



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

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

**Meeting Agenda  
March 2, 2023  
6:00 P.M.**

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

[https://us02web.zoom.us/webinar/register/WN\\_7Tktz579RgmMR9bQlvmZGA](https://us02web.zoom.us/webinar/register/WN_7Tktz579RgmMR9bQlvmZGA)

1. Call to Order / Attendance
2. Pledge of Allegiance
3. Agenda Amendments and Adoption
4. Acceptance of Previous Minutes: none
5. Harbormaster Report and Budget Report
6. All Items involving Town Officials or Invited Guests
7. Public Hearing
8. Piers, Wharves & Floats
  - a. The Kittery Port Authority moves to accept an application from Ryan Harmon, 67 Depot Rd, Eliot ME 03903, to install a 10' x 24' float secured by two (2) 3,000-pound granite blocks, in the Piscataqua River's back channel.
  - b. The Kittery Port Authority moves to accept 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 an 8' x 16' float extension, two (2) 4' x 30' finger floats, and one (1) 4' x 26' finger float. Agent is Steven Riker, Ambit Engineering – Haley Ward, Inc.
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

## KPA-22-11

Kittery Port Authority Application

**Status:** Active

**Date Created:** Dec 21, 2022

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### Applicant

RYAN HARMON  
pgnts@comcast.net  
67 depot road  
Eliot, ME 03903  
2077030393

### Primary Location

200 ROGERS ROAD  
KITTERY, ME 03904

### Owner:

Ryan Harmon  
67 depot rd Eliot, ME 03903

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### Project Discription

#### Description of Project

moored Float 10' x 24'

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

No

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### Type of Project

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

No

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### Property Information

#### Name of the property owner(s)

Ryan Harmon

#### Property Address

Piscataqua "Back Channel"

#### Telephone Number

2077033456

#### Email Address

pgnts@comcast.net

#### Size of the Property

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#### Zoning District

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#### Shore Frontage Footage

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### 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

<b>Name of Applicant</b> ryan harmon	<b>Date Application Completed</b> 12-21-22
<b>Name of Property Owner</b> ryan harmon	<b>Agent Name</b> --
<b>Agent Firm</b> --	<b>Agent Phone</b> --
<b>Agent Email</b> --	




## Attachments

 NAE-2023-00223-PERMIT.pdf  
Uploaded by Carrie Varao on Feb 14, 2023 at 8:48 am

## History

Date	Activity
Dec 21, 2022 at 8:16 am	RYAN HARMON started a draft of Record KPA-22-11
Dec 21, 2022 at 8:19 am	RYAN HARMON altered Record KPA-22-11, changed ownerCity from "KITTERY" to "Eliot"
Dec 21, 2022 at 8:19 am	RYAN HARMON altered Record KPA-22-11, changed ownerEmail from "" to "pgnts@comcast.net"
Dec 21, 2022 at 8:19 am	RYAN HARMON altered Record KPA-22-11, changed ownerName from "INHABITANTS OF KITTERY" to "Ryan Harmon"
Dec 21, 2022 at 8:19 am	RYAN HARMON altered Record KPA-22-11, changed ownerPhoneNo from "207-439-0452" to "207 703 3456"
Dec 21, 2022 at 8:19 am	RYAN HARMON altered Record KPA-22-11, changed ownerPostalCode from "03904" to "03903"
Dec 21, 2022 at 8:19 am	RYAN HARMON altered Record KPA-22-11, changed ownerStreetName from "" to "depot rd"
Dec 21, 2022 at 8:19 am	RYAN HARMON altered Record KPA-22-11, changed ownerStreetNo from "200 ROGERS ROAD" to "67"
Dec 21, 2022 at 8:24 am	RYAN HARMON submitted Record KPA-22-11
Dec 21, 2022 at 11:30 am	completed payment step Fee Payment on Record KPA-22-11
Dec 21, 2022 at 11:30 am	approval step Application Completeness Review was assigned to Carrie Varao on Record KPA-22-11
Dec 21, 2022 at 11:48 am	Craig Alfis altered approval step Application Completeness Review, changed status from Active to On Hold on Record KPA-22-11
Feb 14, 2023 at 8:48 am	Carrie Varao altered approval step Application Completeness Review, changed status from On Hold to Active on Record KPA-22-11
Feb 14, 2023 at 8:55 am	Carrie Varao changed Property Address from "67 depot rd " to "Piscataqua "Back Channel"" on Record KPA-22-11
Feb 21, 2023 at 10:12 am	Carrie Varao approved approval step Application Completeness Review on Record KPA-22-11
Feb 21, 2023 at 10:12 am	approval step Code Enforcement Upland Development Review was assigned to Craig Alfis on Record KPA-22-11

## Timeline

Label	Status	Activated	Completed	Assignee	Due Date
 Fee Payment	Paid	Dec 21, 2022 at 8:24 am	Dec 21, 2022 at 11:30 am	-	-
 Application Completeness Review	Complete	Dec 21, 2022 at 11:30 am	Feb 21, 2023 at 10:12 am	Carrie Varao	-
 Town Planner Upland Development Review	Active	Feb 21, 2023 at 10:12 am	-	-	-



<b>Label</b>	<b>Status</b>	<b>Activated</b>	<b>Completed</b>	<b>Assignee</b>	<b>Due Date</b>
 Code Enforcement Upland Development Review	Active	Feb 21, 2023 at 10:12 am	-	Craig Alfis	-
 Port Authority Approval Uploaded	Inactive	-	-	-	-
 Building Permit Received	Inactive	-	-	-	-



REPLY TO  
ATTENTION OF

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

Regulatory Division  
File No. NAE-2023-00223

February 10, 2023

Ryan Harmon  
67 Depot Road  
Eliot, Maine 03903

Dear Mr. Harmon:

We recently reviewed your proposal to install and maintain a 10 ft. x 24 ft. float to be located below the mean high water mark of the Piscataqua River's "Back Channel" at Kittery, Maine (Lat/Lon 43.083825°N; -70.743768°W). The float would be moored on each side by 3,000-lb. granite blocks. This work is shown on the attached plans entitled "RYAN HARMON FLOAT LOCATION" and "Harmon Float Mooring Diagram" in two sheets undated.

On October 14, 2020, we issued General Permits that, subject to our discretion, eliminates the need for individual Department of the Army permits for certain work that is regulated in the State of Maine ([www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit](http://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit)). Your activity as proposed qualifies for self-verification under Maine General Permit 3, Structures, Floats, and Lifts. No further action is necessary from the Corps on this project.

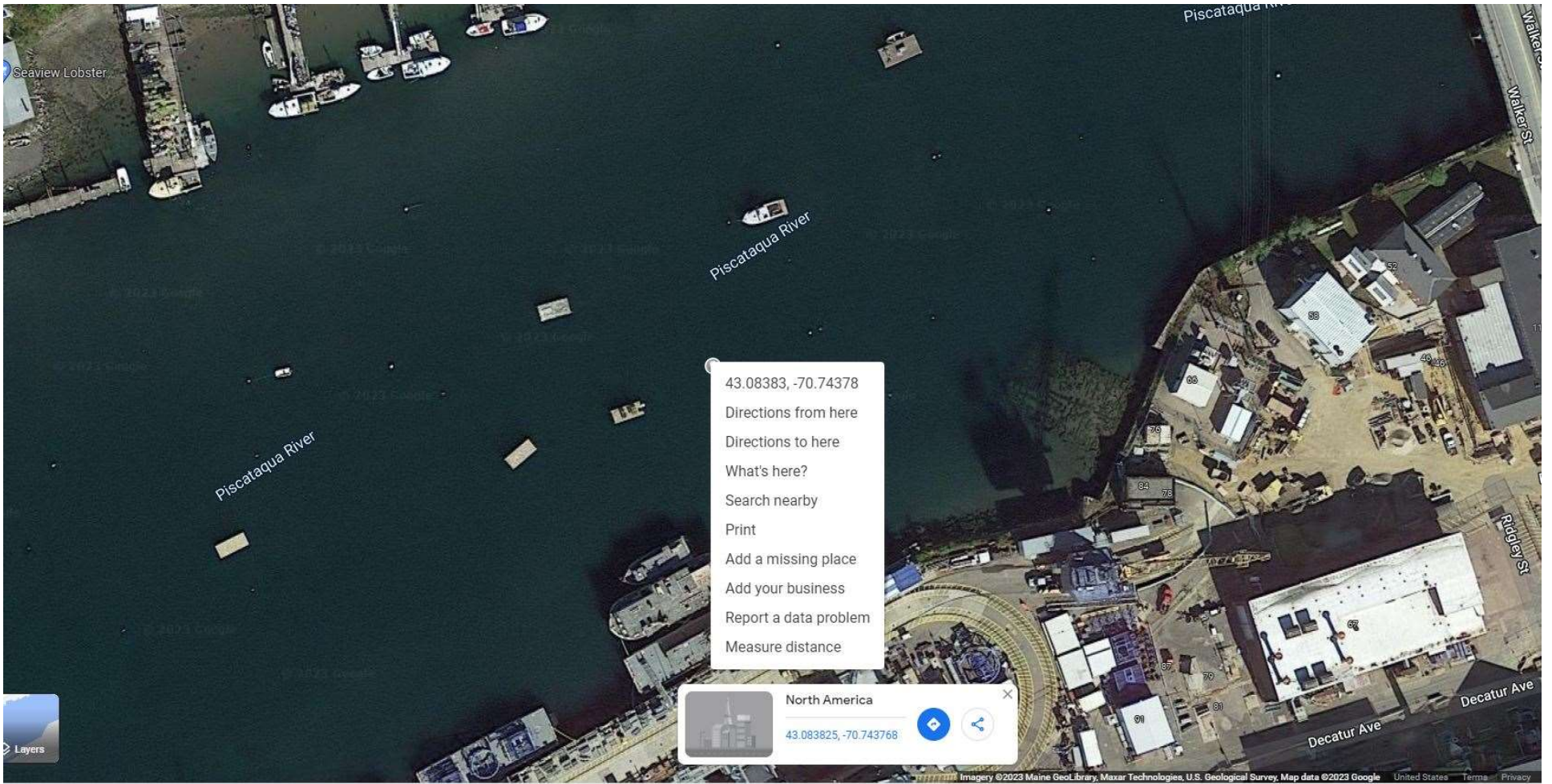
Please note that all work is subject to the terms and conditions contained in the general permit. Condition 45 provides for one year for completion of work that has commenced or is under contract to commence prior to the expiration of the general permit on October 25, 2025. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 14, 2026.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. If any change in the plans or construction methods is found necessary, please contact us immediately to discuss modification of your permit. Any change must be approved before it is undertaken.

If you have any questions on this matter, please contact Colin Greenan of my staff at 978-318-8676 or [colin.m.greenan@usace.army.mil](mailto:colin.m.greenan@usace.army.mil) at our Augusta, Maine Project Office.

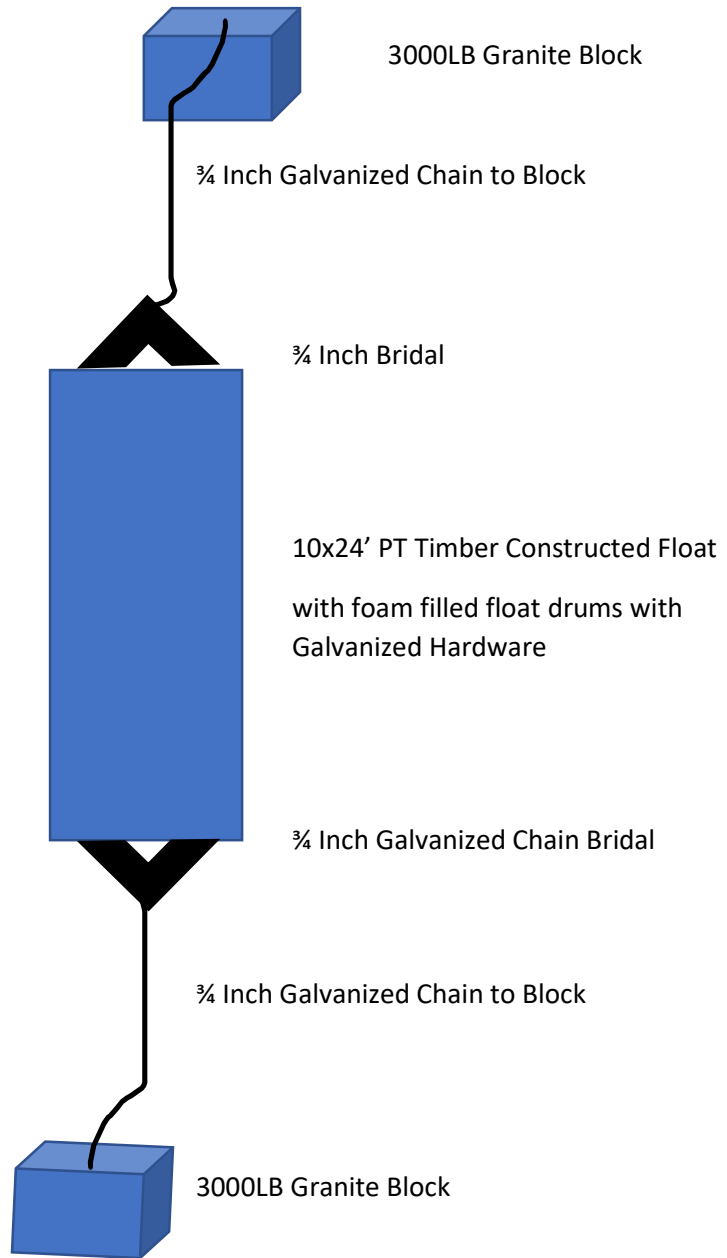
Sincerely,

For Frank J. Del Giudice  
Chief, Permits & Enforcement Branch  
Regulatory Division



RYAN HARMON FLOAT LOCATION

**Harmon Float Mooring  
Diagram**



**KPA-23-2****Kittery Port Authority Application****Status:** Active**Date Created:** Feb 14, 2023**Applicant**

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

**Primary Location**

9 BADGERS ISLAND WEST  
KITTERY, ME 03904

**Owner:**

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

**Project Discription****Description of Project**

The project proposes the modification of an existing tidal docking structure 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. 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.

**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:

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### 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







-  YCRD 9755-55.pdf  
Uploaded by Steven Riker on Feb 14, 2023 at 9:26 am
-  Complete DEP NRPA Application REDUCED SIZE 021323.pdf  
Uploaded by Steven Riker on Feb 14, 2023 at 9:27 am
-  Complete DEP NRPA Application REDUCED SIZE 021323.pdf  
Uploaded by Steven Riker on Feb 14, 2023 at 9:27 am
-  Complete DEP NRPA Application REDUCED SIZE 021323.pdf  
Uploaded by Steven Riker on Feb 14, 2023 at 9:27 am
-  Plan Set REDUCED SIZE 012023.pdf  
Uploaded by Steven Riker on Feb 14, 2023 at 9:27 am
-  Tax Map 3402.14.pdf  
Uploaded by Steven Riker on Feb 14, 2023 at 9:27 am
-  Abutter List 3402.14.pdf  
Uploaded by Steven Riker on Feb 14, 2023 at 9:27 am

### History

Date	Activity
Feb 13, 2023 at 2:04 pm	Steven Riker started a draft of Record KPA-23-2
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerCity from "" to "Kittery"
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerEmail from "" to "langdon.condo@gmail.com"

Date	Activity
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerName from "" to "Langdon Island West Condominium Association C/O Ben Porter, President"
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerPhoneNo from "" to "617-571-2317"
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerPostalCode from "" to "03904"
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerState from "" to "ME"
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerStreetName from "" to "Badgers Island West"
Feb 14, 2023 at 9:18 am	Steven Riker altered Record KPA-23-2, changed ownerStreetNo from "" to "9"
Feb 14, 2023 at 9:28 am	Steven Riker submitted Record KPA-23-2
Feb 16, 2023 at 4:21 pm	completed payment step Fee Payment on Record KPA-23-2
Feb 16, 2023 at 4:21 pm	approval step Application Completeness Review was assigned to Carrie Varao on Record KPA-23-2
Feb 16, 2023 at 4:21 pm	Carrie Varao approved approval step Application Completeness Review on Record KPA-23-2
Feb 16, 2023 at 4:21 pm	approval step Code Enforcement Upland Development Review was assigned to Craig Alfis on Record KPA-23-2

## Timeline

Label	Status	Activated	Completed	Assignee	Due Date
 Fee Payment	Paid	Feb 14, 2023 at 9:28 am	Feb 16, 2023 at 4:21 pm	-	-
 Application Completeness Review	Complete	Feb 16, 2023 at 4:21 pm	Feb 16, 2023 at 4:21 pm	Carrie Varao	-
 Town Planner Upland Development Review	Active	Feb 16, 2023 at 4:21 pm	-	-	-
 Code Enforcement Upland Development Review	Active	Feb 16, 2023 at 4:21 pm	-	Craig Alfis	-
 Port Authority Approval Uploaded	Inactive	-	-	-	-
 Building Permit Received	Inactive	-	-	-	-



# 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:**

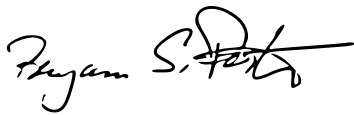
**RE: State of Maine Department of Environmental Protection Application for proposed docking structure within the previously developed 100' Tidal Buffer Zone and jurisdictional wetlands for Langdon Island Condo Association of 9 Badgers Island Kittery, ME, 03904**

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

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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**

<b>1. Name of Applicant:</b> Langdon Island West Condominium Association		<b>5. Name of Agent:</b> Steven D. Riker    Ambit Engineering, Inc.	
<b>2. Applicant's Mailing Address:</b> C/O Ben Porter, President 9 Badgers Island West, Kittery, ME 03904		<b>6. Agent's Mailing Address:</b> 200 Griffin Road, Unit 3, Portsmouth, NH 03801	
<b>3. Applicant's Daytime Phone #:</b> 617-571-2317		<b>7. Agent's Daytime Phone #:</b> 603-430-9282	
<b>4. Applicant's Email Address (Required from either applicant or agent):</b> langdon.condo@gmail.com		<b>8. Agent's Email Address:</b> sdr@ambitengineering.com	
<b>9. Location of Activity: (Nearest Road, Street, Rt.#)</b> 9 Badgers Island West		<b>10. Town:</b> Kittery	<b>11. County:</b> York
<b>12. Type of Resource: (Check all that apply)</b> <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		<b>13. Name of Resource:</b> Piscataqua River	
		<b>14. Amount of Impact: (Sq.Ft.)</b>	<b>Fill:</b> 384 sq. ft indirect impact for proposed floats <b>Dredging/Veg Removal/Other:</b>
<b>15. Type of Wetland: (Check all that apply)</b> <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>		<b>FOR FRESHWATER WETLANDS</b>	
		<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
<b>16. Brief Activity Description:</b>		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.	
<b>17. Size of Lot or Parcel &amp; UTM Locations:</b>		<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>	
<b>18. Title, Right or Interest:</b>		<input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement	
<b>19. Deed Reference Numbers:</b>		<b>20. Map and Lot Numbers:</b>	
Book#: 9755    Page: 55		Map #: 1    Lot #: 23	
<b>21. DEP Staff Previously Contacted:</b>		<b>22. Part of a larger project:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>23. Resubmission of Application?:</b> <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		<b>After-the-Fact:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>24. Written Notice of Violation?:</b> <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		<b>25. Previous Wetland Alteration:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>23. If yes, previous application #</b>		<b>Previous project manager:</b>	
<b>24. If yes, name of DEP enforcement staff involved:</b>			
<b>26. Detailed Directions to the Project Site:</b>		From US Route 1 in Kittery, ME, turn onto Badgers Island West. In 300 feet, turn left into 9 Badgers Island West.	
<b>TIER 1</b>		<b>TIER 2/3 AND INDIVIDUAL PERMITS</b>	
<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	
<b>27. TIER 2/3 AND INDIVIDUAL PERMITS</b>		<input checked="" 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	
<b>28. FEES Amount Enclosed:</b>		\$564.00	
<b>CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2</b>			

**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)**

	0-¼	¼-1	1+
1. Would the activity be visible from:			
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](http://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: E118)  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 <b>Periwinkle</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SIGNS OF SHORELINE OR INTERTIDAL EROSION?  yes  no

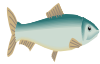
PREVIOUS ALTERATIONS?  yes  no

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

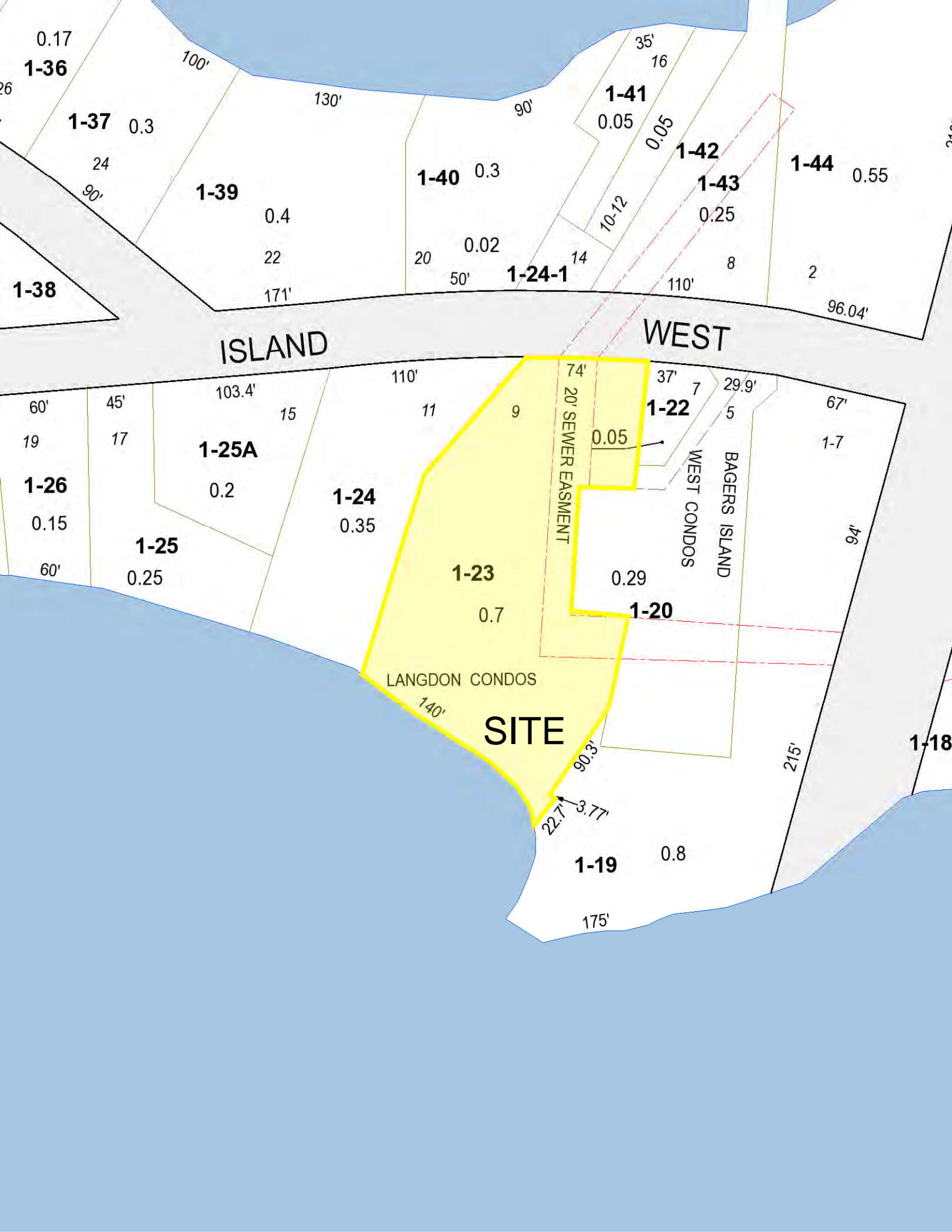


esri

0.4km

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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,

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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,

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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

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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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

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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**

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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	\$



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**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.

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  
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.

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 & 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





# AMBIT ENGINEERING, INC.

A DIVISION OF HALEY WARD, INC. 

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.

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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

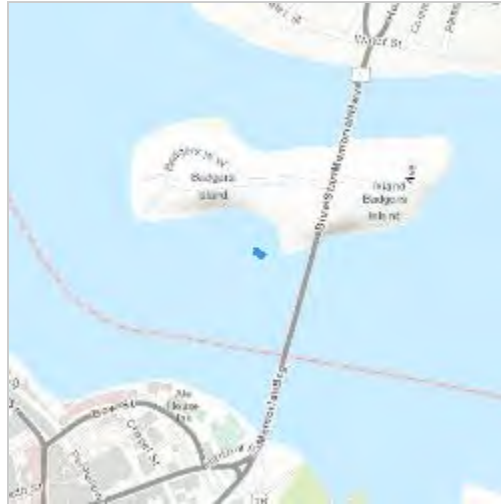
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## Project Summary

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

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## 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 Fisheries<sup>1</sup>, 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: <a href="https://ecos.fws.gov/ecp/species/2083">https://ecos.fws.gov/ecp/species/2083</a>	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](mailto:sdr@ambitengineering.com)

Phone: 6034309282

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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





## DECLARATION OF LANGDON'S ISLAND CONDOMINIUM

21 THIS DECLARATION (the "Declaration") is executed as of October 21, 1999 by 9 Badgers Island West LLC (the "Declarant") pursuant to the Maine Condominium Act, Chapter 31 of Title 33 of the Maine Revised Statutes of 1964, as amended (the "Act").

## ARTICLE I

CREATION OF CONDOMINIUM; DEFINED TERMS

1.1. Declaration of Property. The Declarant, owner a certain parcel of land (the "Land") in the Town of Kittery, County of York and State of Maine more particularly described in Schedule A and of all buildings and improvements to be constructed on the Land and all easements, rights, privileges and appurtenances hereunto belonging (collectively, the "Property") hereby declares that the Property shall be conveyed subject to the covenants, easements and restrictions contained in the Act and in this Declaration which shall run with the Property and be binding upon, and inure to the benefit of, all owners of any and every portion of the Property and their respective heirs, successors and assigns; that the Property is hereby submitted to the provisions of the Act; and that the Declarant hereby creates with respect to the Property a condominium as defined-in Section 1601-103(7) of the Act (the "Condominium").

The Property is depicted on the Plats of the Land (the "Plats") and Plans of such buildings and improvements to be constructed thereon (the "Plans") which Plats and Plans are recorded herewith in York County Registry of Deeds (Schedules B and C).

1.2. Defined Terms. As provided in Section 1601-103 of the Act, capitalized terms not otherwise defined in this Declaration as it may be amended from time to time, or the Plats and Plans, shall have the same meanings as specified in the Act. The following terms which are not otherwise defined in this Declaration shall have the following specific meanings in this Declaration:

1.2.1. "Allocated Interests" mean (a) the Common Element Interest, (b) the Common Expense Liability and (c) the Votes in the Association, allocated to each Unit pursuant to this Declaration.

1.2.2. "Common Elements" mean all portions of the Condominium other than the Units.

- 1.2.3. "Common Element Interest" means the percentage of undivided interest in the Common Elements appurtenant to each Unit.
- 1.2.4. "Common Expenses" mean and include, but are not limited to, (a) the cost of maintenance, management, operation, repair and replacement of the Common Elements and such Limited Common Elements and such parts of the Units are to which pursuant to this Declaration it is the responsibility of the Association to maintain, repair and replace, (b) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Executive Board pursuant to the provisions of this Declaration and the fees and disbursements of the Insurance Trustee, if any, (c) such amounts as the Executive Board may deem necessary to provide for general operating reserve funds, reserve funds for replacements and contingencies, and such other reserve funds as the Executive Board may periodically establish, (d) sums that the Executive Board may deem necessary to compensate for any deficits in receipts over expenses for the previous fiscal year, and (e) the charges and fees to the extent not separately metered to individual Units and charged to individual Unit Owners; and (f) such other costs and expenses that may be declared by the Act, this Declaration, the By-Laws, or resolution or agreement by the Executive Board, Unit Owners, or any two or more of the foregoing, to be Common Expenses of the administration, operation, maintenance and repair of the Condominium and Property and the rendering to Unit Owners of all related services.
- 1.2.5. "Declarant Control Period" means the entire time period which extends from the date of the recording of this Declaration until the earlier of (a) five (5) years following the conveyance of the first Unit to a Purchaser or (b) sixty (60) days after the conveyance of 75% of the Units.
- 1.2.6. "Eligible Mortgage Holder" means the holder of a recorded first Mortgage encumbering a Unit in the Condominium which has delivered written notice to the Association by prepaid United

States mail, return receipt requested, or by delivery in hand securing a receipt therefore, stating the name and address of the said holder of a Mortgage, the name and address of the owner of the Unit encumbered by such Mortgage, the identifying number of such Unit, and containing a statement that such Mortgage is a recorded first Mortgage.

1.2.7. "Limited Common Elements" mean those portions of the Common Elements the exclusive use of which is reserved as an appurtenance to one or more, but fewer than all, of the Units as indicated and allocated pursuant to this Declaration.

1.2.8. "Limited Common Expenses" mean (a) the Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed against the Units to which that Limited Common Element is assigned equally, or in proportion to the relative Common Expense Liabilities of such Units as between themselves, as the Executive Board may periodically determine, and (b) the Common Expenses for services benefitting fewer than all the Units, which are assessed exclusively against the Units benefitted generally in accordance with the use of such services as permitted by Section 1603-115(c) (2) of the Act, as determined by the Executive Board.

1.2.9. "Unit" means a part of the Property designated for any type of separate ownership or occupancy, which has a direct exit to a public street or way, or to a Common Element or Common Elements leading to a public street or way. The "size" of each Unit is the number of square feet of floor space therein (including balconies, garage and basement) determined by reference to the dimensions shown on the Plans and set forth on Schedule B attached hereto.

1.3. Interpretation. In the event of any conflict or discrepancy between this Declaration, the By-Laws, and the Plats and Plans, the provisions of this Declaration shall govern the By-Laws and the Plats and Plans.

ARTICLE II

IDENTIFICATION AND LOCATION OF CONDOMINIUM; ASSOCIATION

2.1. Name of Condominium. The name of the Condominium is LANGDON'S ISLAND CONDOMINIUM.

2.2. Name of Association. The name of the Unit Owners Association organized under and identified in Section 1603-101 of the Act (the "Association") is LANGDON'S ISLAND CONDOMINIUM ASSOCIATION.

2.3. Location of Condominium. The Condominium is located at 9 Badgers Island West, Kittery, County of York, and State of Maine.

ARTICLE III

DESCRIPTION OF Property AND UNITS

3.1. Description of the Property. A legally sufficient description of the Property included in the Condominium is set forth in Schedule A and the location and dimensions of the Property included in the Condominium are depicted on the Plats.

3.2. Location and Dimensions of Building. The location and dimensions of each Building and other improvements to be erected on the Land are depicted on the Plats and on the Plans.

3.3. Maximum Number of Units. The Declarant has created pursuant to this Declaration the Units identified on Schedule B. The maximum number of Units shall be seven (7). Reference is made to Schedule B for the identifying number and type of each Unit created by this Declaration and to the Plats and Plans for a description of each Unit created by this Declaration including each Unit's identifying number, the locations and dimensions of the vertical boundaries and horizontal boundaries of each Unit, the Common Elements to which the Unit has direct access and any other information necessary to identify the Unit.

3.4. Uniqueness of Unit 7 (the Marine Unit). The marina and associated appurtenances is Limited Common Area of Unit 7. The owner of Unit 7 shall have exclusive control of all waterfront lands and adjacent submerged lands.

Included in the rights belonging to the owner of Unit 7 is the exclusive right to negotiate or enter into contracts with the local, state or federal governments concerning the marina and its facilities (including, but not by way of limitation, the right and privilege to renegotiate, on behalf of the Association, any

existing Submerged Land Lease with the State of Maine). Included within these rights held by the owner of Unit 7 is the right to expand the marina, if desired in compliance with all local, state and federal laws and ordinances), and to replace and construct Limited Common Elements in the Limited Common Area belonging to Unit 7, as well as the right to condominiumize the dock space. The Association, by the recordation of this Declaration, grants to the owner of Unit 7, the irrevocable right to act as agent for the Association in all dealings with all local, state and federal agencies dealing with all waterfront issues as well as any private person or entity. No further action of the Association or Executive Board is required to grant or exercise these rights; THEY ARE DEEMED CONVEYED TO THE OWNER OF UNIT 7 AT THE TIME OF CONVEYANCE OF THE DEED TO UNIT 7.

The operation of the marina by the owner of Unit 7 shall be without interference from the Association. Neither the Association, nor the Executive Board, nor any Unit Owner shall do any act or enact any Rules or Regulations which attempt to govern the operation of the marina or its facilities or the Limited Common Elements of Unit 7. The owner of Unit 7, by acceptance of the deed to Unit 7, agrees to comply with all Kittery ordinances (e.g., noise) as well as to maintain the Limited Common Element of Unit 7 in a clean and safe condition. In addition, the owner of Unit 7 shall reasonably maintain the landscaping within the Limited Common Element associated with Unit 7.

The owner of Unit 7 is prohibited from placing or maintaining vending machines or unsightly structures or storage containers on the Limited Common Element of Unit 7. Neither may the owner of Unit 7 sell fuel, bait, fishing supplies or boat supplies within the Limited Common Element of Unit 7. Neither may the owner of Unit 7 engage in any boat sales, boat storage activities or boat maintenance/repair activities on the land area of the Limited Common Element of Unit 7. It is the intent of the Declarant to maintain a pleasure boat marina only. The Owner of Unit 7 may undertake landscaping or maintain picnic facilities within the Limited Common Element. Unit 7 must adhere to all rules and regulations relating to changes to the exterior of the condominium building housing the other six (6) Units and the Common area (excluding the Limited Common Element of Unit 7).

Although Unit 7 has been granted numerous rights that do not require the approval of the Association, it is not the intent of the Declarant to allow the owner of Unit 7 to negatively impact the remaining Unit Owners through these rights. The owner of Unit 7 by acceptance of a deed of conveyance, agrees to cooperate with the Association regarding issues of noise, clutter and other, similar issues concerning the right of each Unit Owner to enjoy the use of their Unit.

- 3.4.1. Subdivision of Unit 7 (the Marina Unit). Unit 7 may be subdivided into two (2) or more Units. The costs of accomplishing subdivision will be borne by the owner of Unit 7. The Association will cooperate in executing and recording an amendment to the Declaration including plats and plans subdividing the Unit.

The provisions of this Section may not be amended nor may the condominium be terminated without the written consent of the owner of Unit 7. The terms of this Section shall, if conflict exist between this Section and any other Section in the Condominium Documents, always prevail.

3.5. Unit Boundaries. The boundaries of Units 1 through 7 created pursuant to this Declaration are situated as shown on the Plats and Plans and shall consist of:

- 3.5.1. Upper and Lower (Horizontal) Boundaries: The upper and lower boundaries of each Unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries:
- 3.5.1.1. Upper Boundary: The horizontal plane of the lower horizontal surface of the ceiling joists.
  - 3.5.1.2. Lower Boundary: The horizontal plane of the top surface of the undecorated concrete floor slab or the unfinished subflooring of the Unit, as the case may be.
- 3.5.2. Vertical (Perimetric) Boundaries: The vertical boundaries of each Unit shall be the vertical planes at the stud line of the back surface of its perimetric walls, extended to the intersections with each other and with the upper and lower Unit boundaries.
- 3.5.3. The Unit shall include the heating, hot water and air conditioning apparatus exclusively serving the Unit whether or not located within the boundaries of the Unit and all furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of

the finished surfaces thereon, located within the boundaries of the Unit.

- 3.5.4. Subject to the provisions of subparagraph 3 above, if any chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column, or any other fixtures lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.
- 3.5.5. Subject to the provisions of subparagraph 4 above, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.
- 3.5.6. Subject to the provisions of subparagraphs 3 and 4 above, any shutters, awnings, windows, window boxes, doorsteps, stoops, porches and all exterior doors and windows and other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

**3.6. Allocated Interests.** The Allocated Interests allocated to each Unit are listed in Schedule B. Each Allocated Interest has been rounded to the nearest one thousandth of one percent (0.001%). The formula for calculating the Allocated Interest is as follows:

Square Feet in Unit

Square Feet in all Units

**3.7. Alteration of Partitions.** Subject to applicable provisions of law, ordinances and land-use regulations, a Unit Owner may, after acquiring a vertically or horizontally adjoining Unit or adjoining part of a vertically or horizontally adjoining Unit, remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if such acts do not impair the structural integrity or mechanical systems of the Building in which such Units are located or lessen the support of any portion of the Property. Removal of partitions or creation of apertures under this subparagraph is not an alteration of boundaries.



3.8. Alterations by Unit Owner. A Unit Owner may make non-structural improvements and alterations to the interior of his Unit but no Unit Owner may make any improvements or alterations or do any work whatsoever which would impair the structural integrity or mechanical, electrical and plumbing systems of the Buildings. No Unit Owner shall impair any easement or hereditament therein without the unanimous consent of the Unit Owners affected thereby. No Unit Owner shall alter any of the Common Elements or paint or otherwise change the appearance of the Common Elements (including the Limited Common Elements) or paint or otherwise change the exterior appearance of his Unit (including, but not limited to, the exterior surfaces of doors) or any other portion of the Condominium without the prior written approval of the Executive Board of the Association or a committee appointed by the Board pursuant to the By-Laws.

3.9. Exterior Changes to the Building. Any changes to the exterior of the building housing Units 1-7 shall require the approval of a majority of the Unit Owners; provided, however, any proposed exterior changes to the balconies, e.g., screening, awnings, glass enclosures, etc., shall require the unanimous consent of all Unit Owners.

ARTICLE IV

COMMON ELEMENTS, LIMITED COMMON ELEMENTS  
AND APPLICABLE PROVISIONS

4.1. Common Elements. The Common Elements are shown on the Plats and Plans and are allocated according to the percentages on Schedule B.

4.2. Limited Common Elements. The location and dimensions of all Limited Common Elements, except for the portions of the Property described as Limited Common Elements pursuant to the Act, and the identifications of the Unit or Units to which the Limited Common Elements are hereby allocated are described in this Paragraph and on the Plats and Plans. The allocation of Limited Common Elements to the Units cannot be altered except with the written consent of the Owners and Mortgagees of record of the Units affected by the reallocation of Limited Common Elements and in compliance with Section 1602-108(b) of the Act at the expense of the Owners of the Units involved. The walkways, decks, ties, steps and skids depicted on the Plats and Plans serving more than a single Unit, are Limited Common Elements allocated to the Units in the Building to which they are attached. The following portions of the Property serving a single Unit, but located outside that Unit's boundaries are each allocated as a Limited Common Element to the Unit which it serves:

- 4.2.1. Functional porches, balconies, decks, patios, the parking spaces of the Unit designated by the Unit's identifying number, as depicted on the Plats and Plans.
- 4.2.2. Doors leading from Units to porches, balconies, decks or patios, and their related frames, sills and hardware.
- 4.2.3. Doors leading from the Unit to the Common Elements and any associated door paneling, frames, glassware, buck, trim, sills and hardware including lock and chime assembly, hinges and closure.
- 4.2.4. Shutters, awnings, window boxes, windows, door steps and stoops designed to serve the Unit.
- 4.2.5. The wharf, pier, floats and all related fixtures, appliances and personal Property shall be limited common element associated with Unit 7.

4.3. Common Elements to Remain Undivided. The Common Element Interest of a Unit shall be inseparable from each Unit, and any conveyance, lease, devise or other disposition or mortgage or other encumbrance of any Unit shall extend to and include the Common Element Interest, whether or not expressly referred to in the instrument effecting such transfer.

4.4. Amendment of Interest in Common Elements. The Common Element Interest and Limited Common Interest appurtenant to each Unit shall have a permanent character, shall be inseparable from each Unit and shall not be altered or changed except by the recording of an amendment to this Declaration, duly executed by all of the Unit Owners and all of the holders of record of any first Mortgage liens upon the Units.

4.5. Use of Common Elements. Except as their use may otherwise be limited by this Declaration or by the By-Laws or otherwise by the Executive Board pursuant to its powers, each Unit Owner, tenant and occupant of a Unit, and the family members and guests of such Unit Owner, tenant and occupant, may use the Common Elements in common with all other Unit Owners and tenants or occupants of other Units, and their respective family members and guests, in accordance with the purposes for which they are intended without hindering or encroaching upon the lawful rights of the other Unit Owners, upon the following terms:

- 4.5.1. Any Unit Owner in default in the payment of any amount due to the Association or in violation of any provision of this Declaration, the By-Laws, or the rules and regulations of the Association, which violation continues for 30 days after written notice thereof by the Association to the Unit Owner may be prohibited by the Executive Board from the use and enjoyment of any and all of the Common Elements not essential to access to the Unit, in addition to all other remedies available to the Executive Board.
- 4.5.2. Parking of motor vehicles by Unit Owners, the immediate families of Unit Owners, tenants, guests, visitors, and invitees shall be only in the Limited Common Elements designated as spaces for parking for that Unit. No unattended vehicles shall at any time be left in such a manner as to impede the passage of traffic or to impair access to parking areas. No storage of any objects shall be permitted in the Common Elements. Parking areas and Common Elements shall at all times be kept free of unreasonable accumulations of debris or rubbish of any kind.
- 4.5.3. Unit Owners shall not erect fences, signs, canopies, clotheslines or other structures, plant or remove trees or shrubs, or materially alter the grading or landscaping, or do any other thing which affects the appearance from the exterior of the Buildings or grounds including Limited Common Elements, except as provided in this Declaration or in accordance with the written permission of the Executive Board.
- 4.5.4. Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element except as otherwise provided herein, in the By-Laws, or in any Rules promulgated in writing by the Association, without the prior written approval of the Executive Board. The foregoing provisions of this subparagraph shall not apply to a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure. Each Owner

of a Unit shall have the right to post in front of his Unit on the outside of the Building in which his Unit is situated a non-illuminated sign not to exceed an area of one foot by two feet publishing the name of the Owner and the address or identifying number of his Unit.

- 4.5.5. No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the Common Elements (except those areas designated for such storage by the Condominium Documents or the Executive Board) without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Executive Board.

ARTICLE V

EASEMENTS

5.1. Utilities, Pipes and Conduits. Each Unit Owner shall have an easement in common with all other Unit Owners to use all pipes, wire, ducts, cables, conduits, public utility lines and other Common Elements serving his Unit and located in any of the other Units. Each Unit shall be subject to an easement in favor of all other Unit Owners to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit.

5.2. Ingress, Egress, and Regress. Each Unit Owner shall have an easement, subject to any rules and regulations established by the Executive Board, in common with all other Unit Owners to use the entrances, exits, corridors and other Common Elements as a means of ingress, egress and regress to and from the Property and the adjoining public streets.

5.3. Condominium Association and Executive Board Access. Declarant reserves in favor of itself, the Association and its Executive Board, officers, agents and employees, and the managing agent and every other person authorized by the Executive Board the irrevocable right and easement to have access to each Unit as provided in Section 1603-107(a) of the Act as may be necessary for the inspection, maintenance, repair or replacement of any of the Common Elements and Limited Common Elements therein or accessible therefrom or the making of any addition or improvements thereto; or to make repairs to any Unit, the Common Elements or the Limited Common Elements if such repairs are reasonably necessary for public

safety or to prevent damage to any other Unit or Units, the Common Elements or the Limited Common Elements; or to abate any violation of law, orders, rules or regulations of the Association or of any governmental authorities having jurisdiction thereof. In case of an emergency, such right of entry shall be immediate whether or not the Unit Owner is present at the time.

**5.4. Declarant's Right to Grant Easements.** The Declarant shall have the right, until the Declarant has conveyed all Units in the Condominium to Purchasers, to create, to grant and reserve any and all easements and rights-of-way through, under, over and across the Property for any purpose.

**5.5. Common Elements Easement in Favor of Unit Owners.** The Common Elements (including, but not limited to, the Limited Common Elements) shall be and are hereby made subject to the following easements in favor of the Units benefitted:

5.5.1. For the installation, repair, maintenance, use removal and/or replacement of pipes, ducts, heating and air-conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are a part of or serve any Unit and which pass across or through a portion of the Common Elements.

5.5.2. For the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Elements adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the building or impair or structurally weaken the building.

5.5.3. For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit, the bottom surface of floor joists above the Unit and the top surface of the floor joists below the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common

Elements adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the building.

ARTICLE VI

ASSESSMENTS FOR COMMON EXPENSES AND  
MAINTENANCE OF Property

6.1. Allocation of Assessments of Common Expenses. The total amount of Common Expenses shall be assessed against the Units in the following proportions:

- 6.1.1. The Common Expenses that are not assessed as Limited Common Expenses shall be assessed against all the Units in proportion to the relative Allocated Interests of all the Units.
- 6.1.2. (a) If a Limited Common Expense benefits more than a single Unit, that Limited Common Expense shall be assessed solely against all the Units benefitted in proportion to the relative Allocated Interests of such Units as between themselves, as the Executive Board may determine, and (b) if a Limited Common Expense only benefits a single Unit, that Limited Common Expense shall be assessed solely against the Unit benefitted, as the Executive Board shall determine.
- 6.1.3. Heat, electricity and telephone services shall be supplied by the public utility company serving the area directly to each Unit through a separate meter and each Unit Owner shall be required to pay the bills for heat, electricity and telephone services consumed or used in his Unit. The heat and electricity serving the Common Elements shall be separately metered, and the Executive Board shall pay all bills for heat, and electricity consumed in the Common Elements as a Common Expense assessable to all the Owners of Units. Water and sewer services shall be supplied by the Water and Sewer District serving the area to all of the Units and the Common Elements through one or more building meters and the

Executive Board shall pay or caused to be paid as a Common Expense all charges for water consumed on the Property promptly after the bills therefore are rendered.

The Declarant shall not be liable for any assessments for any Units until after the latter to occur or sixty (60) days after the first conveyance of a Unit to a Purchaser or the Association makes its first Common Expense assessment.

**6.2. Lien for Assessments.** The total monthly assessment levied against each Unit for Common Expenses and Limited Common Expenses and any special assessment, and any other sums duly levied against the Unit pursuant to this Declaration, the By-Laws, or the Act, all interest thereon and charges for late payment thereof and legal fees and other costs of collection thereof, and fines, penalties and fees as provided in this Declaration or the By-Laws shall constitute the personal liability of the owner of the Unit so assessed and also shall, until fully paid, constitute a lien against the Unit in favor of the Association from the date upon which such assessment, special assessment or other sum such as interest becomes due as provided in Section 1603-116 of the Act. Such lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Association as to the full amount of the annual assessment, and, as to special assessments and other sums duly levied including Limited Common Expenses assessed against a Unit Owner for maintenance, repair or replacement of a Limited Common Element, on the first day of the next month which begins more than ten (10) days after delivery to the Unit Owner of notice of such special assessment or levy. Such lien is prior to all other liens and encumbrances on a Unit except (a) liens and encumbrances recorded before the recordation of this Declaration, (b) a first Mortgage recorded before or after the date which the assessment sought to be enforced becomes delinquent, and (c) liens for real estate taxes and other governmental assessments or charges against the Units; provided, however, that such lien is not subject to the provisions of 14 M.R.S.A. Section 4651 and 18-A M.R.S.A. Section 2-201, et seq., as they or their equivalents may be amended or modified from time to time.

**6.3. Payment Obligations.** Each Unit Owner shall pay to the Association or its authorized representative on the first day of each month, or on such other date that the Association may determine in writing, (1) one-twelfth (1/12) of the Common Expenses including Limited Common Expenses and revised Common Expenses including Limited Common Expenses, assessed on An annual basis against his Unit and (2) all special assessments, any other sums duly levied against the Unit pursuant to this Declaration, these Bylaws, or the Act, including Limited Common Expenses assessed against Unit Owners for maintenance repair, or replacement of a Limited Common Element, all interest thereon and charges for late



payment thereof and legal fees and other costs of collection thereof, and fines, penalties, and fees as provided by this Declaration, these Bylaws, or the Act.

**6.4. Limited Common Elements, Maintenance.** The Association shall maintain, repair and replace all Limited Common Elements as required by this Declaration and shall assess as a Limited Common Expense the Common Expenses associated with the maintenance, repair or replacement of each Limited Common Element (except for Common Expenses associated with structural repairs or replacements) against the Units to which the Limited Common Element is assigned or appurtenant in proportion to the relative Allocated Interests of such Units as between themselves; provided that the Association shall also have the right to assess an individual Unit for Limited Common Expenses associated with said purposes applicable to such Unit if the Limited Common Expense shall be incurred due to the negligence, neglect or misconduct of the Owner of such Unit or if the item giving rise to the expense shall be for the benefit of that Unit only. Provided, however, the owners of Unit 7 shall be sole and exclusively responsible for the maintenance of the waterfront area, including, but not by way of limitations, the pier, floats, wharf and all appurtenant fixtures, structures, piping, appliances, associated parking, and grounds. Further providing, however, the Unit Owner of any Unit to which a Limited Common Element balcony, deck, patio or terrace is appurtenant shall perform the normal maintenance for such Limited Common Element, including keeping it in a clean and sanitary condition, free and clear of ice, snow and any accumulation of water, but if that Limited Common Element, or any other Limited Common in a Building, is allocated to more than one Unit, the Association shall be responsible and shall assess the costs thereof as a Limited Common Expense to the Units benefitted. The Unit Owner shall maintain windows allocated to his Unit as a Limited Common Element including washing and necessary replacements with substitutions of similar color, size, quality and style. The Association shall be responsible for all structural repairs and replacements of all Limited Common Elements except for windows and the costs thereof shall be assessed to all Unit Owners as a Common Expense, unless such repair or replacement shall be necessitated by the negligence, neglect or misconduct of fewer than all of the Unit Owners, in which case such cost shall be assessed to the Unit Owners responsible as a Limited Common Expense.

**6.5. Maintenance of Common Elements.** The Association shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of the Executive Board such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense except as otherwise provided in Paragraph 6.4 with regards to Limited Common Elements.

6.6. Maintenance of Unit. Each Unit Owner shall keep and maintain his Unit in good order, condition and repair. No Unit Owner shall sweep or throw, or permit to be swept or thrown, from his Unit any dirt, debris or other substance. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or negligence to make any of the repairs required by this Article. Each Unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners.

6.7. Liability of Owner. Each Unit Owner shall be liable, and the Association shall have a lien against his Unit, for the expense of maintenance, repair or replacement of any damage to the Common Elements, and any and all consequential damages or effects arising therefrom, caused by such Unit Owner's act, neglect or carelessness or by that of any member of such Unit Owner's family, or such Unit Owner's guests, employees, agents, lessees, or their pets, which the Association shall have the right to cure, correct, maintain, repair or release.

6.8. Managing Agent. The Executive Board may employ for the Condominium a "Managing Agent" at a compensation established by the Executive Board. The Managing Agent shall perform such duties and services as the Executive Board shall authorize, including, but not limited to, all of the duties listed in the Act, the Declaration, or these Bylaws, such duties shall be performed as advisory to the Executive Board. The Executive Board may delegate to the Managing Agent all of the powers granted to the Executive Board by the Act, the Declaration, and these Bylaws other than the following powers:

- 6.8.1. To adopt the annual budget and any amendment thereto or to assess any Common Expenses;
- 6.8.2. To adopt, repeal or amend rules and regulations of the Association;
- 6.8.3. To designate signatories on Association bank accounts;
- 6.8.4. To borrow money on behalf of the Association;
- 6.8.5. To designate Reserved Common Elements;
- 6.8.6. To allocate Limited Common Elements.

Any employment contract between the Managing Agent and the Association must provide that it may be terminated with cause on no more than ninety (90) days' written notice.

ARTICLE VII

ASSOCIATION OF UNIT OWNERS; VOTING;  
DECLARANT CONTROL

7.1. The Association, Powers. The Association is a non-profit and non-stock corporation organized under Title 13-B of the Maine Revised Statutes of 1964, as amended, and is the governing body for all the Unit Owners with respect to the administration, maintenance, repair, replacement, cleaning, sanitation, management and operation of the Common Elements, and the making of any additions or improvements thereto as provided in this Declaration and in the By-Laws. The membership of the Association at all times shall consist exclusively of all Unit Owners. Each Unit Owner shall automatically become and be a member of the Association as long as he continues as a Unit Owner and upon the termination of the interest of the Unit Owner in the Condominium his membership and any interest in the common funds of the Association shall thereupon automatically terminate and transfer and inure to the next Unit Owner or Owners succeeding him in interest. The Association shall have all the powers granted pursuant to Section 1602-102 of the Act.

7.2. Executive Board Powers Declarant Control Period. Except as otherwise provided in Section 1603-103(b) of the Act, the Executive Board may act on behalf of the Association, shall have all of the powers necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Act or this Declaration or the By-Laws required to be exercised and done by the Association. The affairs of the Association shall be governed by an Executive Board composed of no less than three (3) and no more than six (6) persons. Prior to the Transition Election provided for by paragraph 7.2, the Executive Board shall be composed of three (3) natural persons appointed by the Declarant and after the Transition Election, the Executive Board shall be composed of three (3) natural persons chosen by the Unit Owners. The members of the Executive Board appointed by the Declarant during the Declarant Control Period can be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations and the Declarant shall have the right during the Declarant Control period to appoint, remove and replace from time to time any and all officers of the Association without the necessity of obtaining resignations. The appointees of the Declarant need not be Unit Owners. After the Transition Election at least a majority of the members of the Executive Board shall be Unit Owners or spouses of Unit Owners, or in the case of a Unit Owner which is a corporation, partnership, trust or estate, a designated agent thereof. The transition from Declarant-appointed members of the Executive Board to Unit Owners other than the Declarant shall occur no later than the earlier of (a) sixty (60) days after the conveyance of 75% of the Units to

Purchasers or (b) five (5) years following conveyance of the first Unit to a Purchaser, or at such earlier date as the Declarant in its sole discretion shall specify. The Transition Meeting of the Association and Transition Election shall be held at which time all of the members of the Executive Board appointed by the Declarant shall resign, and the Unit Owners, including the Declarant if the Declarant owns one or more Units, shall thereupon elect three (3) successor members of the Executive Board to act in the place and stead of those resigning.

7.3. **Voting.** If a Unit is owned of record by one person, that Unit Owner's right to vote shall be established by the record title to the Unit. If ownership of a Unit is in more than one person, the person who shall be entitled to cast the Votes allocated to that Unit shall be the person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary of the Association. If ownership of a Unit is in a corporation, partnership, trust or estate, the officer or employee of that corporation, partner of that partnership, trustee of that trust, or agent of that estate, entitled to cast for the corporation, partnership, trust or estate the Votes allocated to such Unit shall be designated in a certificate for that purpose executed by the president or a vice president of that corporation, and attested to by the secretary or clerk of that corporation, executed by all the partners of that partnership, or executed by all the beneficiaries of that trust, or executed by either all the devisees of that estate or by order of the probate court and filed with the Secretary of the Association. Such certificates of multiple owners, corporations, partnerships, trusts or estates shall be valid until revoked by a subsequent certificate similarly executed and filed with the Secretary of the Association.

#### ARTICLE VIII

##### RESTRICTIONS ON USE, OCCUPANCY AND ALIENATION OF UNITS

8.1. **Use and Occupancy Restrictions on Units.** Each Unit shall be occupied and used subject to the following restrictions:

- 8.1.1. Excepting Unit 7, no Unit shall be used for other than single-family residential purposes by the Unit Owner, the Unit Owner's family related by blood, marriage or adoption, and the tenants and guests of the Unit Owner or of the Unit Owner's family. Units 1 through 6 shall not be used for any business purpose; provided, however, business which do not generate noise, smells or on-site client contact shall be permitted.

- 8.1.2. Unit 7 may operate a commercial marina, provided; however, that the owner of Unit 7 shall maintain an additional policy of insurance covering the operation of the business; such insurance shall be at the sole and exclusive expense of the owner of Unit 7. Unit 7 shall also pay that portion of the casualty insurance as is allocated to the Limited Common Elements of Unit 7.
- 8.1.3. No Unit shall be used so as to create a nuisance or an unreasonable interference with the peaceful possession and occupation or proper use of any other Unit or the Common Elements. By acceptance of their deed to a Unit, the owners of Units within the Langdon's Island Condominium shall be deemed to understand that there shall be operated a commercial marina by the owner of Unit 7.
- 8.1.4. The maintenance, keeping, boarding and/or raising of animals shall be and is prohibited within any Unit or upon the Common Elements, except that the keeping of small, orderly domestic pets such as dogs, cats or caged birds, aquarium fish and other limited species of animals which do not normally leave the Unit and which do not make noise may be permitted by the Executive Board in accordance with and subject to any rules and regulations adopted by the Executive Board.
- 8.1.5. The Executive Board shall have strict control of the exterior appearance of the river side of the condominium Property and Building. To this end, the Board may enforce reasonable rules governing such appearance.
- 8.1.6. All deck furnishings shall comply with Executive Board standards for appearance.
- 8.1.7. Neither the Executive Board nor the Owners Association shall make any Rule, or change to this Declaration or to the By-Laws, affecting the operation and/or use of the commercial marina on Unit 7 without the consent of the owner of Unit 7.
- 8.1.8. No Unit Owner shall make any interior structural changes or perform any exterior

construction until the design, engineering and contractor has been approved in writing by the Declarant, its successors and assigns.

8.2. Leasing Restrictions. Excepting the marina operated in conjunction with the ownership of Unit 7, no Unit shall be rented for transient or hotel purposes or in any event for a period of less than one (1) month and no portion of any Unit (other than the entire Unit) shall be leased for any period. No Unit Owner shall lease a Unit other than on written form of lease: (a) requiring the lessee to comply with the Condominium Documents and rules and regulations of the Association; (b) providing that failure to comply therewith constitutes a default under the lease; and (c) providing that the Executive Board has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the lessor thereunder after seven (7) days prior written notice to the Unit Owner, in the event of a default by the lessee in the performance of the lease. Each owner of a Unit shall promptly, following the execution of any lease of a Unit, forward a conformed copy thereof to the Executive Board.

8.3. Voluntary Resale of Units. The following provisions apply to the sales of Units by all Unit Owners other than the Declarant:

8.3.1. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance in fee of such Unit by the Owner. In a voluntary transfer of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments and special assessments for Common Expenses made by the Executive Board against the latter up to the time of recordation of grantor's transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any person who shall have entered into an agreement to purchase a Unit from a Unit Owner shall be entitled to a certificate from the Executive Board as provided by Section 1604-108(b) of the Act, and the grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any assessments or unpaid special assessments made by the Executive Board against the grantor for Common Expenses made in excess of those disclosed on such certificate.

- 8.3.2. A voluntary transfer for the purpose of this Paragraph 8.3 shall be considered any sale, lease, gift, testate or intestate distribution, or the transfer of ownership of a corporation owning a Unit.

ARTICLE IX

MORTGAGES OF UNITS; RIGHT OF MORTGAGEES

9.1. Right to Mortgage. Each Unit Owner shall have the right to mortgage or encumber his own respective Unit together with the Allocated Interests appurtenant to such Unit. No Unit Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Common Elements or any part thereof except his own Unit and his own respective Allocated Interests appurtenant to his Unit.

9.2. Identification of Mortgagee. A Unit Owner who mortgages his Unit shall notify the Executive Board in writing of the name and address of his Mortgagee(s) and shall file a copy of the Mortgage with the Executive Board.

9.3. Mortgage Foreclosure. Any Mortgagee of a Unit that obtains title to the Unit pursuant to the remedies provided in the Mortgage, or through a completed foreclosure of the Mortgage, or through deed (or assignment) in lieu of foreclosure, shall take the Unit with the Allocated Interests appurtenant thereto free of such claims for unpaid assessments for Common Expenses, interest and costs levied against such Unit which accrue prior to the acquisition of title to such Unit by the Mortgagee, other than the proportionate share of the Common Expenses which become due and payable from and after the date on which the Mortgagee shall acquire title to the Unit through a completed foreclosure or deed (or assignment) in lieu of foreclosure.

9.4. Notices to Eligible Mortgage Holder of Insurer. The Association shall send written notice by prepaid United States mail to each Eligible Mortgage Holder within a reasonable period prior to the taking of any actions which would directly effect the Mortgage and is required by national lending standards.

9.5. Mortgagee Approval Rights. The Association shall obtain the prior written approval of a proportionate share of the Eligible Mortgage Holders (as required by the national lending standards) to make substantial changes to the Condominium or the Condominium documents.



An addition or amendment to the Condominium Documents shall not be considered material if it is for the purpose of correcting technical errors.

An Eligible Mortgage Holder who receives a written request to approve additions or amendments to the Condominium Documents who does not deliver to the requesting party a negative response within thirty (30) days after the giving of notice shall be deemed to have approved such request in writing.

**9.6. Voting and Other Rights of Eligible Mortgage Holders.** In the event of any default by a Unit Owner in payment of assessments or performance of obligations pursuant to the Condominium Documents, the Eligible Mortgage Holder of the Mortgage on such Owner's Unit shall have the right but not the obligation to cure such default. in addition to, but not by way of limitation of, all rights granted to Eligible Mortgage Holders pursuant to this Declaration to cast the Votes allocated to a Unit in lieu of the Unit Owner, an Eligible Mortgage Holder, or its representative, shall have the right to attend meetings of the Association and Executive Board for the purposes of discussing the termination of the Condominium, a change in the Allocated Interests of a Unit, a change in the boundaries of a Unit or a subdivision of a Unit, the merger or consolidation of the Condominium with another condominium, the conveyance or subjection to a security interest of any portion of the Common Elements, the proposed use of any proceeds of hazard insurance for purposes other than the repair or restoration of the damaged Property, or the adoption of any proposed budget by the Executive Board.

**9.7. Rights of First Refusal.** In the event the Unit Owners in the future adopt any right of first refusal in the case of the sale of any Unit, such right of first refusal shall not impair the right of any Mortgagee to:

- (a) Foreclose or take title to the Unit pursuant to the remedies provided in the Mortgage,
- (b) Accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or
- (c) Sell or lease a Unit acquired by the procedures hereinabove set forth.

The Association does not initially have a Right of First Refusal to purchase any Unit being marketed for sale.

**9.8. Mortgage Priority.** No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any

other person, priority over the rights of any Eligible Mortgage Holder in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Elements, or both.

ARTICLE X

EASEMENTS AND LICENSES

10.1. Recorded Easements and Licenses. The recording data for recorded easements and licenses appurtenant to or included in the Condominium, if any, are stated and set forth on Schedule A.

10.2. Access Easement. The Property will be served by an access easement over the land lying to the south of the Property. This easement is shown on the site plat recorded herewith.

10.3. Unit 7 Easements. Unit 7 (the Marina Unit) will be served with an easement for parking and an easement for use of a building to serve as marina office both of which are located on other land lying to the south as shown on the site plat recorded herewith.

ARTICLE XI

TAXATION

11.1. Separate Taxation. If there is any Unit Owner other than the Declarant, each Unit and its Allocated interests shall be deemed to be a separate tax parcel and shall be separately taxed and assessed by the Town of Kittery. Neither the Buildings, the Property nor any of the Common Elements shall be deemed to be or assessed as a separate tax parcel.

11.2. Units Not Yet Separately Assessed. In the event that for any year real estate taxes assessed by the Town of Kittery are not separately taxed and assessed to each separate Unit Owner but are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective Allocated Interests.

ARTICLE XII

AMENDMENTS

12.1. Before Any Conveyance. Prior to the conveyance of any Unit by the Declarant to a Unit Owner other than as security for an obligation, the Declarant shall have the right to amend and re-

amend this Declaration in any manner that the Declarant may deem appropriate.

**12.2. After First Conveyance.** After the first conveyance of a Unit by a Declarant as contemplated in the preceding paragraph, the terms of the following subparagraphs shall apply to the amendment of this Declaration:

- 12.2.1. **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Executive Board or Association in which a proposed amendment is considered, and shall be served upon all Unit Owners and upon all Eligible insurers, if required.
- 12.2.2. **Resolution.** An amendment may be proposed by either the Executive Board or by two (2) Unit Owners. No resolution of the Executive Board adopting a proposed amendment or any proposed amendment shall be effective unless it has been adopted at a meeting of the Association duly called and held in accordance with the By-Laws by the affirmative vote of at least four (4) of the Unit Owners and then executed and recorded as required by the Act.
- 12.2.3. **Agreement.** In the alternative, an amendment may be made by an agreement signed by the record Owners of Units to which are allocated at least 100% of the Votes in the Association in the manner required for the execution of a deed and acknowledged by at least one of them, and such amendment shall be effective when certified and recorded as provided in the Act.
- 12.2.4. **Execution and Recording.** A copy of each amendment shall be attached to or included with a certificate, certifying that the amendment was duly adopted, which certificate shall be executed and acknowledged by such officer or officers of the Association and/or member or members of the Executive Board designated for that purpose by the By-Laws. The amendment shall be effective when such certificate and copy of the amendment are recorded.
- 12.2.5. **Notice and Challenge.** No action to challenge the validity of an amendment to this

Declaration adopted by the Association pursuant to this Article may be brought more than one year after such amendment is recorded. After each amendment to this Declaration adopted pursuant to this Article has been recorded, notice thereof shall be sent to all Unit Owners and to all Eligible Mortgage Holders at the address last furnished to the Executive Board, but failure to send such notices shall not affect the validity of such amendment.

ARTICLE XIII

APPLICABILITY, COMPLIANCE AND DEFAULT

13.1. Applicability. This Declaration shall be applicable to the Condominium. All present and future Owners and tenants, their guests, licensees, servants, agents, employees and any other person or persons that shall be permitted to use the Common Elements shall be subject to this Declaration, the By-Laws and to such rules and regulations as may be issued by the Executive Board from time to time to govern the conduct of its members and the use and occupancy of the Property ownership, rental or occupancy of any of the Units in the Condominium shall be conclusively deemed to mean that said Owner, tenant or occupant has accepted and ratified this Declaration, the By-Laws and the rules and regulations of the Association and will comply with them. The acceptance of a deed or conveyance (other than as security) or the entering into of a lease or the entering into of an occupancy of any Unit (other than possession by a Mortgagee prior to either of the completion of foreclosure or the acceptance of a deed to the Unit subject to the Mortgage held by such Mortgagee) shall signify that the provisions of this Declaration and the By-Laws, the rules and regulations of the Condominium and the decisions of the Executive Board are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

13.2. Compliance:

13.2.1. Each Unit Owner shall be governed by and shall comply strictly with the terms, covenants, conditions and restrictions of this Declaration, By-Laws and the rules and regulations adopted pursuant thereto, and the same as they may be amended from time to time.

- 13.2.2. Except as otherwise stated herein, the Executive Board shall have the power to adopt, amend and enforce compliance with, such reasonable rules and regulations relative to the operation, use and occupancy of the Units and the Common Elements.

13.3. Arbitration. All claims, disputes and other matters in question between the Association and any Unit Owners arising out of or relating to, this Declaration, the By-Laws, or the deed to any Unit or the breach thereof, shall be decided by arbitration in accordance with the Arbitration Rules of the American Arbitration Association. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE XIV

LIMITATION OF LIABILITY

14.1. Limited Liability of the Executive Board. The Executive Board, and its members in their capacity as members, officers and employees:

- 14.1.1. Shall not be personally liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or Property caused by the elements or by another Unit Owner or person on the Property or by the failure of any Common Element, e.g., water pipes, unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;
- 14.1.2. Shall not be liable to the Unit Owners as a result of the performance of the Executive Board members, duties for any mistake of judgment, negligence or otherwise, except for the Executive Board members, own willful misconduct or gross negligence;
- 14.1.3. Shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the

Executive Board or the Association in the performance of the Executive Board members, duties;

- 14.1.4. Shall not be liable to a Unit Owner, or such Unit Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal Property left by such Unit Owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;
- 14.1.5. Shall have no personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and,
- 14.1.6. Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members, own willful misconduct or gross negligence.

14.2. Indemnification. Each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, indemnification hereunder if such Executive Board member and/or officer had no Reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this paragraph shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such.

14.3. Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and such complaint shall be defended by the Association. The Unit Owners shall have no right to participate in such defense other than through the Association.

ARTICLE XV

GENERAL PROVISIONS

15.1. Captions. The headings in this Declaration are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. Schedules are attached to and incorporated by reference into this Declaration and are an integral part of this Declaration.

15.2. Gender, Number, Etc. The invalidity of any provisions of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

15.3. Remedies Cumulative. All rights, remedies and privileges granted to the Executive or a Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such party hereunder or by any instruments or documents incorporated herein by reference or at law or in equity.

IN WITNESS WHEREOF, 9 Badger's Island West LLC, as Declarant, has caused this Declaration to be executed and ensealed in its name by its Member hereunto duly authorized as of the date and year first above written.

9 Badger's Island West LLC

Dated: October 27, 1999

By: Joseph G. Sawtelle  
Managing ~~Partners~~ Member  
Joseph G. Sawtelle

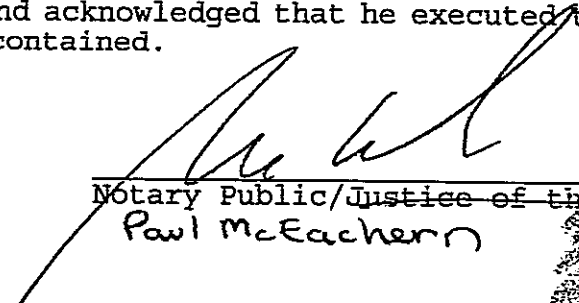


BK9755 PG083

State of New Hampshire  
Rockingham, SS.

October 27, 1999

Personally appeared Joseph G Sawelle as Managing Member of 9 Badger's Island West LLC, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.

  
Notary Public/Justice of the Peace  
Paul McEachern



## SCHEDULE A

A certain tract or parcel of land with the buildings thereon situated on Badger's Island, so-called, in Kittery, County of York and State of Maine, bounded and described as follows:

Beginning at a point in the Southerly sideline of a town way called Thorners Lane said point of beginning being N 75° 13' W seventeen and sixty-six (17.66) feet from a concrete hub at an angle point in said way as laid out by Albert Moulton C. E. in 1951; said point of beginning being also on the division line between land conveyed to Ernest F. Bonin by Hugo S. Marconi and land formerly of Marjorie S. Tilton; thence running S 17° 48' W by land formerly of Marjorie S. Tilton seventy-eight (78) feet more or less to a point and land formerly of Abigail Tilton; thence Westerly thirty-three and one-half (33½) feet more or less; thence Southerly seventy (70) feet more or less and Easterly thirty-three and one-half (33½) feet more or less, all by land formerly of Abigail Tilton to an iron pipe at the Westerly sideline of a right-of-way on land formerly of Ebert L. Philpott; thence running S 23° 12' W by said right-of-way fifty-five and twenty hundredths (55.20) feet to an iron pipe and strip of land recently conveyed by said Bonin to said Marconi; thence S 50° 42' W by said strip of land through an iron pipe set on line eighty-eight and twenty-eight hundredths (88.28) feet to a point; thence S 39° 18' W by said strip three and seventy-seven hundredths (3.77) feet to a pipe and other land conveyed by said Bonin to said Marconi by deed recorded in Book 1745, Page 52; thence S 54° 38' W by said other land formerly of Bonin through a stake at mean high water to the low water line of the Piscataqua River; thence Northwesterly by said river to the former right of way of the Atlantic Shore Railway; thence Northeasterly by said railroad right-of-way to a point; thence S 17° 00' E seven and no hundredths (7.00) feet to a stake and the parcel of land conveyed from Marconi to Bonin first mentioned; thence N 50° 00' E by said parcel twenty-two and no hundredths (22.00) feet to the Southerly sideline of Thorner's Lane; thence S 75° 13' E by said land seventy-six and sixty-eight hundredths (76.68) feet to the point of beginning.

Being the same premises conveyed to 9 Badgers Island West, LLC by Joseph G. Sawtelle, Trustee of 136 Little Bay Road Trust by Warranty Deed dated June 10, 1999, and recorded in the York County Registry of Deeds at Book 9516, Page 178.

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%

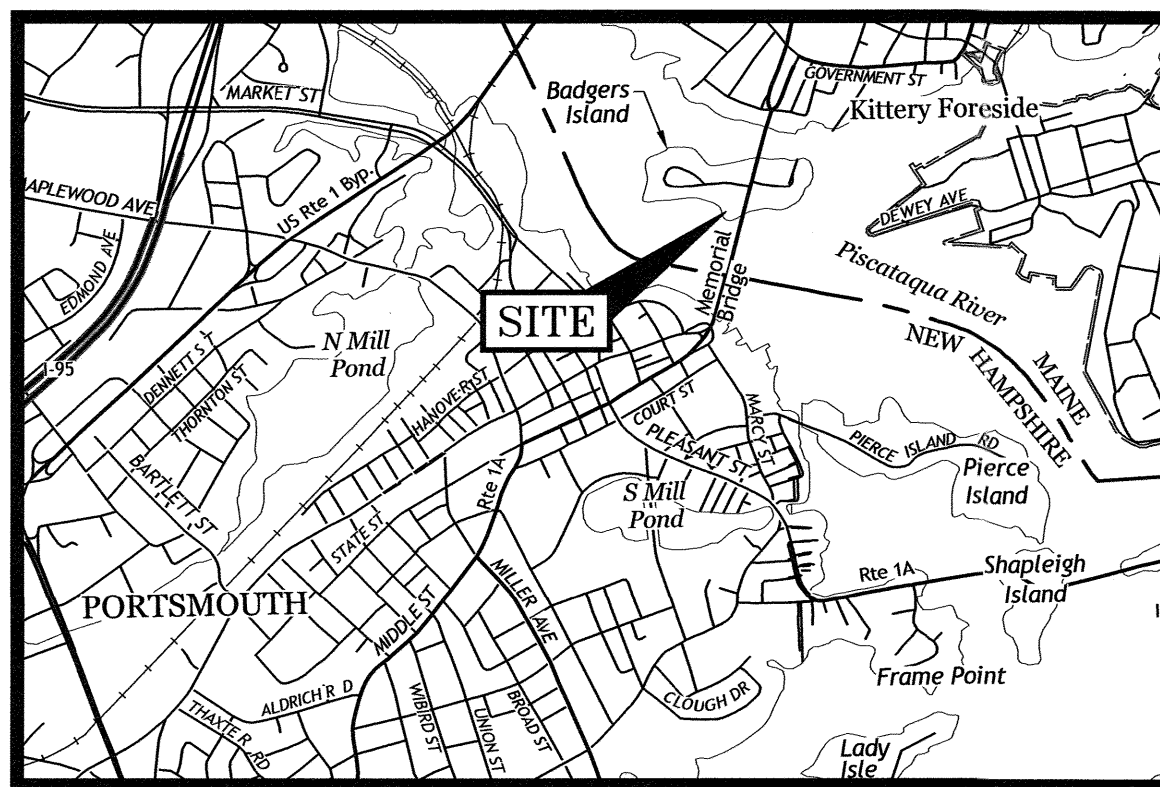
RECEIVED YORK S S.

1999 OCT 29 P 12: 59

ATTEST: *Lois M. Cline*  
REGISTER OF DEEDS

→ McEachern & Thornhill

3198



LOCATION MAP

SCALE: 1" = 2000'

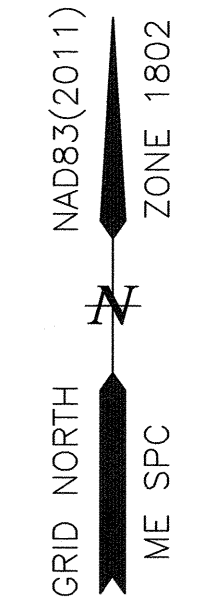
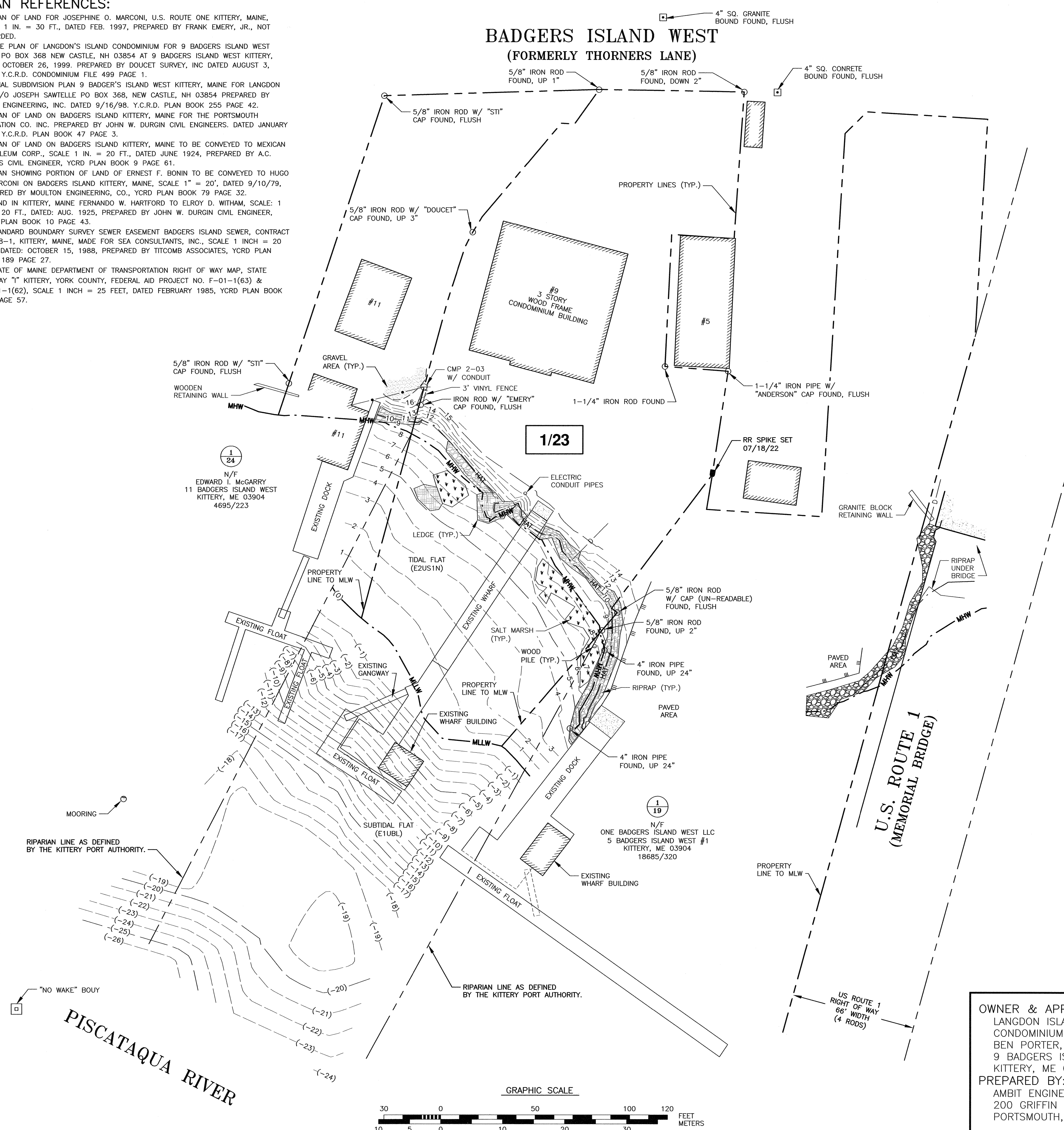
LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
YCRD	YORK COUNTY REGISTRY OF DEEDS
(11/21)	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
100	CONTOUR
97x3	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.

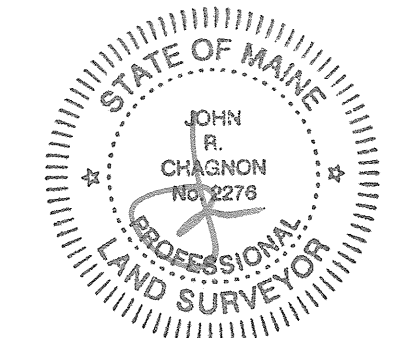
LANGDON ISLAND  
CONDOMINIUM  
9 BADGERS ISLAND WEST  
KITTERY, ME

NO.	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

1.5.23  
DATE

