a later date.



I certify that in addition to uploading the required documentation, I will also provide 10 paper copies of each document to the Kittery Planning and Development Office at least 21 days prior to a scheduled Kittery Port Authority Meeting.



Applicant Information

Name of Applicant

Langdon Island West Condo
Association

Date Application Completed

2/14/23

Name of Property Owner

Langdon Island West Condo
Association

Agent Name

Steven Riker

Agent Firm

Ambit Engineering, Inc.

Agent Phone

603-430-9282

Agent Email

sriker@haleyward.com

Attachments

Proof of Legal Interest in Property

ws.net/vpc3Complete DEP NRPA Application REDUCED SIZE 021323.pdf
Upload Date: 02/13/23 Tue Feb 14, 2023 9:29 AM
23-05-23T14%3A48%3A24Z&se=2023-05-
<LgQN8%2FHETIPQZxju9c0%2BcfBXgRg8l%3D)

Army Corps of Engineers Permit/Approval

.net/vpc3Complete DEP NRPA Application REDUCED SIZE 021323.pdf
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23-05-23T14%3A48%3A24Z&se=2023-05-
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Maine Department of Environmental Protection Permit/Approval

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Maine Department of Conservation Permit/Approval

.net/vpc3Complete DEP NRPA Application REDUCED SIZE 021323.pdf
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23-05-23T14%3A48%3A24Z&se=2023-05-
<ZiDB0x1VgozIswGykcohYdr2GuqQ%3D)

Construction Plans

downloads.net/Plans Set REDUCED SIZE 012023.pdf
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23-05-23T14%3A48%3A24Z&se=2023-05-
<eftnnpnNSiEqU1IGt49ZJRr%2BSE982BHg4%3D)

Other Documents

downloads.net/Plans No Objection Letter Signed 052023.pdf
Upload Date: 05/20/23 Mon May 22, 2023 1:45 PM
=2023-05-23T14%3A48%3A25Z&se=2023-05-
<H7DKEyncBG1gl%2BiuW6cvZixYNpKLFPC%3D)

Town Tax Map of Lot

downloads.net/Tax Map 3402.14.pdf
Upload Date: 02/13/23 Tue Feb 14, 2023 9:27 AM

3A24Z&se=2023-05-**List of Abutters within 150 feet (including over the water) of applicant's**

et/vpc3- Updated Plan Set REDUCED SIZE 051823.pdf

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FawWonD%2BC8r78o2Wfh2wE0wRBs5XINM4%3D)

Updated Plan Set REDUCED SIZE 051823.pdf

et/vpc3- Updated Plan Set REDUCED SIZE 051823.pdf

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Uploaded by Carrie Varao on May 24, 2023 at 1:44 PM

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History

Date	Activity
2/13/2023, 2:04:00 PM	Steven Riker started a draft of Record KPA-23-2
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerCity from "" to "Kittery"
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerEmail from "" to "langdon.condo@gmail.com"
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerName from "" to "Langdon Island West Condominium Association C/O Ben Porter, President"
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerPhoneNo from "" to "617-571-2317"
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerPostalCode from "" to "03904"
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerState from "" to "ME"
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerStreetName from "" to "Badgers Island West"
2/14/2023, 9:18:24 AM	Steven Riker altered Record KPA-23-2, changed ownerStreetNo from "" to "9"
2/14/2023, 9:28:23 AM	Steven Riker submitted Record KPA-23-2
2/16/2023, 4:21:23 PM	completed payment step Fee Payment on Record KPA-23-2
2/16/2023, 4:21:24 PM	approval step Application Completeness Review was assigned to Carrie Varao on Record KPA-23-2

Date	Activity
2/16/2023, 4:21:38 PM	Carrie Varao approved approval step Application Completeness Review on Record KPA-23-2
2/16/2023, 4:21:39 PM	approval step Code Enforcement Upland Development Review was assigned to Craig Alfis on Record KPA-23-2
2/22/2023, 9:41:54 AM	Craig Alfis assigned approval step Town Planner Upland Development Review to Jason Garnham on Record KPA-23-2
2/22/2023, 9:42:02 AM	Craig Alfis approved approval step Code Enforcement Upland Development Review on Record KPA-23-2
3/20/2023, 9:36:38 AM	Jason Garnham approved approval step Town Planner Upland Development Review on Record KPA-23-2
3/20/2023, 9:36:39 AM	approval step Port Authority Approval Uploaded was assigned to Carrie Varao on Record KPA-23-2
5/22/2023, 1:44:50 PM	Carrie Varao added attachment Updated Plan Set REDUCED SIZE 051823.pdf to Record KPA-23-2
5/23/2023, 11:03:05 AM	Carrie Varao changed Description of Project from " the="" project="" propose...<="" span="" style='font-size:15px;font-family:"Times New Roman",serif;color:black;'>" to "<p>The project proposes the the modification of an exisitng tidal docking structure on the ..." on Record KPA-23-2</p>

Timeline

Label	Activated	Completed	Assignee	Due Date
✓ Application Completeness Review	2/16/2023, 4:21:24 PM	2/16/2023, 4:21:38 PM	Carrie Varao	-
✓ Town Planner Upland Development Review	2/16/2023, 4:21:39 PM	3/20/2023, 9:36:38 AM	Jason Garnham	-
✓ Code Enforcement Upland Development Review	2/16/2023, 4:21:39 PM	2/22/2023, 9:42:02 AM	Craig Alfis	-
💰 Fee Payment	2/14/2023, 9:28:24 AM	2/16/2023, 4:21:23 PM	Steven Riker	-
✓ Port Authority Approval Uploaded	3/20/2023, 9:36:39 AM	-	Carrie Varao	-

Label	Activated	Completed	Assignee	Due Date
✓ Building Permit Received	-	-	-	-



TOWN OF KITTERY

Code Enforcement Office

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1308 Fax: 207-439-6806

CEO@kitteryme.org

KITTERY PORT AUTHORITY APPLICATION ACCEPTANCE MEMO

From: Craig Alfis, Code Enforcement
To: Charles Patten, Port Authority Chair

Subj: Acceptance of Application, 9 Badgers Island West

Mr. Chair,

Code Enforcement and Planning staff have reviewed the application for 9 Badgers Island West, requesting modifications to the existing tidal docking structure, and found it to be complete. The application requests the following modifications:

1. The installation of a 4' x 8' float extension;
2. The installation of two 4' x 17' floats; and
3. The installation of two 4' x 24' finger float.

Based on a cursory review of the information provided in the application, Staff believes the application is complete, and recommends that the Port Authority accept the application for further review. Information submitted includes:

- Kittery Port Authority application;
- Proof of ownership;
- An abutter letter from Mr. Will Banfield;
- Plans showing the actual dimensions and shape of the proposed floats; and
- Maine DEP NRPA application including abutters list.

This project is covered under USACE Maine General Permit #3, Structures, Floats and Lifts for self-verification. Therefore, no USACE individual permit is required. If the Port Authority votes to accept the application, an in-depth review will be performed by Code and Planning staff, and a staff report will be provided to the Port Authority prior to the meeting on which the application is scheduled.

Signed,

Craig Alfis, Code Enforcement Officer
207-475-1308

ceo@kitteryme.org

ALTERNATIVES ANALYSIS

The project proposes the modification of an existing tidal docking structure on the above referenced site along the Piscataqua River. The construction includes the installation of a 4' x 8' float extension, a 4' x 34' floats and two (2) 6' x 24' finger floats arranged to form a "T" shape. The proposed "T" shape float configuration. Due to current forces, wind forces and stability needed for docking, the proposed "T" shape float will require 4-5,000 pound block moorings (see attached Plan Set revised 5/18/23).

Project design alternatives have been explored to provide safe boating access/dockage for 6 users/owners of condominiums associated with the existing residential structure located on the lot. The current float face has 48 linear feet of docking/slip space, which essentially will only accommodate two boats up to 20 feet in length. The existing float also has 28 linear feet of slip space facing northerly, however this space is undesirable for dockage given the close proximity to the docking structure on Tax Map 1, Lot 24 of only 23 feet, measured float to float and not considering boats being secured to both floats further minimizing navigation space between them.

The proposed modification achieves the desired need for float (slip) space while representing the least impacting alternative. The proposed "T" shape float configuration will provide slip space for 6 boats, with four of the slips accommodating boats up to 24 feet in length. The proposed float modification represent the least impacting alternative as the impact associated with the modification is "indirect" (shading 456 sq. ft.), with 121 sq. ft. of direct impact for moorings.

Additionally, the proposed modification required revision due to navigational concerns expressed by the abutter/owner of Tax Map 1, Lot 19, USACOE, the Kittery Port Authority (KPA) and the Department of Submerged Lands. USACOE, KPA and the Department of Submerged Lands advised obtaining a Letter of No Objection from the abutter/owner of Tax Map 1, Lot 19. In order to gain that written concurrence, the design was revised accordingly.

The property owners (6 condominium owners) require a tidal docking structure on their property that can accommodate their recreational boating needs. Modification of the existing structure is the least impacting alternative. Other recreational docking options for the condominium owners include using the closest public boat launch located 3 miles from the project site in Kittery, ME, but that facility is very congested during the boating season. The Town of Kittery Harbormaster has 65 people on the "Badgers Island" mooring wait list as of January 27, 2023. Additionally, two privately owned marinas, both located within 500 feet of the subject property, Badgers Island Marina and Piscataqua Marina have waiting lists over 1 year for a slip to accommodate boat lengths as discussed above.

In conclusion, the modification of the docking structure as proposed, written concurrence from the abutter combined with the project design and components demonstrate that the project is the least impacting alternative while providing reasonable use for the property owners.



AMBIT ENGINEERING, INC.

A DIVISION OF HALEY WARD, INC. 

13 February 2023

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

**Re: NRPA Individual Permit Application
Tax Map 1, Lot 23
9 Badgers Island West
Kittery, 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 modification of an existing tidal docking structure on the above referenced site along the Piscataqua River. The construction includes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float. The finger floats will be attached to the existing main float using float bracing eliminating the need for moorings & chains or float piles to secure the proposed finger floats, representing the least impacting alternative.

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,

Sincerely,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com



1 February, 2023

To Whom It May Concern:

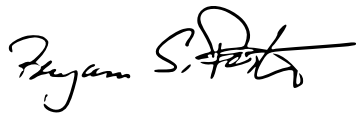
RE: State of Maine Department of Environmental Protection Application for proposed docking structure within the previously developed 100' Tidal Buffer Zone and jurisdictional wetlands for Langdon Island Condo Association of 9 Badgers Island Kittery, ME, 03904

This letter is to inform the State of Maine DEP the Town of Kittery in accordance with State Law that the following entity:

Riverside & Pickering Marine Contractors
Ambit Engineering, Inc.

Is individually authorized to represent us as our agents in the approval process.
Please feel free to call me if there is any question regarding this authorization.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Porter". The signature is stylized with a large, sweeping initial "B" and "P".

*Langdon Island Condo Association
Authorized Representative, Ben Porter, President
9 Badgers Island West
Kittery, ME 03904*

From: [Maine Dept. of Environmental Protection](#)
To: [Steve Riker](#)
Subject: Dept. of Environmental Protection Payment Portal
Date: Wednesday, February 1, 2023 2:42:39 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: **Langdon Island Condominium Association**
- Activity Location: **Kittery, ME**
- First Name: **Steven**
- 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: **564.00**
- Additional Comments:

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

APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

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

1. Name of Applicant: Langdon Island West Condominium Association		5. Name of Agent: Steven D. Riker Ambit Engineering, Inc.	
2. Applicant's Mailing Address: C/O Ben Porter, President 9 Badgers Island West, Kittery, ME 03904		6. Agent's Mailing Address: 200 Griffin Road, Unit 3, Portsmouth, NH 03801	
3. Applicant's Daytime Phone #: 617-571-2317		7. Agent's Daytime Phone #: 603-430-9282	
4. Applicant's Email Address (Required from either applicant or agent): langdon.condo@gmail.com		8. Agent's Email Address: sdr@ambitengineering.com	
9. Location of Activity: (Nearest Road, Street, Rt.#) 9 Badgers Island West		10. Town: Kittery	11. County: York
12. Type of Resource: (Check all that apply) <input 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: Piscataqua River	
		14. Amount of Impact: (Sq.Ft.)	Fill: 384 sq. ft indirect impact for proposed floats Dredging/Veg Removal/Other:
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</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:		The project proposes the expansion/modification of an existing tidal docking structure including including the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float.	
17. Size of Lot or Parcel & UTM Locations:		<input checked="" type="checkbox"/> 30,413 square feet, or <input checked="" type="checkbox"/> .69 acres UTM Northing: <u>-70.75311</u> UTM Easting: <u>43.08114</u>	
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#: 9755 Page: 55		Map #: 1 Lot #: 23	
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 checked="" type="checkbox"/> No	
23. If yes, previous application #		Previous project manager:	
24. If yes, name of DEP enforcement staff involved:			
26. Detailed Directions to the Project Site:		From US Route 1 in Kittery, ME, turn onto Badgers Island West. In 300 feet, turn left into 9 Badgers Island West.	
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"/> 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	
27. TIER 2/3 AND INDIVIDUAL PERMITS		<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	
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 D. Riker *Steven Riker*
 SIGNATURE OF AGENT/APPLICANT

Date: 1/27/2023

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)

08/08

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

Please take notice that

Langdon Island West Condominium Association

9 Badgers Island West, Kittery, ME 03904

(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

February 15, 2023

(anticipated filing date)

The application is for

Modification/expansion of an existing tidal docking structure.

(description of the project)

at the following location:

9 Badgers Island West, Kittery, Maine

(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 _____ **Kittery** _____, Maine.
(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 D. Riker
Signature of Applicant or authorized agent

 1/27/23
Date

(blue)

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

Name of applicant: Langdon Island West Condominium Assoc. Phone: 617-571-2317

Application Type: Maine DEP NRPA Individual

Activity Type: (brief activity description) Modification of existing tidal docking structure

Activity Location: Town: Kittery Court: York

GIS Coordinates, if known: Lat: -70.75311 Lon: 43.08114

Date of Survey: 1/27/23 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:	0-¼	¼-1	1+
A. A National Natural Landmark or other outstanding natural feature?			X
B. A State or National Wildlife Refuge, Sanctuary, or Preserve or a State Game Refuge?			X
C. A state or federal trail?			X
D. A public site or structure listed on the National Register of Historic Places?	X	John Paul Jones Memorial Park	
E. A National or State Park?			X
F. 1) A municipal park or public open space?	X		
2) A publicly owned land visited, in part, for the use, observation, enjoyment and appreciation of natural or man-made visual qualities?	X		
3) A public resource, such as the Atlantic Ocean, a great pond or a navigable river?	X		
2. What is the closest estimated distance to a similar activity?	. X		
3. What is the closest distance to a public facility intended for a similar use?			X
4. Is the visibility of the activity seasonal? (i.e., screened by summer foliage, but visible during other seasons)		Yes	X 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?		X Yes	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: Langdon Island West Condominium Assoc. PHONE: 617-571-2317

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: 11/2/22 OBSERVER: Steven D. Riker

TIME OF SURVEY: 11:30 A.M. TIDE AT SURVEY: Low tide @ 12:36 P.M. Portsmouth

SIZE OF DIRECT IMPACT OR FOOTPRINT (square feet):
Intertidal area: 0 Subtidal area: 384 sq. ft.

SIZE OF INDIRECT IMPACT, if known (square feet): 0
Intertidal area: 0 Subtidal area: 0

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: EI 18) beach rocky vegetated

FRESHWATER SOURCES: stream river wetland stormwater

MARINE ORGANISMS PRESENT:

	absent	occasional	common	abundant
mussels	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
clams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 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....

My boat(s) requires a draft of _____ feet.
 My boat(s) is _____ feet long.

Three Condo owners have the following boats:
 Robalo R247 (24' long, 30" draft)
 Robalo 242CC (24' long, 20 draft, twin 150HP)
 Robalo 242CC (24' long, 20 draft, single 300HP)



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: _____
 See Appendix B attached



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

See Appendix A attached



WHAT FACILITIES ARE NEARBY?

The nearest public boat launch is located in Kittery approximately 3 miles from the project location.
 (town) (distance)

The nearest public, commercial, or private marina is located in Kittery approximately 375 feet miles from the project location.
 (distance) (town)

Badgers Island Marina (27 Badgers Island West) and Piscataqua Marina (4 Island Avenue)

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: 2 years

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

65 people on mooring wait list "Badgers Island" as of 1/27/23 Phone: 207-475-1301

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.
_____ pilings of _____ 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: No piles or moorings & chains proposed. Float extension and finger floats are attached to existing floats. Finger floats will utilize float braces to attach to main float.

DIMENSIONS:

Length of fixed section: _____ 161 _____ feet
Width of fixed section: _____ 10 _____ feet
Length of ramp: _____ 36 _____ feet
Dimensions of float: "L" shaped. Long section 8' x 39' _____ feet wide by _____ feet long Short section 8' x 20'
Distance the structure will extend below mean low water (MLW): _____ 73 _____ feet
Depth of water at the fixed end of the structure: _____ 10 _____ feet @ low tide
Depth of water at the float at low tide: _____ 18 _____ feet
Depth of water at the float at high tide: _____ 28 _____ 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

ALTERNATIVES ANALYSIS

The project proposes the modification of an existing tidal docking structure on the above referenced site along the Piscataqua River. The construction includes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float. The finger floats will be attached to the existing main float using float bracing eliminating the need for moorings & chains or flot piles to secure the proposed finger floats, representing the least impacting alternative.

Project design alternatives have been explored to provide safe boating access/dockage for 6 users/owners of condominiums associated with the existing residential structure located on the lot. The current float face has 48 linear feet of docking/slip space, which essentially will only accommodate two boats up to 20 feet in length. The existing float also has 28 linear feet of slip space facing northerly, however this space is undesirable for dockage given the close proximity to the docking structure on Tax Map 1, Lot 24 of only 23 feet, measured float to float and not considering boats being secured to both floats further minimizing navigation space between them.

The proposed modification achieves the desired need for float space while representing the least impacting alternative. The addition of the 8' x 16' float extension and the addition of 3 finger floats provide slip space for 6 boats, with four of the slips accommodating boats up to 25 feet in length, one slip accommodating a boat up to 22 feet in length and one slip accommodating a boat up to 30 feet in length. The proposed float extension and the proposed finger floats represent the least impacting alternative as the impact associated with them is "indirect" (shading), and do not require moorings & chains and/or the driving of piles to secure the floats which would be considered "direct" impact.

The property owners (6 condominium owners) require a tidal docking structure on their property that can accommodate their recreational boating needs. Modification of the existing structure while only proposing indirect impact (shading) is the least impacting alternative. Other recreational docking options for the condominium owners include using the closest public boat launch located 3 miles from the project site in Kittery, ME, but that facility is very congested during the boating season. The Town of Kittery Harbormaster has 65 people on the "Badgers Island" mooring wait list as of January 27, 2023. Additionally, two privately owned marinas, both located within 500 feet of the subject property, Badgers Island Marina and Piscataqua Marina have waiting lists over 1 year for a slip to accommodate boat lengths as discussed above.

In conclusion, the modification of the docking structure as proposed, 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 9 Badgers Island West, Kittery, Maine. The property is identified as Tax Map 1, Lot 23, is approximately 30,413 sq. ft. in size, and is located on the southern side of Badgers Island West and to the north of the Piscataqua River. The lot is developed and contains a six unit residential condominium building with associated parking. The surrounding land use is residential with similar water access structures.

Wetlands on the project site were assessed by Steven D. Riker, New Hampshire Certified Wetland Scientist on November 2, 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 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 expansion/modification.

As described above, the tidal 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 the Piscataqua River provides hydrology to Wetland A. During a dropping tide, water flows easterly within the Piscataqua River where it empties into the Atlantic Ocean.

There are 2 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 intertidal flat associated with the parcel would be classified as an estuarine intertidal unconsolidated shore cobble-gravel wetland system that is regularly flooded by the tides (E2US1N) The subtidal area associated with the parcel would be classified as a marine subtidal unconsolidated bottom mud wetland system (E1UB3L).

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

The project proposes the modification/expansion of an existing tidal docking structure on the above referenced site along the Piscataqua River. The construction includes the installation of an 8’ x 16’ float extension, two (2) 4’ x 30’ finger floats and one (1) 4’ x 26’ finger float.

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 expansion/modification 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 docking 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 expansion modification includes minimum indirect impact (shading), the proposed project will 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.

CONSTRUCTION DETAILS-SEQUENCE

The project proposes the modification of an existing tidal docking structure on the above referenced site along the Piscataqua River. The construction includes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float.

The float extension and finger float modification is anticipated to take approximately 1 day. The floats will be pre-fabricated off site and will be mobilized to the subject lot via crane barge. The crane barge will lower the floats into place and fastened to the existing structure. A construction sequence is also provided in the plan set, located on "Details-Sheet D2".

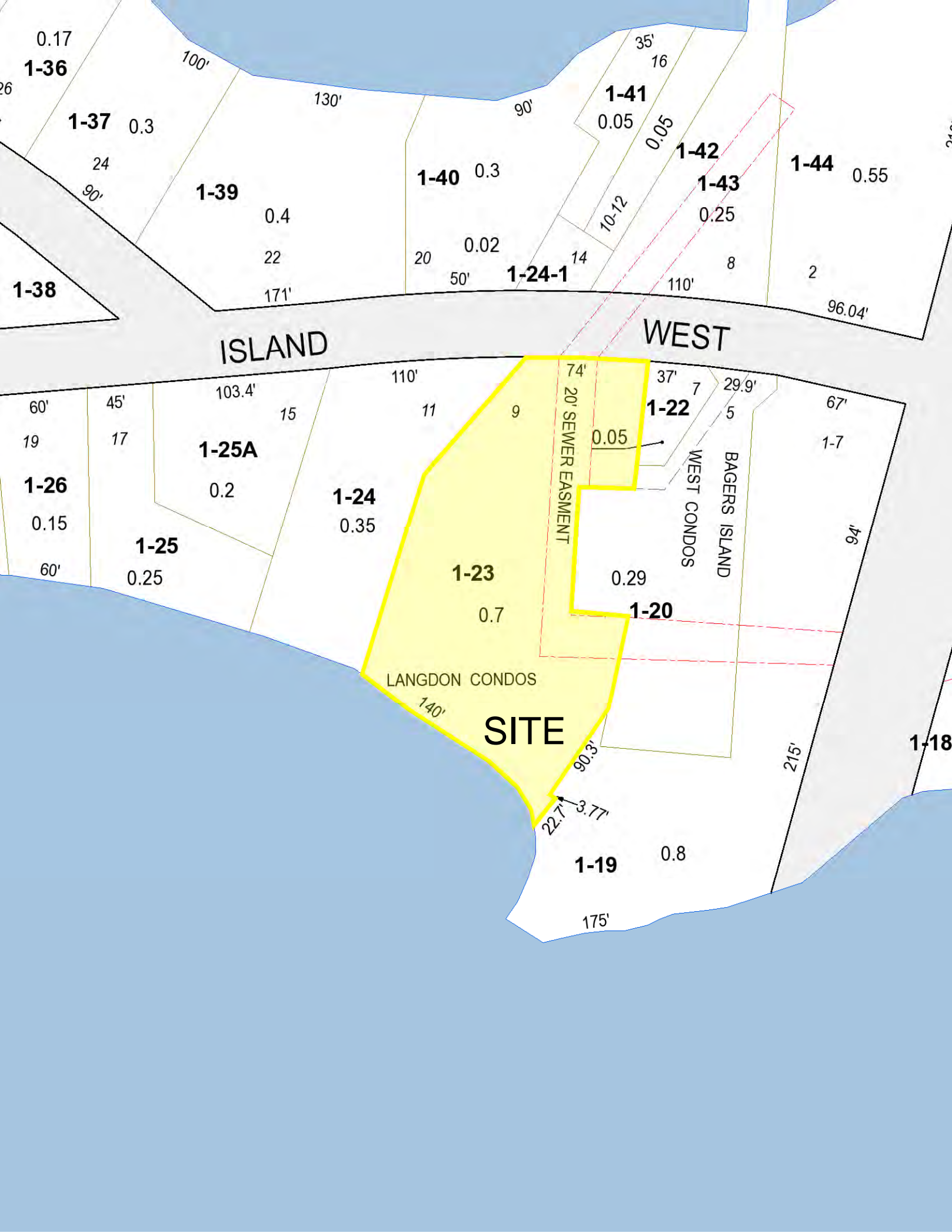
No erosion control devices are required for this project. There will be no exposed soils or vegetation removal required to complete the installation of the proposed floats. Proposed work will be performed from a crane barge and there will be no contact with the substrate during installation, eliminating the need for erosion and sediment controls. There is nothing in regards to the proposed construction that would provide an opportunity for erosion.

My Map

No legend



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0.17

1-36

1-37 0.3

1-39
0.4

1-40 0.3

1-41
0.05

1-42
0.05

1-43
0.25

1-44 0.55

1-38

1-24-1

ISLAND

WEST

1-25A
0.2

1-26
0.15

1-25
0.25

1-24
0.35

1-23
0.7

1-22
0.05

1-20
0.29

LANGDON CONDOS

SITE

20' SEWER EASEMENT

WEST CONDOS

BAGERS ISLAND

1-19 0.8

1-18

Ambit Engineering Abutter List

Langdon's Island Condominium Association
 9 Badgers Island West
 Kittery, ME

Job # 3402.14

Applicant/Owner(s)

Map	Lot	Deed	Owner (s) First/Trust	Owner(s) Last, Trustee	Mailing Address	City	State	Zip
1	23		Langdon's Island Condominium Association	C/O Ben Porter	9 Badgers Island West	Kittery	ME	03904

	Engineer		Ambit Engineering Civil Engineers & Land Surveyors		200 Griffin Road, Unit #3	Portsmouth	NH	03801
--	-----------------	--	---	--	----------------------------------	-------------------	-----------	--------------

Job #	3402.14	Abutters						
Map	Lot	Deed	Owner(s) First/Trust	Owner(s) Last /Trustee	Mailing Address	City	State	Zip
1	22		Banfield Development Co. LLC		5 Badgers Island West #3	Kittery	ME	03904
1	20		Ralph T.	Eager	25 Badgers Island West	Kittery	ME	03904
1	19		One Badgers Island West LLC		5 Badgers Island West #1	Kittery	ME	03904
1	24		Edward L.	McGarry	11 Badgers Island West	Kittery	ME	03904



10 February, 2023

Edward L. McGarry
11 Badgers Island West
Kittery, ME 03904

RE: Maine Department of Environmental Services, Natural Resources Protection Act Permit Application for the expansion of an existing tidal docking structure for Langdon's Island Condominium Association, Kittery, 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 expand an existing tidal docking structure, **at the above mentioned property** on behalf of your abutter **Langdon's Island Condominium Association**.

This letter is sent to inform you as an abutter to the above-referenced property (according to local Municipal records) that the **Langdon's Island Condominium Association**, 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,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com

CERTIFIED MAIL/Return Receipt Requested





10 February, 2023

Ralph T. Eager
25 Badgers Island West
Kittery, ME 03904

RE: Maine Department of Environmental Services, Natural Resources Protection Act Permit Application for the expansion of an existing tidal docking structure for Langdon's Island Condominium Association, Kittery, 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 expand an existing tidal docking structure, **at the above mentioned property** on behalf of your abutter **Langdon's Island Condominium Association**.

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

Sincerely,

Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com

CERTIFIED MAIL/Return Receipt Requested





10 February, 2023

Banfield Development Co. LLC
5 Badgers Island West #3
Kittery, ME 03904

RE: Maine Department of Environmental Services, Natural Resources Protection Act Permit Application for the expansion of an existing tidal docking structure for Langdon's Island Condominium Association, Kittery, 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 expand an existing tidal docking structure, **at the above mentioned property** on behalf of your abutter **Langdon's Island Condominium Association.**

This letter is sent to inform you as an abutter to the above-referenced property (according to local Municipal records) that the **Langdon's Island Condominium Association**, 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,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com

CERTIFIED MAIL/Return Receipt Requested





10 February, 2023

One Badgers Island West, LLC
5 Badgers Island West #1
Kittery, ME 03904

RE: Maine Department of Environmental Services, Natural Resources Protection Act Permit Application for the expansion of an existing tidal docking structure for Langdon's Island Condominium Association, Kittery, 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 expand an existing tidal docking structure, **at the above mentioned property** on behalf of your abutter **Langdon's Island Condominium Association**.

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

Sincerely,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com

CERTIFIED MAIL/Return Receipt Requested



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3402.14

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
BANFIELD DEVELOPMENT
Street and Apt. No., or PO Box No.
5 BADGERS ISLAND WEST #3
City, State, ZIP+4®
KITTERY, ME 03904

7021 0950 0000 8345 7157

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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3402.14

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
ONE BADGERS ISLAND WEST LLC
Street and Apt. No., or PO Box No.
5 BADGERS ISLAND WEST #1
City, State, ZIP+4®
KITTERY, ME 03904

7021 0950 0000 8345 7164

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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3402.14

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
MCGARRY
Street and Apt. No., or PO Box No.
11 BADGERS ISLAND WEST
City, State, ZIP+4®
KITTERY, ME 03904

7021 0950 0000 8345 7133

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

3402.14

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
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<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
ESPER
Street and Apt. No., or PO Box No.
25 BADGERS ISLAND WEST
City, State, ZIP+4®
KITTERY, ME 03904



13 February 2023

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 1, Lot 23
9 Badgers Island West
Kittery, 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 proposed expansion of an existing tidal docking structure on the above referenced site along the Piscataqua River.

The project proposes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float.

Attached to this application you will find a "MEDEP Dock 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.

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

Respectfully submitted,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com





AMBIT ENGINEERING, INC.

A DIVISION OF HALEY WARD, INC. 

13 February 2023

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

**Re: NRPA Individual Permit Application
Tax Map 1, Lot 23
9 Badgers Island West
Kittery, 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 proposed expansion of an existing tidal docking structure on the above referenced site along the Piscataqua River.

The project proposes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float.

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

Respectfully submitted,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com





AMBIT ENGINEERING, INC.

A DIVISION OF HALEY WARD, INC. 

13 February 2023

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

**Re: NRPA Individual Permit Application
Tax Map 1, Lot 23
9 Badgers Island West
Kittery, 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 proposed expansion of an existing tidal docking structure on the above referenced site along the Piscataqua River.

The project proposes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float.

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

Respectfully submitted,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com





AMBIT ENGINEERING, INC.

A DIVISION OF HALEY WARD, INC.



13 February 2023

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

**Re: NRPA Individual Permit Application
Tax Map 1, Lot 23
9 Badgers Island West
Kittery, 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 proposed expansion of an existing tidal docking structure on the above referenced site along the Piscataqua River.

The project proposes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float.

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

Respectfully submitted,

Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com





AMBIT ENGINEERING, INC.

A DIVISION OF HALEY WARD, INC. 

13 February 2023

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

Re: NRPA Individual Permit Application
Tax Map 1, Lot 23
9 Badgers Island West
Kittery, 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 proposed expansion of an existing tidal docking structure on the above referenced site along the Piscataqua River.

The project proposes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float.

Attached to this application you will find a "MEDEP Dock 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.

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

Respectfully submitted,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com





AMBIT ENGINEERING, INC.

A DIVISION OF HALEY WARD, INC. 

13 February 2023

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 1, Lot 23
9 Badgers Island West
Kittery, 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.

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,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com





13 February 2023

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

**Re: NRPA Individual Permit Application
Tax Map 1, Lot 23
9 Badgers Island West
Kittery, 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,



Steve Riker, CWS
Project Scientist/Project Manager
sriker@haleyward.com





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: 2023-0044771
Project Name: 9 Badgers Island West Dock Expansion/Modification

February 13, 2023

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

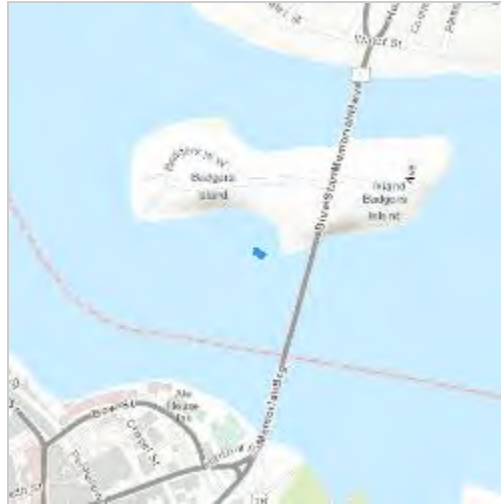
(207) 469-7300

Project Summary

Project Code: 2023-0044771
Project Name: 9 Badgers Island West Dock Expansion/Modification
Project Type: Boatlift/Boathouse/Dock/Pier/Piles - New Construction
Project Description: The project proposes the modification of an existing tidal docking structure on the above referenced site along the Piscataqua River. The construction includes the installation of an 8' x 16' float extension, two (2) 4' x 30' finger floats and one (1) 4' x 26' finger float. The finger floats will be attached to the existing main float using float bracing eliminating the need for moorings & chains or float piles to secure the proposed finger floats, representing the least impacting alternative.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.081100750000004,-70.75308974066705,14z>



Counties: York County, Maine

Endangered Species Act Species

There is a total of 1 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.

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

Site Photograph #1

November 2022



Site Photograph #2

November 2022



Site Photograph #3

November 2022



Site Photograph #4

November 2022



Site Photograph #5

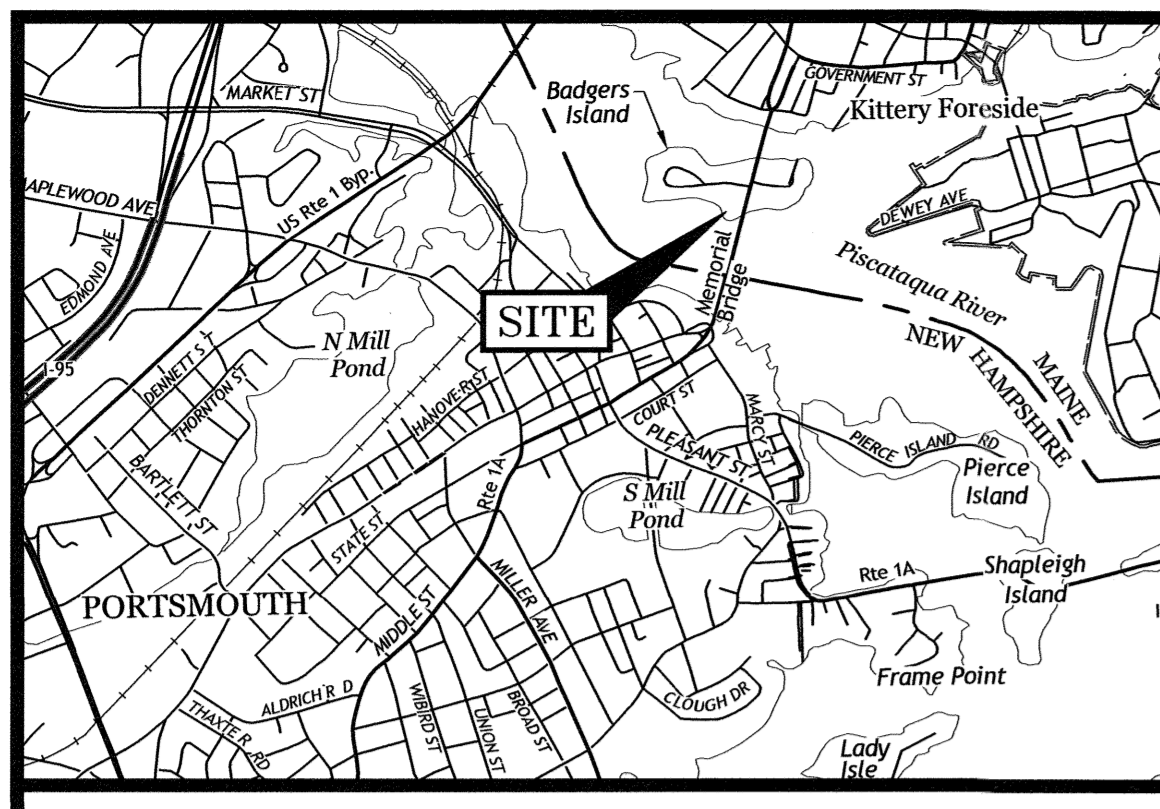
November 2022



Site Photograph #6

November 2022





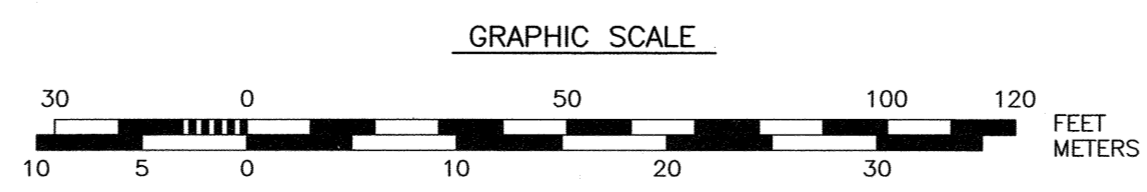
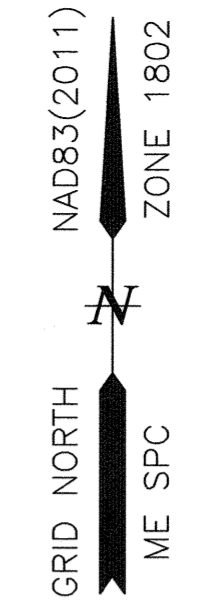
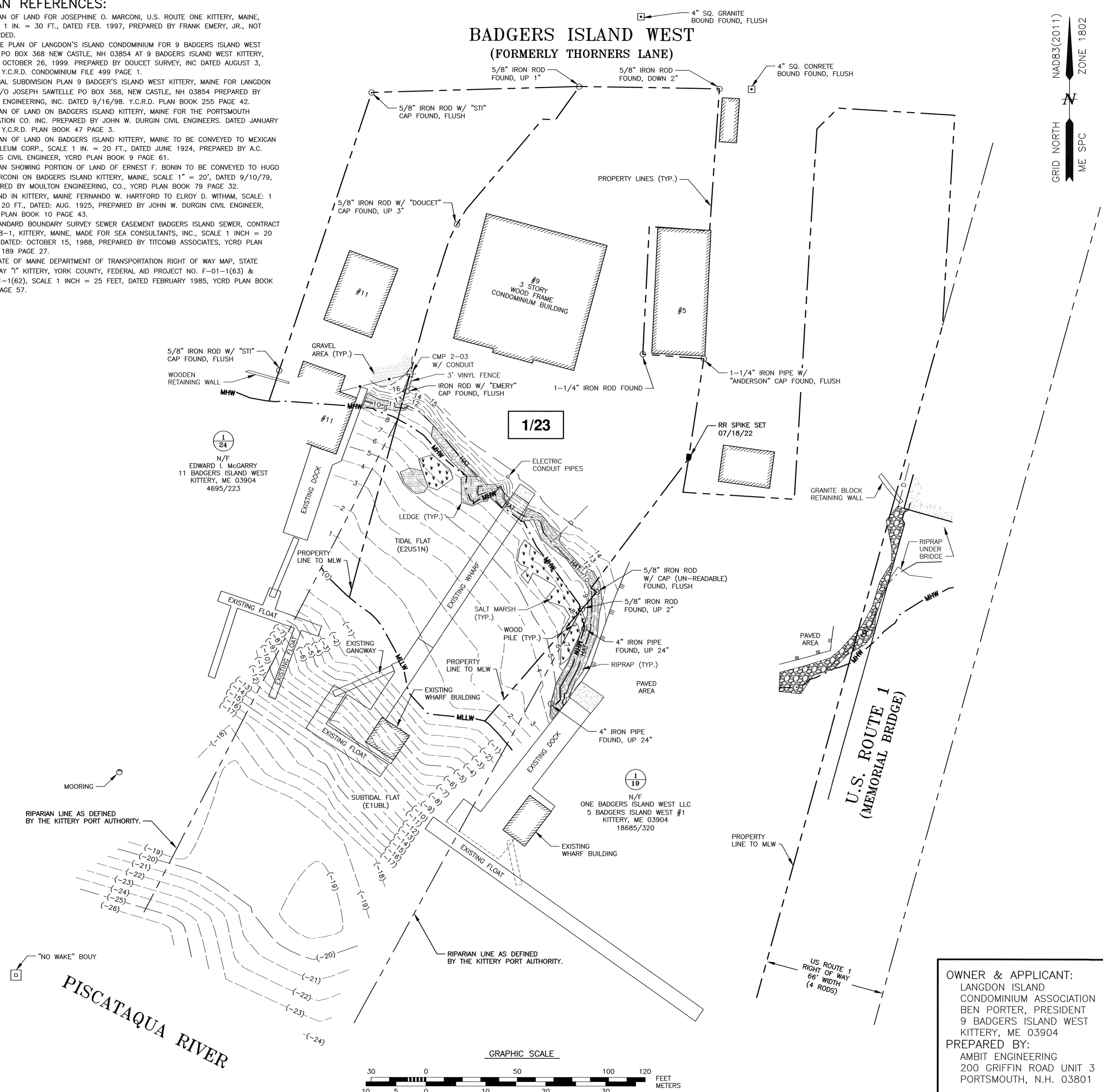
LOCATION MAP SCALE: 1" = 2000'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- YCRD YORK COUNTY REGISTRY OF DEEDS
- MAP 11 / LOT 21
- IRON ROD/IRON PIPE FOUND
- STONE/CONCRETE BOUND FOUND
- BOUNDARY
- BUILDING SETBACK
- MHW MEAN HIGH WATER LINE
- MLW MEAN LOW WATER LINE
- HAT MAINE DEP HIGHEST ANNUAL TIDE LINE (HAT)
- STORM DRAIN LINE
- OVERHEAD ELECTRIC/WIRES
- CONTOUR
- SPOT ELEVATION
- EDGE OF PAVEMENT (EP)
- UTILITY POLE (w/ GUY)
- ELECTRIC METER
- PVC POLYVINYL CHLORIDE PIPE
- EL. ELEVATION
- EP EDGE OF PAVEMENT
- INV. INVERT
- TBM TEMPORARY BENCHMARK
- TYP. TYPICAL
- FES FLARED END SECTION

- PLAN REFERENCES:**
- 1) PLAN OF LAND FOR JOSEPHINE O. MARCONI, U.S. ROUTE ONE KITTERY, MAINE, SCALE 1 IN. = 30 FT., DATED FEB. 1997, PREPARED BY FRANK EMERY, JR., NOT RECORDED.
 - 2) SITE PLAN OF LANGDON'S ISLAND CONDOMINIUM FOR 9 BADGERS ISLAND WEST L.L.C. PO BOX 368 NEW CASTLE, NH 03854 AT 9 BADGERS ISLAND WEST KITTERY, MAINE OCTOBER 26, 1999. PREPARED BY DOUCET SURVEY, INC DATED AUGUST 3, 1999. Y.C.R.D. CONDOMINIUM FILE 499 PAGE 1.
 - 3) FINAL SUBDIVISION PLAN 9 BADGERS ISLAND WEST KITTERY, MAINE FOR LANGDON LLC C/O JOSEPH SAWELLE PO BOX 368, NEW CASTLE, NH 03854 PREPARED BY ATTAR ENGINEERING, INC. DATED 9/16/98. Y.C.R.D. PLAN BOOK 255 PAGE 42.
 - 4) PLAN OF LAND ON BADGERS ISLAND KITTERY, MAINE FOR THE PORTSMOUTH NAVIGATION CO. INC. PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS. DATED JANUARY 1968. Y.C.R.D. PLAN BOOK 47 PAGE 3.
 - 5) PLAN OF LAND ON BADGERS ISLAND KITTERY, MAINE TO BE CONVEYED TO MEXICAN PETROLEUM CORP., SCALE 1 IN. = 20 FT., DATED JUNE 1924, PREPARED BY A.C. PETERS CIVIL ENGINEER, YCRD PLAN BOOK 9 PAGE 61.
 - 6) PLAN SHOWING PORTION OF LAND OF ERNEST F. BONIN TO BE CONVEYED TO HUGO S. MARCONI ON BADGERS ISLAND KITTERY, MAINE, SCALE 1" = 20', DATED 9/10/79, PREPARED BY MOULTON ENGINEERING, CO., YCRD PLAN BOOK 79 PAGE 32.
 - 7) LAND IN KITTERY, MAINE FERNANDO W. HARTFORD TO ELROY D. WITHAM, SCALE: 1 IN. = 20 FT., DATED: AUG. 1925, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, YCRD PLAN BOOK 10 PAGE 43.
 - 8) STANDARD BOUNDARY SURVEY SEWER EASEMENT BADGERS ISLAND SEWER, CONTRACT NO. 88-1, KITTERY, YORK COUNTY, FEDERAL AID PROJECT NO. F-01-1(63) & BH-01-1(62), SCALE 1 INCH = 25 FEET, DATED FEBRUARY 1985, YCRD PLAN BOOK 155 PAGE 57.
 - 9) STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, STATE HIGHWAY "1" KITTERY, YORK COUNTY, FEDERAL AID PROJECT NO. F-01-1(63) & BH-01-1(62), SCALE 1 INCH = 25 FEET, DATED FEBRUARY 1985, YCRD PLAN BOOK 155 PAGE 57.

BADGERS ISLAND WEST (FORMERLY THORNERS LANE)



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 1 AS LOT 23.
 - 2) OWNERS OF RECORD:
LANGDON ISLAND WEST CONDOMINIUM ASSOCIATION
9 BADGERS ISLAND WEST
KITTERY, ME 03904
9755/55
 - 3) A PORTION OF THE PARCEL IS LOCATED IN A FLOOD HAZARD ZONE A2 (EL. 9) AS SHOWN ON FIRM PANEL 230171 0008 D. DATED JULY 3, 1986.
 - 4) EXISTING LOT AREA:
30,413 S.F. ± (TO MHW)
0.6982 ACRES ± (TO MHW)
 - 5) PARCEL IS LOCATED IN THE MU-BI (MIXED USE - BADGER ISLAND) ZONING DISTRICT & ALSO IN THE OZ-CFMU (COMMERCIAL FISHERIES/MARITIME USES) ZONING DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS: (MU-BI) DISTRICT.
MIN. LOT AREA: 6,000 S.F.
FRONTAGE: 50 FEET
SETBACKS:
FRONT: 5 FEET
SIDE/REAR: 10 FEET
MAXIMUM BUILDING HEIGHT: 40 FEET
MINIMUM OPEN SPACE: 40%
SEE ZONING REGULATIONS FOR OZ-CFMU DISTRICT.
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF AN EXISTING CONDITIONS SURVEY ON ASSESSOR'S MAP 1 LOT 23 IN THE TOWN OF KITTERY
 - 8) RIPARIAN LINES DETERMINED BETWEEN LOTS 19, 23 & 24 AS DEFINED BY THE TOWN OF KITTERY, MAINE PORT AUTHORITY RULES AND REGULATIONS, AMENDED 2 JANUARY 2020.
 - 9) VERTICAL DATUM IS MEAN LOWER LOW WATER (MLLW). MLLW IS REFERENCED TO NOAA STATION 8419870 SEAVEY ISLAND, PORTSMOUTH HARBOR, ME. MLLW BEING 4.82 FEET LOWER THAN 0.0 NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
 - 10) HIGHEST ANNUAL TIDE SHOWN AT ELEVATION 10.2 PER LOCATION PORTSMOUTH IN MAINE DEP HIGHEST ANNUAL TIDE (HAT) LEVELS FOR YEAR 2018.
 - 11) THIS IS NOT A BOUNDARY SURVEY. BOUNDARY LINES AS SHOWN ARE BASED ON THE REFERENCE PLANS LISTED HEREON. NO DEED RESEARCH OR BOUNDARY DETERMINATION WAS MADE TO CONFIRM OR REFUTE MATTERS SHOWN ON SAID PLANS FOR THE PURPOSES OF THIS PLAN. EASEMENTS, RESERVATIONS, ETC. THAT MAY EXIST ARE NOT SHOWN OR NOTED HEREON.

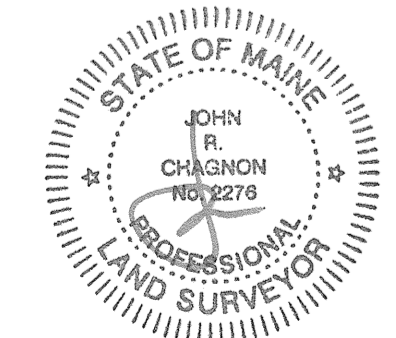
LANGDON ISLAND CONDOMINIUM 9 BADGERS ISLAND WEST KITTERY, ME

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	1/5/23
REVISIONS		

OWNER & APPLICANT:
LANGDON ISLAND CONDOMINIUM ASSOCIATION
BEN PORTER, PRESIDENT
9 BADGERS ISLAND WEST
KITTERY, ME 03904
PREPARED BY:
AMBIT ENGINEERING
200 GRIFFIN ROAD UNIT 3
PORTSMOUTH, N.H. 03801

SCALE: 1" = 30' NOVEMBER 2022

EXISTING CONDITIONS PLAN **C1**



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.
C) MONUMENTS HAVE NOT BEEN SET.
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 #2278
DATE 1.5.23

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

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	OCT. 01 THROUGH JUL. 14	JUL. 15 THROUGH SEP. 30
TIDAL WATERS	APR. 10 THROUGH NOV. 07	NOV. 08 THROUGH SEP. 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

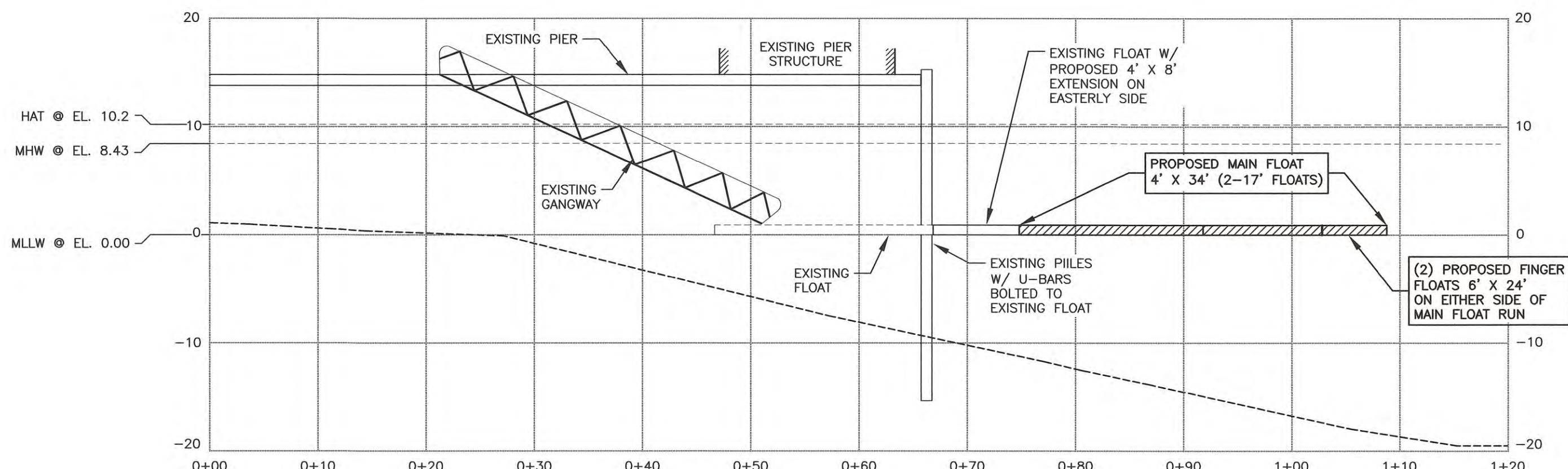
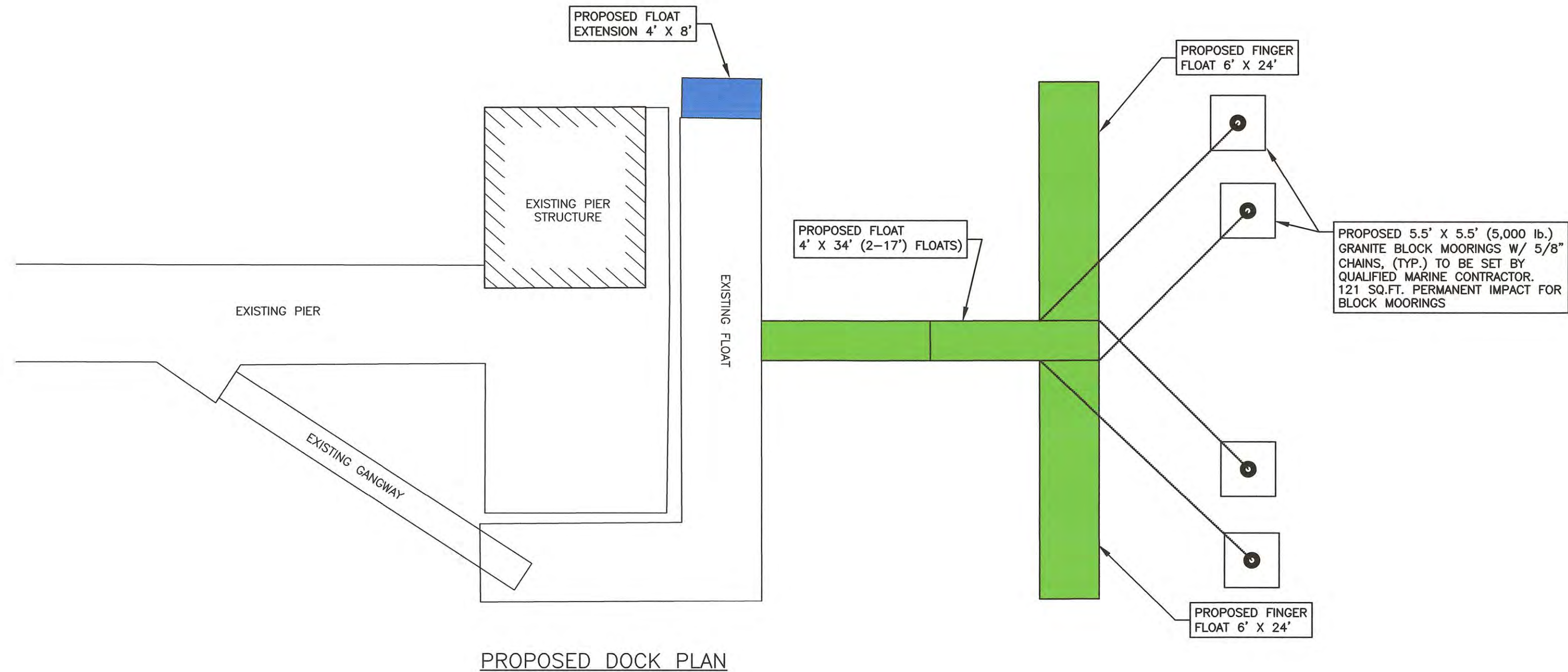
- APPROPRIATE MEASURES MUST BE TAKEN TO MINIMIZE FLOODING TO THE MAXIMUM EXTENT PRACTICABLE.
- ACTIVITIES WITHIN 100-YEAR FLOODPLAINS MUST COMPLY WITH APPLICABLE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)-APPROVED STATE AND/OR LOCAL FLOODPLAIN MANAGEMENT PERMITTING REQUIREMENTS. PROPONENTS MAY NEED TO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

STORAGE OF SEASONAL STRUCTURES.

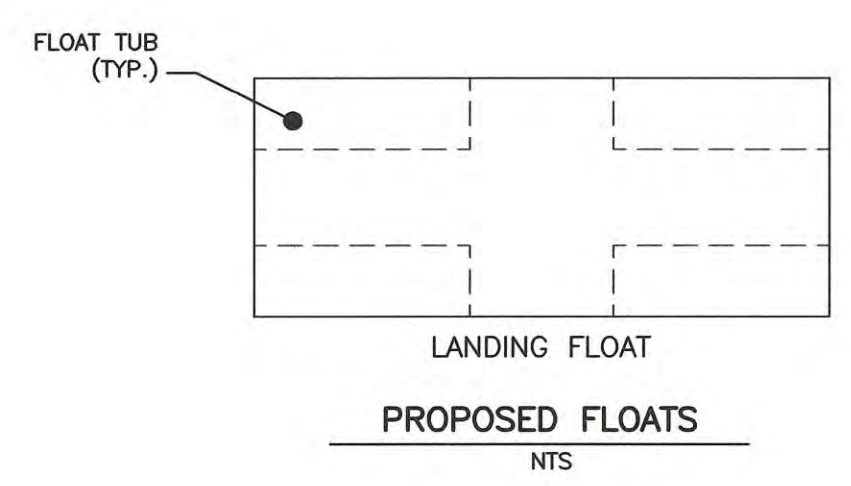
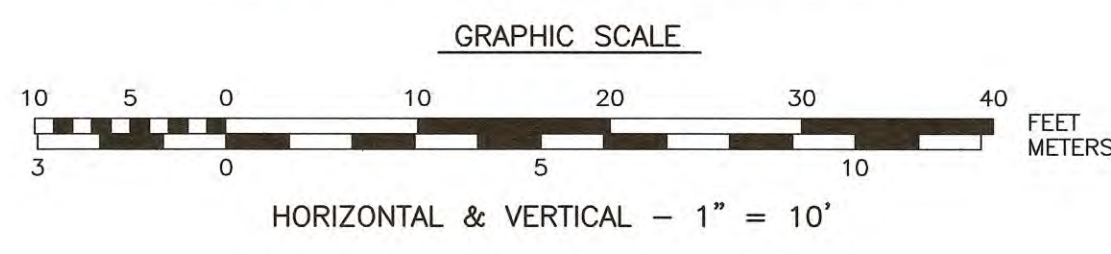
SEASONAL OR RECREATIONAL STRUCTURES SUCH AS PIER SECTIONS, FLOATS, AQUACULTURE STRUCTURES, ETC. THAT ARE REMOVED FROM THE WATERWAY FOR A PORTION OF THE YEAR (OFTEN REFERRED TO AS SEASONAL STRUCTURES) SHALL BE STORED IN AN UPLAND LOCATION LANDWARD OF HIGHEST ANNUAL TIDE (H.A.T.) OR ORDINARY HIGH WATER (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.



PROPOSED DOCK ELEVATION
PROPOSED FINGER FLOATS

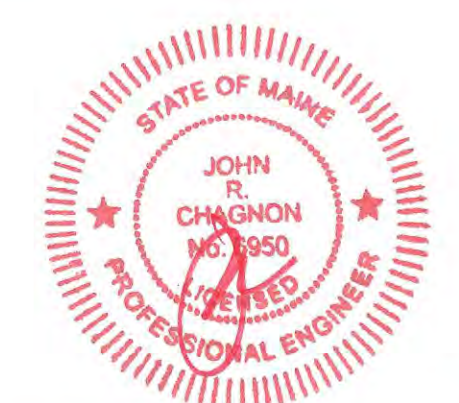


AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

- NOTES:**
- 1) 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.

**LANGDON ISLAND
CONDOMINIUM
9 BADGERS ISLAND WEST
KITTEERY, ME**

NO.	DESCRIPTION	DATE
2	BLOCK MOORINGS	5/18/23
1	FLOAT CONFIGURATION	5/16/23
0	ISSUED FOR COMMENT	5/12/23



5-18-23

OWNER & APPLICANT:
LANGDON ISLAND
CONDOMINIUM ASSOCIATION
BEN PORTER, PRESIDENT
9 BADGERS ISLAND WEST
KITTEERY, ME 03904

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

SCALE: AS SHOWN MAY 2023

DETAILS **D1**

BK9755 PG085

SCHEDULE B

Allocation of Interest
in Common Area

<u>Unit Designation</u>	<u>Square Feet of Unit</u>	<u>Percentage Interest in Common Area</u>
1	1,782	16.592%
2	1,782	16.592%
3	1,782	16.592%
4	1,782	16.592%
5	1,782	16.592%
6	1,782	16.592%
7 (marina unit)	<u>48</u>	<u>.448%</u>
	10,740	100%

RECEIVED YORK S S.

1999 OCT 29 P 12:59

ATTEST: *Lois M. Cline*
REGISTER OF DEEDS

→ McEachern & Thornhill

3198

17:01

Maine Department of Environmental Services
Southern Maine Regional Office
312 Canco Road
Portland, ME 04103

RE: Maine Department of Environmental Services, Natural Resources Protection Act Permit Application, Kittery Port Authority Application and USACOE Authorization for modification/expansion of an existing tidal docking structure for Langdon's Island Condominium Association, 9 Badgers Island West, Kittery, ME.

This letter is to inform the Maine Department of Environmental Protection (DEP), The Kittery Port Authority (KPA) and the US Army Corp of Engineers (USACOE) in accordance with State Law that our abutter, **Langdon's Island Condominium Association**, has shown us **plans dated May 18, 2023** depicting the proposed tidal docking structure modification/expansion on their property (Tax Map 1, Lot 23) prepared by Ambit Engineering, Inc. We are aware of the proposed tidal docking structure, the proposed structures proximity to our existing tidal docking structure and we have no objection to **Langdon's Island Condominium Association** constructing their dock modification/expansion as presented on the above referenced plans.

In accordance with DEP rules, we hereby sign this letter to indicate our acceptance of the proposed tidal docking structure modification/expansion in close proximity to our tidal docking structure.

Sincerely,



Will Banfield
One Badgers Island West LLC
5 Badgers Island West #1
Kittery, ME 03904
Tax Map 1, Lot 19

By: William J. Banfield II owner 5/20/2023
Printed Name & Title



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

May 26, 2023

File Number: NAE-2023-00345

Ben Porter
Langdon Island West Condominium Association
9 Badgers Island West
Kittery, Maine 03904
Sent by email: langdon.condo@gmail.com

Dear Mr. Porter:

The U.S. Army Corps of Engineers (USACE) has reviewed your application to modify an existing structure by installing a float 34 feet in length and 4 feet in width and two floats each 24 feet in length and 6 feet in width along with associated tackle. This project is located in the Piscataqua River at 9 Badgers Island West, Kittery, Maine. The work is shown on the enclosed plans titled "Langdon Island Condominium" on three sheets dated November 2022 and May 2023.

Based on the information that you have provided, we verify that the activity is authorized under General Permit # 3 of the enclosed October 14, 2020, federal permits known as the Maine General Permits (GPs). The GPs are also available at <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit>.

Please review the enclosed GPs carefully, in particular the general conditions beginning on page 5, and ensure that you and all personnel performing work authorized by the GPs are fully aware of and comply with its terms and conditions. A copy of the GPs and this verification letter shall be available at the work site as required by General Condition 33.

This authorization expires on October 14, 2025. You must commence or have under contract to commence the work authorized herein by October 14, 2025, and complete the work by October 14, 2026. If not, you must contact this office to determine the need for further authorization and we recommend you contact us *before* the work authorized herein expires. Please contact us immediately if you change the plans or construction methods for work within our jurisdiction as we must approve any changes before you undertake them. Performing work within our jurisdiction that is not specifically authorized by this determination or failing to comply with the special condition(s) provided above or all of the terms and conditions of the GPs may subject you to the enforcement provisions of our regulations.

This authorization does not obviate the need to obtain other federal, state, or local authorizations required by law. Applicants are responsible for applying for and obtaining any other approvals.

We continually strive to improve our customer service. To better serve you, we would appreciate your completing our Customer Service Survey located at <https://regulatory.ops.usace.army.mil/customer-service-survey/>

Please contact Jana Jacobson of my staff at (207) 233-2117 or Jana.L.Jacobson@usace.army.mil if you have any questions.

Sincerely,

SHAWN B.
MAHANEY

Digitally signed by
SHAWN B.
MAHANEY
Date: 2023.05.31
07:44:00 -04'00'

For: Peter D. Olmstead
Chief, Maine Section
Regulatory Division

cc:

Steven Riker, Ambit Engineering; sdr@ambitengineering.com



**US Army Corps
of Engineers**®
New England District

(Minimum Notice: Permittee must sign and return notification
within one month of the completion of work.)

COMPLIANCE CERTIFICATION FORM

Corps of Engineers Permit No: NAE-2023-00345

Name of Permittee: Ben Porter, Langdon Island West Condominium Association

Permit Issuance Date: May 26, 2023

Please sign this certification and return it to the following address upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

```

*****
* MAIL TO: U.S. Army Corps of Engineers, New England District      *
*           Policy & Technical Support Branch                      *
*           Regulatory Division                                    *
*           696 Virginia Road                                     *
*           Concord, Massachusetts 01742-2751                    *
*****

```

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.

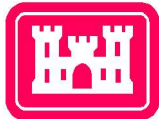
Signature of Permittee

Date

Printed Name

Date of Work Completion

() _____
Telephone Number



US Army Corps of Engineers®
New England District

**GENERAL PERMIT
WORK-START NOTIFICATION FORM**
(Minimum Notice: Two weeks before work begins)

EMAIL TO: Jana.L.Jacobson@usace.army.mil

-or-

MAIL TO: Jana Jacobson
U.S. Army Corps of Engineers, New England District
Maine Project Office
442 Civic Center Drive, Suite 350
Augusta, Maine 04330

Corps of Engineers Permits (No. NAE-2023-00345) were issued to Langdon Island West Condominium Association. The permits authorized the permittee to modify an existing structure by installing a float 34 feet in length and 4 feet in width and two floats each 24 feet in length and 6 feet in width along with associated tackle.

The people (e.g., contractor) listed below will do the work, and they understand the permit's conditions and limitations.

PLEASE PRINT OR TYPE

Name of Person/Firm: _____

Business Address: _____

Telephone: (____) _____

Proposed Work Dates: Start: _____

Finish: _____

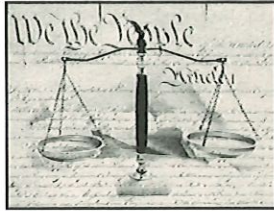
PERMITTEE'S SIGNATURE: _____ DATE: _____

PRINTED NAME: _____ TITLE: _____

FOR USE BY THE CORPS OF ENGINEERS

Project Manager: JACOBSON Submittals Required: No
Inspection Recommendation: Routine Maine General Permits compliance

Patrick S. Bedard
psbedlaw@bedardbobrow.com



BEDARD & BOBROW, PC
Practicing Law in ME, NH & MA
9 Bradstreet Lane P.O. Box 366
Eliot, Maine 03903
Tel. 207-439-4502 Fax 207-439-6172
www.bedardbobrow.com

David J. Bobrow
djblaw@bedardbobrow.com

June 19, 2023

Charles Patten, Chairman
Kittery Port Authority
200 Rogers Road
Kittery, ME 03904

Re: Application of Langdon Island Condominium Association
REGULAR MAIL-10 COPIES

Dear Chairman Patten:

I represent Donna McGarry, owner of 11 Badger's Island West, Kittery, Maine. I am writing to you regarding Langdon's Island Condominium Float Expansion application scheduled to be heard on Thursday, July 5, 2023. This is Donna McGarry's response to the proposal.

First, I attach my previous submission to the Kittery Port Authority on March 28, 2023 which was not considered because the application had not yet been accepted. However, I am now asking this be considered. It outlines the fact that this existing dock expansion on the Langdon Island Condominium (hereafter Langdon Island) property, which is too close to Donna McGarry's permitted dock, was never permitted by the Kittery Port Authority. The previous owner of Langdon Island's at some point expanded the dock closer to Donna McGarry's dock and did not receive a permit to do so. This illegal expansion has caused problems for Donna McGarry because when any boat is placed on the right side of the dock, nearer Donna's dock, it blocks access to several of her slips.

Langdon Island has made statements that Donna McGarry wants it to tear out its non-permitted dock. This is untrue and she has never said that, either personally or through her attorney. She can continue to access her dock and floats with the expansion there so long as boats are not parked on the right side of Langdon Island's dock expansion. Donna cannot access her dock and floats if there is a boat of any size placed there. Langdon Island has suggested that it would man any boat parked there so the boat could be moved immediately if Donna McGarry needed it to be moved. This is not acceptable because it could cause problems for Donna and anyone else using her dock and slip and they should not be at the mercy of a boat parked there, hoping it is manned and someone can immediately move it. No boats should be parked on the right side of Langdon Island's dock. Also, the six boats being parked on the slips proposed to be constructed should not be longer than 25 feet so they do not come out into the water and obstruct Donna's passage to her dock and floats. Donna McGarry does not oppose this proposal by

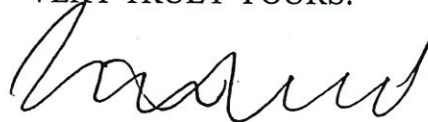
Langdon Island so long as two conditions are placed on the plan or in the final approval and the following is done:

1. The current float on the right side of the Langdon Island dock and float, which was illegally expanded, can remain but cannot ever be used for access by a boat or to park a boat. To make certain this happens a railing should be built along this side and any cleats be removed so a boat cannot be tied up on this side; and
2. The size of any boat on the next floats and in these slips can be no longer than 25 feet overall length, which includes the engine. This is to prevent the boats from jutting out into the traveled way on the river which would obstruct Donna from using her dock and float.

With these conditions made part of the approval and/or noted on the plan Donna McGarry does not oppose Langdon Island's dock and float application. If this is not done Donna McGarry opposes the approval for the reasons set forth in this letter and in the detailed response sent to the Kittery Port Authority on March 28, 2023.

If you have any questions, please do not hesitate to contact me.

VERY TRULY YOURS:



PATRICK S. BEDARD

Cc: Donna McGarry
Steve Riker, Ambit Engineering

DONNA MCGARRY-MORRISON'S LOBSTER-OPPOSITION TO
LANGDON ISLAND CONDOMINIUM APPLICATION BEING
ACCEPTED

I represent Donna McGarry, owner of Morrison's Lobster at 11 Badgers Island West, Kittery, Maine, and abutting 9 Badgers Island West. She opposes the Kittery Port Authority accepting the application as her existing dock is closer than 50 feet to the dock at 9 Badgers Island West. A previous owner of 9 Badgers Island West illegally expanded the dock by placing a walkway and floats next to the existing dock. This unpermitted expansion was closer than 50 feet to Donna McGarry's existing dock and floats. This unpermitted expansion was also not allowed by section 4.7.6 of the Kittery Port Authority rules and regulations.

The history of permits for docks for both parcels will show what previous approvals were granted. First, 9 Badgers Island West received approval in 1980 from the Kittery Port Authority, and other governing bodies, for the construction of a dock on its property. I have enclosed these documents. You can see the existing Morrison dock to the left in the drawing. The only other approval 9 Badgers Island West received was an approval to replace an existing dock on the property dated September 12, 2000; however, this replacement showed an existing walkway and floats that were never approved in 1980, or at any time thereafter. The Town's records do not show any approval for this walkway and additional floats. The unpermitted expansion appears to be a walkway 3 feet wide by 36 feet in length, a float on the side of the permitted dock 27 feet length and approximately 8 feet wide, and a float in front of the permitted dock approximately 40 feet long and 8 feet in width. This unpermitted expansion is apparent by comparing the existing conditions plan in 2000 with what was permitted in 1980. Thus, the additional walkway and floats are not permitted and should be removed.

In 1992 the McGarrys, Ted (Donna's husband who is now deceased) and Donna, received approval for a dock and float expansion at 11 Badgers Island West. After this approval there has been no further expansion of the McGarry's dock and it remains as it was after being built out after the 1992 approvals.

It appears that the owner of 9 Badgers Island West at some point closer to the year 2000 added a gangway and extension to its dock which came closer than 50 feet to Donna McGarry's existing dock and floats. The best evidence of this is a photo of Badger's Island provided by the Maine Geological Survey on April 6, 1999. It shows the McGarry dock existing as permitted in 1992, but it shows no expansion of the dock at 9 Badgers Island, Kittery, Maine (if you look at the blown up version of this photo it does show a slight lip on the right side which could have been used for a walkway, but does not show the floats or walkway existing at that time.) Donna McGarry does not recall a walkway or floats being used by 9 Baggers Island West at any time after their expansion of the dock in 1992 (or before) until around 2000 when the dock was rebuilt and expanded. If the walkway and floats were there after 1992 and used they would have obstructed Donna using boats to access her dock and floats. A prior renter at 9 Badgers Island West, Judi Clark, also does not recall any walkway or floats at 9 Badgers Island West from 1981 through 1994. This unpermitted expansion has caused problems for Donna McGarry since it was constructed and used.

As you can see in the attached sketch done by architect Brud Weger, overlaying the Langdon Island Condominium plan, it shows what happens when an 11 foot wide boat is parked on Donna McGarry's dock and Langdon Island Condominium decides to park a 10 foot wide boat to the side of its unpermitted 8 foot addition. If that happens there is not enough room for another boat parked at Donna McGarry's dock to get through and between the two boats. Thus, by the owner

of 9 Badgers Island West building (without a permit) too close to the McGarry dock it has impacted navigation and use of her dock.

Donna McGarry is requesting the Kittery Port Authority not accept this application by Langdon Island Condominium Association until it removes the floats and the walkway so that the property is consistent with the 1980 permit. This would mean taking out the floats on the side of the dock and in the front of the dock, as well as the walkway to the floats. The Kittery Port Authority has the power to request this by virtue of its Rules and Regulations, paragraph 6.1, because this section provides that if anyone violates the rules and regulations this may result in the loss of facility use and mooring privileges. This means that the Langdon Island Condominium Association dock and floats should not be used, nor should this application proceed to be scheduled for a public hearing, until the Langdon Island Condominium Association comes into compliance with its permitted use for the property.

I enclose the following documents:

1. 1980 permits for 9 Badgers Island West property (Vincent Prien);
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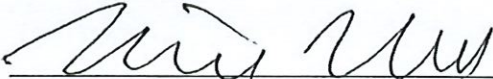
of the floats and walkway (and Mr. Porter provided by e-mail the 2000 approval which has been copied in number 3 here, but no permits for the expansion);

7. Sketch by Architect Brud Weger showing the difficulty for Donna McGarry accessing her dock due to the unpermitted float expansion.

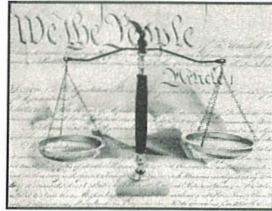
I will be participating by zoom at the meeting on April 6, 2023, and Donna McGarry will be present in person.

RESPECTFULLY SUBMITTED:
DONNA MCGARRY,
By Her Attorney
PATRICK S. BEDARD, ME Bar No. 3813
BEDARD & BOBROW, PC.
P.O. Box 366
9 Bradstreet Lane
Eliot, ME 03903
207-439-4502

Date: 3/29/23


Patrick S. Bedard, Esq.

Patrick S. Bedard
psbedlaw@bedardbobrow.com



BEDARD & BOBROW, PC
Practicing Law in ME, NH & MA
9 Bradstreet Lane P.O. Box 366
Eliot, Maine 03903
Tel. 207-439-4502 Fax 207-439-6172
www.bedardbobrow.com

David J. Bobrow
djblaw@bedardbobrow.com

March 28, 2023

Charles Patten, Chairman
Kittery Port Authority
200 Rogers Road
Kittery, ME 03904

Re: Application of Langdon Island Condominium Association
HAND DELIVERED-10 COPIES

Dear Chairman Patten:

I represent Donna McGarry, an abutter to the proposed dock expansion at 9 Badgers Island West, Langdon Island Condominium Association. I was away and did not participate in the first meeting in March, 2023 considering whether to accept this application. I will be attending by zoom for the April 6, 2023 meeting. I believe Donna McGarry will be in attendance at the meeting on April 6, 2023 in person. I listened to the recording of the first meeting and wanted to provide what information I had that would hopefully be of assistance in understand what permits were granted for both Donna's property and the Langdon Island Condominium Association property. Thus, I have attached a brief argument regarding the unpermitted expansion which is obstructing Donna's access to her dock, and relevant documents regarding this, including permits, letters and a photograph from 1999. I have provided a total of 10 copies of this submission and have also provided one copy to the applicant's representative, Steve Riker.

I look forward to attending the meeting on April 6, 2023.

VERY TRULY YOURS:

A handwritten signature in blue ink, appearing to read "Patrick S. Bedard", is written over a light blue horizontal line.

PATRICK S. BEDARD

Cc: Client

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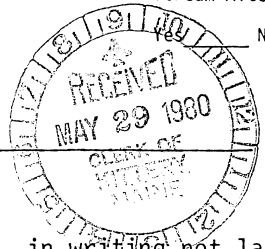
Date: 3/29/23



Patrick S. Bedard, Esq.

McGarry KPA Exhibit 1

MAR 1 Lot 23



Stream Alterations

No. ✓

TO: Department of Environmental Protection

FROM: Kittery Municipal Office

TYPE OF APPLICATION: Wetlands

Please use this form to return your comments, if any, to this office, in writing not later than June 11. Otherwise, we will assume that you have no objections to this project. Questions concerning this project should be directed to Don Witherill at 289-2111.

PROJECT

APPLICANT

NUMBER: 03 - 6652

NAME: Vincent A. Prien

NAME: Pile Pier

CONTACT PERSON: (603) 964-5923

LOCATION: Kittery

After a thorough review of the above project, as presented to us, and consideration of our agency's standards, programs and responsibilities, the following comments are submitted to the Department of Environmental Protection:

1. This agency has no objections to the project as proposed. _____
2. The opinion of this agency is the proposed project warrants a Public Hearing and offers the following comments as a basis for such hearing:
3. This agency has objections to the project as proposed and offers the following comments as a basis for the objections:

(Comments must be signed and dated in order to be accepted by this Department.)
(If additional space is needed, please attach another sheet.)

Date _____

PROJECT SUMMARY - WETLANDS ACT & CERTIFICATION

TO BE FILLED IN BY DEP

Applicant: Vincent A. Prien

City/Town: Kittery County: York

Name of Project: Pile Pier

Project No.: 03-6652-31130

1. Description of Project: 14' x 160' wood + Pile Private Pier on the Piscataqua River

2. Attach copy of deed, lease, purchase agreement, or other legal document establishing title, right or interest of applicant in the site.

3. Length of shoreline on the coastal wetland owned or controlled by the applicant.

140' of shoreline

4. Indicate nature of shoreline and tidal area (grassy, mud, rock, etc.)

Ledge + mud

5. Check below any other permits required for the project. Indicate with an asterisk (*) those permits already obtained.

U.S. Army Corps of Engineers (Tidal Waters)

Waste Discharge (DEP)

Other (Explain) Kittery Port authority and Kittery Planning Board

6. Actual physical dimensions of project:

Length (Out into wetland): 160'

Width (Along shore): 14'

Height: 2' above High water mark

7. Description of present use of the wetland: NONE, on said Property But adjoining Properties have Piers

8. Description of present use of the adjacent wetland: Recreating Lots # 24, 21
Both have Private Boat Docking facilities.
9. List power equipment to be used in construction of the project: Chain Saw,
Pump Drills, Pile driver.
10. Submit a scale drawing of the coastal wetland to be affected by the project, which shows the project in detail, the landowner's property boundary lines, the *low-water mark* and *high-water mark*. For your convenience, sample sketches and blank graph paper are attached. Applicants may submit larger drawings or blueprints, but if they exceed 8½" X 11" eleven copies are required.
11. State, in detail, the measures you propose to take to protect the surrounding area from the adverse affects of your project: _____

This is Private Dock - there is no need for waste
disposed -

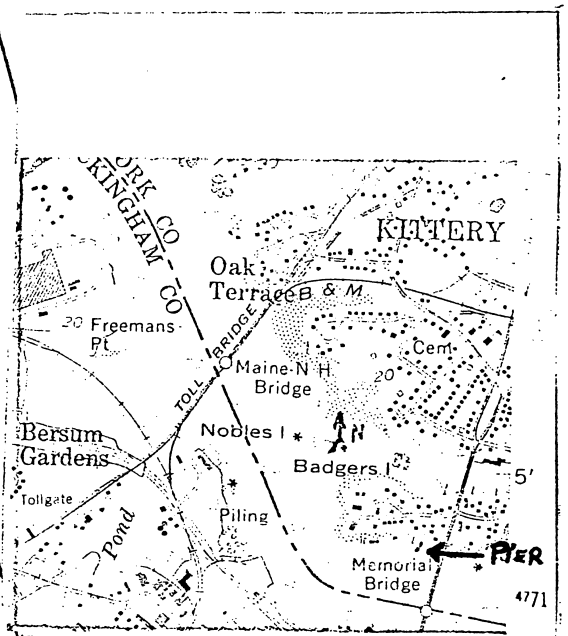
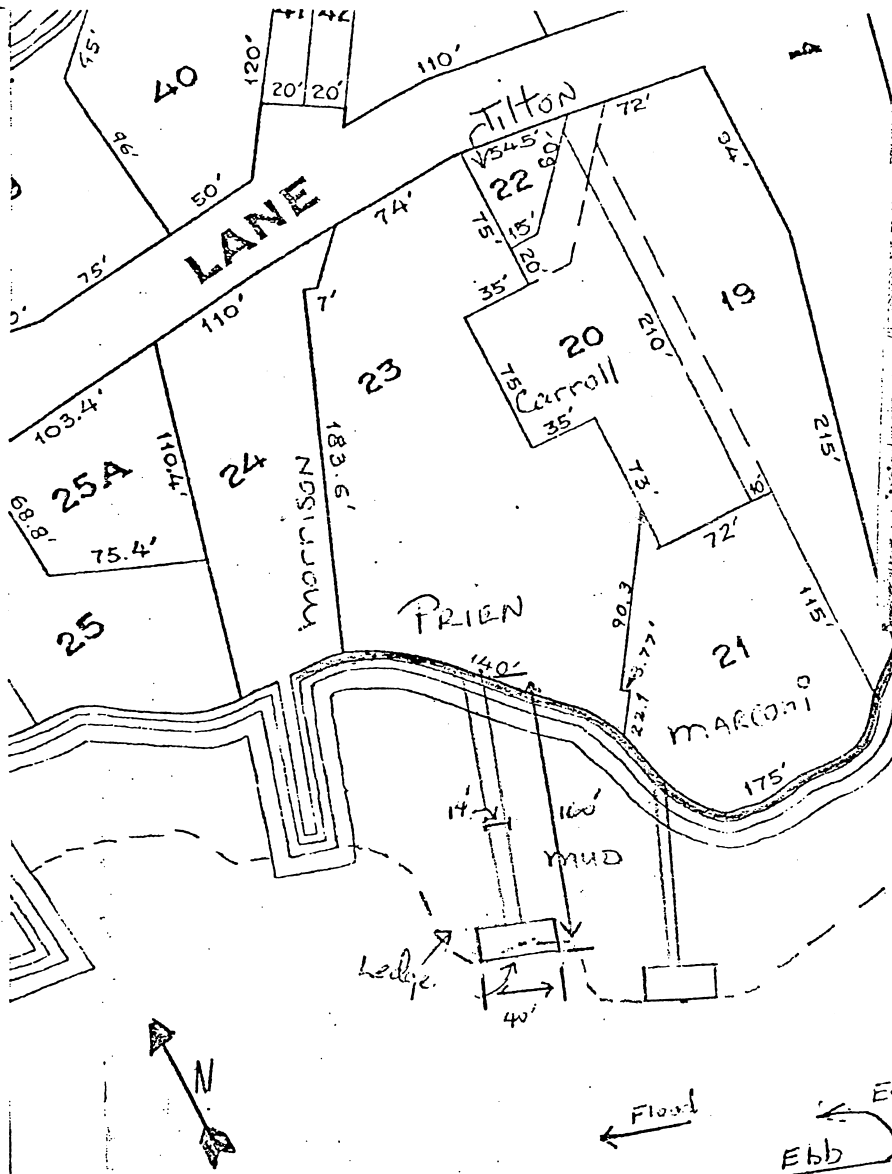
12. If this project is part of a larger project describe below:

13. If dredging or filling indicate number of cubic yards: _____
14. Indicate location for deposition of dredged material: _____

15. Detailed directions for finding the site. (Include sketch map.)
Take Route 1 into Badgers Is. across River from
Ports. N.H., turn left onto Thomers lane, its the
Third House on left, Big yellow, 2 chimney Colonial Home.

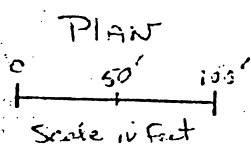
16. The applicant shall set forth below the names and addresses of the owners of *abutting* property, by signing this application the applicant certifies that he has provided each with a copy of the notice similar in form to that which is attached to this application.

NAME	ADDRESS
<u>Hugo Marconi</u>	<u>Badgers Is. Kittery, Maine</u>
<u>Sylvester Carroll</u>	<u>55 Whipple Rd. Kittery, ME.</u>
<u>Mrs. Marjorie Tilton</u>	<u>346 Pleasant St. Ports. N.H.</u>
<u>Martin Morrison</u>	<u>82 Badgers Is. Kittery</u>



Portsmouth Quasi
 New Hampshire - Maine
 7.5 min Series Topo
 U.S.G.S.
 Scale 1-24,000

Purpose: Private use for Small Craft
 Adjacent Property Owners:
 ① Lot 21 Hugo marconi
 ② Lot 20 Sylvester Carroll
 ③ Lot 22 marjorie Tilton
 ④ Lot 24 martin marrison

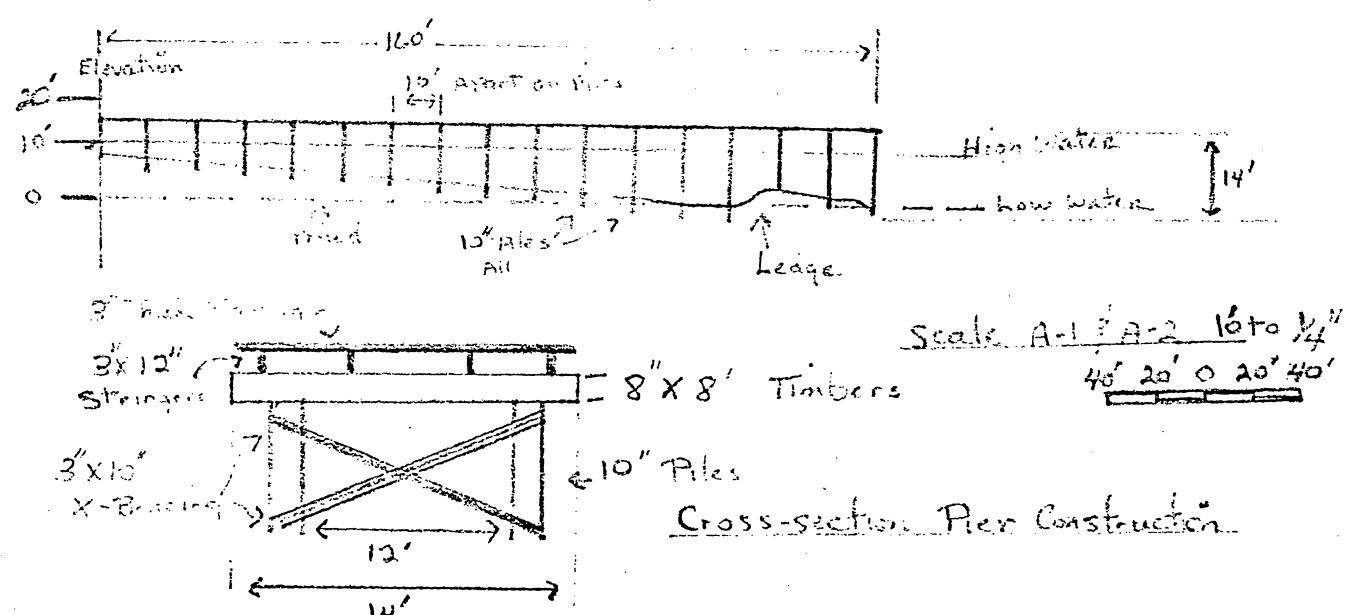
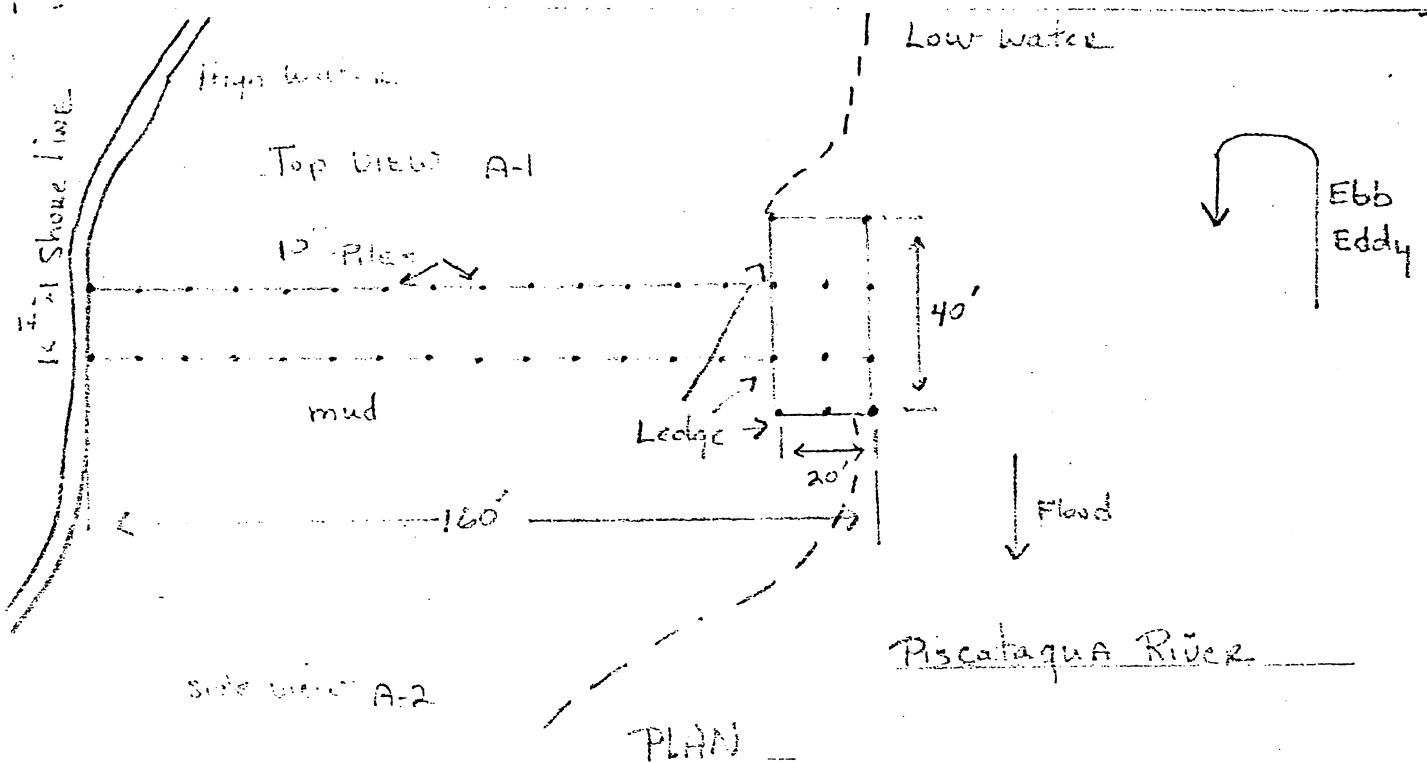


Kittery Tax map
 I Lot #23

PISCATAQUA

PORTSMOUTH

Dock Plan for
 Vincent PRIEN
 Sheet 1 of 2



- Notes
1. The proposed project is intended for private use only.
 2. Project does not involve dredging, excavating or filling.

Proposed Dock
 AT Piscataqua River
 in Nixey's main
 York County
 Application By
 Vincent Peizer

Receipt # 4829

BUILDING PERMIT AND APPLICATION 9-10-1981, Value 6000, M 1 L 23
 Owner PRIEN, VINCENT, Location BY BARDON ISL, Fee 6.00, No. 81-113
 Mailing Address 6 STONEWALL LN, RYE N.H., Zip 03070, Tel. 964-5008
 Applicant SAME, Contractor SELF
 Plumbing Permit No., Interior N/A, Exterior N/A, No. Baths N/A, Dist. to Water N/A
 Plot Plan YES, Yard Spaces N/A ft. front N/A, ft. left N/A, ft. rear N/A
 Building Plan YES, Dimensions SEE FILE 14x160 & 20x40 TOWER Ft.
 Structural type _____, Style _____, Foundation _____, Fin. Cellar _____
 Ext. _____, Int. _____, Roof _____, Insul. _____, Elect. _____
 Heat _____, Fireplace/Stove _____, Other _____
 Occupancy Permit required _____
14x160' PIER WITH 20x40' TEE AT SEA END - 7.1. E WOOD 50%

In accordance with Chapter 1, Section IV, subsection D, of Appendix A, Land Use and Development Code Zoning Ordinance for the Town of Kittery, Maine, adopted June 13, 1977, this application for a Building Permit is hereby approved/denied by P.E.O. P. A. TETREAU, ACTING, Code Enforcement Officer, for the following reason(s): APPROVAL HAS BEEN OBTAINED FROM ALL NEARBY CIVIL BODIES

Owner's signature [Signature]
 Applicant other than owner: _____
 I hereby certify that the proposed construction and/or use is authorized by the owner of record and I have been instructed by the owner to make this application as his authorized agent.
 Signature of Agent _____ Tel. _____
 Address _____ State _____ Zip _____

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION WORK IS NOT STARTED WITHIN SIX MONTHS OF DATE THE PERMIT IS ISSUED AS NOTED ABOVE.

IN PROGRESS INSPECTIONS INDICATED ON THIS CARD CAN BE ARRANGED FOR BY TELEPHONE OR WRITTEN NOTIFICATION. TEL. 439-0452



TOWN OF KITTERY

CERTIFICATE OF OCCUPANCY APPLICATION _____ 19 87 Zone _____ M 1 L 23 No. 11-113
 Owner James J. Gaudin Location 24 Borden St Kittery, ME
 Present Use Residential
 Proposed Construction and/or Use Basement
 Requisite Approvals See Building Permit 202 Permitted by all applicable codes

BUILDING INSPECTION RECORD

Local Ordinances	Rough-In Plumbing	Rough-In Electrical
Fire Codes	Finished Plumbing	Finished Electrical

Remarks:

CERTIFICATE OF OCCUPANCY PERMIT

Conditional or temporary occupancy issued by _____, 19 _____
 and is subject to the following conditions and/or safeguards _____
 _____ expires _____, 19 _____
 Completed occupancy issued by _____, _____, 19 _____,
 as the subject property has been inspected and/or evaluated and appears to be in compliance with all applicable codes.

BUILDING PERMIT AND APPLICATION

_____ 19 87 Value 2000 M 1 L 23
 Owner James J. Gaudin Location 24 Borden St Fee 40 No. 11-113
 Mailing Address 24 Borden St Zip 04907 Tel. 253-1000
 Applicant James J. Gaudin Contractor James J. Gaudin
 Plumbing Permit No., Interior N/A Exterior N/A No. Baths 4 1/2 Dist. to Water N/A
 Plot Plan Yes, Yard Spaces N/A ft. front R/W line, N/A ft. left, 10 ft. rt., 10 ft. rear N/A
 Building Plan Yes, Dimensions 30' x 110' x 110' x 20' Ht. 10' Ft.
 Structural type _____, Style _____, Foundation _____, Fin. Cellar _____
 Ext. _____, Int. _____, Roof _____, Insul. _____, Elect. _____
 Heat _____, Fireplace/Stove _____, Other _____
 Occupancy Permit required _____

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Owner's signature _____

Applicant other than owner:

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Signature of Agent _____ Tel. _____

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MAP 1 lot 23

BP-81-113

TOWN OF KITTERY PORT AUTHORITY

TOWN HALL, KITTERY, MAINE

August 1, 1980

Mr. Vincent A. Prien
84 Badgers Island
Kittery, Maine
03904

Dear Mr. Prien;

At a recent meeting of the Town of Kittery Port Authority, your application to build a wood and pile pier was discussed and approved, subject to you obtaining approval from the other appropriate agencies.

Sincerely yours,

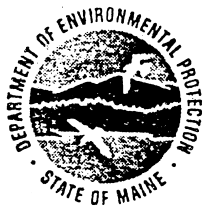
Frank C. Frisbee
Chairman

cc. Arthur Peverly, Planning Board
Manual Sousa, Town Council

DEPARTMENT OF ENVIRONMENTAL PROTECTION
AUGUSTA, MAINE 04330

BOARD ORDER

IN THE MATTER OF



VINCENT A. PRIEN) ALTERATION OF COASTAL WETLANDS ACT
 Kittery, Maine, York County) AND WATER QUALITY CERTIFICATION
 PILE-SUPPORTED PIER)
 #03-6652-31130) FINDINGS OF FACT AND ORDER

After reviewing the project file which includes the application with its supportive data, agency review comments, staff summary and other related materials on file with regard to the above noted project, under provisions of Title 38, M.R.S.A., Section 474 and Section 401 of P.L. 92-500, the Federal Water Pollution Control Act Amendments of 1972, the Board finds the following facts:

1. Nature of Project: Construct a pile-supported pier to measure 12 feet by 140 feet with a 20 foot by 40 foot tee at its end. Pier deck is to be located approximately 4 feet above mean high water.
2. The project will not unreasonably interfere with existing recreational and navigational uses.
3. The project will not cause unreasonable soil erosion.
4. The project will not unreasonably harm wildlife or freshwater, estuarine, or marine fisheries.
5. The project will not unreasonably interfere with the natural flow of any waters.
6. There is reasonable assurance that the activity will not lower the quality of any waters or violate applicable Water Quality Standards.

THEREFORE, the Board approves the application of Vincent A. Prien to construct a pile-supported pier as described in paragraph #1 above, subject to the following terms and conditions:

1. The Standard Conditions of Approval, except for Condition F, a copy attached.

DONE AND DATED AT AUGUSTA, MAINE, THIS 25TH DAY OF JUNE, 1980.

BOARD OF ENVIRONMENTAL PROTECTION

BY 
 Henry E. Warren, Chairman

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES....



State of Maine

SUBMERGED LAND EASEMENT

No. 783-09

This is an easement conveying to you certain, limited rights in the submerged lands of the State of Maine. It is not your environmental permit to use these lands. Please read the easement carefully and abide by its terms.

The Director of the Bureau of Public Lands, (hereinafter called the "Grantor") Department of Conservation, an agency of the State of Maine, acting pursuant to the provisions of R. S., Title 12, Section 514-A, in consideration of the performance of the covenants and conditions hereinafter provided, hereby grants to Vincent A. Prien, the mailing address of which is Kittery, Maine (hereinafter called the "Grantee") an easement in so much of the State-owned submerged lands (hereinafter called the "premises") as are described in Department, Environmental Protection application number 03-6652-31130 as are actually used by the Grantee in conformity with any permit (hereinafter referred to as the "permit") issued pursuant to such application, subject to the following covenants, and conditions:

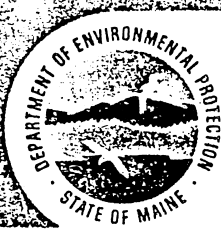
1. **TERM:** Such easement shall hold for the term of 30 years commencing with the date of this instrument and ending at midnight on December 31, 2009, and no longer.
2. **USE:** The premises shall not be used for any commercial purpose or as an amenity in furtherance of a commercial purpose, excepting only structures occupying not more than 100 square feet of State-owned land and structures occupying not more than 2,000 square feet of State-owned land and used exclusively for the landing or processing of shellfish, finfish, or other natural products of the sea. Within 30 days after request by Grantor by written notice hereunder, Grantee shall deliver to Grantor a written description, certified by Grantee to be correct, of the actual and specific uses then and therefore made of the premises. No sand, gravel or other materials shall be removed from the premises and no enlargement of structures or fixtures upon the premises shall be permitted without the prior written consent of the Grantor. No materials may be deposited on the premises except as specifically authorized in the permit.
3. **AUTOMATIC CANCELLATIONS:** In the event any regulatory agency of the United States or the State of Maine or any political subdivision thereof denies or disapproves any portion of any application by the Grantee for the use of the above described premises or any portion thereof, or that any court of competent jurisdiction invalidates any permit granted pursuant to such application, this easement shall be cancelled automatically as to the denied or disapproved use, and shall to that extent be null, void, and of no effect as of the date of such denial or disapproval.
4. **ASSIGNMENT:** Any and all rights conveyed herein by the Grantor may be assigned or otherwise conveyed by the Grantee, subject to the covenants and conditions of this instrument.
5. **PROPERTY TAXES:** Grantee shall pay all taxes, charges, assessments and other impositions levied upon the premises and the buildings, improvements, and fixtures thereon when due and payable.
6. **OTHER USES:** Grantee may make no use of the premises except that expressly authorized by any permit. Grantor reserves the right to make such other uses of the premises, including, without limitation, the right to permit pipes to be laid thereunder and wires to be maintained thereover, as shall not unreasonably interfere with Grantee's use and enjoyment of the premises.
7. **INDEMNITY:** Grantee agrees to defend or cause to be defended and to indemnify and hold the Grantor harmless against any and all claims, suits, causes of action, expenses and damages incurred by or brought against Grantor and arising or allegedly rising out of, in whole or part, the use or occupancy of the premises by Grantee, its invitees, contractors, agents and employees.
8. **DEFAULT:** If Grantee or its successor in interest shall fail to comply with any of the terms of this instrument, Grantor shall have the right at its option at any time thereafter to terminate this easement, re-enter and take possession of the premises after giving thirty (30) days advance notice in writing to Grantee or its successor in interest. If during said thirty (30) day period Grantee cures its default to the satisfaction of Grantor then termination shall automatically be vacated, otherwise the same shall remain in full force and effect. Such right of termination shall be in addition to any other legal or equitable rights or remedies which Grantor may have. If Grantor shall institute an action to enforce any provision of this easement, Grantor shall be entitled to recover reasonable attorney's fees.
9. **MAINTENANCE:** Grantee, at its sole cost and expense, shall at all times keep, or cause all improvements (regardless of ownership) to be kept, in as good condition and repair as originally constructed, except for reasonable use. Grantee shall not allow debris or refuse to accumulate on the premises. In addition to having the right to cancel this easement, Grantor shall have the right upon 30 days notice to remove such debris and refuse and collect the cost of such removal from the Grantee.
10. **ABANDONMENT:** Failure by the Grantee to use or maintain the premises for two consecutive years shall be deemed to constitute abandonment of the premises, including all structures and improvements thereon. Upon abandonment the Grantor at its option may require Grantee to remove all such structures and improvements within such period of time as it may prescribe at the sole expense of the Grantee or the Grantor may assume possession and ownership of all structures and improvements.
11. **NOTICE:** Any notice permitted or required hereunder shall be deemed to have been given when actually delivered or when deposited in the U.S. mail, first-class postage prepaid, addressed as follows: To Grantor: Bureau of Public Lands, State Capitol, Augusta, Maine 04333, Attn: Submerged Lands Division, and giving the easement number, or to such other address specified by Grantor by written notice hereunder. To Grantee: at the address hereinabove set forth for Grantee or at such other address as Grantee may have theretofore specified by written notice actually received by and placed of record with Grantor.

November 1, 1979

****STANDARD CONDITIONS****

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE COASTAL WETLANDS LAW, UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Compliance With All Permit Terms and Conditions. The applicant shall submit all reports and information requested by the Board or the Department demonstrating that the applicant has complied or will comply with all terms and conditions of this permit. All preconstruction terms and conditions must be met before construction begins.
- D. Initiation of Activity Within Two Years. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the activity was not begun within two years from the granting of the initial permit and the reasons why the applicant will be able to begin the activity within two years from the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- E. Reexamination After Five Years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- F. No Construction Equipment Below High Water. No construction equipment being used in the undertaking of an approved activity is allowed below the mean high water line.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



STATE OF MAINE

Department of Environmental Protection

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA
MAIL ADDRESS: STATE HOUSE, AUGUSTA 04333

Henry E. Warren
COMMISSIONER
289-2811

Rights of Review and Appeal

Any person aggrieved by a decision by the Board of Environmental Protection ("Board") or Department of Environmental Protection ("Department") has the following rights of review and appeal:

I. As to any decision by the Board:

A. Request for hearing:

Within 30 days of the applicant's receipt of a Board decision made without public hearing, any person aggrieved by the decision may make a request for a hearing. Such a request shall set forth in detail the basis of the petitioner's grievance; the findings, conclusions or conditions to which the petitioner objects; the basis of the objections; and the nature of the evidence or argument to be offered.

B. Reconsideration by the Board:

Within 30 days of the applicant's receipt of a Board decision, any person aggrieved by the decision may petition the Board of Environmental Protection, in writing, for correction of any part of the decision which the petitioner believes to be in error and not intended by the Board, or for an opportunity to present new or additional evidence to secure reconsideration of any part of the decision or challenge any facts of which official notice was taken. Such petition shall set forth in detail the findings, conclusions or conditions to which the petitioner objects, the basis of the objections, the nature of the relief requested and the nature of any new or additional evidence to be offered. 38 M.R.S.A. §344(5).

C. Judicial appeal:

Any person aggrieved by a final Board decision is entitled to judicial review by filing a petition in Superior Court for Kennebec County or in Superior Court for the county where (1) the aggrieved person resides or has his principal place of business; or (2) the activity or property which is the subject of the proceeding is located.

The petition for review shall specify the person seeking review, the manner in which he is aggrieved and the final agency action which he wishes reviewed. The petition shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief.

ADMINISTRATIVE SERVICES:
289-2691

BUREAUS:

AIR QUALITY CONTROL
289-2437

LAND QUALITY CONTROL
289-2111

WATER QUALITY CONTROL
289-2591
OIL POLLUTION CONTROL
289-2591

REGIONAL OFFICES:

31 CENTRAL STREET
BANGOR 04401
947-6746

634 MAIN STREET
PRESQUE ISLE 04769
764-3737

OIL POLLUTION CONTROL
17 COMMERCIAL STREET
PORTLAND
773-6491

OIL SPILL REPORTS ONLY
(TOLL FREE) 1-800-482-0777

CITIZENS' ENVIRONMENTAL
ASSISTANCE SERVICE
289-2691
(TOLL FREE) 1-800-452-1942

AIR QUALITY CONTROL
17 COMMERCIAL STREET
PORTLAND
773-0196

LAND QUALITY CONTROL
17 COMMERCIAL STREET
PORTLAND
773-0196

The petition for review shall be filed within 30 days after receipt of notice if taken by a party to the proceeding of which review is sought. Any other person aggrieved shall have 40 days from the date the decision was rendered to petition for review.

The petition for review shall be served by certified mail, return receipt requested, upon D.E.P., all parties to the proceeding, and the Attorney General.

II. As to a decision by the Department:

A. The Board has delegated authority to Department staff to act on certain applications.

Any person aggrieved by a staff decision may request in writing, within 30 days of receipt of the order by the applicant, that the Board review such decision. Such request for review must set forth the reasons why the review is requested and the actions which the person making the request desires to be taken by the Board. When review of a staff determination is requested, it shall be conducted as if it were an application filed with the Board and not subject to delegation.

NOTE:

1. Because a person other than the applicant may file an appeal, as stated above, any action to commence work according to the terms of the permit prior to the expiration of the appeal or review period entails a risk that the approval may be altered. Applicants must assess the likelihood and extent of such a risk.

2. The filing of a petition for review or appeal does not operate as a stay of the final agency action.

3. Further information concerning review and appeal may be found in the Maine Administrative Procedure Act (5 M.R.S.A. §8001 et seq.) and Department statutes (38 M.R.S.A. §341 et seq. and regulations.

4. You may contact D.E.P. if you have any question about the rights of review and appeal procedures.



DEPARTMENT OF THE ARMY
NEW ENGLAND DIVISION, CORPS OF ENGINEERS
424 TRAPELO ROAD
WALTHAM, MASSACHUSETTS 02154

REPLY TO
ATTENTION OF:
NEDOD-R- 26-80-248
ME-PORT-80-303

30 October 1980

Vincent A. Prien
6 Stonewall Lane
Rye, NH 03870

Dear Mr. Prien:

Inclosed is a Federal permit authorizing the work stated therein. Please acquaint yourself with all the terms and conditions of the permit and particularly to those conditions which are binding upon you as the permittee. Your particular attention is called to condition (n) which requires you to notify this office when the work is commenced and when it is completed.

If any material changes in the plans are found necessary, revised plans should be submitted to this office. These revised plans must receive the approval required by law before the work is begun.

Sincerely yours,

A handwritten signature in cursive script, reading "Morgan R. Rees".

MORGAN R. REES
Chief, Regulatory Branch
Operations Division

Incl
Permit



Name of Applicant Vincent A. Prien

Effective Date 30 October 1980

Expiration Date (If applicable) _____

**DEPARTMENT OF THE ARMY
PERMIT**

Referring to written request dated 30 April 1980 for a permit to:

Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, P.L. 92-500);

Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052; P.L. 92-532);

Vincent A. Prien
6 Stonewall Lane
Rye, NH 03870

is hereby authorized by the Secretary of the Army:
to construct and maintain a pile supported pier consisting of a 140' x 14' pier with a 20' x 40' "T" head. The pier will extend approximately 160' beyond mean high water.

in Piscataqua River

at Kittery, Maine

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings: give file number or other definite identification marks.) Plans entitled, "Dock Plan For Vincent Prien", in 2 sheets, not dated.

subject to the following conditions:

I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-500; 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementat on plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

The following Special Conditions will be applicable when appropriate:

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING:

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for _____ years from the date of issuance of this permit (ten years unless otherwise indicated);

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published in 40 CFR 230;

b. That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

c. That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

d. That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

DUMPING OF DREDGED MATERIAL INTO OCEAN WATERS:

a. That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-228.

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

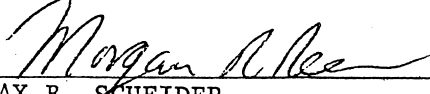


PERMITTEE
Vincent PRIEW

10/20/80

DATE

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

for 

MAX B. SCHEIDER
Colonel, Corps of Engineers
Division Engineer
~~SYSTEMS ENGINEER~~
~~SYSTEMS ENGINEER~~

30 Oct 80

DATE

Transferee hereby agrees to comply with the terms and conditions of this permit.

TRANSFEEEE

DATE

o. That if the activity authorized herein is not started on or before N/A day of 31st 1983 (one year from the date of issuance of this permit unless otherwise specified) and is not completed on or before December, 19 83, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

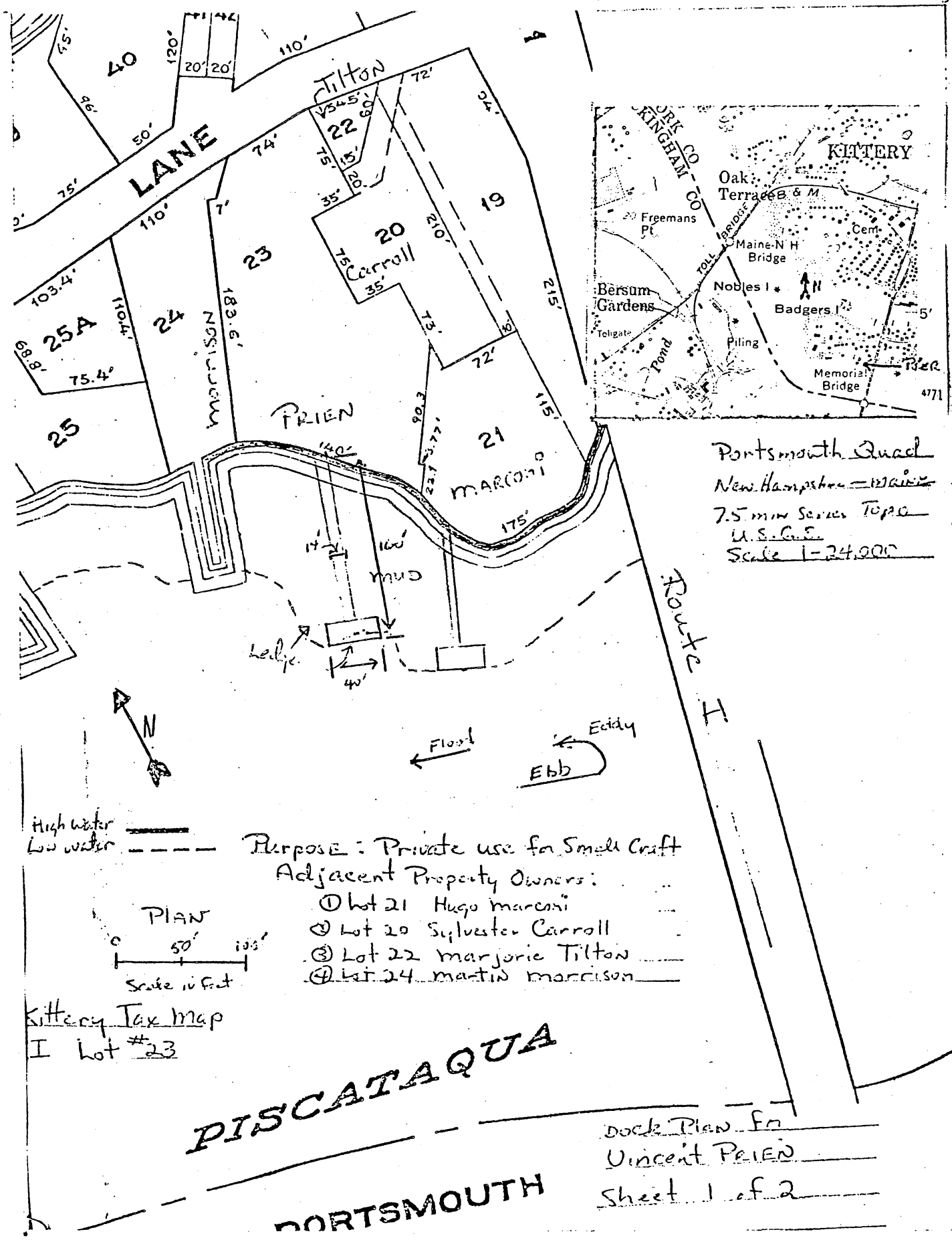
q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition t hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

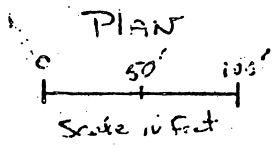
t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit):



Portsmouth Quad
 New Hampshire - 1874
 7.5 min Series Topo
 U.S.G.S.
 Scale 1-24,000

Purpose: Private use for Small Craft
 Adjacent Property Owners:
 ① Lot 21 Hugo marconi
 ② Lot 20 Sylvester Carroll
 ③ Lot 22 marjorie Tilton
 ④ Lot 24 martin marrison

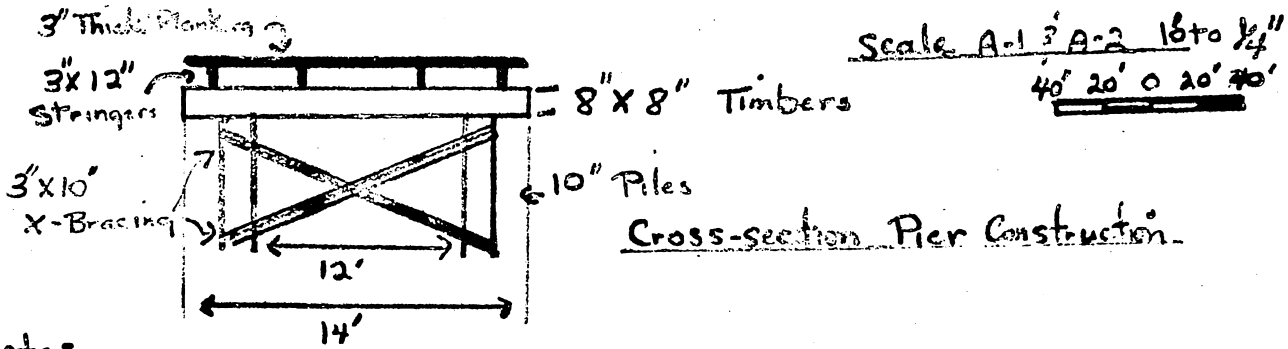
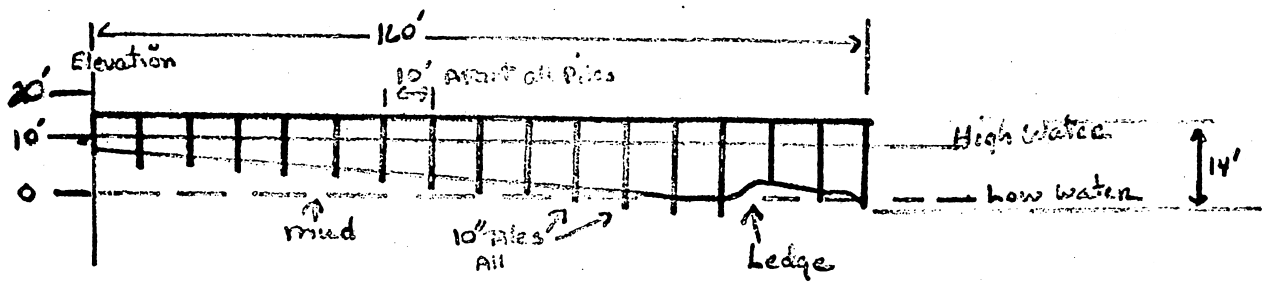
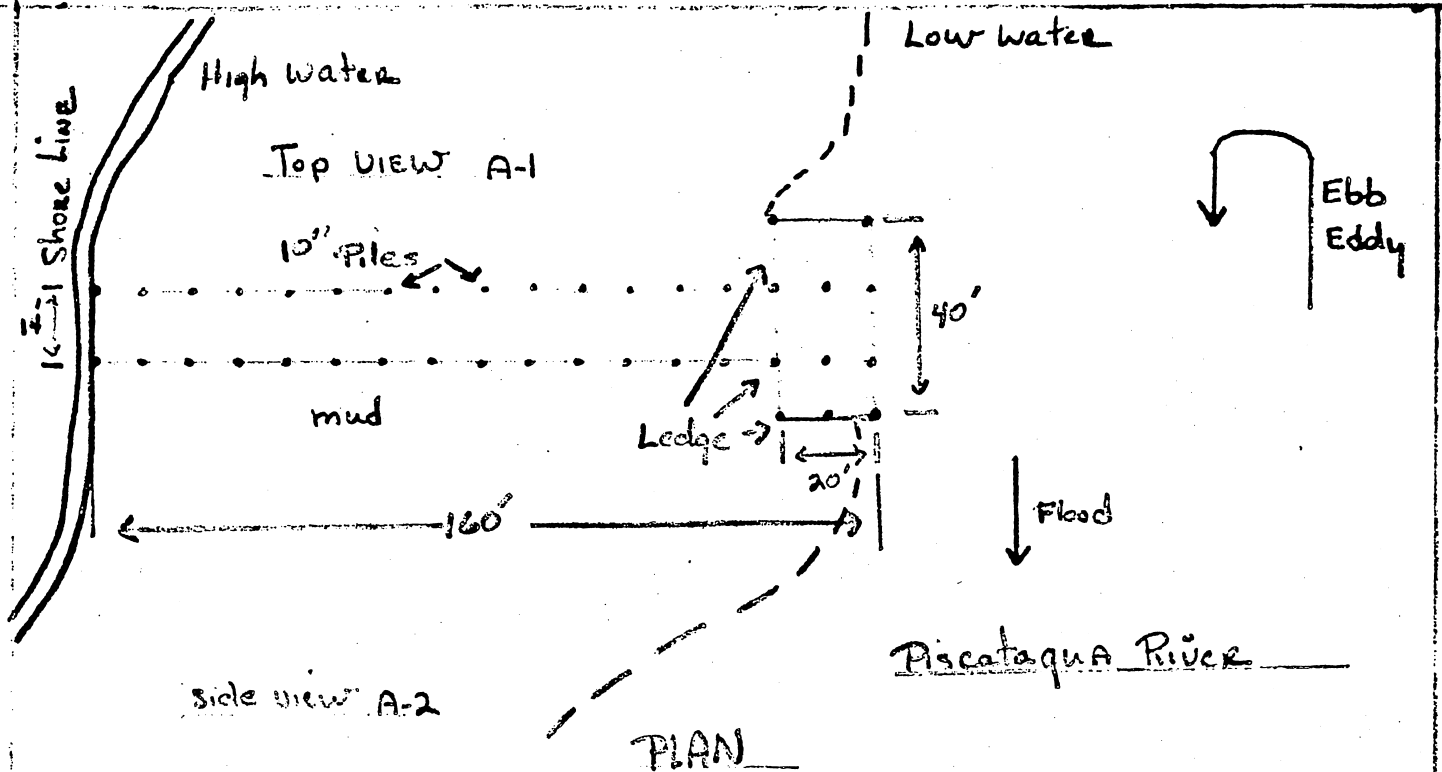


Kittery Tax Map
 I Lot #23

PISCATAQUA

PORTSMOUTH

Dock Plan for
 Vincent PRIEN
 Sheet 1 of 2



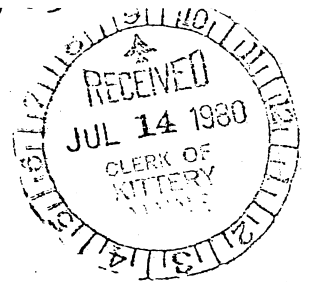
Notes

1. The proposed project is intended for private use only.
2. project does not involve dredging, excavating or filling.

Proposed Dock:
 AT Piscataqua River
 IN Ritters, main
 York, County
 Application By
 Vincent Prien.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AUGUSTA, MAINE 04330



BOARD ORDER
IN THE MATTER OF

VINCENT A. PRIEN
Kittery, Maine, York County
PILE-SUPPORTED PIER
#03-6652-31130

) ALTERATION OF COASTAL WETLANDS ACT
) AND WATER QUALITY CERTIFICATION
)
) FINDINGS OF FACT AND ORDER

After reviewing the project file which includes the application with its supportive data, agency review comments, staff summary and other related materials on file with regard to the above noted project, under provisions of Title 38, M.R.S.A., Section 474 and Section 401 of P.L. 92-500, the Federal Water Pollution Control Act Amendments of 1972, the Board finds the following facts:

1. Nature of Project: Construct a pile-supported pier to measure 12 feet by 140 feet with a 20 foot by 40 foot tee at its end. Pier deck is to be located approximately 4 feet above mean high water.
2. The project will not unreasonably interfere with existing recreational and navigational uses.
3. The project will not cause unreasonable soil erosion.
4. The project will not unreasonably harm wildlife or freshwater, estuarine, or marine fisheries.
5. The project will not unreasonably interfere with the natural flow of any waters.
6. There is reasonable assurance that the activity will not lower the quality of any waters or violate applicable Water Quality Standards.

THEREFORE, the Board approves the application of Vincent A. Prien to construct a pile-supported pier as described in paragraph #1 above, subject to the following terms and conditions:

1. The Standard Conditions of Approval, except for Condition F, a copy attached.

DONE AND DATED AT AUGUSTA, MAINE, THIS 25TH DAY OF JUNE, 1980.

BOARD OF ENVIRONMENTAL PROTECTION

BY Henry E. Warren
Henry E. Warren, Chairman

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES.....

McGarry KPA Exhibit 2



REPLY TO
ATTENTION OF

Regulatory Division
CENED-OD-R-52
Permit Number 1992-01082

DEPARTMENT OF THE ARMY
NEW ENGLAND DIVISION, CORPS OF ENGINEERS
424 TRAPELO ROAD
WALTHAM, MASSACHUSETTS 02254-9149

20 JUL 1992

Edward McGarry
Morrison's Lobsters
11 Badgers Island West
Kittery, Maine 03904

Dear Mr. McGarry:

This is in reference to your request for a determination as to the need for a Department of the Army permit to modify your existing pier, ramp and floats in the Piscataqua River off Badgers Island West, at Kittery, Maine. According to the information that you have provided the existing structure consists of a 22' x 32' wharf and building with a 14' x 50' pier extending parallel with an attached 3' x 35' ramp leading to a 6' x 73' base float attached perpendicular. Your application states that the existing pier was constructed in 1965. Title 33, Code of Federal Regulations, Part 330.3 (b) states that structures or work completed prior to December 18, 1968 were permitted by Nationwide Permits issued on July 19, 1977 provided there is no interference with navigation.

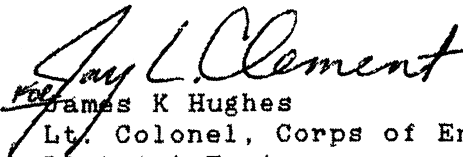
We have completed our evaluation of your application to modify your existing float system. Your permit is hereby amended to reconfigure your float system to a 6' x 60' base float attached perpendicular to the pier with two 4' x 40' finger floats attached parallel to the pier extending west, forming three slips, as shown on the attached plans entitled "Proposed Finger Floats, for: Edward McGarry, off: Badgers Island West, at: Kittery, Maine." in 4 sheets undated.

All other conditions of the original permit remain in full force and effect.

Before you begin work, you are required to obtain any necessary State and/or local permits, or other necessary Federal permits as required.

Should you have any questions concerning this matter, please contact Rod Howe or Shawn Mahaney at 207-623-8367 our Augusta, Maine Project Office.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

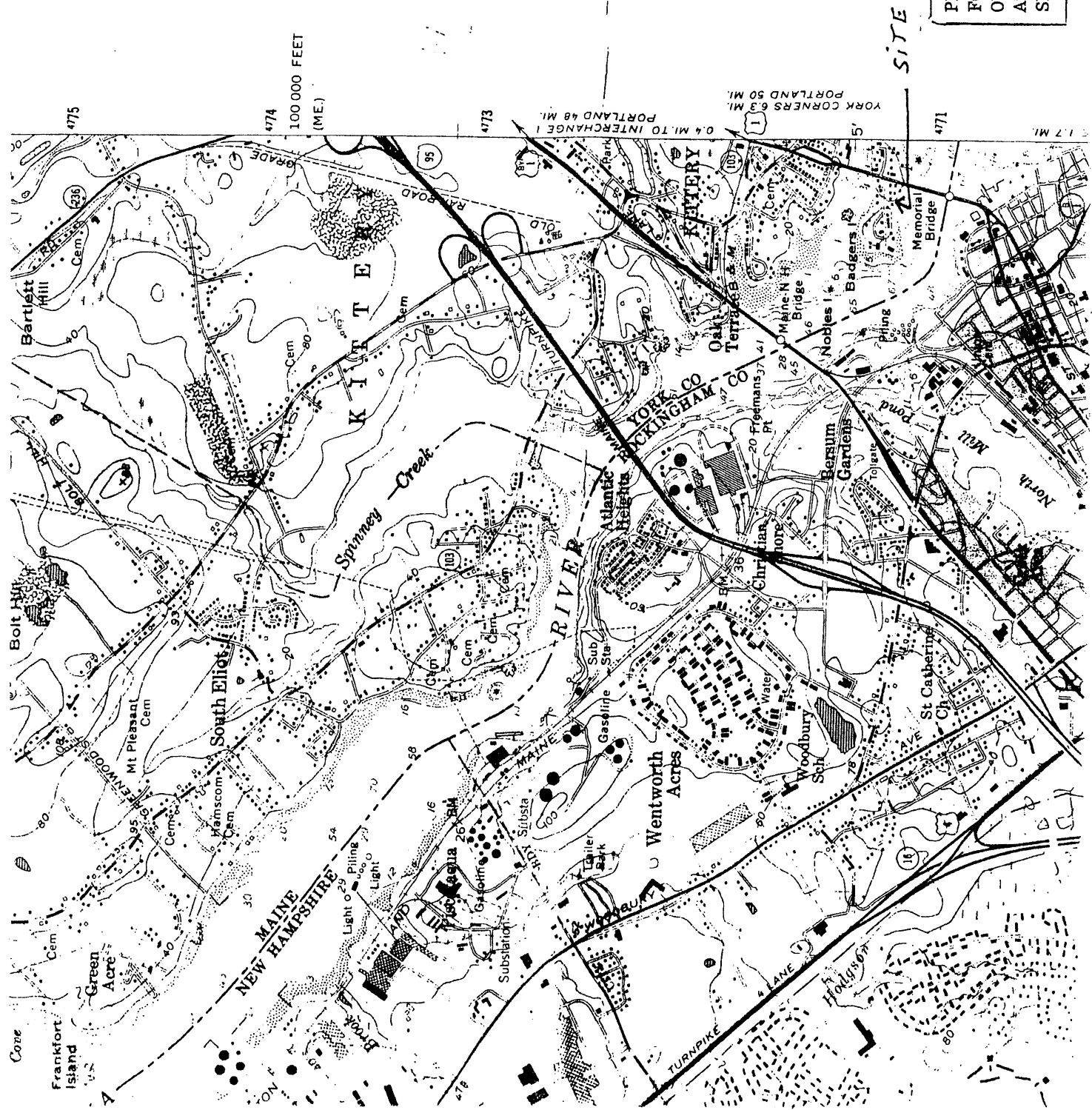

James K Hughes
Lt. Colonel, Corps of Engineers
District Engineer

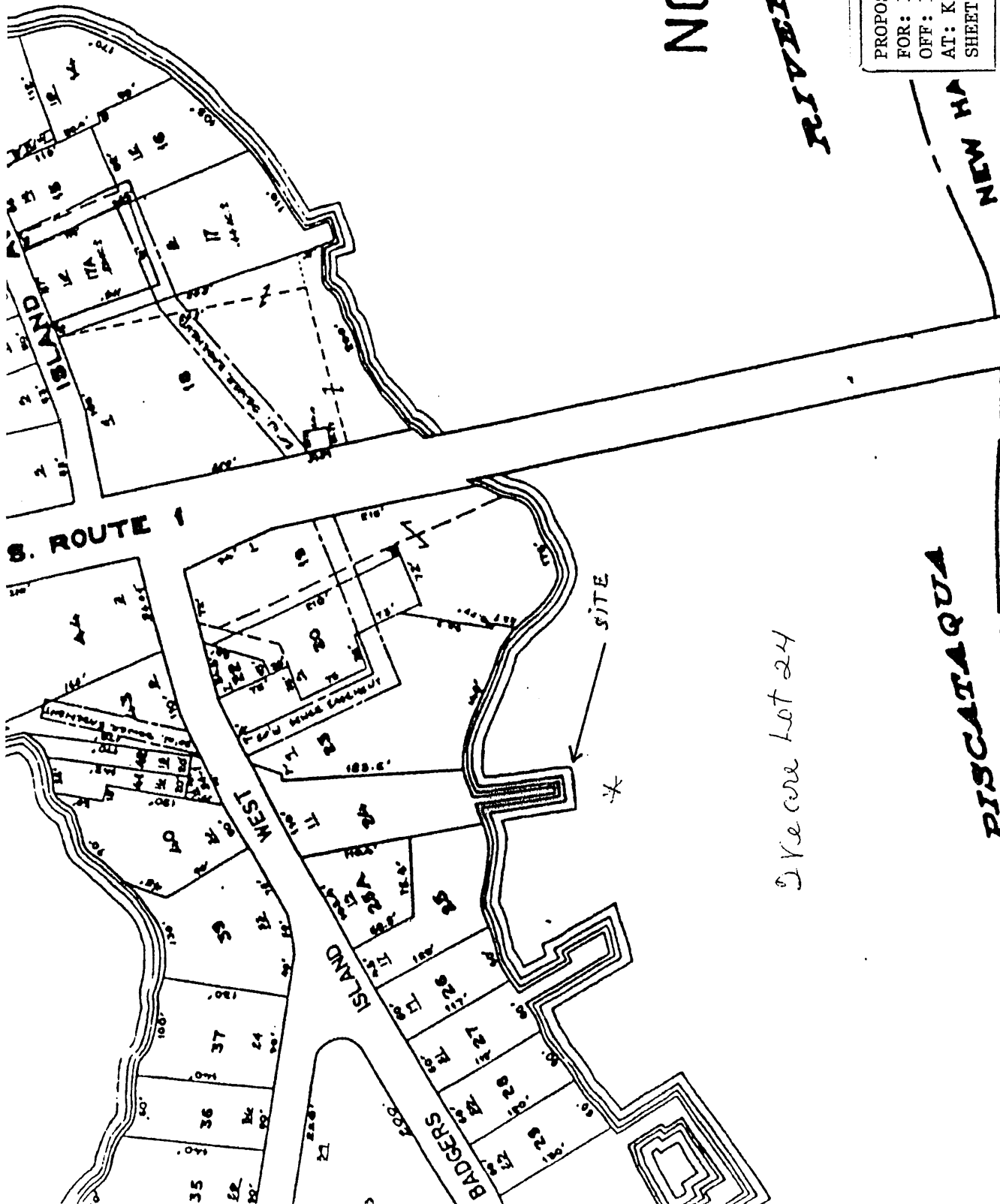
Copies Furnished:

Maine Dept. of Environ. Protection
ATTN: William Laflamme
State House-Station #17
Augusta, Maine 04333

Town of Kittery
ATTN: CEO
Municipal Offices
Kittery, Maine 03904

PROPOSED FINGER FLOATS
 FOR: EDWARD MCGARRY
 OFF: BADGERS ISLAND WEST
 AT: KITTERY, MAINE
 SHEET 1 OF 4





NOT TO

RIVER

PROPOSED FINGER FLOATS
 FOR: EDWARD MCGARRY
 OFF: BADGERS ISLAND WEST
 AT: KITTERY, MAINE
 SHEET 2 OF 4

PROPERTY MAP
 TOWN OF KITTERY

See cre Lot 24

PISCATAQUA

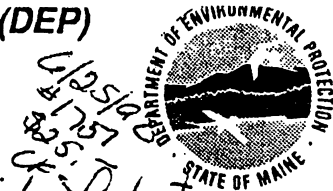
SMOOTH

1992

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) PERMIT BY RULE NOTIFICATION FORM

(For use with DEP Regulation, Chapter 305)

PLEASE TYPE OR PRINT IN BLACK INK ONLY



Name of Applicant: Edward D. McBarry DBA Morrison's Lobsters

Address: 11 Badgers Island West Town/City: Kittery

State: Me Zip Code: 03904 Tel.No: 207-439-2501

Name of Wetland, Water Body or Stream: 1

Name of Nearest Road and Directions to Site: Badgers Island West

South on Route 1 into Kittery Me. Take right just before the Piscataqua River into N.H.

Town/City: Kittery County: _____

Description of Project: Replacing & adding two pilings

RECEIVED OF
DEPT. OF ENVIRONMENTAL PROTECTION
MAY 25 1992

1. Attach a check for \$25 made payable to Treasurer State of Maine.
2. Attach to this form a location map with project site clearly marked.
3. Attach photographs showing existing site conditions. (unless not required under standards)
4. For projects below mean low water, submit a copy of the project design plan to the Bureau of Public Lands.

I am filing notice of my intent to carry out work which meets the requirements for Permit by Rule under DEP Regulation Chapter 305. I will comply with Section 1 and all the standards contained in the Section(s) checked below:

- | | |
|---|--|
| <input type="checkbox"/> Sec.(2)Dist. of Soil Mat. | <input type="checkbox"/> Sec.(11)General Permits of State Transprt. Fac. |
| <input type="checkbox"/> Sec.(3)Intake Pipes | <input type="checkbox"/> Sec.(12)Restoration of Natural Areas |
| <input checked="" type="checkbox"/> Sec.(4)Maint. Repair & Replace of Struct. | <input type="checkbox"/> Sec.(13)Fish & Wild. Creation, Enhance. & Water Quality |
| <input checked="" type="checkbox"/> Sec.(5)Moorings | <input checked="" type="checkbox"/> Sec.(14)Piers, Wharves & Pilings |
| <input type="checkbox"/> Sec.(6)Movement of Rocks or Veg. by Hand | <input type="checkbox"/> Sec.(15)Public Boat Ramps |
| <input type="checkbox"/> Sec.(7)Outfall Pipes | <input type="checkbox"/> Sec.(16)Select Sand Dune Projects |
| <input type="checkbox"/> Sec.(8)Riprap | <input type="checkbox"/> Sec.(17)Transters |
| <input type="checkbox"/> Sec.(9)Crossings (Utility Lines, etc.) | <input type="checkbox"/> Sec.(18)Maintenance Dredging |
| <input type="checkbox"/> Sec.(10)Stream Crossing | |

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife and Marine Resources to access the project site for the purpose of determining compliance with the rules. I also understand that this permit is not valid until 14 days after receipt by the Department.

Signature of Applicant: Edward D. McBarry Date: 6/22/92

Send white and yellow form with attachments via certified mail to the ME Dept. of Environmental Protection State House Station 17 Augusta, Maine 04333

Retain pink copy as record of permit. Permits are valid upon receipt by the DEP for one year. No further authorization by DEP will be issued after receipt of notice. Permits issued under this section are invalid if the DEP finds any application standard has not been met. Work carried out in violation of any standard is subject to enforcement action, including a fine of up to \$25,000 for each day of violation.

For office use only					
Proj. No.	FP	Date	Def.	Date	Acc. Date

Remarks for Decision
 Post Construction Permit
 Army Corp of Engineers Permit
 DEP Permit
 Building Permit

BUILDING PERMIT AND APPLICATION Dec 21, 19 72 Value 4500 M 1 L 24
 Fee 35.00 No. 92-702
 Owner EDWARD McCARRY Location 11 Badgers + Stand West
 Mailing Address Same Zip Tel. 9-2501
 Applicant Donna McCarry Contractor M. Henrick Assoc 600-245 9629
 Plumbing Permit No., Interior Exterior N/A No. Baths Dist. to Water 7
 Plot Plan N/A Yard Spaces N/A ft. front R/W line 30+ ft. left, 20+ ft. rt., N/A ft. rear
 Building Plan N/A Dimensions 300 Plans Ht. Foundation PILINGs - Fin. Cellar
 Structural type Style Roof N/A Insul. Elect. →
 Ext. Int. Heat Fireplace/Stove Other N/A

Occupancy Permit required NO
 Repair and restructure existing dock, finger piers,
 (orks by Army Corp + Kitt. Post Authority previously given)
 In accordance with Chapter 1, Section IV, subsection D, of Appendix A. Land Use and Development Code Zoning Ordinance for the
 Town of Kittery, Maine, adopted June 13, 1977, this application for a Building Permit is hereby approved/denied by
 [Signature] Code Enforcement Officer, for the following reason(s):

Owner's signature _____
 Applicant other than owner:
 I hereby certify that the proposed construction and/or use is authorized by the owner of record and I have been
 instructed by the owner to make this application as his authorized agent.
 Signature of Agent [Signature] Tel. _____
 Address _____ State _____ Zip _____

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION
 WORK IS NOT STARTED WITHIN SIX MONTHS OF DATE THE
 PERMIT IS ISSUED AS NOTED ABOVE.

IN PROGRESS INSPECTIONS INDICATED ON THIS CARD
 CAN BE ARRANGED FOR BY TELEPHONE OR WRITTEN
 NOTIFICATION. TEL. 439-0452



TOWN OF KITTEERY PORT AUTHORITY

TOWN HALL
KITTEERY, MAINE 03904

Mr. & Mrs. Ed McGarry
Morrison's Lobsters
11 Badgers Island West
Kittery, Maine 03904

4 December 1992

Dear Mr. & Mrs. McGarry:

Re: Request to modify your existing float system, by replacing your 6'X73' Base Float with a 6'X60' Float with two 4'X40' Finger Floats attached parallel to the pier. All being connected to existing pier by 3'X35' gangway riding on a 8'X10' Float inside of Base Float. Your request was discussed at the Port Authority meeting on Dec. 3, 1992.

The Port Authority voted to accept your request, as submitted, to replace the existing floats as noted above. Any changes necessary must be brought back to the Port Authority for approval before hand.

For a referance, the Port Authority measured from the end of existing dock.

This Port Authority approval is contingent on the approval of any other governing bodies that may be required.

Respectfully

Milton Hall (Chairman)

cc: Port Authority Members
Harbormaster
Code Officer
File (2)

November 20, 1992

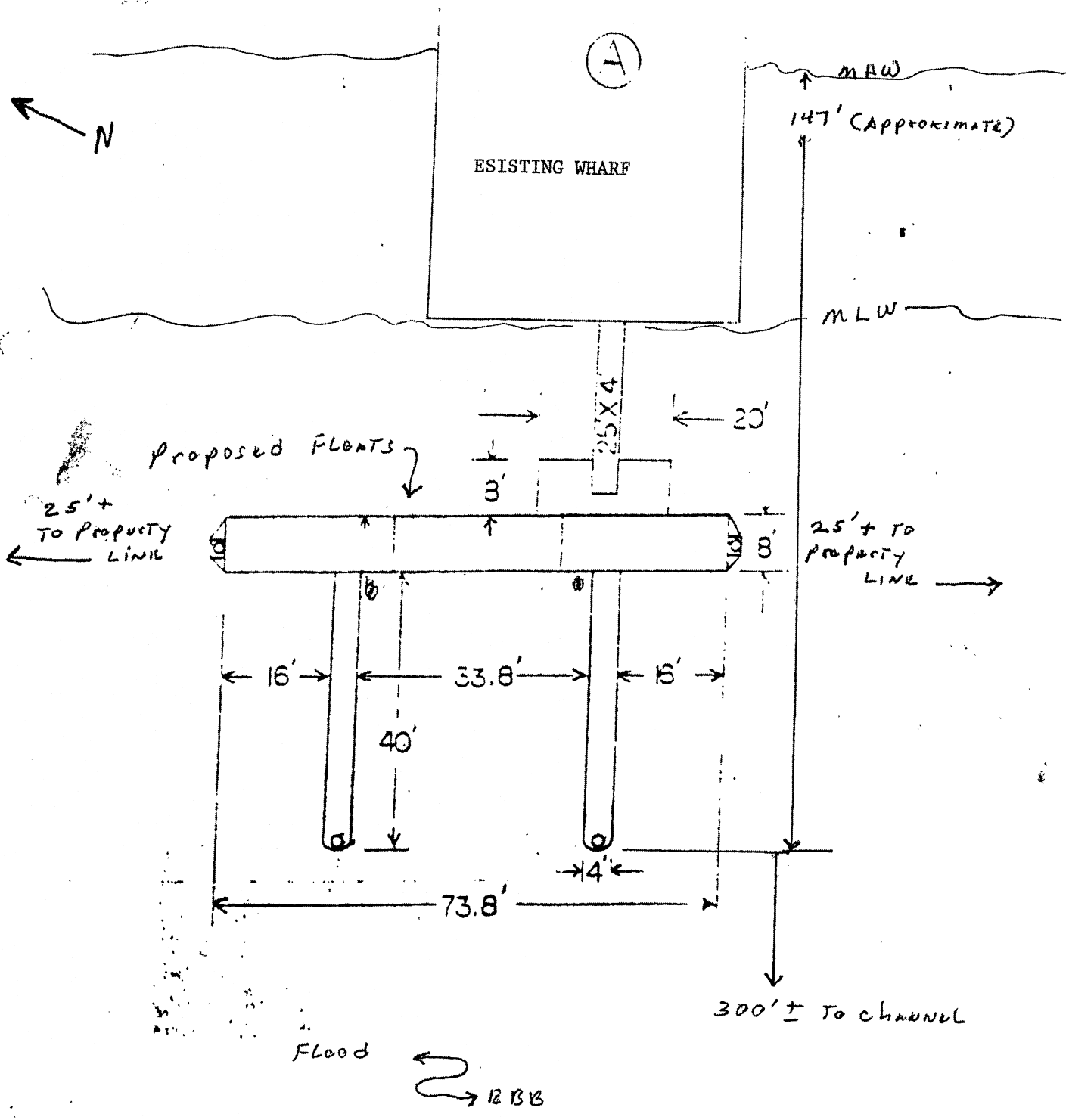
To The Port Authority Board Members,

Attached is a diagram of the ramp and docks we now have for private use. Also attached is a copy of the permit I received from the Department of Environmental Protection and a copy of our check sent to them.

This had to be done due to the fact the previous dock suffered extensive damage from the No Name Storm. Also from all the dredging and blasting that had been done in the river, we ended up loosing whatever depth we had to the point that at low tide most of our dock sat in the mud. We couldn't take our boat off the dock unless it was high tide. We also had to get intouch with New England Telephone because their cables are all over our property and for this reason we could not dredge.

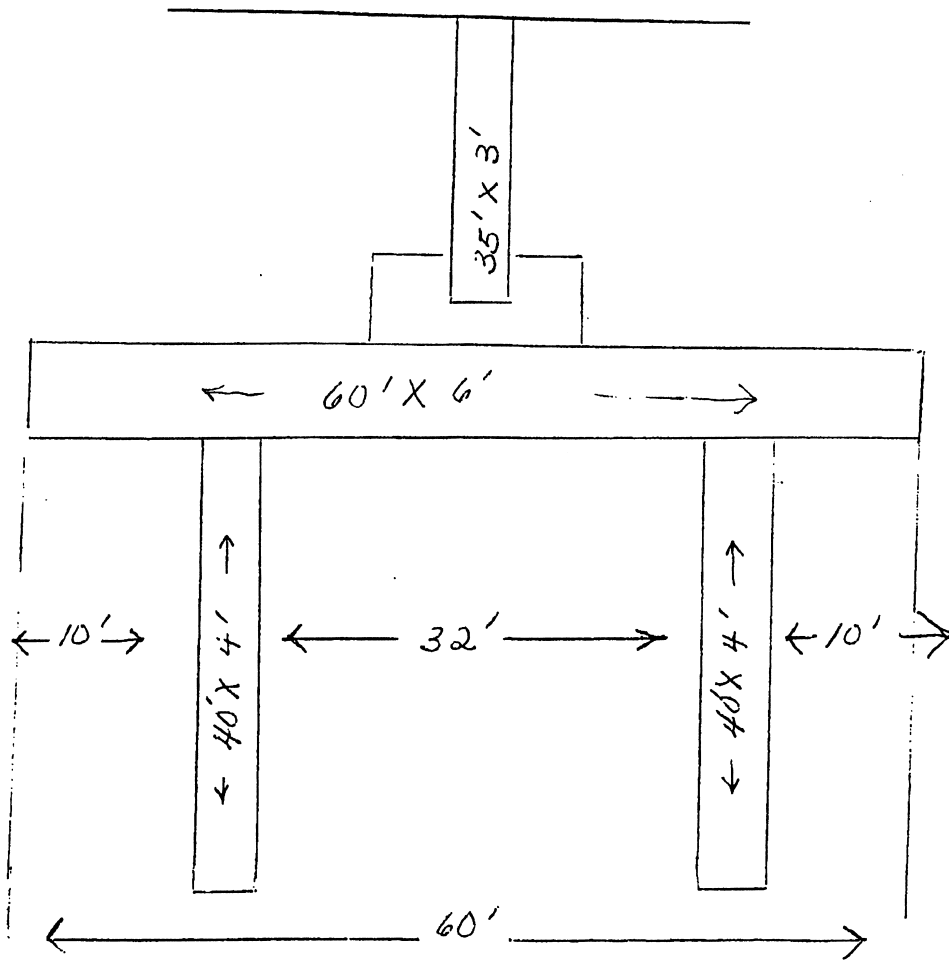
I hope this is everything you need so this matter can be resolved. I want to apologize for not presenting our plan to the Members of the Board, but we were under the assumption that all concerned parties had been notified.

Edward A. McBarry
Donna M. McBarry



PROPOSED FINGER FLOATS
 FOR: EDWARD MCGARRY
 OFF: BADGERS ISLAND WEST
 AT: KITTERY, MAINE
 SHEET 4 OF 7

11/92
Updated Drawing



McGarry KPA Exhibit 3



TOWN OF KITTEY PORT AUTHORITY
TOWN HALL
P.O. BOX 808, KITTEY, MAINE 03904

Pickering Marine
Glen Normendeau
7 Pickering Ave.
Portsmouth, N.H. 03801

Sept. 12, 2000

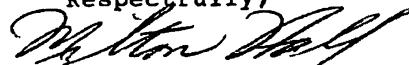
Dear Mr. Normendeau:

Re: Request to Re-Construct Pier, Ramp and Floats existing for Jade Realty Corp., 9 Badgers Isl. West, Kittery, Me. 03904.

The subject pier and floats were discussed at the Port Authority Meeting on September 7, 2000.

The Port Authority agreed that no permits were required from the Port Authority since you were replacing an existing Pier, Ramp and Floats. One stipulation being that the railings on the pier not be any higher than 42" and the Pilings on the Pier and Floats not be any higher than the top of the rails.

Respectfully,


Milton Hall (Chairman)

cc: Files (2)
Code Enforcement Officer

office

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)
PERMIT BY RULE NOTIFICATION FORM
 (For use with DEP Regulation, Chapter 305)

PLEASE TYPE OR PRINT IN BLACK INK ONLY (3 COPIES, PLEASE BEAR DOWN)

Name of Applicant: Pickering Marine Corporation		Name of Owner: Jade Realty Corporation	
Mailing Address: 7 Pickering Ave.		Town/City: Portsmouth	
State: NH	Zip Code: 03801	Daytime Telephone No. (Include area code): 603-427-2824	
Name of Wetland, Water Body or Stream: Piscataqua River			
Detailed Directions to Site: Interstate 95 South to Kittery Traffic Circle to route 1 to Badgers Island West. Property is on the left in front of the new Condominium (easily identifiable)			
Town/City: Kittery	Map #: 1	Lot #: 23	County: York
Description of Project: Reconstruct existing deteriorated pier, ramp, & floats			
Part of a larger project?			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

(CHECK ONE) This project: does does not involve work below mean low water.

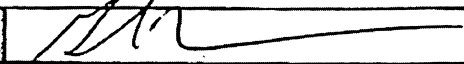
I am filing notice of my intent to carry out work which meets the requirements for Permit By Rule (PBR) under DEP Regulation, Chapter 305. I have a copy of PBR Sections checked below. I have read and will comply with all of the standards.

- | | | |
|--|---|---|
| <input type="checkbox"/> Sec. (2) Soil Disturbance | <input type="checkbox"/> Sec. (8) Shoreline stabilization | <input type="checkbox"/> Sec. (14) Piers, Wharves & Pilings |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input type="checkbox"/> Sec. (9) Utility Crossing | <input type="checkbox"/> Sec. (15) Public Boat Ramps |
| <input checked="" type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input type="checkbox"/> Sec. (5) REPEALED | <input type="checkbox"/> Sec. (11) State Transportation Facilities | <input type="checkbox"/> Sec. (17) Transfers/Permit Extension |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Vegetation | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (13) F&W Creation/Enhance/Water Quality Improvement | |

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. I also understand that *this permit is not valid until approved by the Department or 14 days after receipt by the Department, whichever is less.*

I have attached all of the following required submittals. NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS:

- Attach a check for \$50 (non-refundable) made payable to: "Treasurer, State of Maine".
- Attach a U.S.G.S. topo map or Maine Atlas & Gazetteer map with the project site clearly marked.
- Attach photographs showing existing site conditions (unless not required under standards).

Signature of Applicant: 	Date: 7/27/2000
---	-----------------

Glenn Normandeau, President, Pickering Marine Corp.

Keep the bottom copy as a record of permit. Send the form with attachments via certified mail to the Maine Dept. of Environmental Protection at the appropriate regional office listed below. The DEP will send a copy to the Town Office as evidence of the DEP's receipt of notification. No further authorization by DEP will be issued after receipt of notice. Permits are valid for two years. Work carried out in violation of any standard is subject to enforcement action.

AUGUSTA DEP
 STATE HOUSE STATION 17
 AUGUSTA, ME 04333-0017
 (207)287-2111

PORTLAND DEP
 312 CANCO ROAD
 PORTLAND, ME 04103
 (207)822-6300

BANGOR DEP
 106 HOGAN ROAD
 BANGOR, ME 04401
 (207)941-4570

PRESQUE ISLE DEP
 1235 CENTRAL DRIVE
 PRESQUE ISLE, ME 04769
 (207)764-0477

OFFICE USE ONLY	Ck.#	Date	Staff	Staff	After Photos
PBR #	FP		Acc. Date	Def. Date	



REPLY TO ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

DEPARTMENT OF THE ARMY PROGRAMMATIC GENERAL PERMIT
STATE OF MAINE, SUMMARY OF SCREENING AND STATUS

JADE REALTY CORPORATION
C/O PICKERING MARINE CORPORATION
7 PICKERING AVENUE
PORTSMOUTH, NH 03801

CORPS PERMIT # 200001981
CORPS PGP ID# 00-415
STATE ID# PBR

DESCRIPTION OF WORK AS ON ATTACHED STATE APPN:

Demolish an existing pile and timber pier in the Piscataqua River at Kittery, Maine and replace it with a 140'X 10' pile and timber pier leading to an 18'x 40' pile supported platform forming a "T". Along the northern and southwestern sides of the deck will be a 27'x 8' and 2, 20'x 8' floats respectively. The floats will be accessed by a 36'x 3' ramp. A boathouse located on the end of the existing pier will be relocated to the same position on the new structure.

UTM GRID COORDINATES N: 4771132 E: 357261 USGS QUAD: KITTERY, ME

I. STATE ACTIONS: PENDING [X], ISSUED[], DENIED [] DATE

LEVEL OF STATE REVIEW: PERMIT BY RULE: X, TIER 1: TIER 2: TIER 3: (NRPA).

II. FEDERAL ACTIONS:

DATE STATE FILE REVIEWED: 8/10/00 (PGP JP MEETING)

LEVEL OF CORPS REVIEW: CATEGORY 1: CATEGORY 2: x

AUTHORITY: SEC 10 X, 404, 10/404, 103

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

ESSENTIAL FISH HABITAT (EFH): EFH PRESENT Y/N (CIRCLE ONE)

IF YES: Based on the terms and conditions of the PGP, which are intended to ensure that authorized projects cause no more than minimal environmental impacts, the Corps of Engineers has preliminary determined that this project will not cause more than minimal adverse effects to EFH identified under the Magnuson-Stevens Fisheries Conservation and Management Act.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA NO, USF&WS NO, NMFS NO

CORPS DETERMINATION: We authorize your project as proposed and as shown on the plans submitted to the Corps under the State of Maine PGP.

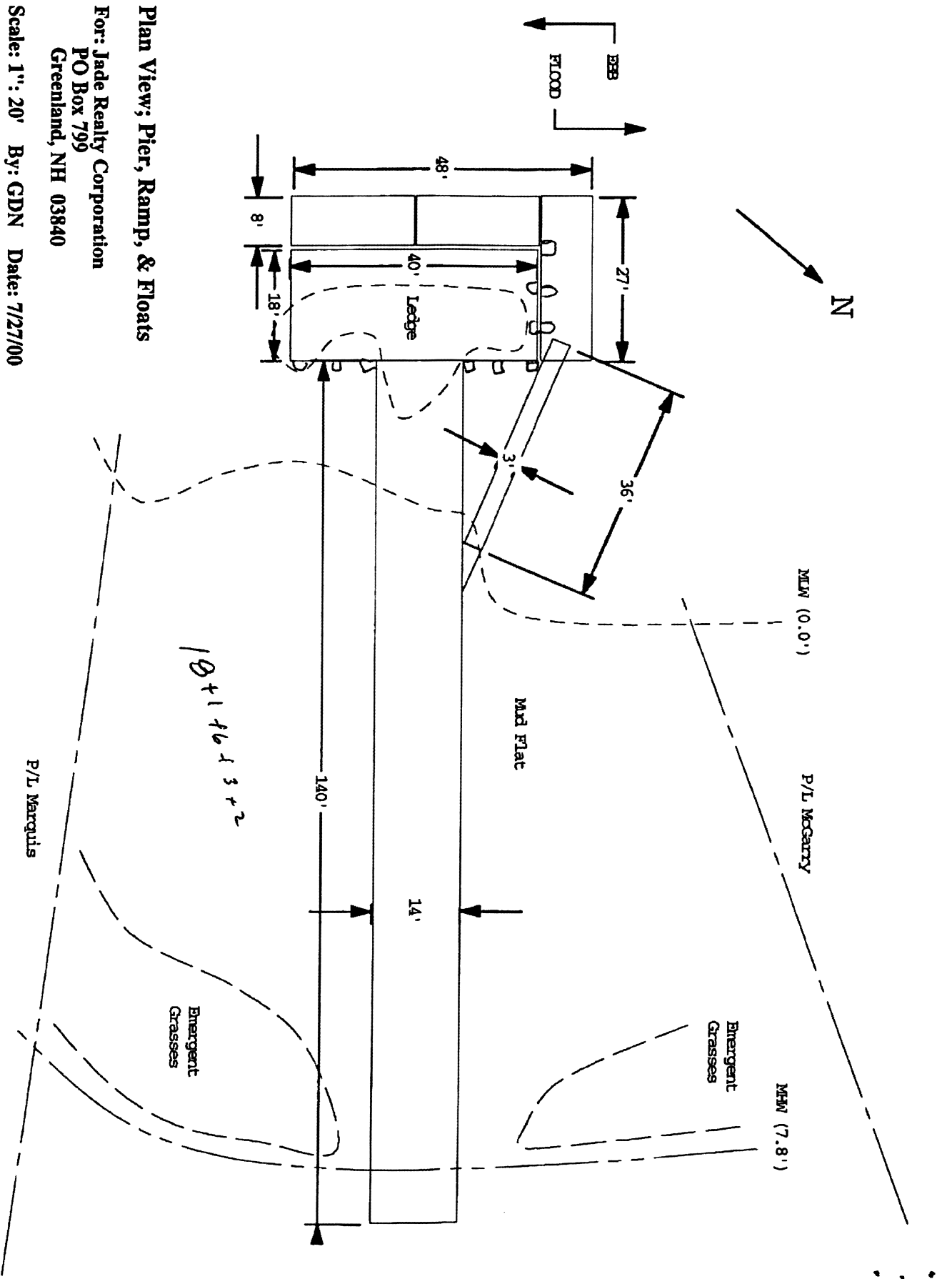
Please note that all work is subject to the conditions contained in the general permit and any additional special conditions listed on any attached sheets. No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. Also, this permit requires you to notify us before beginning work and allow us to inspect the project. Hence, you must complete and return the attached Work Start Notification Form(s) to this office no later than two weeks before the anticipated starting date. (FOR PROJECTS REQUIRING MITIGATION, BE SURE TO INCLUDE MITIGATION WORK START FORM)

Additional Special conditions Attached: YES/NO (CIRCLE ONE)

The Corps of Engineers has implemented an administrative appeals process for jurisdictional determinations. If you are interested in appealing the jurisdictional determination for this project; or if you would like any additional information pertaining to the appeals process, please contact Shawn Mahaney or Rod Howe of my staff at 207-623-8367 at our Manchester, Maine Project Office.

Jay L. Clement
JAY L. CLEMENT
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

David H. Killoy
DAVID H. KILLOY
CHIEF, PERMITS & ENFORCEMENT SECTION
REGULATORY BRANCH
DATE 10/30/00

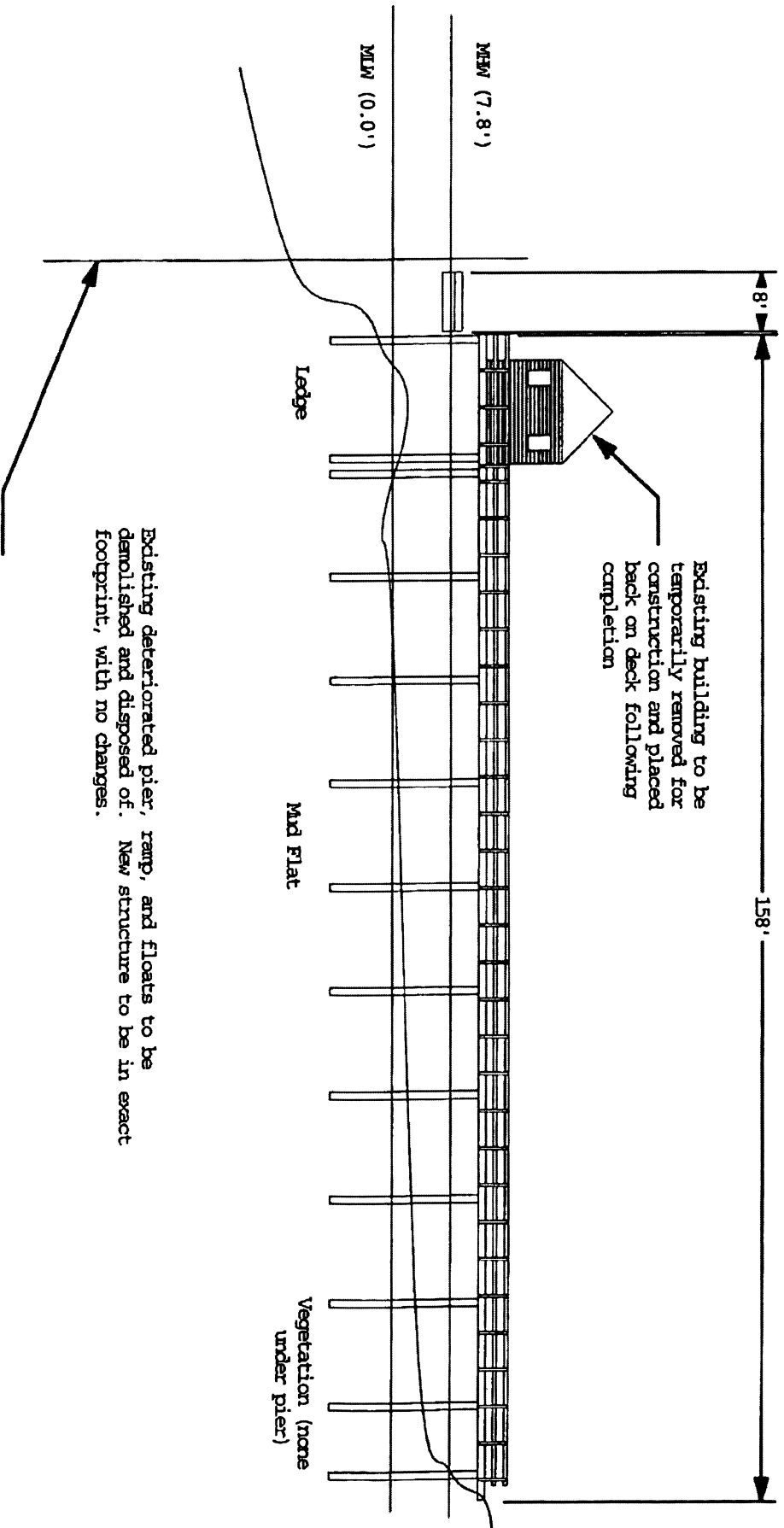


Plan View; Pier, Ramp, & Floats

For: Jade Realty Corporation
 PO Box 799
 Greenland, NH 03840

Scale: 1" = 20' By: GDN Date: 7/27/00

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824



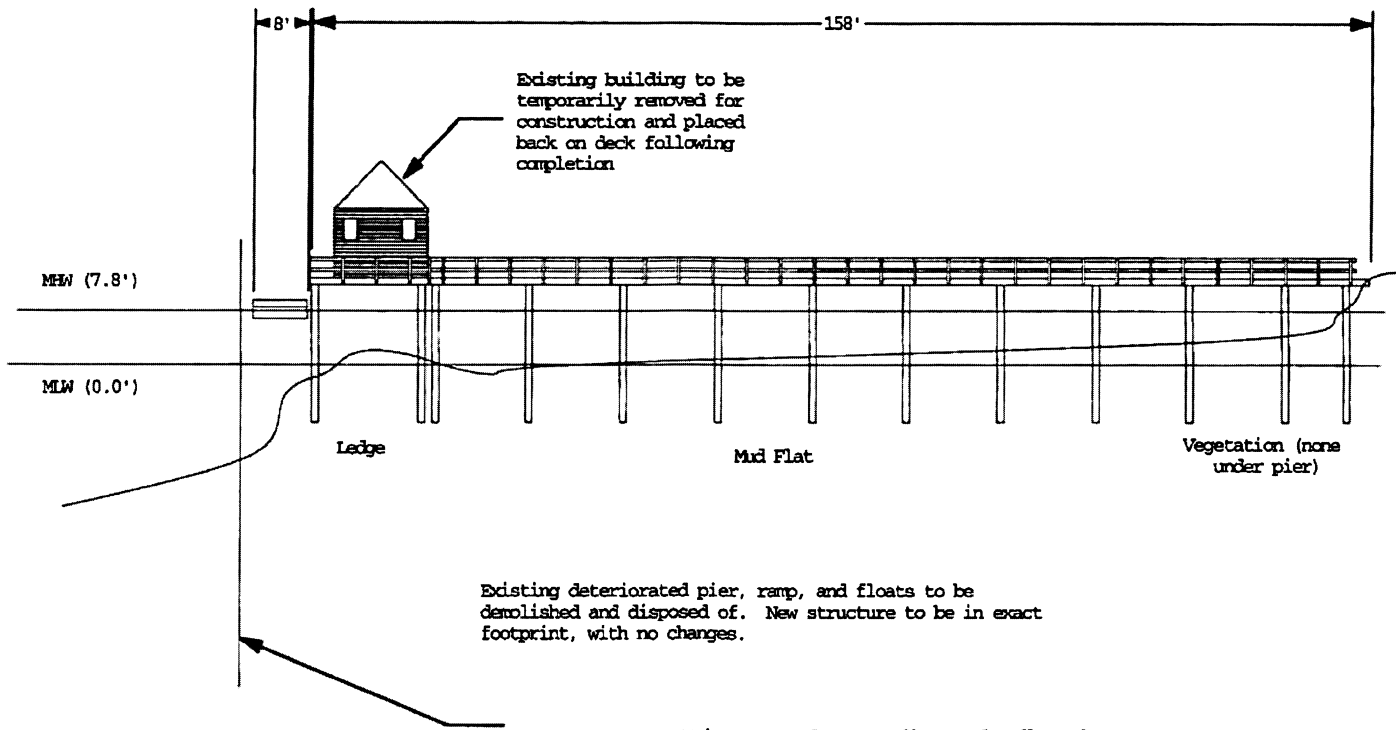
Note: Maine State Plane Coordinates for float face
 N 90830 E 343155

Elevation View; Pier, Ramp, & Floats

For: Jade Realty Corporation
 PO Box 799
 Greenland, NH 03840

Scale: 1" = 20' By: GDN Date: 7/27/00

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824



Elevation View; Pier, Ramp, & Floats

For: Jade Realty Corporation
 PO Box 799
 Greenland, NH 03840

Scale: 1" : 20' By: GDN Date: 7/27/00

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824

TOWN OF KITTERY PORT AUTHORITY
APPLICATION

CASE NO. _____

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

DATE: 7/27/00

The following application is submitted for the ~~(construction modification)~~
reconstruction) of a Pier, Ramp & Floats as specified in the
Town of Kittery Port Authority Regulations

1. The owner of the property is Jade Realty Corporation 2. Telephone # 603-430-8323
2. The property address is 9 Badgers Island West
3. Assessor's Map # 1 , Lot # 23 , Size (acres) 0.6 a , Zoning District BI
4. The shorefrontage this property is 140 feet measured at the high water line.
5. The applicant is demonstrates a legal interest in the property by providing a copy of the following: Deed
6. Additional Permits required:
 - a. Building permit X
 - b. Planning board review _____
 - c. DEP Permit X
 - d. Army Corps of Engineers X

7. CONSTRUCTION PLAN

Please provide a description of the property showing all proposed construction which shows the lot lines and exact positions of the proposed structure with dimensions and elevations from a readily identifiable reference points.

Signed Applicant _____

Glenn Normandcau, President, Pickering Marine Corporation
Owner's Agent

Signed (Property Owner) _____

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824

ABUTTERS TO:

Map 1, Lot 23
Jade Realty Corporation
PO Box 799
Greenland, NH 03840

ABUTTER LIST

Tax Map & Lot No.
Name
Mailing Address

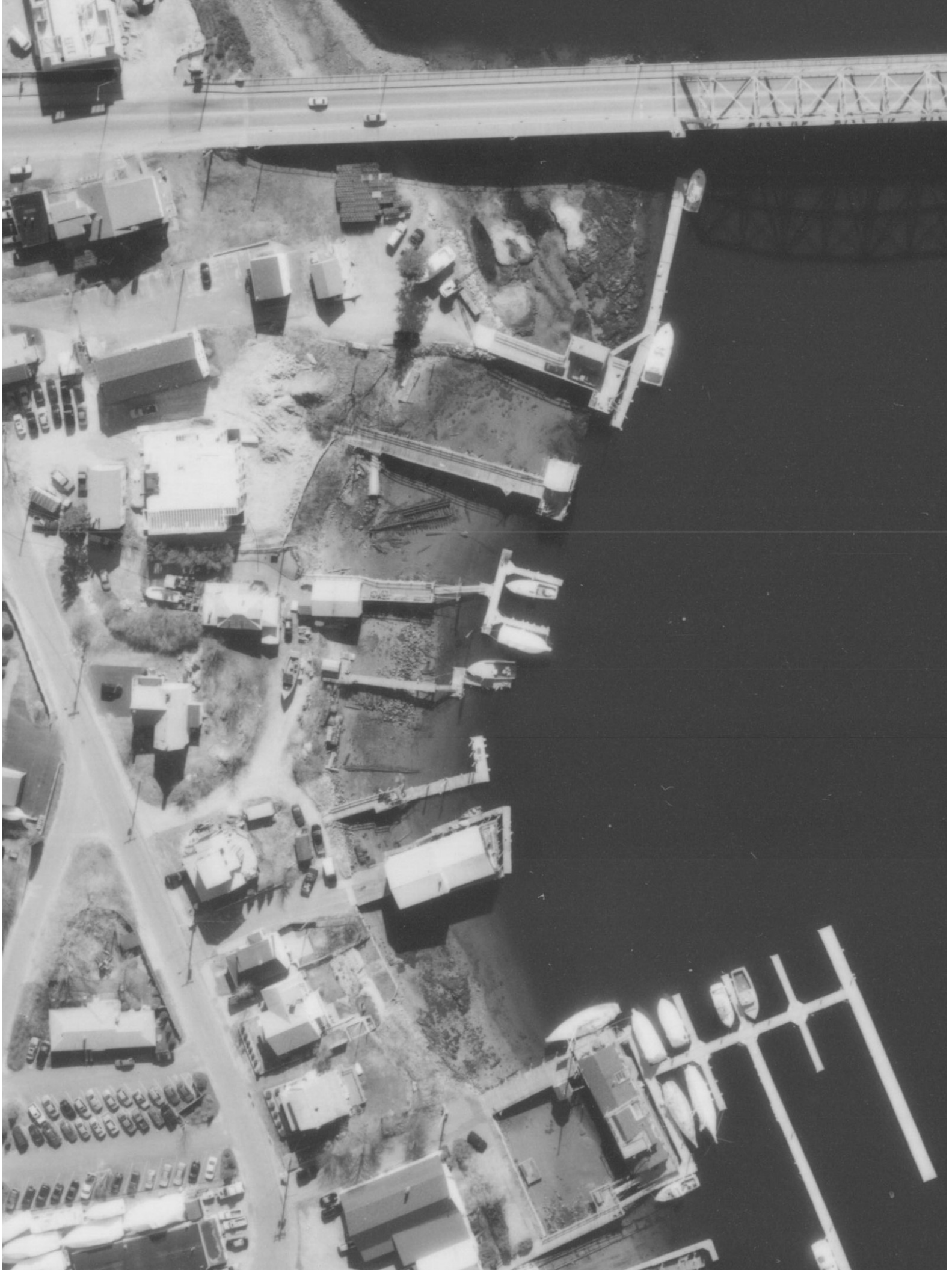
Map 1, Lot 19
Anthony Marquis
4 Raynes Neck Rd.
York, ME 03909

Map 1, Lot 20
Carroll Trust
Patricia Rossiter
55 Whipple Rd.
Kittery, ME 03904

Map 1, Lot 22
Wilfred & Janet Verville
7 Badgers Island West
Kittery, ME 03904

Map 1, Lot 24
Edward McGarry
11 Badgers Island West
Kittery, ME 03904





McGarry KPA Exhibit 5

From: Judi Clark <jucl@natureplanet.com>
Date: February 27, 2023 at 11:27:27 PM EST
To: tdmcgarry@comcast.net
Subject: Original Pier on Badgers Island

To whom it may concern:

I lived in the duplex on Badgers Island for 12+ years, from 1981 until spring of 1994. This is the property next to Ted and Donna McGarry. I moved when the new owners wanted the property for themselves, and they soon tore the house down to build the present day Condos.

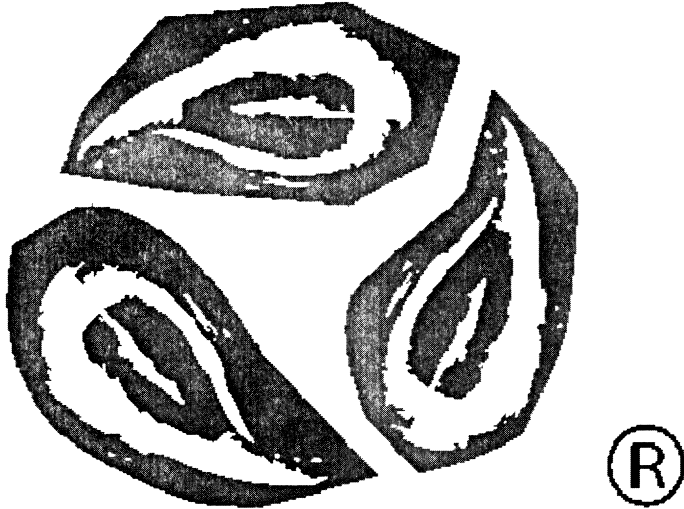
On a historical note, the home that eventually became the duplex that I lived in, was built by the shipbuilder William Badger in 1797 who played a role in the amazing shipbuilding industry on the Piscataqua river.

When I lived in the duplex on Badger Island, I rented from a fisherman named Vinnie Perrine. He kept his fishing trawler on the dock. There was just a single pier that was wider at the end that allowed him to tie the fishing boat to the dock in parallel with the shore. After a few years, Vinnie added an oversized shed for a tiny office towards the end of the dock. To my memory, there was no gangway on the side of the dock closest to the McGarry's docks.. Outside of the shed, the dock remained the same the entire time that I lived there.

Thanks,

Judi Clark
Vice President of Operations

NATURE



PLANET

225 Ottley Dr, Suite 220 | Atlanta, GA 30324

Direct Line: 503 664 3366

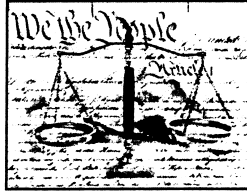
www.NaturePlanet.com

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McGarry KPA Exhibit 6

Patrick S. Bedard
psbedlaw@bedardbobrow.com



BEDARD & BOBROW, PC

Practicing Law in ME, NH & MA
9 Bradstreet Lane P.O. Box 366
Eliot, Maine 03903
Tel. 207-439-4502 Fax 207-439-6172
www.bedardbobrow.com

David J. Bobrow
djblaw@bedardbobrow.com

October 26, 2022

Ben Porter
President
Langdon's Island Condominium Association
9 Badgers Island
Kittery, Maine 03904

Re: Docks and floats at 11 and 9 Badgers Island, Kittery, Maine

Dear Mr. Porter:

As you know I represent Donna McGarry, owner of 11 Badgers Island, Kittery, Maine. I am following up after my letter to you dated October 18, 2022. After I wrote to you I requested from the Town of Kittery records related to the dock and float system on your property at 9 Badgers Island, Kittery, Maine. The Harbormaster delivered to my office what records the Town of Kittery, including the Port Authority, had related to your dock at 9 Badgers Island, Kittery, Maine.

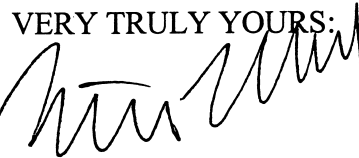
The dock at 9 Badgers Island, Kittery, Maine was approved in 1980. This originally constructed dock has the three approvals required for a dock: Army Corps, Maine Department of Environmental Protection, and the Town of Kittery Port Authority. The approved dock is 12 feet by 140 feet with a T portion at the end of the dock which is 20 feet by 40 feet. This was all legally done and there are permits for the dock.

There are no further permits that I can find (none were delivered by the Town of Kittery). It appears that the dock was expanded by a prior owner (possibly before the condominium was formed) expanding the dock with a float approximately 8 feet further towards 11 Badgers Island, Donna McGarry's permitted dock and floats. This is shown on a 2003 plan of 9 Badgers Island done by LeBlanc Associates for Jade Realty Corporation showing the construction of a ramp and floats at the end of the T. The plan shows that the T end of the pier is now 48 feet wide instead of the permitted 40 feet wide, going closer to Donna McGarry's dock and floats than allowed (the estimate on the plan of the distance is now 40' to 50' when at least 50' is required.) The front of the dock also appears to have been expanded about 8 feet into the Piscataqua River channel. According to the Port Authority Rules in Kittery a property owner needs Kittery Port Authority Approval for floats (which are permanent structures). I also expect Army Corps and Maine DEP approval is needed as well. The Town was unable to provide any evidence that this expansion was permitted. Donna told me she did not receive any notice from the Town, nor any other permitting authority, of any expansion of this float. Instead, the work was apparently done

and the expansion was completed. The expansion has caused problems because placing a boat on the side of the float chokes off Donna's access to her dock and float.

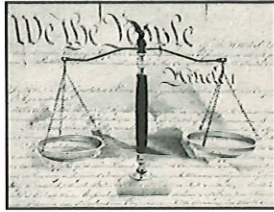
I am requesting from you a copy of the permits for this expansion of your dock beyond the 20 feet by 40 feet T area at the end of the dock. If you do not have permits for this then the float area closest to Donna should not be used for docking boats as it was not permitted and is too close to Donna's dock and float system. I attach copies of the evidence the Town of Kittery provided to me showing the dock that was permitted in 1980, and the plan showing the condition of the dock in 2003 after an expansion for which there is no evidence of any permits.

I look forward to hearing from you.

VERY TRULY YOURS:

PATRICK S. BEDARD

Cc: Donna McGarry

Patrick S. Bedard
psbedlaw@bedardbobrow.com



BEDARD & BOBROW, PC

Practicing Law in ME, NH & MA
9 Bradstreet Lane P.O. Box 366
Eliot, Maine 03903
Tel. 207-439-4502 Fax 207-439-6172
www.bedardbobrow.com

David J. Bobrow
djblaw@bedardbobrow.com

June 19, 2023

Charles Patten, Chairman
Kittery Port Authority
200 Rogers Road
Kittery, ME 03904

Re: Application of Langdon Island Condominium Association
REGULAR MAIL-10 COPIES

Dear Chairman Patten:

I represent Donna McGarry, owner of 11 Badger's Island West, Kittery, Maine. I am writing to you regarding Langdon's Island Condominium Float Expansion application scheduled to be heard on Thursday, July 5, 2023. This is Donna McGarry's response to the proposal.

First, I attach my previous submission to the Kittery Port Authority on March 28, 2023 which was not considered because the application had not yet been accepted. However, I am now asking this be considered. It outlines the fact that this existing dock expansion on the Langdon Island Condominium (hereafter Langdon Island) property, which is too close to Donna McGarry's permitted dock, was never permitted by the Kittery Port Authority. The previous owner of Langdon Island's at some point expanded the dock closer to Donna McGarry's dock and did not receive a permit to do so. This illegal expansion has caused problems for Donna McGarry because when any boat is placed on the right side of the dock, nearer Donna's dock, it blocks access to several of her slips.

Langdon Island has made statements that Donna McGarry wants it to tear out its non-permitted dock. This is untrue and she has never said that, either personally or through her attorney. She can continue to access her dock and floats with the expansion there so long as boats are not parked on the right side of Langdon Island's dock expansion. Donna cannot access her dock and floats if there is a boat of any size placed there. Langdon Island has suggested that it would man any boat parked there so the boat could be moved immediately if Donna McGarry needed it to be moved. This is not acceptable because it could cause problems for Donna and anyone else using her dock and slip and they should not be at the mercy of a boat parked there, hoping it is manned and someone can immediately move it. No boats should be parked on the right side of Langdon Island's dock. Also, the six boats being parked on the slips proposed to be constructed should not be longer than 25 feet so they do not come out into the water and obstruct Donna's passage to her dock and floats. Donna McGarry does not oppose this proposal by

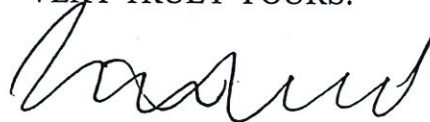
Langdon Island so long as two conditions are placed on the plan or in the final approval and the following is done:

1. The current float on the right side of the Langdon Island dock and float, which was illegally expanded, can remain but cannot ever be used for access by a boat or to park a boat. To make certain this happens a railing should be built along this side and any cleats be removed so a boat cannot be tied up on this side; and
2. The size of any boat on the next floats and in these slips can be no longer than 25 feet overall length, which includes the engine. This is to prevent the boats from jutting out into the traveled way on the river which would obstruct Donna from using her dock and float.

With these conditions made part of the approval and/or noted on the plan Donna McGarry does not oppose Langdon Island's dock and float application. If this is not done Donna McGarry opposes the approval for the reasons set forth in this letter and in the detailed response sent to the Kittery Port Authority on March 28, 2023.

If you have any questions, please do not hesitate to contact me.

VERY TRULY YOURS:



PATRICK S. BEDARD

Cc: Donna McGarry
Steve Riker, Ambit Engineering

DONNA MCGARRY-MORRISON'S LOBSTER-OPPOSITION TO
LANGDON ISLAND CONDOMINIUM APPLICATION BEING
ACCEPTED

I represent Donna McGarry, owner of Morrison's Lobster at 11 Badgers Island West, Kittery, Maine, and abutting 9 Badgers Island West. She opposes the Kittery Port Authority accepting the application as her existing dock is closer than 50 feet to the dock at 9 Badgers Island West. A previous owner of 9 Badgers Island West illegally expanded the dock by placing a walkway and floats next to the existing dock. This unpermitted expansion was closer than 50 feet to Donna McGarry's existing dock and floats. This unpermitted expansion was also not allowed by section 4.7.6 of the Kittery Port Authority rules and regulations.

The history of permits for docks for both parcels will show what previous approvals were granted. First, 9 Badgers Island West received approval in 1980 from the Kittery Port Authority, and other governing bodies, for the construction of a dock on its property. I have enclosed these documents. You can see the existing Morrison dock to the left in the drawing. The only other approval 9 Badgers Island West received was an approval to replace an existing dock on the property dated September 12, 2000; however, this replacement showed an existing walkway and floats that were never approved in 1980, or at any time thereafter. The Town's records do not show any approval for this walkway and additional floats. The unpermitted expansion appears to be a walkway 3 feet wide by 36 feet in length, a float on the side of the permitted dock 27 feet length and approximately 8 feet wide, and a float in front of the permitted dock approximately 40 feet long and 8 feet in width. This unpermitted expansion is apparent by comparing the existing conditions plan in 2000 with what was permitted in 1980. Thus, the additional walkway and floats are not permitted and should be removed.

In 1992 the McGarrys, Ted (Donna's husband who is now deceased) and Donna, received approval for a dock and float expansion at 11 Badgers Island West. After this approval there has been no further expansion of the McGarry's dock and it remains as it was after being built out after the 1992 approvals.

It appears that the owner of 9 Badgers Island West at some point closer to the year 2000 added a gangway and extension to its dock which came closer than 50 feet to Donna McGarry's existing dock and floats. The best evidence of this is a photo of Badger's Island provided by the Maine Geological Survey on April 6, 1999. It shows the McGarry dock existing as permitted in 1992, but it shows no expansion of the dock at 9 Badgers Island, Kittery, Maine (if you look at the blown up version of this photo it does show a slight lip on the right side which could have been used for a walkway, but does not show the floats or walkway existing at that time.) Donna McGarry does not recall a walkway or floats being used by 9 Baggers Island West at any time after their expansion of the dock in 1992 (or before) until around 2000 when the dock was rebuilt and expanded. If the walkway and floats were there after 1992 and used they would have obstructed Donna using boats to access her dock and floats. A prior renter at 9 Badgers Island West, Judi Clark, also does not recall any walkway or floats at 9 Badgers Island West from 1981 through 1994. This unpermitted expansion has caused problems for Donna McGarry since it was constructed and used.

As you can see in the attached sketch done by architect Brud Weger, overlaying the Langdon Island Condominium plan, it shows what happens when an 11 foot wide boat is parked on Donna McGarry's dock and Langdon Island Condominium decides to park a 10 foot wide boat to the side of its unpermitted 8 foot addition. If that happens there is not enough room for another boat parked at Donna McGarry's dock to get through and between the two boats. Thus, by the owner

of 9 Badgers Island West building (without a permit) too close to the McGarry dock it has impacted navigation and use of her dock.

Donna McGarry is requesting the Kittery Port Authority not accept this application by Langdon Island Condominium Association until it removes the floats and the walkway so that the property is consistent with the 1980 permit. This would mean taking out the floats on the side of the dock and in the front of the dock, as well as the walkway to the floats. The Kittery Port Authority has the power to request this by virtue of its Rules and Regulations, paragraph 6.1, because this section provides that if anyone violates the rules and regulations this may result in the loss of facility use and mooring privileges. This means that the Langdon Island Condominium Association dock and floats should not be used, nor should this application proceed to be scheduled for a public hearing, until the Langdon Island Condominium Association comes into compliance with its permitted use for the property.

I enclose the following documents:

1. 1980 permits for 9 Badgers Island West property (Vincent Prien);
2. 1992 permits for 11 Badgers Island West (Ted and Donna McGarry);
3. 2000 approval to replace existing docks and floats at 9 Badgers Island West (Pickering Marine);
4. April 6, 1999 photo provide by Maine Geological Survey, one regular size and the other blown up to show 9 and 11 Badgers Island West;
5. February 27, 2023 e-mail from Judi Clark regarding her living at 9 Badgers Island West from 1981 through 1994;
6. Letter from Attorney Patrick S. Bedard to Ben Porter, President of Langdon's Island Condominium Association dated October 26, 2022 requesting permits for the expansion

of the floats and walkway (and Mr. Porter provided by e-mail the 2000 approval which has been copied in number 3 here, but no permits for the expansion);


7. Sketch by Architect Brud Weger showing the difficulty for Donna McGarry accessing her dock due to the unpermitted float expansion.

I will be participating by zoom at the meeting on April 6, 2023, and Donna McGarry will be present in person.

RESPECTFULLY SUBMITTED:
DONNA MCGARRY,
By Her Attorney
PATRICK S. BEDARD, ME Bar No. 3813
BEDARD & BOBROW, PC.
P.O. Box 366
9 Bradstreet Lane
Eliot, ME 03903
207-439-4502

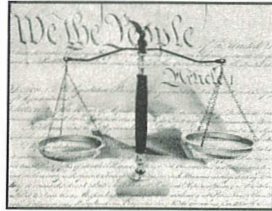
Date: _____

3/29/23



Patrick S. Bedard, Esq.

Patrick S. Bedard
psbedlaw@bedardbobrow.com



BEDARD & BOBROW, PC
Practicing Law in ME, NH & MA
9 Bradstreet Lane P.O. Box 366
Eliot, Maine 03903
Tel. 207-439-4502 Fax 207-439-6172
www.bedardbobrow.com

David J. Bobrow
djblaw@bedardbobrow.com

March 28, 2023

Charles Patten, Chairman
Kittery Port Authority
200 Rogers Road
Kittery, ME 03904

Re: Application of Langdon Island Condominium Association
HAND DELIVERED-10 COPIES

Dear Chairman Patten:

I represent Donna McGarry, an abutter to the proposed dock expansion at 9 Badgers Island West, Langdon Island Condominium Association. I was away and did not participate in the first meeting in March, 2023 considering whether to accept this application. I will be attending by zoom for the April 6, 2023 meeting. I believe Donna McGarry will be in attendance at the meeting on April 6, 2023 in person. I listened to the recording of the first meeting and wanted to provide what information I had that would hopefully be of assistance in understand what permits were granted for both Donna's property and the Langdon Island Condominium Association property. Thus, I have attached a brief argument regarding the unpermitted expansion which is obstructing Donna's access to her dock, and relevant documents regarding this, including permits, letters and a photograph from 1999. I have provided a total of 10 copies of this submission and have also provided one copy to the applicant's representative, Steve Riker.

I look forward to attending the meeting on April 6, 2023.

VERY TRULY YOURS:

A handwritten signature in blue ink, appearing to read "Patrick S. Bedard", is written over a light blue horizontal line.

PATRICK S. BEDARD

Cc: Client

DONNA MCGARRY-MORRISON'S LOBSTER-OPPOSITION TO
LANGDON ISLAND CONDOMINIUM APPLICATION BEING
ACCEPTED

I represent Donna McGarry, owner of Morrison's Lobster at 11 Badgers Island West, Kittery, Maine, and abutting 9 Badgers Island West. She opposes the Kittery Port Authority accepting the application as her existing dock is closer than 50 feet to the dock at 9 Badgers Island West. A previous owner of 9 Badgers Island West illegally expanded the dock by placing a walkway and floats next to the existing dock. This unpermitted expansion was closer than 50 feet to Donna McGarry's existing dock and floats. This unpermitted expansion was also not allowed by section 4.7.6 of the Kittery Port Authority rules and regulations.

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of 9 Badgers Island West building (without a permit) too close to the McGarry dock it has impacted navigation and use of her dock.

Donna McGarry is requesting the Kittery Port Authority not accept this application by Langdon Island Condominium Association until it removes the floats and the walkway so that the property is consistent with the 1980 permit. This would mean taking out the floats on the side of the dock and in the front of the dock, as well as the walkway to the floats. The Kittery Port Authority has the power to request this by virtue of its Rules and Regulations, paragraph 6.1, because this section provides that if anyone violates the rules and regulations this may result in the loss of facility use and mooring privileges. This means that the Langdon Island Condominium Association dock and floats should not be used, nor should this application proceed to be scheduled for a public hearing, until the Langdon Island Condominium Association comes into compliance with its permitted use for the property.

I enclose the following documents:

1. 1980 permits for 9 Badgers Island West property (Vincent Prien);
2. 1992 permits for 11 Badgers Island West (Ted and Donna McGarry);
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of the floats and walkway (and Mr. Porter provided by e-mail the 2000 approval which has been copied in number 3 here, but no permits for the expansion);

7. Sketch by Architect Brud Weger showing the difficulty for Donna McGarry accessing her dock due to the unpermitted float expansion.

I will be participating by zoom at the meeting on April 6, 2023, and Donna McGarry will be present in person.

RESPECTFULLY SUBMITTED:
DONNA MCGARRY,
By Her Attorney
PATRICK S. BEDARD, ME Bar No. 3813
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P.O. Box 366
9 Bradstreet Lane
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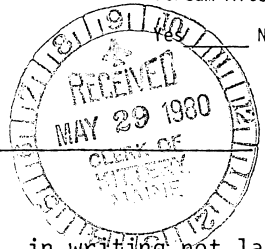
Date: 3/29/23



Patrick S. Bedard, Esq.

McGarry KPA Exhibit 1

MAR 1 Lot 23



Stream Alterations

No.

TO: Department of Environmental Protection

FROM: Kittery Municipal Office

TYPE OF APPLICATION: Wetlands

Please use this form to return your comments, if any, to this office, in writing not later than June 11. Otherwise, we will assume that you have no objections to this project. Questions concerning this project should be directed to Don Witherill at 289-2111.

PROJECT

APPLICANT

NUMBER: 03 - 6652

NAME: Vincent A. Prien

NAME: Pile Pier

CONTACT PERSON: (603) 964-5923

LOCATION: Kittery

After a thorough review of the above project, as presented to us, and consideration of our agency's standards, programs and responsibilities, the following comments are submitted to the Department of Environmental Protection:

1. This agency has no objections to the project as proposed. _____
2. The opinion of this agency is the proposed project warrants a Public Hearing and offers the following comments as a basis for such hearing:
3. This agency has objections to the project as proposed and offers the following comments as a basis for the objections:

(Comments must be signed and dated in order to be accepted by this Department.)
(If additional space is needed, please attach another sheet.)

PROJECT SUMMARY - WETLANDS ACT & CERTIFICATION

TO BE FILLED IN BY DEP

Applicant: Vincent A. Prien

City/Town: Kittery County: York

Name of Project: Pile Pier

Project No.: 03-6652-31130

1. Description of Project: 14' x 160' wood + Pile Private Pier on the Piscataqua River

2. Attach copy of deed, lease, purchase agreement, or other legal document establishing title, right or interest of applicant in the site.

3. Length of shoreline on the coastal wetland owned or controlled by the applicant.

140' of shoreline

4. Indicate nature of shoreline and tidal area (grassy, mud, rock, etc.)

Ledge + mud

5. Check below any other permits required for the project. Indicate with an asterisk (*) those permits already obtained.

U.S. Army Corps of Engineers (Tidal Waters)

Waste Discharge (DEP)

Other (Explain) Kittery Port authority and Kittery Planning Board

6. Actual physical dimensions of project:

Length (Out into wetland): 160'

Width (Along shore): 14'

Height: 2' above High water mark

7. Description of present use of the wetland: NONE, on said Property But adjoining Properties have Piers

8. Description of present use of the adjacent wetland: Recreating Lots # 24, 21
Both have Private Boat Docking facilities.

9. List power equipment to be used in construction of the project: Chain Saw,
Pump Drills, Pile driver.

10. Submit a scale drawing of the coastal wetland to be affected by the project, which shows the project in detail, the landowner's property boundary lines, the *low-water mark* and *high-water mark*. For your convenience, sample sketches and blank graph paper are attached. Applicants may submit larger drawings or blueprints, but if they exceed 8½" X 11" eleven copies are required.

11. State, in detail, the measures you propose to take to protect the surrounding area from the adverse affects of your project: _____
This is Private Dock - there is no need for waste
disposed -

12. If this project is part of a larger project describe below:

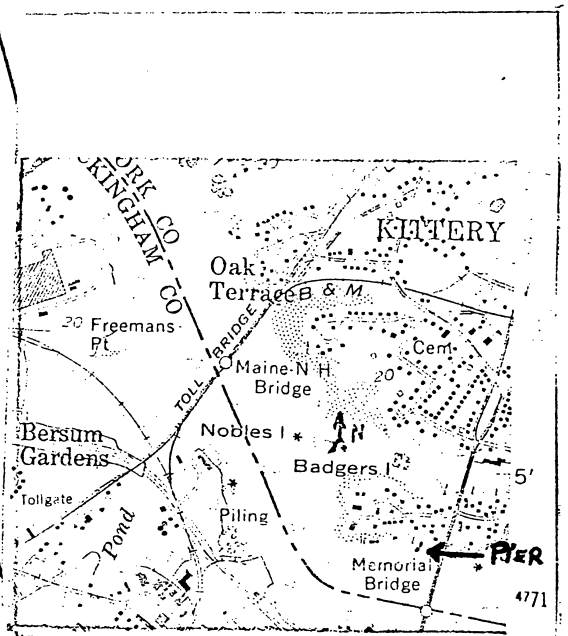
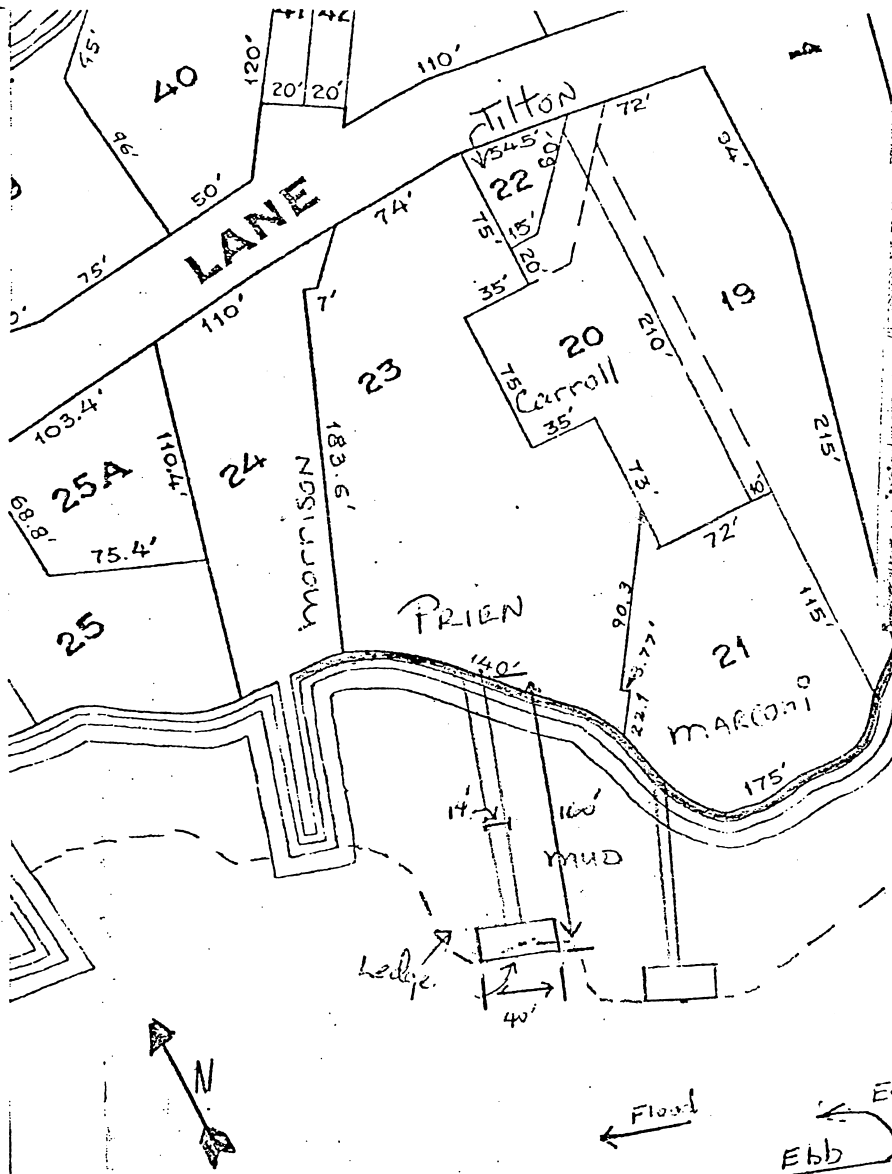
13. If dredging or filling indicate number of cubic yards: _____

14. Indicate location for deposition of dredged material: _____

15. Detailed directions for finding the site. (Include sketch map.)
Take Route 1 into Badgers Is. across River from
Ports. N.H., turn left onto Thomers lane, its the
Third House on left, Big yellow, 2 chimney Colonial Home.

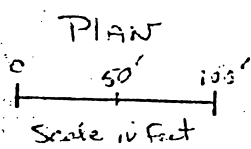
16. The applicant shall set forth below the names and addresses of the owners of *abutting* property, by signing this application the applicant certifies that he has provided each with a copy of the notice similar in form to that which is attached to this application.

NAME	ADDRESS
<u>Hugo Marconi</u>	<u>Badgers Is. Kittery, Maine</u>
<u>Sylvester Carroll</u>	<u>55 Whipple Rd. Kittery, ME.</u>
<u>Mrs. Marjorie Tilton</u>	<u>346 Pleasant St. Ports. N.H.</u>
<u>Martin Morrison</u>	<u>82 Badgers Is. Kittery</u>



Portsmouth Quasi
 New Hampshire - Maine
 7.5 min Series Topo
 U.S.G.S.
 Scale 1-24,000

Purpose: Private use for Small Craft
 Adjacent Property Owners:
 ① Lot 21 Hugo marconi
 ② Lot 20 Sylvester Carroll
 ③ Lot 22 marjorie Tilton
 ④ Lot 24 martin marrison

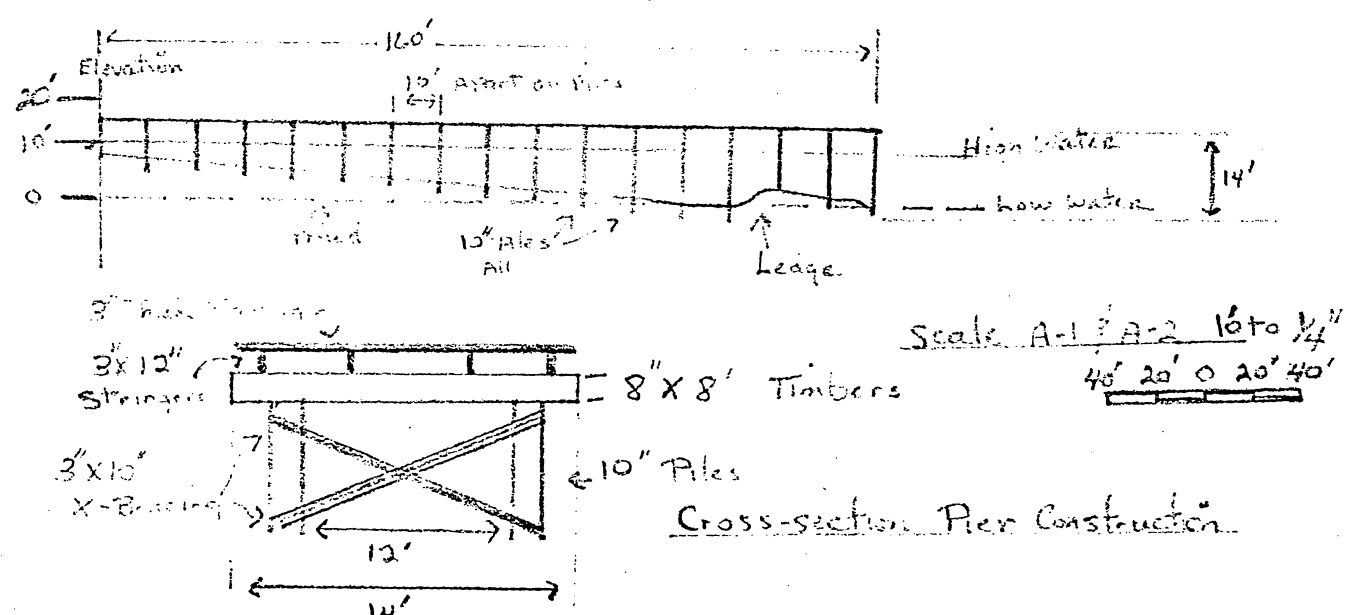
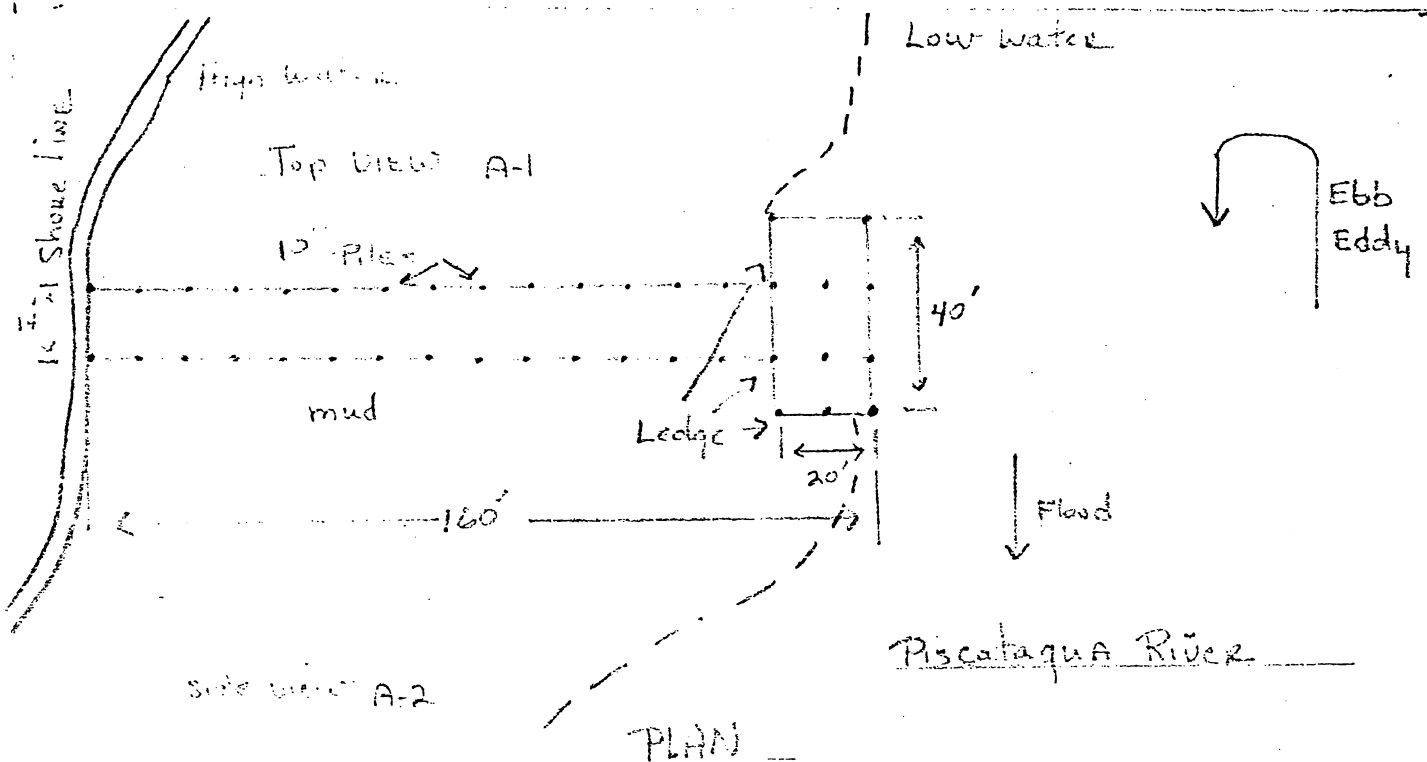


Kittery Tax map
 I Lot #23

PISCATAQUA

PORTSMOUTH

Dock Plan for
 Vincent PRIEN
 Sheet 1 of 2



- Notes
1. The proposed project is intended for private use only.
 2. Project does not involve dredging, excavating or filling.

Proposed Dock
 AT Piscataqua River
 In Nixey's main
 York County
 Application By
 Vincent Peiza

Receipt # 4829

BUILDING PERMIT AND APPLICATION 9-10-1981, Value 6000, M 1 L 23
 Owner PRIEN, VINCENT, Location BY BARDON ISL, Fee 6.00, No. 81-113
 Mailing Address 6 STONEWALL LN, RYE N.H., Zip 03070, Tel. 964-5028
 Applicant SAME, Contractor SELF
 Plumbing Permit No., Interior N/A, Exterior N/A, No. Baths N/A, Dist. to Water N/A
 Plot Plan YES, Yard Spaces N/A ft. front N/A, ft. left N/A, ft. rear N/A
 Building Plan YES, Dimensions SEE FILE 14x160 & 20x40 TOWER
 Structural type _____, Style _____, Foundation _____, Fin. Cellar _____
 Ext. _____, Int. _____, Roof _____, Insul. _____, Elect. _____
 Heat _____, Fireplace/Stove _____, Other _____
 Occupancy Permit required _____
14x160' PIER WITH 20x40' TEE AT SEA END - 7.1. & WOOD 50%

In accordance with Chapter 1, Section IV, subsection D, of Appendix A, Land Use and Development Code Zoning Ordinance for the Town of Kittery, Maine, adopted June 13, 1977, this application for a Building Permit is hereby approved/denied by P.E.O. P. A. TETREAU, ACTING, Code Enforcement Officer, for the following reason(s): APPROVAL HAS BEEN OBTAINED FROM ALL NEARBY CIVIC BODIES

Owner's signature [Signature]
 Applicant other than owner: _____
 I hereby certify that the proposed construction and/or use is authorized by the owner of record and I have been instructed by the owner to make this application as his authorized agent.
 Signature of Agent _____ Tel. _____
 Address _____ State _____ Zip _____

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION WORK IS NOT STARTED WITHIN SIX MONTHS OF DATE THE PERMIT IS ISSUED AS NOTED ABOVE.

IN PROGRESS INSPECTIONS INDICATED ON THIS CARD CAN BE ARRANGED FOR BY TELEPHONE OR WRITTEN NOTIFICATION. TEL. 439-0452



TOWN OF KITTERY

CERTIFICATE OF OCCUPANCY APPLICATION

9-100 19 87 Zone M 1 L 23 No. 11-111
 Owner James J. Gaudin Location 24 Borden St Kittery, ME
 Present Use Residential
 Proposed Construction and/or Use Ren. Deck
 Requisite Approvals See other documents, Plan 202, Per. No. 11-111, 11-111, 11-111

BUILDING INSPECTION RECORD

Local Ordinances	Rough-In Plumbing	Rough-In Electrical
Fire Codes	Finished Plumbing	Finished Electrical

Remarks:

CERTIFICATE OF OCCUPANCY PERMIT

Conditional or temporary occupancy issued by _____, 19____
 and is subject to the following conditions and/or safeguards _____
 _____ expires _____, 19____
 Completed occupancy issued by _____, _____, 19____,
 as the subject property has been inspected and/or evaluated and appears to be in compliance with all applicable codes.

BUILDING PERMIT AND APPLICATION

1-110 19 87 Value 2000 M 1 L 23 Fee 100 No. 11-111
 Owner James J. Gaudin Location 24 Borden St, Kittery, ME
 Mailing Address 24 Borden St, Kittery, ME Zip 04043 Tel. 253-1000
 Applicant James J. Gaudin Contractor John J. Gaudin
 Plumbing Permit No., Interior N/A Exterior N/A No. Baths 4 1/2 Dist. to Water 4 1/2
 Plot Plan 1/2, Yard Spaces N/A ft. front R/W line, N/A ft. left, 10 ft. rt., 10 ft. rear N/A
 Building Plan 1/2, Dimensions 30' x 10' x 10' x 10' Ht. 10' Ft.
 Structural type _____, Style _____, Foundation _____, Fin. Cellar _____
 Ext. _____, Int. _____, Roof _____, Insul. _____, Elect. _____
 Heat _____, Fireplace/Stove _____, Other _____
 Occupancy Permit required _____

In accordance with Chapter 1, Section IV, subsection D, of Appendix A, Land Use and Development Code Zoning Ordinance for the Town of Kittery, Maine, adopted June 13, 1977, this application for a Building Permit is hereby approved/denied by _____, Code Enforcement Officer, for the following reason(s): _____

Owner's signature James J. Gaudin

Applicant other than owner:

I hereby certify that the proposed construction and/or use is authorized by the owner of record and I have been instructed by the owner to make this application as his authorized agent.

Signature of Agent _____ Tel. _____

Address _____ State _____ Zip _____

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MAP 1 lot 23

BP-81-113

TOWN OF KITTERY PORT AUTHORITY

TOWN HALL, KITTERY, MAINE

August 1, 1980

Mr. Vincent A. Prien
84 Badgers Island
Kittery, Maine
03904

Dear Mr. Prien;

At a recent meeting of the Town of Kittery Port Authority, your application to build a wood and pile pier was discussed and approved, subject to you obtaining approval from the other appropriate agencies.

Sincerely yours,

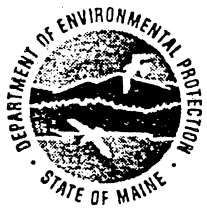
Frank C. Frisbee
Chairman

cc. Arthur Peverly, Planning Board
Manual Sousa, Town Council

DEPARTMENT OF ENVIRONMENTAL PROTECTION
AUGUSTA, MAINE 04330

BOARD ORDER

IN THE MATTER OF



VINCENT A. PRIEN)	ALTERATION OF COASTAL WETLANDS ACT
Kittery, Maine, York County)	AND WATER QUALITY CERTIFICATION
PILE-SUPPORTED PIER)	
#03-6652-31130)	FINDINGS OF FACT AND ORDER

After reviewing the project file which includes the application with its supportive data, agency review comments, staff summary and other related materials on file with regard to the above noted project, under provisions of Title 38, M.R.S.A., Section 474 and Section 401 of P.L. 92-500, the Federal Water Pollution Control Act Amendments of 1972, the Board finds the following facts:

1. Nature of Project: Construct a pile-supported pier to measure 12 feet by 140 feet with a 20 foot by 40 foot tee at its end. Pier deck is to be located approximately 4 feet above mean high water.
2. The project will not unreasonably interfere with existing recreational and navigational uses.
3. The project will not cause unreasonable soil erosion.
4. The project will not unreasonably harm wildlife or freshwater, estuarine, or marine fisheries.
5. The project will not unreasonably interfere with the natural flow of any waters.
6. There is reasonable assurance that the activity will not lower the quality of any waters or violate applicable Water Quality Standards.

THEREFORE, the Board approves the application of Vincent A. Prien to construct a pile-supported pier as described in paragraph #1 above, subject to the following terms and conditions:

1. The Standard Conditions of Approval, except for Condition F, a copy attached.

DONE AND DATED AT AUGUSTA, MAINE, THIS 25TH DAY OF JUNE, 1980.

BOARD OF ENVIRONMENTAL PROTECTION

BY 
Henry E. Warren, Chairman

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES....



State of Maine

SUBMERGED LAND EASEMENT

No. 783-09

This is an easement conveying to you certain, limited rights in the submerged lands of the State of Maine. It is not your environmental permit to use these lands. Please read the easement carefully and abide by its terms.

The Director of the Bureau of Public Lands, (hereinafter called the "Grantor") Department of Conservation, an agency of the State of Maine, acting pursuant to the provisions of R. S., Title 12, Section 514-A, in consideration of the performance of the covenants and conditions hereinafter provided, hereby grants to Vincent A. Prien, the mailing address of which is Kittery, Maine (hereinafter called the "Grantee") an easement in so much of the State-owned submerged lands (hereinafter called the "premises") as are described in Department, Environmental Protection application number 03-6652-31130 as are actually used by the Grantee in conformity with any permit (hereinafter referred to as the "permit") issued pursuant to such application, subject to the following covenants, and conditions:

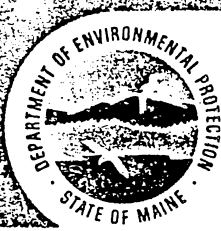
1. **TERM:** Such easement shall hold for the term of 30 years commencing with the date of this instrument and ending at midnight on December 31, 2009, and no longer.
2. **USE:** The premises shall not be used for any commercial purpose or as an amenity in furtherance of a commercial purpose, excepting only structures occupying not more than 100 square feet of State-owned land and structures occupying not more than 2,000 square feet of State-owned land and used exclusively for the landing or processing of shellfish, finfish, or other natural products of the sea. Within 30 days after request by Grantor by written notice hereunder, Grantee shall deliver to Grantor a written description, certified by Grantee to be correct, of the actual and specific uses then and therefore made of the premises. No sand, gravel or other materials shall be removed from the premises and no enlargement of structures or fixtures upon the premises shall be permitted without the prior written consent of the Grantor. No materials may be deposited on the premises except as specifically authorized in the permit.
3. **AUTOMATIC CANCELLATIONS:** In the event any regulatory agency of the United States or the State of Maine or any political subdivision thereof denies or disapproves any portion of any application by the Grantee for the use of the above described premises or any portion thereof, or that any court of competent jurisdiction invalidates any permit granted pursuant to such application, this easement shall be cancelled automatically as to the denied or disapproved use, and shall to that extent be null, void, and of no effect as of the date of such denial or disapproval.
4. **ASSIGNMENT:** Any and all rights conveyed herein by the Grantor may be assigned or otherwise conveyed by the Grantee, subject to the covenants and conditions of this instrument.
5. **PROPERTY TAXES:** Grantee shall pay all taxes, charges, assessments and other impositions levied upon the premises and the buildings, improvements, and fixtures thereon when due and payable.
6. **OTHER USES:** Grantee may make no use of the premises except that expressly authorized by any permit. Grantor reserves the right to make such other uses of the premises, including, without limitation, the right to permit pipes to be laid thereunder and wires to be maintained thereover, as shall not unreasonably interfere with Grantee's use and enjoyment of the premises.
7. **INDEMNITY:** Grantee agrees to defend or cause to be defended and to indemnify and hold the Grantor harmless against any and all claims, suits, causes of action, expenses and damages incurred by or brought against Grantor and arising or allegedly rising out of, in whole or part, the use or occupancy of the premises by Grantee, its invitees, contractors, agents and employees.
8. **DEFAULT:** If Grantee or its successor in interest shall fail to comply with any of the terms of this instrument, Grantor shall have the right at its option at any time thereafter to terminate this easement, re-enter and take possession of the premises after giving thirty (30) days advance notice in writing to Grantee or its successor in interest. If during said thirty (30) day period Grantee cures its default to the satisfaction of Grantor then termination shall automatically be vacated, otherwise the same shall remain in full force and effect. Such right of termination shall be in addition to any other legal or equitable rights or remedies which Grantor may have. If Grantor shall institute an action to enforce any provision of this easement, Grantor shall be entitled to recover reasonable attorney's fees.
9. **MAINTENANCE:** Grantee, at its sole cost and expense, shall at all times keep, or cause all improvements (regardless of ownership) to be kept, in as good condition and repair as originally constructed, except for reasonable use. Grantee shall not allow debris or refuse to accumulate on the premises. In addition to having the right to cancel this easement, Grantor shall have the right upon 30 days notice to remove such debris and refuse and collect the cost of such removal from the Grantee.
10. **ABANDONMENT:** Failure by the Grantee to use or maintain the premises for two consecutive years shall be deemed to constitute abandonment of the premises, including all structures and improvements thereon. Upon abandonment the Grantor at its option may require Grantee to remove all such structures and improvements within such period of time as it may prescribe at the sole expense of the Grantee or the Grantor may assume possession and ownership of all structures and improvements.
11. **NOTICE:** Any notice permitted or required hereunder shall be deemed to have been given when actually delivered or when deposited in the U.S. mail, first-class postage prepaid, addressed as follows: To Grantor: Bureau of Public Lands, State Capitol, Augusta, Maine 04333, Attn: Submerged Lands Division, and giving the easement number, or to such other address specified by Grantor by written notice hereunder. To Grantee: at the address hereinabove set forth for Grantee or at such other address as Grantee may have theretofore specified by written notice actually received by and placed of record with Grantor.

November 1, 1979

****STANDARD CONDITIONS****

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE COASTAL WETLANDS LAW, UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Compliance With All Permit Terms and Conditions. The applicant shall submit all reports and information requested by the Board or the Department demonstrating that the applicant has complied or will comply with all terms and conditions of this permit. All preconstruction terms and conditions must be met before construction begins.
- D. Initiation of Activity Within Two Years. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the activity was not begun within two years from the granting of the initial permit and the reasons why the applicant will be able to begin the activity within two years from the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- E. Reexamination After Five Years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- F. No Construction Equipment Below High Water. No construction equipment being used in the undertaking of an approved activity is allowed below the mean high water line.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



STATE OF MAINE

Department of Environmental Protection

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA
MAIL ADDRESS: STATE HOUSE, AUGUSTA 04333

Henry E. Warren
COMMISSIONER
289-2811

Rights of Review and Appeal

Any person aggrieved by a decision by the Board of Environmental Protection ("Board") or Department of Environmental Protection ("Department") has the following rights of review and appeal:

I. As to any decision by the Board:

A. Request for hearing:

Within 30 days of the applicant's receipt of a Board decision made without public hearing, any person aggrieved by the decision may make a request for a hearing. Such a request shall set forth in detail the basis of the petitioner's grievance; the findings, conclusions or conditions to which the petitioner objects; the basis of the objections; and the nature of the evidence or argument to be offered.

B. Reconsideration by the Board:

Within 30 days of the applicant's receipt of a Board decision, any person aggrieved by the decision may petition the Board of Environmental Protection, in writing, for correction of any part of the decision which the petitioner believes to be in error and not intended by the Board, or for an opportunity to present new or additional evidence to secure reconsideration of any part of the decision or challenge any facts of which official notice was taken. Such petition shall set forth in detail the findings, conclusions or conditions to which the petitioner objects, the basis of the objections, the nature of the relief requested and the nature of any new or additional evidence to be offered. 38 M.R.S.A. §344(5).

C. Judicial appeal:

Any person aggrieved by a final Board decision is entitled to judicial review by filing a petition in Superior Court for Kennebec County or in Superior Court for the county where (1) the aggrieved person resides or has his principal place of business; or (2) the activity or property which is the subject of the proceeding is located.

The petition for review shall specify the person seeking review, the manner in which he is aggrieved and the final agency action which he wishes reviewed. The petition shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief.

ADMINISTRATIVE SERVICES:
289-2691

BUREAUS:

AIR QUALITY CONTROL
289-2437

LAND QUALITY CONTROL
289-2111

WATER QUALITY CONTROL
289-2591
OIL POLLUTION CONTROL
289-2591

REGIONAL OFFICES:

31 CENTRAL STREET
BANGOR 04401
947-6746

634 MAIN STREET
PRESQUE ISLE 04769
764-3737

OIL POLLUTION CONTROL
17 COMMERCIAL STREET
PORTLAND
773-6491

OIL SPILL REPORTS ONLY
(TOLL FREE) 1-800-482-0777

CITIZENS' ENVIRONMENTAL
ASSISTANCE SERVICE
289-2691
(TOLL FREE) 1-800-452-1942

AIR QUALITY CONTROL
17 COMMERCIAL STREET
PORTLAND
773-0196

LAND QUALITY CONTROL
17 COMMERCIAL STREET
PORTLAND
773-0196

The petition for review shall be filed within 30 days after receipt of notice if taken by a party to the proceeding of which review is sought. Any other person aggrieved shall have 40 days from the date the decision was rendered to petition for review.

The petition for review shall be served by certified mail, return receipt requested, upon D.E.P., all parties to the proceeding, and the Attorney General.

II. As to a decision by the Department:

A. The Board has delegated authority to Department staff to act on certain applications.

Any person aggrieved by a staff decision may request in writing, within 30 days of receipt of the order by the applicant, that the Board review such decision. Such request for review must set forth the reasons why the review is requested and the actions which the person making the request desires to be taken by the Board. When review of a staff determination is requested, it shall be conducted as if it were an application filed with the Board and not subject to delegation.

NOTE:

1. Because a person other than the applicant may file an appeal, as stated above, any action to commence work according to the terms of the permit prior to the expiration of the appeal or review period entails a risk that the approval may be altered. Applicants must assess the likelihood and extent of such a risk.

2. The filing of a petition for review or appeal does not operate as a stay of the final agency action.

3. Further information concerning review and appeal may be found in the Maine Administrative Procedure Act (5 M.R.S.A. §8001 et seq.) and Department statutes (38 M.R.S.A. §341 et seq. and regulations.

4. You may contact D.E.P. if you have any question about the rights of review and appeal procedures.



DEPARTMENT OF THE ARMY
NEW ENGLAND DIVISION, CORPS OF ENGINEERS
424 TRAPELO ROAD
WALTHAM, MASSACHUSETTS 02154

REPLY TO
ATTENTION OF:
NEDOD-R- 26-80-248
ME-PORT-80-303

30 October 1980

Vincent A. Prien
6 Stonewall Lane
Rye, NH 03870

Dear Mr. Prien:

Inclosed is a Federal permit authorizing the work stated therein. Please acquaint yourself with all the terms and conditions of the permit and particularly to those conditions which are binding upon you as the permittee. Your particular attention is called to condition (n) which requires you to notify this office when the work is commenced and when it is completed.

If any material changes in the plans are found necessary, revised plans should be submitted to this office. These revised plans must receive the approval required by law before the work is begun.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Morgan R. Rees".

MORGAN R. REES
Chief, Regulatory Branch
Operations Division

Incl
Permit



Name of Applicant Vincent A. Prien

Effective Date 30 October 1980

Expiration Date (if applicable) _____

**DEPARTMENT OF THE ARMY
PERMIT**

Referring to written request dated 30 April 1980 for a permit to:

Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, P.L. 92-500);

Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052; P.L. 92-532);

Vincent A. Prien
6 Stonewall Lane
Rye, NH 03870

is hereby authorized by the Secretary of the Army:
to construct and maintain a pile supported pier consisting of a 140' x 14' pier with a 20' x 40' "T" head. The pier will extend approximately 160' beyond mean high water.

in Piscataqua River

at Kittery, Maine

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings: give file number or other definite identification marks.) Plans entitled, "Dock Plan For Vincent Prien", in 2 sheets, not dated.

subject to the following conditions:

I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-500; 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementat on plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

The following Special Conditions will be applicable when appropriate:

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING:

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for _____ years from the date of issuance of this permit (ten years unless otherwise indicated);

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published in 40 CFR 230;

b. That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

c. That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

d. That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

DUMPING OF DREDGED MATERIAL INTO OCEAN WATERS:

a. That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-228.

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

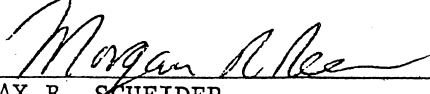


PERMITTEE
Vincent PRIEW

10/20/80

DATE

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

for 

MAX B. SCHEIDER
Colonel, Corps of Engineers
Division Engineer
~~SYSTEMS ENGINEER~~
~~SYSTEMS ENGINEER~~

30 Oct 80

DATE

Transferee hereby agrees to comply with the terms and conditions of this permit.

TRANSFEEEE

DATE

o. That if the activity authorized herein is not started on or before N/A day of 31st 1983 (one year from the date of issuance of this permit unless otherwise specified) and is not completed on or before December, 19 83, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

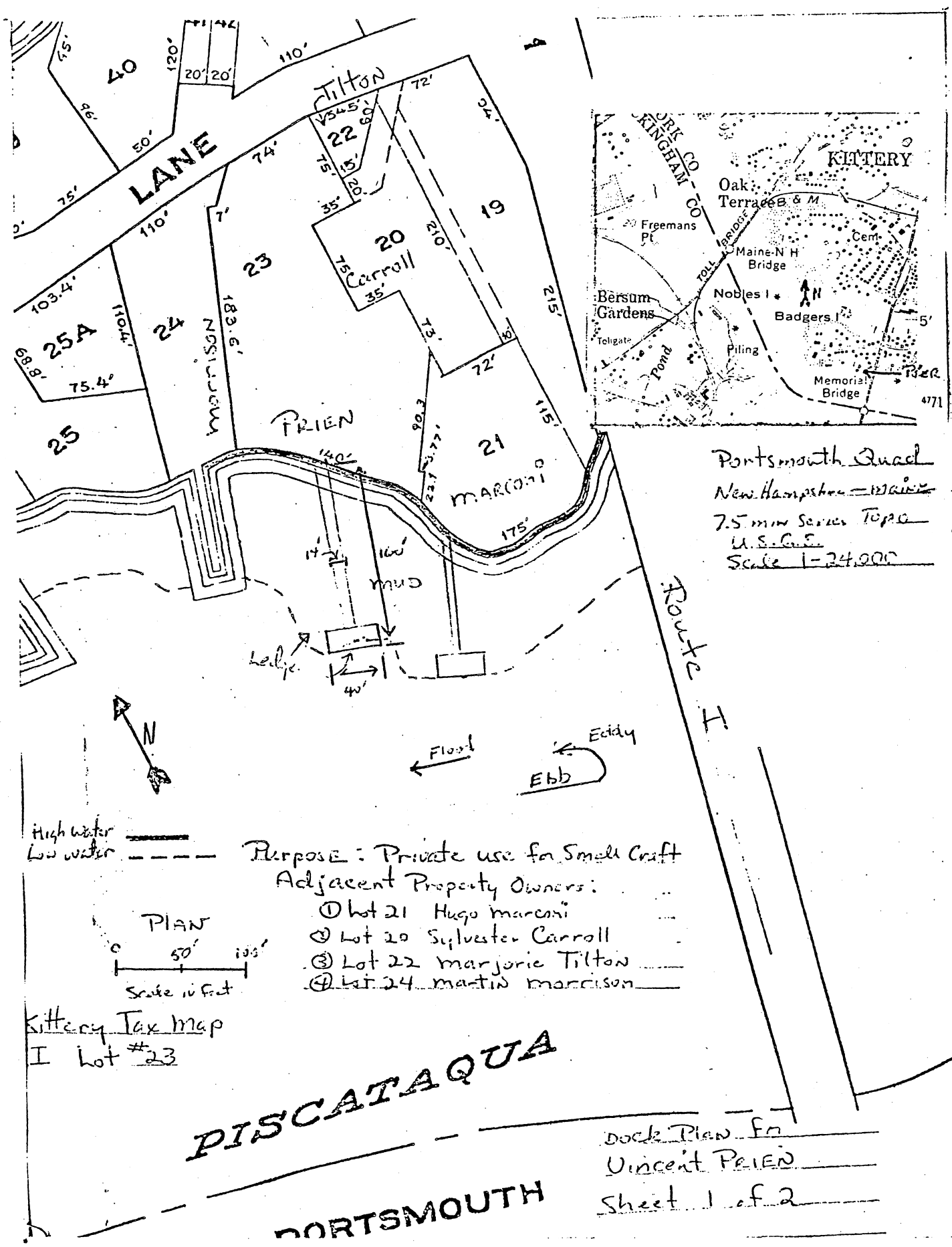
q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition t hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

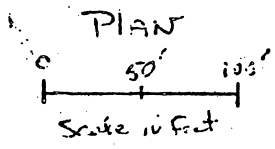
t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit):



Portsmouth Quad
 New Hampshire - 1874
 7.5 min Series Topo
 U.S.G.S.
 Scale 1-24,000

Purpose: Private use for Small Craft
 Adjacent Property Owners:
 ① Lot 21 Hugo marconi
 ② Lot 20 Sylvester Carroll
 ③ Lot 22 marjorie Tilton
 ④ Lot 24 martin marrison



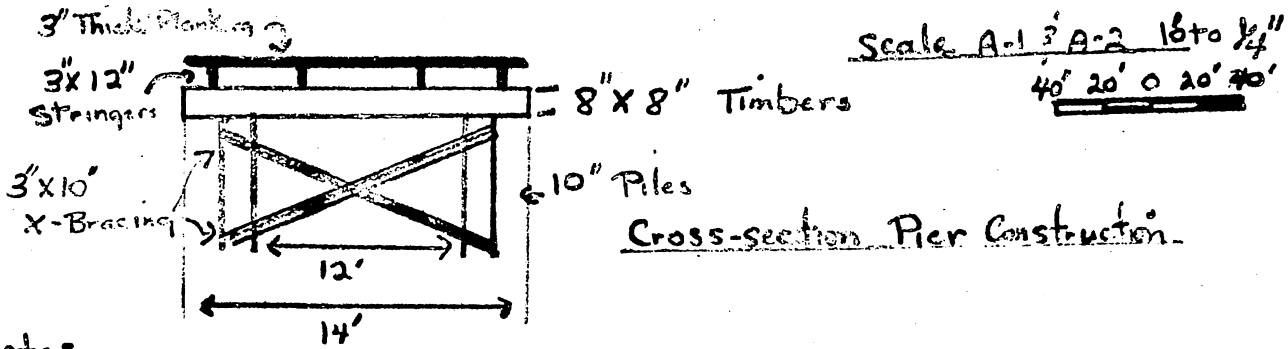
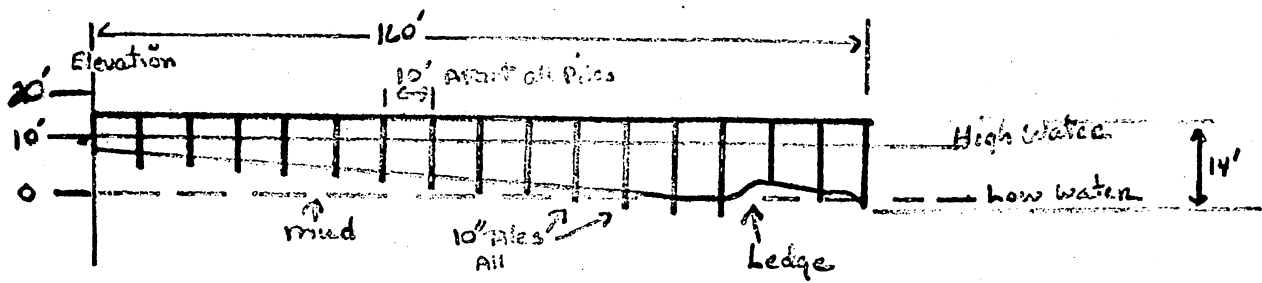
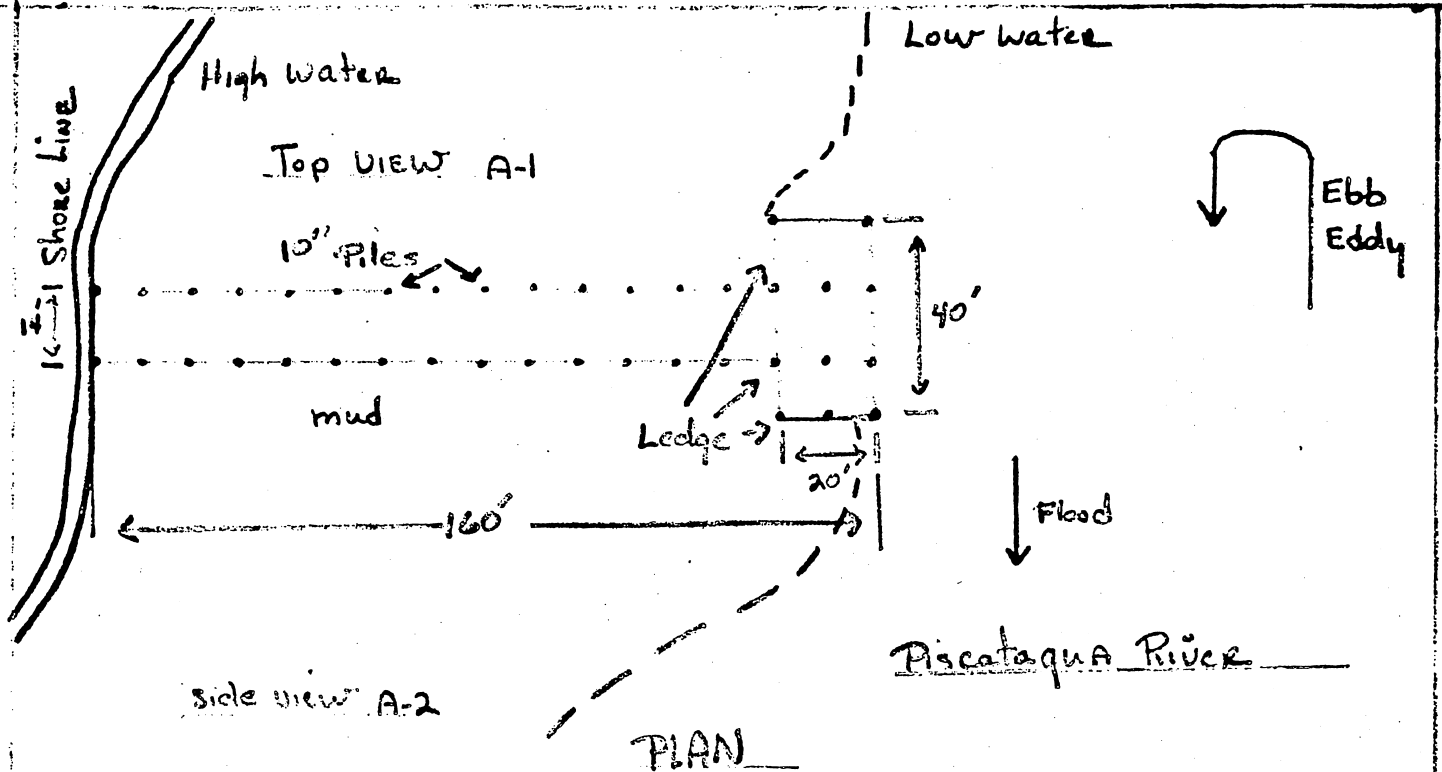
High water
 Low water

Kittery Tax map
 I lot #23

PISCATAQUA

PORTSMOUTH

Dock Plan for
 Vincent PRIEN
 Sheet 1 of 2



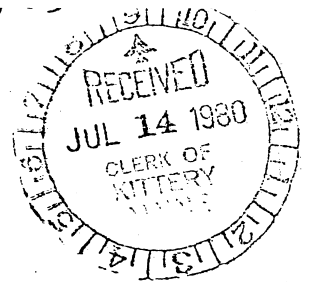
Notes

1. The proposed project is intended for private use only.
2. project does not involve dredging, excavating or filling.

Proposed Dock:
 AT Piscataqua River
 IN RIVER, main
 York, County
 Application By
 Vincent Prien.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AUGUSTA, MAINE 04330



BOARD ORDER
IN THE MATTER OF

VINCENT A. PRIEN
Kittery, Maine, York County
PILE-SUPPORTED PIER
#03-6652-31130

) ALTERATION OF COASTAL WETLANDS ACT
) AND WATER QUALITY CERTIFICATION
)
) FINDINGS OF FACT AND ORDER

After reviewing the project file which includes the application with its supportive data, agency review comments, staff summary and other related materials on file with regard to the above noted project, under provisions of Title 38, M.R.S.A., Section 474 and Section 401 of P.L. 92-500, the Federal Water Pollution Control Act Amendments of 1972, the Board finds the following facts:

1. Nature of Project: Construct a pile-supported pier to measure 12 feet by 140 feet with a 20 foot by 40 foot tee at its end. Pier deck is to be located approximately 4 feet above mean high water.
2. The project will not unreasonably interfere with existing recreational and navigational uses.
3. The project will not cause unreasonable soil erosion.
4. The project will not unreasonably harm wildlife or freshwater, estuarine, or marine fisheries.
5. The project will not unreasonably interfere with the natural flow of any waters.
6. There is reasonable assurance that the activity will not lower the quality of any waters or violate applicable Water Quality Standards.

THEREFORE, the Board approves the application of Vincent A. Prien to construct a pile-supported pier as described in paragraph #1 above, subject to the following terms and conditions:

1. The Standard Conditions of Approval, except for Condition F, a copy attached.

DONE AND DATED AT AUGUSTA, MAINE, THIS 25TH DAY OF JUNE, 1980.

BOARD OF ENVIRONMENTAL PROTECTION

BY Henry E. Warren
Henry E. Warren
Henry E. Warren, Chairman

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES.....

McGarry KPA Exhibit 2



REPLY TO
ATTENTION OF

Regulatory Division
CENED-OD-R-52
Permit Number 1992-01082

DEPARTMENT OF THE ARMY
NEW ENGLAND DIVISION, CORPS OF ENGINEERS
424 TRAPELO ROAD
WALTHAM, MASSACHUSETTS 02254-9149

20 JUL 1992

Edward McGarry
Morrison's Lobsters
11 Badgers Island West
Kittery, Maine 03904

Dear Mr. McGarry:

This is in reference to your request for a determination as to the need for a Department of the Army permit to modify your existing pier, ramp and floats in the Piscataqua River off Badgers Island West, at Kittery, Maine. According to the information that you have provided the existing structure consists of a 22' x 32' wharf and building with a 14' x 50' pier extending parallel with an attached 3' x 35' ramp leading to a 6' x 73' base float attached perpendicular. Your application states that the existing pier was constructed in 1965. Title 33, Code of Federal Regulations, Part 330.3 (b) states that structures or work completed prior to December 18, 1968 were permitted by Nationwide Permits issued on July 19, 1977 provided there is no interference with navigation.

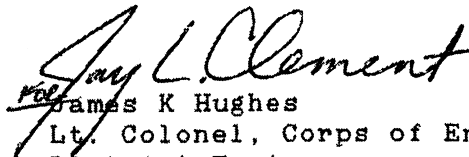
We have completed our evaluation of your application to modify your existing float system. Your permit is hereby amended to reconfigure your float system to a 6' x 60' base float attached perpendicular to the pier with two 4' x 40' finger floats attached parallel to the pier extending west, forming three slips, as shown on the attached plans entitled "Proposed Finger Floats, for: Edward McGarry, off: Badgers Island West, at: Kittery, Maine." in 4 sheets undated.

All other conditions of the original permit remain in full force and effect.

Before you begin work, you are required to obtain any necessary State and/or local permits, or other necessary Federal permits as required.

Should you have any questions concerning this matter, please contact Rod Howe or Shawn Mahaney at 207-623-8367 our Augusta, Maine Project Office.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

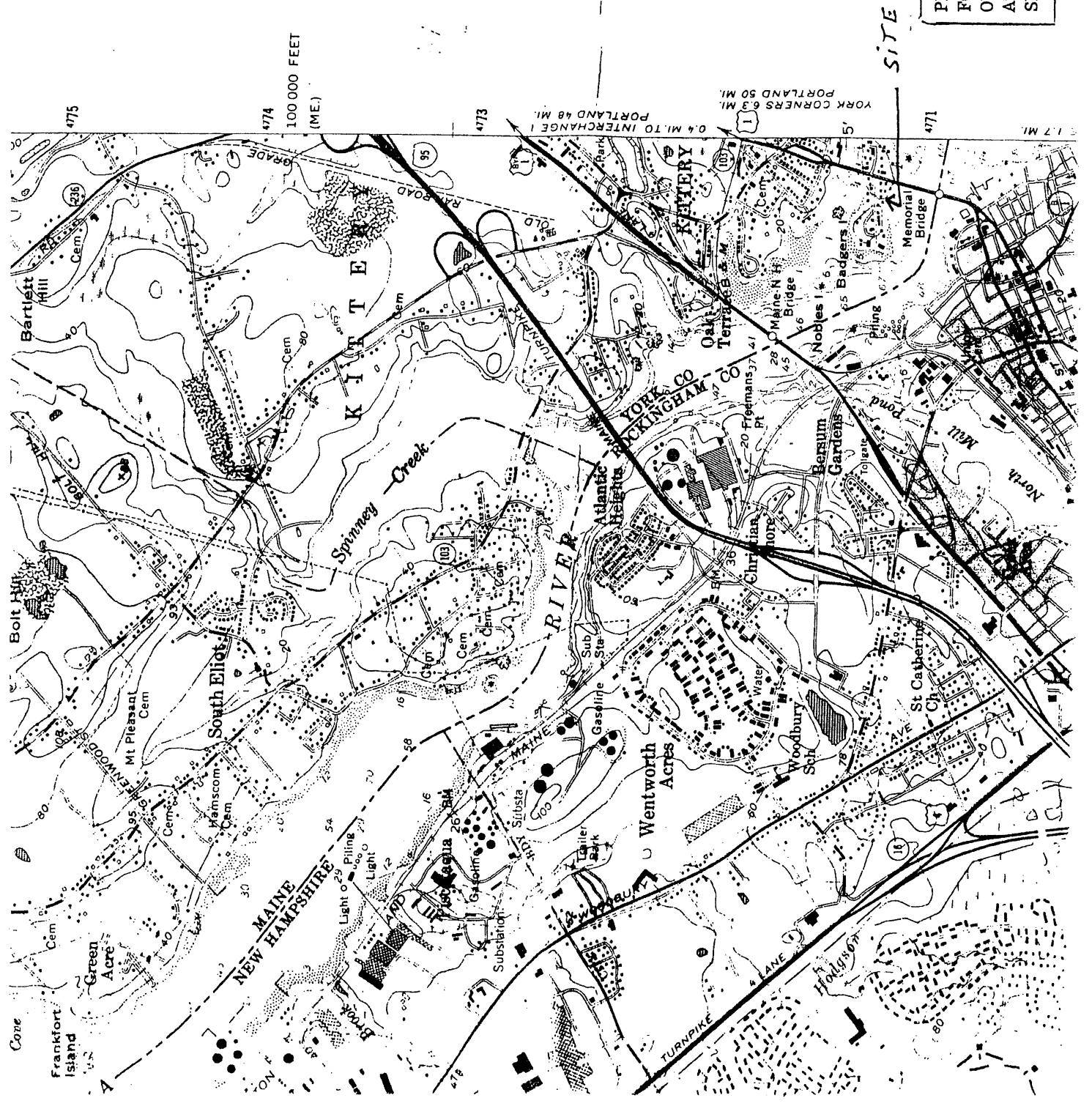

James K Hughes
Lt. Colonel, Corps of Engineers
District Engineer

Copies Furnished:

Maine Dept. of Environ. Protection
ATTN: William Laflamme
State House-Station #17
Augusta, Maine 04333

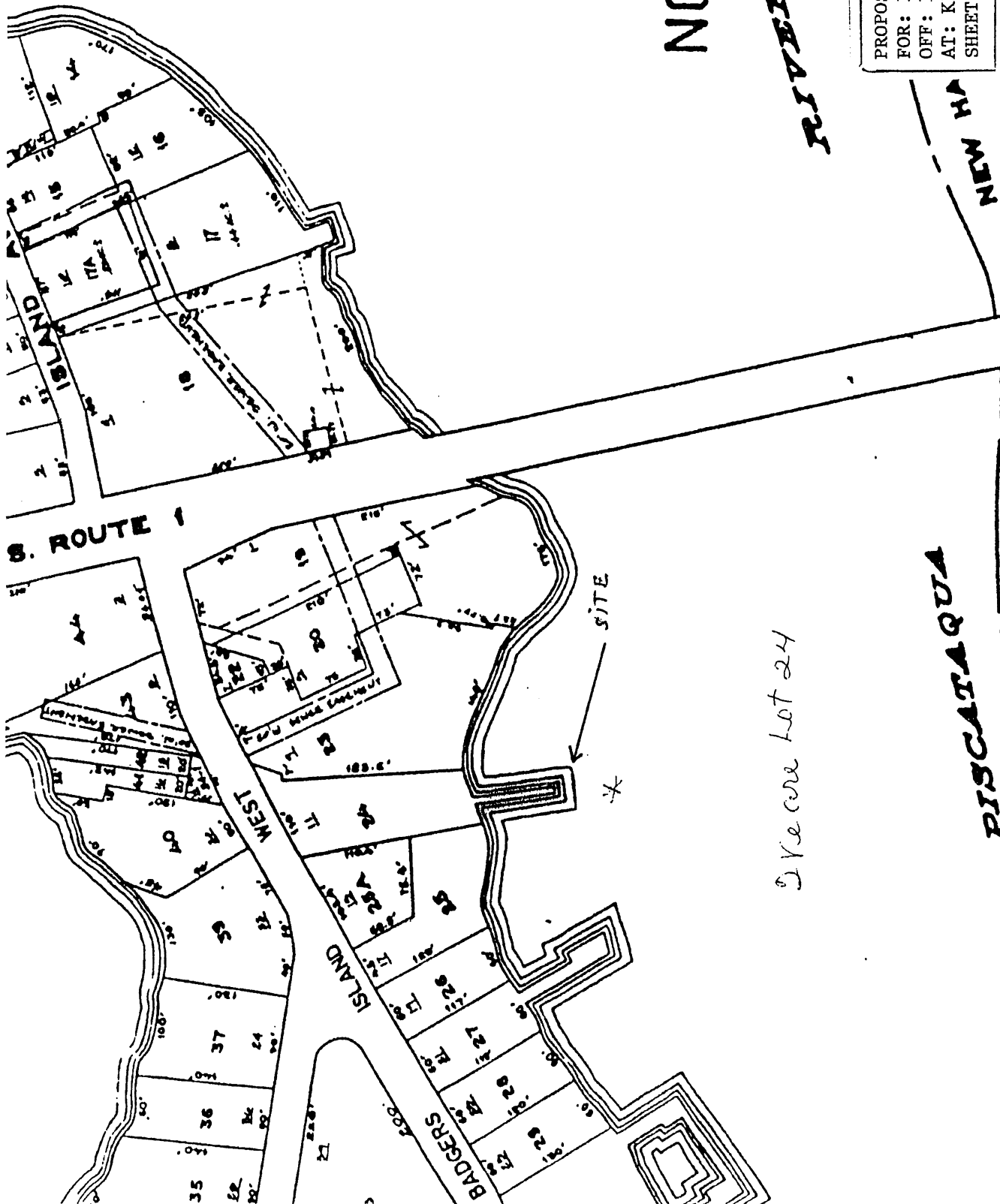
Town of Kittery
ATTN: CEO
Municipal Offices
Kittery, Maine 03904

PROPOSED FINGER FLOATS
FOR: EDWARD MCGARRY
OFF: BADGERS ISLAND WEST
AT: KITTERY, MAINE
SHEET 1 OF 4



SITE

4775 4774 100 000 FEET (ME.) 4773 4771
0.4 MI. TO INTERCHANGE I
YORK CORNERS 6.3 MI.
PORTLAND 50 MI.



NOT TO

RIVER

PROPOSED FINGER FLOATS
 FOR: EDWARD MCGARRY
 OFF: BADGERS ISLAND WEST
 AT: KITTERY, MAINE
 SHEET 2 OF 4

PROPERTY MAP
 TOWN OF KITTERY

See core Lot 24

PISCATAQUA

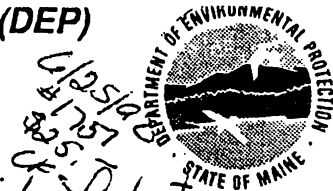
SMOOTH

1992

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) PERMIT BY RULE NOTIFICATION FORM

(For use with DEP Regulation, Chapter 305)

PLEASE TYPE OR PRINT IN BLACK INK ONLY



Name of Applicant: Edward D. McBarry DBA Morrison's Lobsters

Address: 11 Badgers Island West Town/City: Kittery

State: Me Zip Code: 03904 Tel.No: 207-439-2501

Name of Wetland, Water Body or Stream: 1

Name of Nearest Road and Directions to Site: Badgers Island West

South on Route 1 into Kittery Me. Take right just before the Piscataqua River into N.H.

Town/City: Kittery County: _____

Description of Project: Replacing & adding two pilings

RECEIVED OF
DEPT. OF ENVIRONMENTAL PROTECTION
MAY 25 1992

1. Attach a check for \$25 made payable to Treasurer State of Maine.
2. Attach to this form a location map with project site clearly marked.
3. Attach photographs showing existing site conditions. (unless not required under standards)
4. For projects below mean low water, submit a copy of the project design plan to the Bureau of Public Lands.

I am filing notice of my intent to carry out work which meets the requirements for Permit by Rule under DEP Regulation Chapter 305. I will comply with Section 1 and all the standards contained in the Section(s) checked below:

- | | |
|---|--|
| <input type="checkbox"/> Sec.(2)Dist. of Soil Mat. | <input type="checkbox"/> Sec.(11)General Permits of State Transprt. Fac. |
| <input type="checkbox"/> Sec.(3)Intake Pipes | <input type="checkbox"/> Sec.(12)Restoration of Natural Areas |
| <input checked="" type="checkbox"/> Sec.(4)Maint. Repair & Replace of Struct. | <input type="checkbox"/> Sec.(13)Fish & Wild. Creation, Enhance. & Water Quality |
| <input checked="" type="checkbox"/> Sec.(5)Moorings | <input checked="" type="checkbox"/> Sec.(14)Piers, Wharves & Pilings |
| <input type="checkbox"/> Sec.(6)Movement of Rocks or Veg. by Hand | <input type="checkbox"/> Sec.(15)Public Boat Ramps |
| <input type="checkbox"/> Sec.(7)Outfall Pipes | <input type="checkbox"/> Sec.(16)Select Sand Dune Projects |
| <input type="checkbox"/> Sec.(8)Riprap | <input type="checkbox"/> Sec.(17)Transters |
| <input type="checkbox"/> Sec.(9)Crossings (Utility Lines, etc.) | <input type="checkbox"/> Sec.(18)Maintenance Dredging |
| <input type="checkbox"/> Sec.(10)Stream Crossing | |

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife and Marine Resources to access the project site for the purpose of determining compliance with the rules. I also understand that this permit is not valid until 14 days after receipt by the Department.

Signature of Applicant: Edward D. McBarry Date: 6/22/92

Send white and yellow form with attachments via certified mail to the ME Dept. of Environmental Protection State House Station 17 Augusta, Maine 04333

Retain pink copy as record of permit. Permits are valid upon receipt by the DEP for one year. No further authorization by DEP will be issued after receipt of notice. **Permits issued under this section are invalid if the DEP finds any application standard has not been met. Work carried out in violation of any standard is subject to enforcement action, including a fine of up to \$25,000 for each day of violation.**

For office use only					
Proj. No.	FP	Date	Def.	Date	Acc. Date

Remarks for Decision
 Post Construction Permit
 Army Corp of Engineers Permit
 DEP Permit
 Building Permit

BUILDING PERMIT AND APPLICATION Dec 21, 19 72 Value 4500 M 1 L 24
 Fee 35.00 No. 92-702
 Owner EDWARD McCARRY Location 11 Badgers + Stand West
 Mailing Address Same Zip Tel. 9-2501
 Applicant Donna McCarry Contractor M. Henrick Assoc 600-245 9629
 Plumbing Permit No., Interior Exterior N/A No. Baths Dist. to Water 7
 Plot Plan N/A Yard Spaces N/A ft. front R/W line 30+ ft. left, 20+ ft. rt., N/A ft. rear
 Building Plan N/A Dimensions 300 Plans Ft.
 Structural type Style Foundation PILINGs - Fin. Cellar
 Ext. Int. Roof N/A Insul. Elect.
 Heat Fireplace/Stove Other N/A

Occupancy Permit required NO
 Repair and restructure existing dock, finger piers,
 (OKS by Army Corp + Kitt. Post Authority previously given)
 In accordance with Chapter 1, Section IV, subsection D, of Appendix A. Land Use and Development Code Zoning Ordinance for the
 Town of Kittery, Maine, adopted June 13, 1977, this application for a Building Permit is hereby approved/denied by
 [Signature] Code Enforcement Officer, for the following reason(s):

Owner's signature _____
 Applicant other than owner:
 I hereby certify that the proposed construction and/or use is authorized by the owner of record and I have been
 instructed by the owner to make this application as his authorized agent.
 Signature of Agent [Signature] Tel. _____
 Address _____ State _____ Zip _____

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION
 WORK IS NOT STARTED WITHIN SIX MONTHS OF DATE THE
 PERMIT IS ISSUED AS NOTED ABOVE.

IN PROGRESS INSPECTIONS INDICATED ON THIS CARD
 CAN BE ARRANGED FOR BY TELEPHONE OR WRITTEN
 NOTIFICATION. TEL. 439-0452



TOWN OF KITTEERY PORT AUTHORITY

TOWN HALL
KITTEERY, MAINE 03904

Mr. & Mrs. Ed McGarry
Morrison's Lobsters
11 Badgers Island West
Kittery, Maine 03904

4 December 1992

Dear Mr. & Mrs. McGarry:

Re: Request to modify your existing float system, by replacing your 6'X73' Base Float with a 6'X60' Float with two 4'X40' Finger Floats attached parallel to the pier. All being connected to existing pier by 3'X35' gangway riding on a 8'X10' Float inside of Base Float. Your request was discussed at the Port Authority meeting on Dec. 3, 1992.

The Port Authority voted to accept your request, as submitted, to replace the existing floats as noted above. Any changes necessary must be brought back to the Port Authority for approval before hand.

For a referance, the Port Authority measured from the end of existing dock.

This Port Authority approval is contingent on the approval of any other governing bodies that may be required.

Respectfully

Milton Hall (Chairman)

cc: Port Authority Members
Harbormaster
Code Officer
File (2)

November 20, 1992

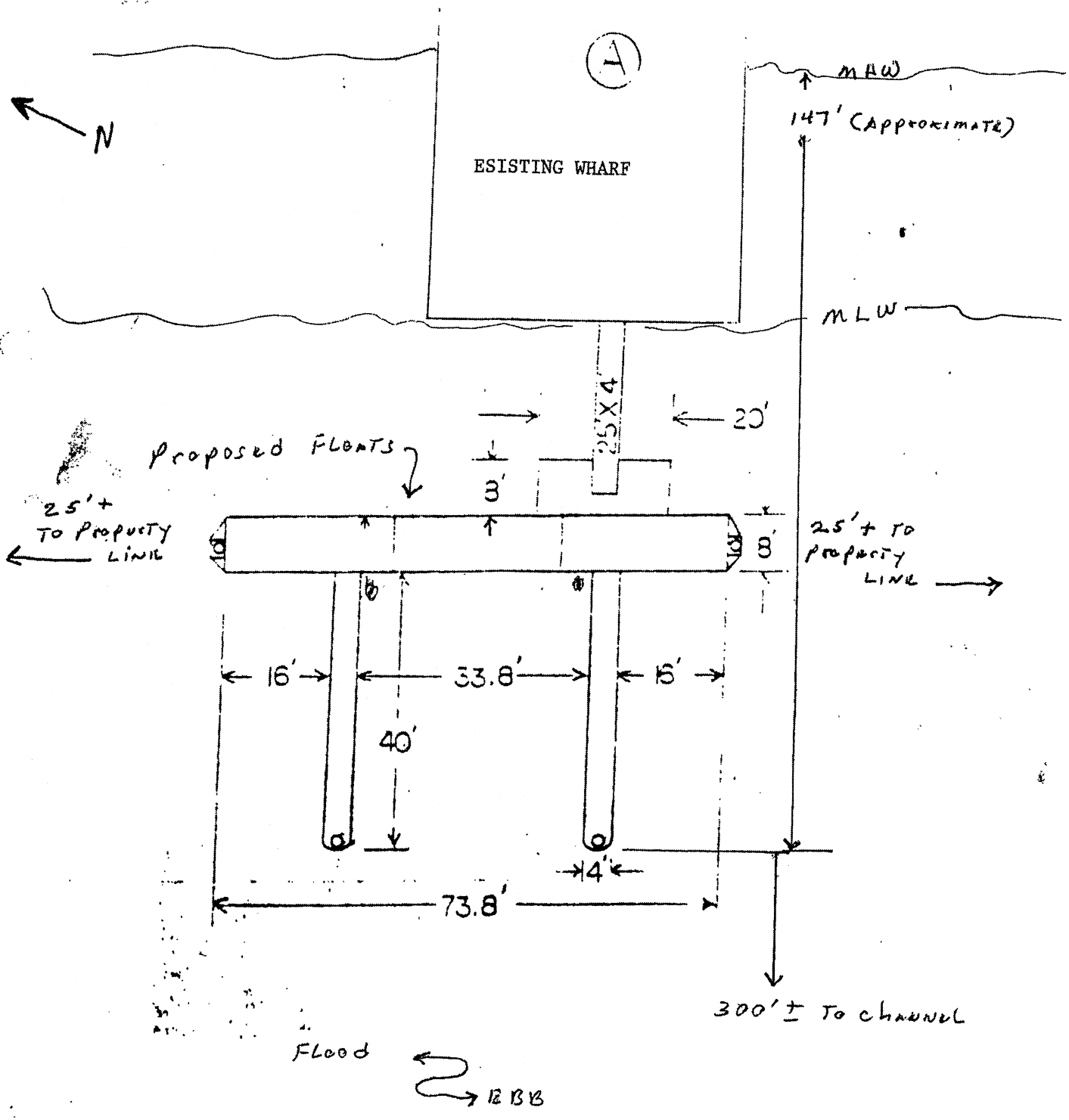
To The Port Authority Board Members,

Attached is a diagram of the ramp and docks we now have for private use. Also attached is a copy of the permit I received from the Department of Environmental Protection and a copy of our check sent to them.

This had to be done due to the fact the previous dock suffered extensive damage from the No Name Storm. Also from all the dredging and blasting that had been done in the river, we ended up loosing whatever depth we had to the point that at low tide most of our dock sat in the mud. We couldn't take our boat off the dock unless it was high tide. We also had to get intouch with New England Telephone because their cables are all over our property and for this reason we could not dredge.

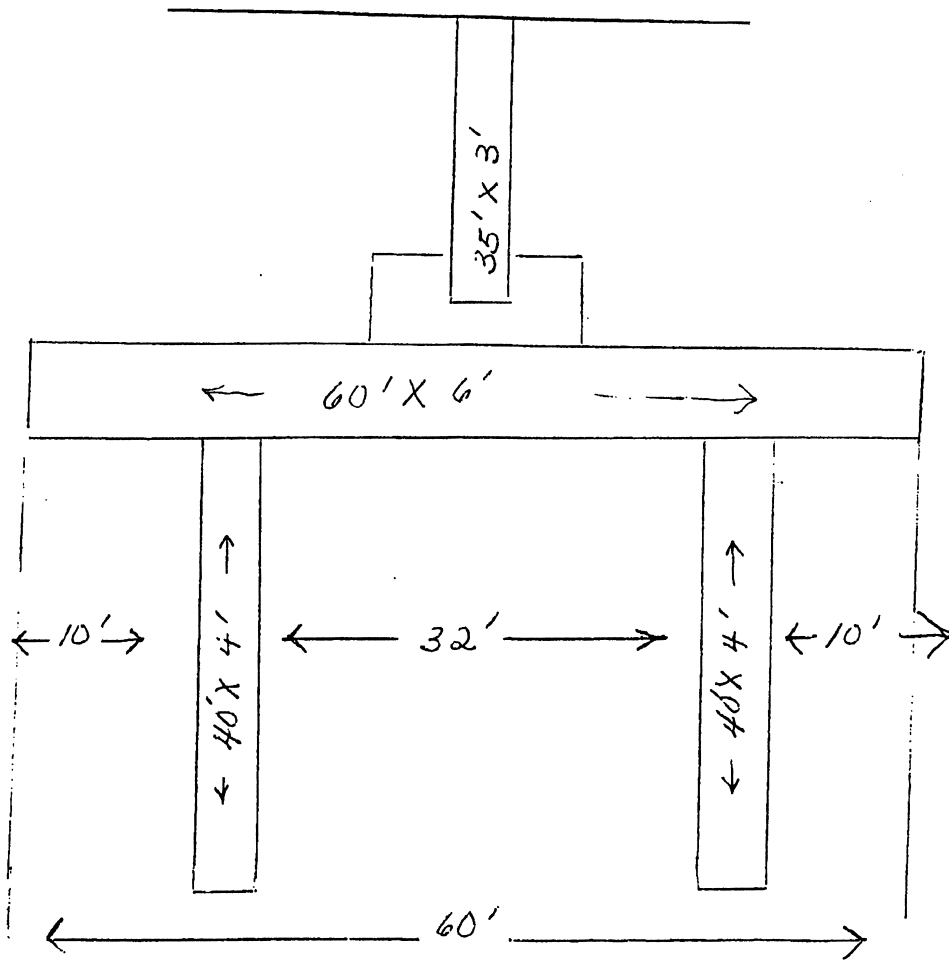
I hope this is everything you need so this matter can be resolved. I want to apologize for not presenting our plan to the Members of the Board, but we were under the assumption that all concerned parties had been notified.

Edward A. McBarry
Donna M. McBarry



PROPOSED FINGER FLOATS
 FOR: EDWARD MCGARRY
 OFF: BADGERS ISLAND WEST
 AT: KITTERY, MAINE
 SHEET 4 OF 7

11/92
Updated Drawing



McGarry KPA Exhibit 3



TOWN OF KITTEY PORT AUTHORITY
TOWN HALL
P.O. BOX 808, KITTEY, MAINE 03904

Pickering Marine
Glen Normendeau
7 Pickering Ave.
Portsmouth, N.H. 03801

Sept. 12, 2000

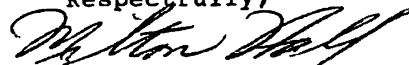
Dear Mr. Normendeau:

Re: Request to Re-Construct Pier, Ramp and Floats existing for Jade Realty Corp., 9 Badgers Isl. West, Kittery, Me. 03904.

The subject pier and floats were discussed at the Port Authority Meeting on September 7, 2000.

The Port Authority agreed that no permits were required from the Port Authority since you were replacing an existing Pier, Ramp and Floats. One stipulation being that the railings on the pier not be any higher than 42" and the Pilings on the Pier and Floats not be any higher than the top of the rails.

Respectfully,


Milton Hall (Chairman)

cc: Files (2)
Code Enforcement Officer

office

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)
PERMIT BY RULE NOTIFICATION FORM
 (For use with DEP Regulation, Chapter 305)

PLEASE TYPE OR PRINT IN BLACK INK ONLY (3 COPIES, PLEASE BEAR DOWN)

Name of Applicant: Pickering Marine Corporation		Name of Owner: Jade Realty Corporation	
Mailing Address: 7 Pickering Ave.		Town/City: Portsmouth	
State: NH	Zip Code: 03801	Daytime Telephone No. (Include area code): 603-427-2824	
Name of Wetland, Water Body or Stream: Piscataqua River			
Detailed Directions to Site: Interstate 95 South to Kittery Traffic Circle to route 1 to Badgers Island West. Property is on the left in front of the new Condominium (easily identifiable)			
Town/City: Kittery	Map #: 1	Lot #: 23	County: York
Description of Project: Reconstruct existing deteriorated pier, ramp, & floats			
Part of a larger project?			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

(CHECK ONE) This project: does does not involve work below mean low water.

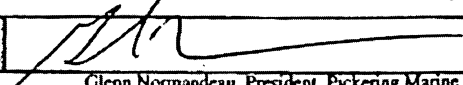
I am filing notice of my intent to carry out work which meets the requirements for Permit By Rule (PBR) under DEP Regulation, Chapter 305. I have a copy of PBR Sections checked below. I have read and will comply with all of the standards.

- | | | |
|--|---|---|
| <input type="checkbox"/> Sec. (2) Soil Disturbance | <input type="checkbox"/> Sec. (8) Shoreline stabilization | <input type="checkbox"/> Sec. (14) Piers, Wharves & Pilings |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input type="checkbox"/> Sec. (9) Utility Crossing | <input type="checkbox"/> Sec. (15) Public Boat Ramps |
| <input checked="" type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input type="checkbox"/> Sec. (5) REPEALED | <input type="checkbox"/> Sec. (11) State Transportation Facilities | <input type="checkbox"/> Sec. (17) Transfers/Permit Extension |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Vegetation | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (13) F&W Creation/Enhance/Water Quality Improvement | |

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. I also understand that *this permit is not valid until approved by the Department or 14 days after receipt by the Department, whichever is less.*

I have attached all of the following required submittals. NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS:

- Attach a check for \$50 (non-refundable) made payable to: "Treasurer, State of Maine".
- Attach a U.S.G.S. topo map or Maine Atlas & Gazetteer map with the project site clearly marked.
- Attach photographs showing existing site conditions (unless not required under standards).

Signature of Applicant: 	Date: 7/27/2000
---	-----------------

Glenn Normandeau, President, Pickering Marine Corp.

Keep the bottom copy as a record of permit. Send the form with attachments via certified mail to the Maine Dept. of Environmental Protection at the appropriate regional office listed below. The DEP will send a copy to the Town Office as evidence of the DEP's receipt of notification. No further authorization by DEP will be issued after receipt of notice. Permits are valid for two years. Work carried out in violation of any standard is subject to enforcement action.

AUGUSTA DEP
 STATE HOUSE STATION 17
 AUGUSTA, ME 04333-0017
 (207)287-2111

PORTLAND DEP
 312 CANCO ROAD
 PORTLAND, ME 04103
 (207)822-6300

BANGOR DEP
 106 HOGAN ROAD
 BANGOR, ME 04401
 (207)941-4570

PRESQUE ISLE DEP
 1235 CENTRAL DRIVE
 PRESQUE ISLE, ME 04769
 (207)764-0477

OFFICE USE ONLY	Ck.#	Date	Staff	Staff	
PBR #	FP		Acc. Date	Def. Date	After Photos



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

**DEPARTMENT OF THE ARMY PROGRAMMATIC GENERAL PERMIT
STATE OF MAINE, SUMMARY OF SCREENING AND STATUS**

JADE REALTY CORPORATION
C/O PICKERING MARINE CORPORATION
7 PICKERING AVENUE
PORTSMOUTH, NH 03801

CORPS PERMIT # 200001981
CORPS PGP ID# 00-415
STATE ID# PBR

DESCRIPTION OF WORK AS ON ATTACHED STATE APPN:

Demolish an existing pile and timber pier in the Piscataqua River at Kittery, Maine and replace it with a 140'X 10' pile and timber pier leading to an 18'x 40' pile supported platform forming a "T". Along the northern and southwestern sides of the deck will be a 27'x 8' and 2, 20'x 8' floats respectively. The floats will be accessed by a 36'x 3' ramp. A boathouse located on the end of the existing pier will be relocated to the same position on the new structure.

UTM GRID COORDINATES N: 4771132 E: 357261 USGS QUAD: KITTERY, ME

I. STATE ACTIONS: PENDING [], ISSUED [], DENIED [] DATE _____

LEVEL OF STATE REVIEW: PERMIT BY RULE: X, TIER 1: _____, TIER 2: _____, TIER 3: _____ (NRPA).

II. FEDERAL ACTIONS:

DATE STATE FILE REVIEWED: 8/10/00 (PGP JP MEETING)

LEVEL OF CORPS REVIEW: CATEGORY 1: _____ CATEGORY 2: x

AUTHORITY: SEC 10 X, 404 _____, 10/404 _____, 103 _____

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

ESSENTIAL FISH HABITAT (EFH): EFH PRESENT Y / N (CIRCLE ONE)

IF YES: Based on the terms and conditions of the PGP, which are intended to ensure that authorized projects cause no more than minimal environmental impacts, the Corps of Engineers has preliminary determined that this project will not cause more than minimal adverse effects to EFH identified under the Magnuson-Stevens Fisheries Conservation and Management Act.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA NO, USF&WS NO, NMFS NO

CORPS DETERMINATION: We authorize your project as proposed and as shown on the plans submitted to the Corps under the State of Maine PGP.

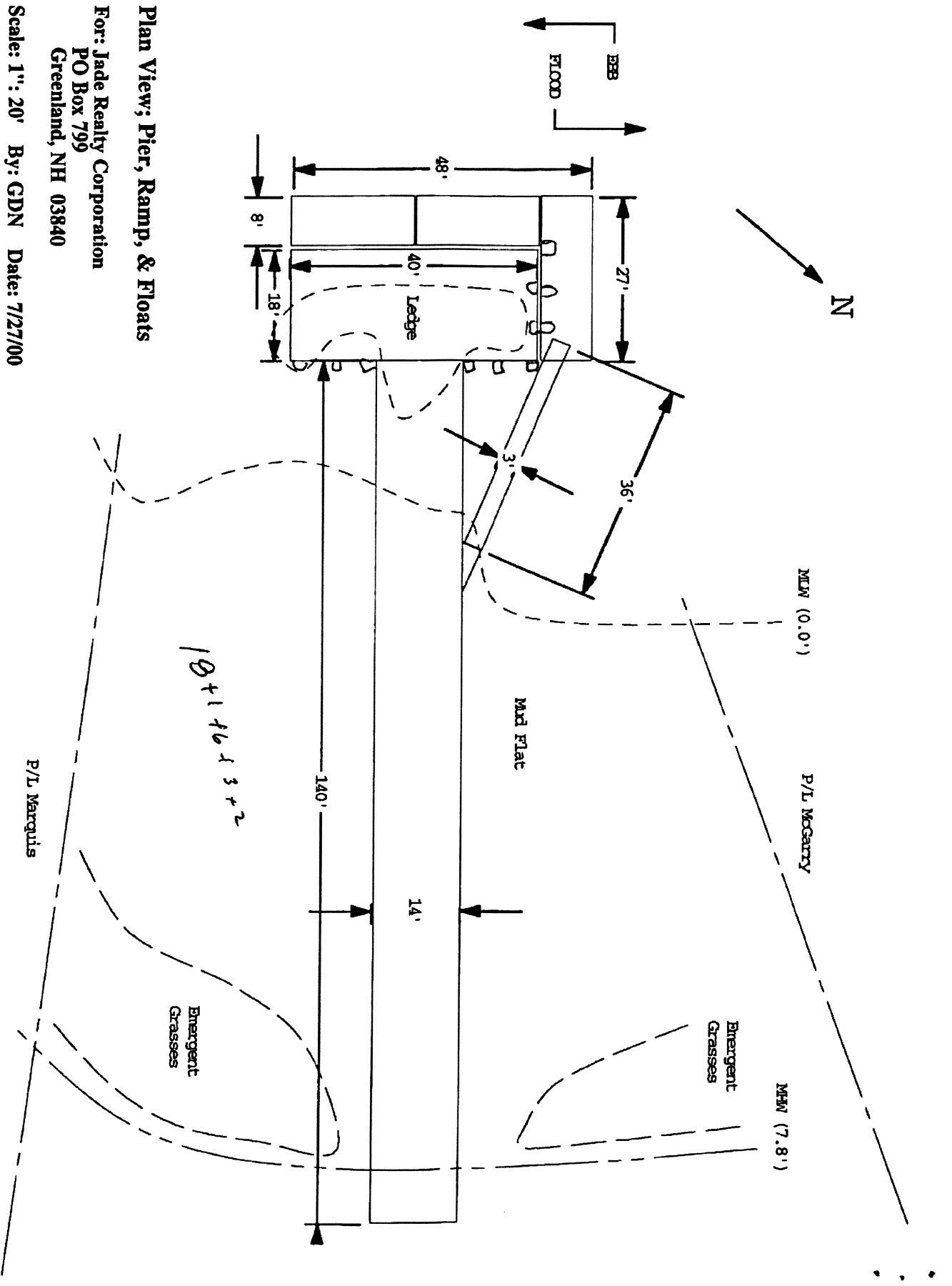
Please note that all work is subject to the conditions contained in the general permit and any additional special conditions listed on any attached sheets. No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. Also, this permit requires you to notify us before beginning work and allow us to inspect the project. Hence, you must complete and return the attached Work Start Notification Form(s) to this office no later than two weeks before the anticipated starting date. (FOR PROJECTS REQUIRING MITIGATION, BE SURE TO INCLUDE MITIGATION WORK START FORM)

Additional Special conditions Attached: YES / NO (CIRCLE ONE)

The Corps of Engineers has implemented an administrative appeals process for jurisdictional determinations. If you are interested in appealing the jurisdictional determination for this project; or if you would like any additional information pertaining to the appeals process, please contact Shawn Mahaney or Rod Howe of my staff at 207-623-8367 at our Manchester, Maine Project Office.

Jay L. Clement
JAY L. CLEMENT
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

David H. Killoy 10/30/00
DAVID H. KILLOY DATE
CHIEF, PERMITS & ENFORCEMENT SECTION
REGULATORY BRANCH

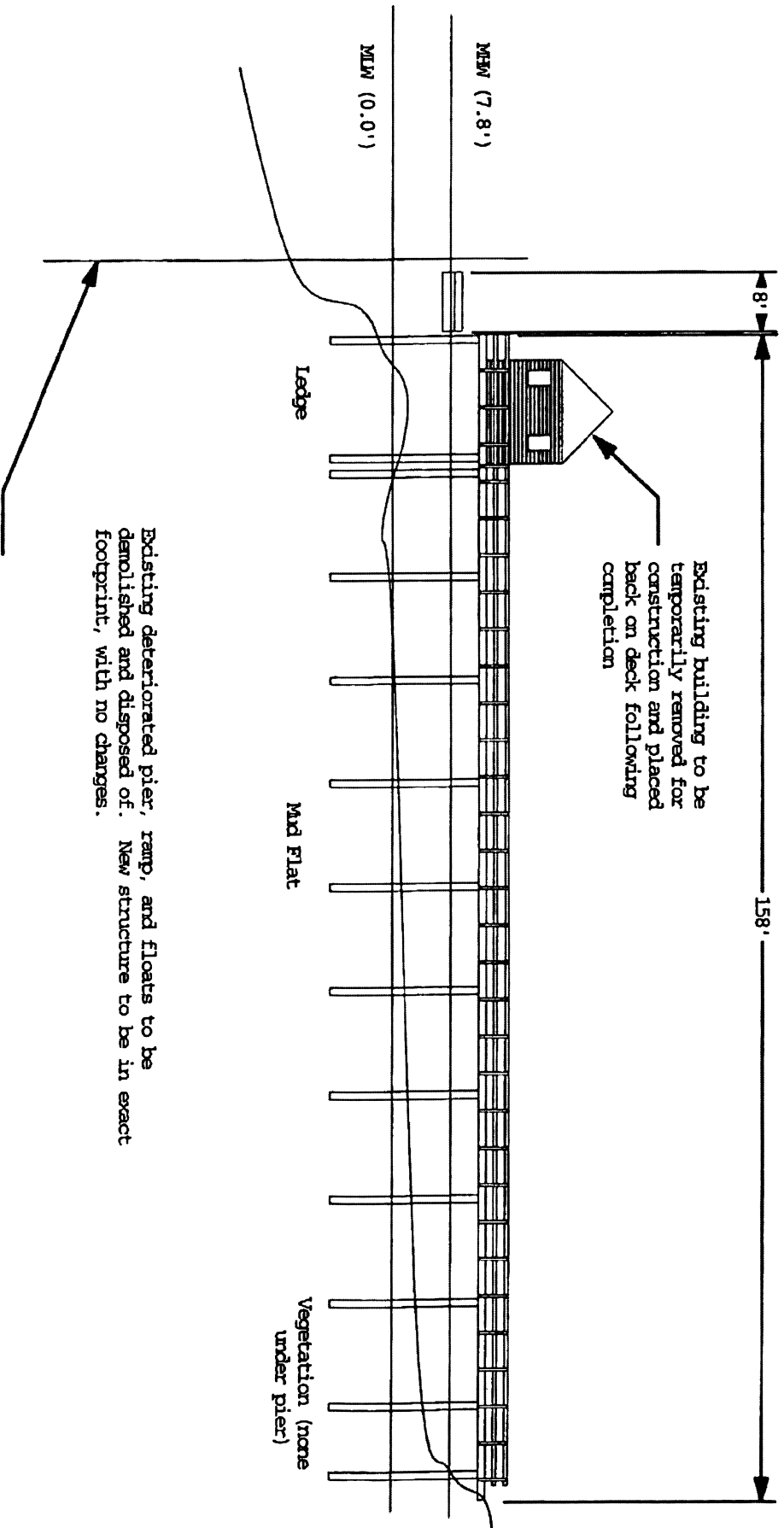


Plan View; Pier, Ramp, & Floats

For: Jade Realty Corporation
 PO Box 799
 Greenland, NH 03840

Scale: 1" = 20' By: GDN Date: 7/27/00

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824



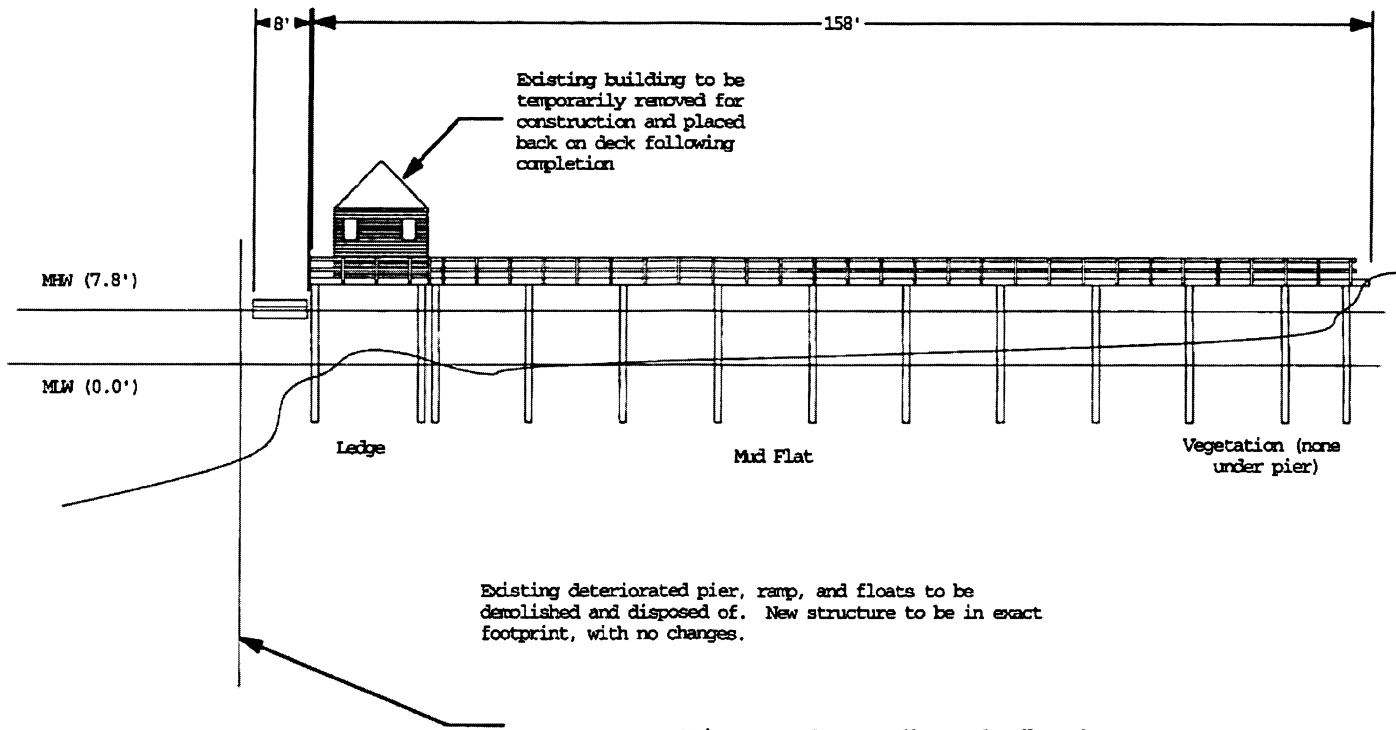
Note: Maine State Plane Coordinates for float face
 N 90830 E 343155

Elevation View; Pier, Ramp, & Floats

For: Jade Realty Corporation
 PO Box 799
 Greenland, NH 03840

Scale: 1" = 20' By: GDN Date: 7/27/00

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824



Elevation View; Pier, Ramp, & Floats

For: Jade Realty Corporation
 PO Box 799
 Greenland, NH 03840

Scale: 1" : 20' By: GDN Date: 7/27/00

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824

TOWN OF KITTERY PORT AUTHORITY
APPLICATION

CASE NO. _____

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

DATE: 7/27/00

The following application is submitted for the ~~(construction modification)~~
reconstruction) of a Pier, Ramp & Floats as specified in the
Town of Kittery Port Authority Regulations

1. The owner of the property is Jade Realty Corporation 2. Telephone # 603-430-8323
2. The property address is 9 Badgers Island West
3. Assessor's Map # 1 , Lot # 23 , Size (acres) 0.6 a , Zoning District BI
4. The shorefrontage this property is 140 feet measured at the high water line.
5. The applicant is demonstrates a legal interest in the property by providing a copy of the following: Deed
6. Additional Permits required:
 - a. Building permit X
 - b. Planning board review _____
 - c. DEP Permit X
 - d. Army Corps of Engineers X

7. CONSTRUCTION PLAN

Please provide a description of the property showing all proposed construction which shows the lot lines and exact positions of the proposed structure with dimensions and elevations from a readily identifiable reference points.

Signed Applicant _____

Glenn Normandcau, President, Pickering Marine Corporation
Owner's Agent

Signed (Property Owner) _____

Pickering Marine Corporation 7 Pickering Ave. Portsmouth, NH 03801 603-427-2824

ABUTTERS TO:

Map 1, Lot 23
Jade Realty Corporation
PO Box 799
Greenland, NH 03840

ABUTTER LIST

Tax Map & Lot No.
Name
Mailing Address

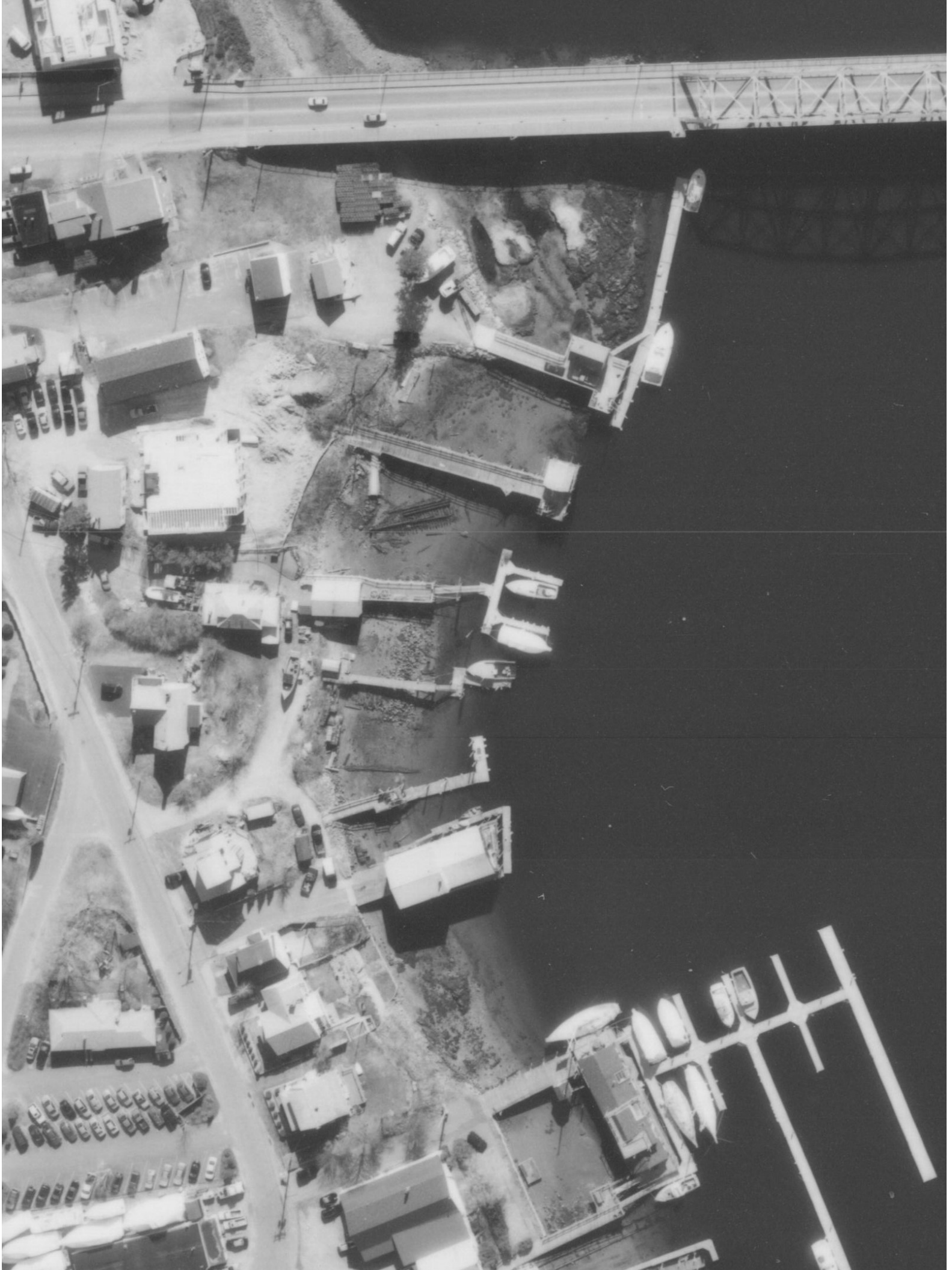
Map 1, Lot 19
Anthony Marquis
4 Raynes Neck Rd.
York, ME 03909

Map 1, Lot 20
Carroll Trust
Patricia Rossiter
55 Whipple Rd.
Kittery, ME 03904

Map 1, Lot 22
Wilfred & Janet Verville
7 Badgers Island West
Kittery, ME 03904

Map 1, Lot 24
Edward McGarry
11 Badgers Island West
Kittery, ME 03904





McGarry KPA Exhibit 5

From: Judi Clark <jucl@natureplanet.com>
Date: February 27, 2023 at 11:27:27 PM EST
To: tdmcgarry@comcast.net
Subject: Original Pier on Badgers Island

To whom it may concern:

I lived in the duplex on Badgers Island for 12+ years, from 1981 until spring of 1994. This is the property next to Ted and Donna McGarry. I moved when the new owners wanted the property for themselves, and they soon tore the house down to build the present day Condos.

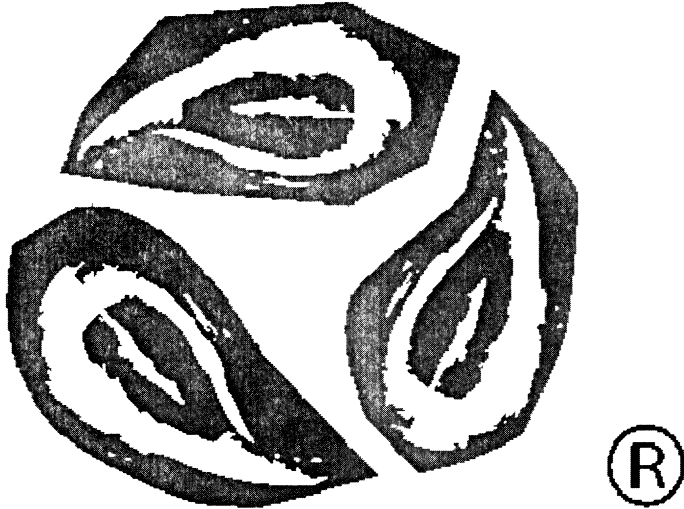
On a historical note, the home that eventually became the duplex that I lived in, was built by the shipbuilder William Badger in 1797 who played a role in the amazing shipbuilding industry on the Piscataqua river.

When I lived in the duplex on Badger Island, I rented from a fisherman named Vinnie Perrine. He kept his fishing trawler on the dock. There was just a single pier that was wider at the end that allowed him to tie the fishing boat to the dock in parallel with the shore. After a few years, Vinnie added an oversized shed for a tiny office towards the end of the dock. To my memory, there was no gangway on the side of the dock closest to the McGarry's docks.. Outside of the shed, the dock remained the same the entire time that I lived there.

Thanks,

Judi Clark
Vice President of Operations

NATURE



PLANET

225 Ottley Dr, Suite 220 | Atlanta, GA 30324

Direct Line: 503 664 3366

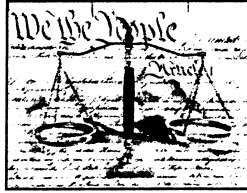
www.NaturePlanet.com

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McGarry KPA Exhibit 6

Patrick S. Bedard
psbedlaw@bedardbobrow.com



BEDARD & BOBROW, PC

Practicing Law in ME, NH & MA
9 Bradstreet Lane P.O. Box 366
Eliot, Maine 03903
Tel. 207-439-4502 Fax 207-439-6172
www.bedardbobrow.com

David J. Bobrow
djblaw@bedardbobrow.com

October 26, 2022

Ben Porter
President
Langdon's Island Condominium Association
9 Badgers Island
Kittery, Maine 03904

Re: Docks and floats at 11 and 9 Badgers Island, Kittery, Maine

Dear Mr. Porter:

As you know I represent Donna McGarry, owner of 11 Badgers Island, Kittery, Maine. I am following up after my letter to you dated October 18, 2022. After I wrote to you I requested from the Town of Kittery records related to the dock and float system on your property at 9 Badgers Island, Kittery, Maine. The Harbormaster delivered to my office what records the Town of Kittery, including the Port Authority, had related to your dock at 9 Badgers Island, Kittery, Maine.

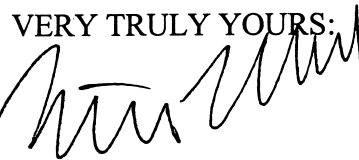
The dock at 9 Badgers Island, Kittery, Maine was approved in 1980. This originally constructed dock has the three approvals required for a dock: Army Corps, Maine Department of Environmental Protection, and the Town of Kittery Port Authority. The approved dock is 12 feet by 140 feet with a T portion at the end of the dock which is 20 feet by 40 feet. This was all legally done and there are permits for the dock.

There are no further permits that I can find (none were delivered by the Town of Kittery). It appears that the dock was expanded by a prior owner (possibly before the condominium was formed) expanding the dock with a float approximately 8 feet further towards 11 Badgers Island, Donna McGarry's permitted dock and floats. This is shown on a 2003 plan of 9 Badgers Island done by LeBlanc Associates for Jade Realty Corporation showing the construction of a ramp and floats at the end of the T. The plan shows that the T end of the pier is now 48 feet wide instead of the permitted 40 feet wide, going closer to Donna McGarry's dock and floats than allowed (the estimate on the plan of the distance is now 40' to 50' when at least 50' is required.) The front of the dock also appears to have been expanded about 8 feet into the Piscataqua River channel. According to the Port Authority Rules in Kittery a property owner needs Kittery Port Authority Approval for floats (which are permanent structures). I also expect Army Corps and Maine DEP approval is needed as well. The Town was unable to provide any evidence that this expansion was permitted. Donna told me she did not receive any notice from the Town, nor any other permitting authority, of any expansion of this float. Instead, the work was apparently done

and the expansion was completed. The expansion has caused problems because placing a boat on the side of the float chokes off Donna's access to her dock and float.

I am requesting from you a copy of the permits for this expansion of your dock beyond the 20 feet by 40 feet T area at the end of the dock. If you do not have permits for this then the float area closest to Donna should not be used for docking boats as it was not permitted and is too close to Donna's dock and float system. I attach copies of the evidence the Town of Kittery provided to me showing the dock that was permitted in 1980, and the plan showing the condition of the dock in 2003 after an expansion for which there is no evidence of any permits.

I look forward to hearing from you.

VERY TRULY YOURS:

PATRICK S. BEDARD

Cc: Donna McGarry



TOWN OF KITTERY

Code Enforcement Office

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1308 Fax: 207-439-6806

CEO@kitteryme.org

10/25/2023

KITTERY PORT AUTHORITY APPLICATION ACCEPTANCE MEMO

From: Craig Alfis, Code Enforcement
To: Charles Patten, Port Authority Chair

Subj: Acceptance of Application, 27 Badgers Island West

Mr. Chair,

Code Enforcement and Planning staff have reviewed the application for 27 Badgers Island West, requesting the installation of a 4' x 110' service float, and found it to be complete. The application requests the following:

1. The installation of one 4' x 110' service float along the existing pier.

Based on a cursory review of the information provided in the application, Staff believes the application is complete, and recommends that the Port Authority accept the application for further review. Information submitted includes:

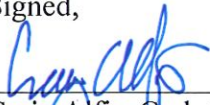
- Kittery Port Authority application;
- Proof of ownership;
- Plans showing the location and shape of the proposed development.

The following will be need to be completed prior to work starting, if approved:

- Maine DEP application;
- US Army Corps of Engineers Self Verification Form
- Planning Board approval

If the Port Authority votes to accept the application, an in-depth review will be performed by Code and Planning staff, and a staff report will be provided to the Port Authority prior to the meeting on which the application is scheduled.

Signed,



Craig Alfis, Code Enforcement Officer



207-475-1308

ceo@kitteryme.org

Port Authority Application

KPA-23-18

Applicant

 DARREN LAPIERRE
 2074393810
 islandmarineservice@comcast.net

Primary Location

27 BADGERS ISLAND WEST
KITTERY, ME 03904

Project Discription

Description of Project

Install a new 110' x 4' service float along exsisting peir.

Is any work being performed upland of the Highest Annual Tide?

No

Are any waivers from the performance standards in the Kittery Port Authority Rules & Regulations requested?

No

Type of Project

Is this project an in-kind repair/replacement?

No

Property Information

Name of the property owner(s)

27 BIM llc

Property Address

27 Badgers Island West

Telephone Number

2074393810

Email Address

islandmarineservice@comcast.net

Size of the Property

.7 acre

Zoning District

3840

Shore Frontage Footage

240'

Property History

This is my first Kittery Port Authority Application for this property

false

I have submitted an application to the Kittery Port Authority in the past for this property

true

If you have submitted a previous application to the Kittery Port Authority for this property, please explain:

8/17/23 - Permit #bp-23-199 To increase the westerly pier an additional 10' x 8'

8/20/14 - Permit #14-238 Increase Pier Width

Acknowledgements

I understand that additional permits and/or approvals may be required by the Army Corps of Engineers, the Maine Department of Environmental Protection, the Maine Department of Conservation, and/or another legal entity not listed here. Furthermore, I have submitted the additional permits and/or approvals with this application.

true

I certify that in addition to uploading the required documentation, I will also provide 10 paper copies of each document to the Kittery Planning and Development Office at least 21 days prior to a scheduled Kittery Port Authority Meeting.

false

I certify that all information on this application is complete and true to the best of my knowledge. I understand any false, misleading, or incomplete information will result in the denial of this application.

true

I certify that I have submitted this application at least 21 days prior to a scheduled Kittery Port Authority Meeting. I understand that failure to submit this application at least 21 days prior will result in my request going before the Kittery Port Authority at a later date.

true

Applicant Information

Name of Applicant

DARREN LAPIERRE

Date Application Completed

09/26/2023

Name of Property Owner

27 BIM LLC

Agent Name

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Agent Firm

--

Agent Phone

--

Agent Email

--

New Service float
Location

