

**Town of Kittery Maine
Town Planning Board Meeting
November 9, 2017**

10 Spinney Cove Drive – Shoreland Development Plan Review.

Action: Hold a public hearing, approve or deny development plan. Owner and applicant, Lobo Realty, LLC request consideration to demolish and replace a nonconforming single family dwelling on a 0.44 +/- acre parcel located on Spinney Cove Drive (Tax Map 2 Lot 64) in the Residential Suburban (R-S) and Shoreland Overlay (OZ-SL-250') zones. Agent Bob Bordeau, Lobo Realty, LLC.

PROJECT TRACKING

REQ'D	DESCRIPTION	COMMENTS	STATUS
YES	Determination of Completeness	Scheduled for 10/12/2017	ACCEPTED
NO	Public Hearing	Scheduled for 11/9/2017	HELD
NO	Site Walk	Scheduled for 11/2/2017	HELD
Yes	Final Plan Review and Decision	Scheduled for 11/9/2017	TBD

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN ¼: HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 – Grading/Construction Final Plan Required. – Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Background

Planning Board review of this project is required by 16.10.3.2 Other Development Review, because the proposed development is located within the required 250-foot setback in the Shoreland Overlay Zone. The parcel includes a nonconforming single-family dwelling unit, a non-conforming accessory shed on a lot with a non-conforming setback for the R-S zone (less than 15 feet).

The applicant proposes to tear down the existing house; reconstruct a house with the same dimensions (36' x 48') and add an attached 24' x 30' garage. The setback from the protected resource for the relocated house would be at least 5' greater, and 6' more in the sideyard setback, meeting the R-S setback requirement. The existing house has several decks. Proposed new decks and patios are much smaller than existing.

Applicant proposes to remove an existing paved area, and improve access to existing docks. Associated with proposed landscaping improvements are stabilization of existing eroded slopes and re-vegetation of certain areas. It is described that landscape drawings have been prepared by Woodburn and Company, and reviewed with Maine DEP (These were not submitted or reviewed).

UPDATE:

Applicant submitted a Water Access and Slope Stabilization Plan and another Shoreland Development Plan, the latter appears to have revisions though they have not been identified. The Board held a site visit on the property Thursday November 2nd.

*The following are comments from staff notes for the 10/12 meeting. Updates are **highlighted**.*

Staff Review

1. The proposed re-development does not meet the requirements of the Shoreland Zone (OZ-SL-250'). However, the provisions of Article III. Nonconformance apply to the property and existing structures.
16.7.3.3 Nonconforming Structure Reconstruction provides that in the Shoreland Overlay Zone, if over 50% of the market value of an existing structure is removed (as is proposed) it may be replaced within 18 months if replacement is in compliance with required setback **to the greatest practical extent** as determined by the Planning Board. The Board's determination is

based on section 16.7.3.3.1,B *Nonconforming Structure Relocation*. The conditions include the following:

1. *The size of the lot;*
2. *The slope of the land;*
3. *The potential for soil erosion;*
4. *The location of other structures on the property and on adjacent properties;*
5. *The location of the septic system and other on-site soils suitable for septic systems;*
6. *The type and amount of vegetation to be removed to accomplish the relocation.*

UPDATE: After the site visit the Board can determine if any of the above factors are applicable in deciding if the proposed location of the new principle building with attached garage complies with 100-foot required setback to the greatest practical extent. The Board may find some of the conditions not applicable such as #5 since the property is serviced by town sewer. Conditions #2 and #3 may be factors as to how far back from the water the building can be constructed.

2. The proposal details relative to the Shoreland requirements are summarized as follows:

	<u>Existing</u>	<u>Proposed</u>
Structure nonconformance w/in 100' Shoreland Setback:	2,757sf	2,799 sf (1.5% inc.)
Structure:	1,857sf	2,548 sf
Structures plus decks, patios:	2,757sf	2,799 sf (1.5% inc.; 30% allowed)
Building Coverage:	9.6 %	13.2 % (20% allowed)
Devegetated calculation:	28.7 %	27.6 % (1.1 % dec.; 20% standard)
R-S side yard setback:	8.9 ft	15 ft (15 ft standard)

UPDATE: The latest shoreland development plan appears to have been revised, however revision block does not identify any changes, though the date in lower right-hand corner has changed to 10/25/17. The devegeatated calculations have changed to include what appears to be a reduction in the *path* and the addition of the *walkway*. The applicant should calrify and explain these changes, however the results remain within the existing devegetated area of 28.7%.

3. New structures are not permitted within the required setback. The proposed “replacement path” depicted on the plans to replace the existing concrete steps is not in kind and the associated pavers, steps and retaining wall are considered new structures within the setback which is not permitted.

UPDATE: The revised plans still depict the proposed walkway within the 100-foot required setback. New structures are not allowed. A meandering path may be maintained for access to the water within the 100-foot setback/buffer, however it cannot be improved, i.e. surfaced with gravel, pavers, etc.... At the last meeting the applicant stated that his agent was working with MDEP, presumably for a Natural Resources Protection Act (NRPA) permit. If MDEP were to approve the permit with the walkway, it would not be in lieu of the planning board approval of the Town’s local shoreland zoning regulations. The state mandated language that our local regulations are clear that there are no new structures allowed within the required setback. The proposed walkway needs to be removed from the plan.

4. Trees designated on the plan to be removed. Staff has not had the opportunity to speak to the Shoreland and Resource Protection Officer regarding the “guidance” that was given to the applicant. Conformance with section 16.9.2.2.D with regard to permitted clear openings will need to be demonstrated.

UPDATE: The Shoreland and Resource Protection Officer plans to attend the site visit and the public hearing and she can provide the Board with clarification on what tree removals were considered and which are expected to be replaced. She has reviewed the plans and her comments are **attached**.

5. Building height and roof slope. It should be demonstrated that the proposed building will not exceed what is allowed and that the proposed roof slopes are conforming per section

16.7.3.3.2.E.4. An exhibit that depicts the proposed building elevation and section with existing and proposed grades would help.

UPDATE: No exhibit has been submitted that demonstrates the proposed building will be in conformance with the height requirement and the roof slope per 16.7.3.3.2.E.4.a. The Shoreland Development Plan depicts the existing height of the structure being 26.9 feet. This appears to be appropriately calculated per the applicable definition in 16.2.2 *Height of a Structure*.

New comments

6. Existing easement. Plan note 8 refers to unknown rights or easements within a 40-foot wide swath along the northerly side of the property. Applicant should provide clarity as to his right to develop (new garage located here) this portion of the property.
7. Standard Boundary Survey. Based on plan references, plan note 7 and no depiction of metes and bounds on the plan, it does not appear, the Shoreland Development Plan references a standard boundary survey. This needs to be clarified and boundaries of the property need to be confirmed such as they can be relied upon for regulatory setbacks and lot area.
8. The revision block should be completed on the Shoreland Development Plan, along with correcting the depicted 75 FT setback under the *OZ-SL-250' Requirements* where it should be 100. *Principle Structure Area* needs to be revised to include the term *footprint* so it is consistent with the regulatory language in 16.7.3. Revise plan note #6 to read *Town of Kittery* rather than *Wells*.

Recommendations

As a shoreland development review, a site walk and public hearing is not required. The application appears to be complete, though the Woodburn and Company landscape plans will require review by the board prior to final approval. The development plan provides sufficient information at this point for the Board to have a productive site visit, which is needed for the Board to consider the conditions outlined in 16.7.3.3.1.B. **UPDATE:** Applicant has provided the Woodburn plan and the Board has visited the site and plan to hold a public hearing as part of tonight's meeting.

Only one of the six abutters (the town of Kittery is included, 2-64A) have provided a response (attached) to the applicant's inquiry of any opposition to the proposed development. The Board needs to determine if a public hearing is required. **UPDATE:** Both site visit and public hearing have been properly noticed to abutters.

UPDATE: The Board needs to first determine if the proposed structure location can be moved further back, perhaps abutting the front yard setback line for Spinney Cove Drive or is it not practical due to site constraints identified in 16.7.3.3.1.B. Secondly, the Board should determine if revised plans and additional information demonstrating building height and roof slope needs to be reviewed by the Board prior to final approval.

Determination of these two issues will decide if the Board will move ahead with reviewing and voting on draft findings of fact with conditions of approval in place or continuing the plan to the next meeting. Considering some of the plan related issues around the 17 Island Ave project on Badger's Island, staff recommends continuing the plan review, however, a draft FOF is included for the Board's consideration.

Action

If the Board concurs with Staff's recommendation, the Board may...

Move to continue the Shoreland Development Plan dated October 26, 2017 from owner and applicant Bob Bourdeau for 10 Spinney Cove Road (Tax Map 2 Lot 64) in the Residential-Suburban and Shoreland Overlay Zones, not to exceed 90 days.. **OR**

Move to approve with conditions the Shoreland Development Plan.....Zones, upon the review and voting in the affirmative on the Findings of Fact.

Kittery Planning Board
Findings of Fact
For 10 Spinney Cove Drive
Shoreland Development Plan Review

UNAPPROVED

WHEREAS: Owner and applicant, Lobo Realty, LLC request consideration to demolish and replace a nonconforming single family dwelling on a 0.44 +/- acre parcel located on Spinney Cove Drive (Tax Map 2 Lot 64) in the Residential Suburban (R-S) and Shoreland Overlay (OZ-SL-250') zones,

hereinafter the "Development" and Pursuant to the Plan Review meetings conducted by the Planning Board as noted {in the plan review notes prepared for 11/9/2017}

Shoreland Development Plan Review	10/12/17	
Site Walk	11/2/17	
Public Hearing	11/9/17	
Shoreland Development Plan Approval	11/9/17	

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"): {as noted in the plan review notes prepared for 11/9/2017}

1. Shoreland Development Plan Application, dated 9/21/17
2. Shoreland Development Plan, North Easterly Surveying, 10/26/17.
4. Water Access and Slope Stabilization Plan, Woodburn & Company, 10/18/17.

NOW THEREFORE, based on the entire record before the Planning Board and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings and conclusions:

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone

1.d The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...

Findings: The existing devegetated area is 28.7%. In order to avoid increasing devegetated area, the proposed development proposes to revegetate an existing devegetated area (paved area), as depicted on the final plan, dated 10/26/2017. The proposed development result in a devegetated area of 28.0%, which is no greater than 28.7% of the total lot.

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS

Article III Nonconformance

16.7.3.1 Prohibitions and Allowances

A. Except as otherwise provided in this Article, a nonconforming conditions must not be permitted to become more nonconforming

Finding: The proposed development does not encroach on any front or side yard set backs. The proposed development does however increase the encroachment in the 100-foot setback greater than currently exists by 1.5% as allowed by Code, and not closer to the protected resource than the existing principle structure. Additionally, new structures are not permitted within the required setback and the proposed “replacement path” depicted on the plans to replace the existing concrete steps is not in kind and the associated pavers, steps and retaining wall are considered new structures within the setback which is not permitted (see condition #6). The applicant will revegetate paved areas, and decrease patio sizes in order to avoid an increase to the lot’s devegetated area.

Conclusion: With consideration of condition of approval #6 the requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

16.7.3.3.2 Nonconforming Structure Repair and/or Expansion

E. In addition to the standards in the above subsections 16.7.3.3.2.A-D, the expansion of nonconforming structures located in the Shoreland or Resource Protection Overlay Zone must meet the following:

1. *Wherever a new, enlarged, or replacement foundation is constructed under a nonconforming structure the structure and new foundation must be placed such that setback requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Title 16.7.3.3.1.B, Nonconforming Structure Relocation.*

2. *Expansion of any portion of a structure that is located within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland is prohibited.*

3. *Notwithstanding Title 16.7.3.3.2.E.2 above, if a legally existing nonconforming principal structure is entirely located less than 25-feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland, that structure may be expanded as follows,*

a. the maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

4. *Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or coastal or freshwater wetland setback requirement. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or coastal or freshwater wetland setback requirements may be expanded or altered as follows:*

a. For structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet, or the height of the existing structure, whichever is greater. Roof slope must not be less than an 8:12 pitch.

b. For structures that are located within the Resource Protection Overlay Zone, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet, or 30% larger than the footprint that existed at the time the Resource Protection Overlay Zone was established, whichever is greater. The maximum height of any structure may not be greater than 25 feet, or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet from the normal high water line of a waterbody, tributary stream, or upland edge of a coastal or freshwater wetland must meet the footprint, roof pitch and height limits in 16.7.3.3.2.E.4.a, above.

Finding:

1. Not applicable since the entire structure is being considered under .16.7.3.3.1.B, Nonconforming Structure Relocation.
2. The proposed plan includes new steps and walkway within 25' of the normal high-water line that is not allowed. The proposed structure is removed with condition of approval #6.
3. Not applicable, since the structure is located outside of 25' of the normal high-water line
- 4(a). The maximum total combined increase for the principal structure is less than 30%. (There is no demonstration for the roof pitch requirement and is required per condition #6)
- (b). Not applicable.

Conclusion: With consideration of condition of approval #6 the requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

16.7.3.3.3 Nonconforming structure reconstruction

A. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and which is removed, damaged or destroyed, by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or coastal or freshwater wetland setback requirement to the greatest practical extent as determined by the Planning Board. In determining whether the structure reconstruction meets the setback to the greatest practical extent the Planning Board must consider, in addition to the criteria in Section 16.7.3.3.1,B Nonconforming Structure Relocation, the physical condition and type of foundation present, if any.

B. In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and removed, damaged or destroyed by any cause by 50% or less of the market value of the structure before such damage, destruction or removal, may be reconstructed in-place if a permit is obtained from the Code Enforcement Officer within twelve (12) months of the established date of damage or destruction.

C. Outside of the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is removed, damaged or destroyed by any cause may be restored or reconstructed in-place if a permit is obtained from the Code Enforcement Officer within eighteen (18) months of the date of said removal, damage or destruction. Such restoration or reconstruction must not make the structure more nonconforming than the prior nonconforming structure.

D. Nothing in this section prevents the demolition of the remains of any structure damaged or destroyed. Application for a demolition permit for any structure that has been partially damaged or destroyed must be made to the Code Enforcement Officer.

E. In the Shoreland or Resource Protection Overlay Zone(s), if the total footprint of the original structure can be reconstructed beyond the required setback area, no portion of the reconstructed structure may be reconstructed at less than the setback requirement for a new structure. If the reconstructed or replacement structure is less than the required setback, it may not be any larger than the original structure, except as allowed in Title 16.7.3.3.2, Nonconforming Structure Repair and Expansion.

F. When it is necessary to remove vegetation to reconstruct a structure, vegetation will be replanted in accordance with Section 16.7.3.3.1.C, Nonconforming Structure Relocation.

G. Except where expressly permitted in this code, in no case may a structure be reconstructed or replaced so as to increase its non-conformity.

Finding: The proposed reconstruction does not conform to the required setback, however, the Planning Board, with consideration of 16.7.3.3.1.B, *Nonconforming Structure Relocation* find the proposed development is in compliance with required setback *to the greatest practical extent*

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article 10 Shoreland Development Review

16.10.10.2 Procedure for Administering Permits

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

1. Maintain safe and healthful conditions;

Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This requirement appears to be met

Vote: ___ in favor ___ against ___ abstaining

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

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction to avoid impact on adjacent surface waters. An existing eroded slope will be revegetated.

Conclusion: This requirement appears to be met

Vote: ___ in favor ___ against ___ abstaining

<p><i>3. Adequately provide for the disposal of all wastewater;</i></p> <p><u>Finding:</u> The proposed development does not increase the impact on the existing wastewater disposal system.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
<p>Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i></p> <p><u>Finding:</u> The proposed development does not appear to have an adverse impact.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
<p>Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;</i></p> <p><u>Finding:</u> Shore cover is not adversely impacted</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
<p>Vote: ___ in favor ___ against ___ abstaining)</p>
<p><i>6. Protect archaeological and historic resources;</i></p> <p><u>Finding:</u> There does not appear to be any resources impacted.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
<p>Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i></p> <p><u>Finding:</u> The proposed development does not adversely impact existing commercial fishing or maritime activities.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
<p>Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>8. Avoid problems associated with floodplain development and use;</i></p> <p><u>Finding:</u> The property is designated Zone C by FEMA Flood Zone standards and is defined as an area of minimal flood hazard. The proposed development does not appear to have an impact on a floodplain or flood-prone area.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
<p>Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>9. Is in conformance with the provisions of this code;</i></p> <p><u>Finding:</u> The proposed development complies with the applicable standards of Title 16.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>
<p>Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>10. Be recorded with the York county Registry of Deeds.</i></p> <p><u>Finding:</u> A plan suitable for recording will be prepared.</p> <p><u>Conclusion:</u> As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds within 90 days of approval prior to the issuance of a building permit.</p>
<p>Vote: ___ in favor ___ against ___ abstaining</p>

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers: None

Conditions of Approval (to be depicted on final plan to be recorded):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. With the exception of the trees identified on the plan for removal, no trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing trees must be in place prior to grading or construction. The applicant will replace trees removed with native species, per the approved planting plan prepared by Woodman & Company.
4. Prior to the commencement of onsite construction, areas to remain undisturbed must be clearly marked with stakes and caution tape. All stakes, caution tape, silt fences, and other materials used during construction must remain until all onsite work is completed. Prior to removal, written permission to remove such materials must be given by the Code Enforcement Officer.
5. All Notices to Applicant contained herein (Findings of Fact dated 11/9/2017).

Conditions of Approval (not to be depicted on final plan):

6. Incorporate any plan revisions, including the removal of the proposed new "replacement path water access", on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to presentation on final Mylar.

The Planning Board authorizes the Planning Board Chair, or Vice Chair, to sign the Final Plan and the Findings of Fact upon confirmation of required plan changes.

Vote: ___ in favor ___ against ___ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON 11/9/2017

Ann Grinnell, Planning Board Chair

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as required by Planning Board and submit for Staff review prior to presentation of final mylar.
2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of

Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.

4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

Chris DiMatteo

From: Jessa Kellogg
Sent: Monday, October 30, 2017 2:51 PM
To: Chris DiMatteo; Jodie Bray Strickland (jstrickland@cmaengineers.com)
Cc: William Straub, PE; Rebecca Spitella; MAP 27 LOT 49
Subject: RE: November 9 PB meeting; 10 Spinney Cove

Hi Chris,

I have reviewed the Water Access and Slope Stabilization Plan dated 2017-10-26 and have the following comments:

1. The plan proposes replanting 11 trees, which meets the minimum number of 10 trees I had previously required based on a site walk on 8/30/17. However, per 16.7.3.3.1.C.2 *"Trees removed to relocate a structure must be replanted with at least one native tree, six (6) feet in height, for every tree removed. If more than five trees are planted, no one species of tree can be used to make up more than 50% of the number of trees planted. Replaced trees must be planted no farther from the water or wetland than the trees removed."* The plan calls for 3 Amelanchier trees sized 2-2.5" caliper and just want to be sure this will meet the minimum 6 foot height requirement. The other conditions for 16.7.3.3.1.C appear to be met.
2. On the Shoreland Development Plan dated 10/26/17 Note #6 still references Town of York, not Kittery.
3. Erosion control measures and requirement for a certified contractor are all adequate.

Jessa Kellogg
Shoreland Resource Officer/
Stormwater Coordinator
Town of Kittery
200 Rogers Road
Kittery, Maine 03904
www.kitteryme.gov
p: (207) 475-1321

Chris DiMatteo

From: Jessa Kellogg
Sent: Wednesday, October 11, 2017 9:25 AM
To: Chris DiMatteo
Subject: 10 Spinney Cove Drive

Hi Chris,

I have reviewed the Shoreland development plan application dated 9/21/17 for 10 Spinney Cove Drive and have the following comments:

1. On the Shoreland Development Plan dated 9/20/17 Note #6 references Town of York, not Kittery
2. I met with the owner on 8/30/17 and discussed the trees marked for removal. A permit has not yet been issued for the removal of the trees but I had determined that 10 trees need to be replanted within the 100' setback based on the trees requested for removal. I will be coordinating with Woodburn and Company to approve a replanting plan as part of a full landscaping plan.

Thanks,
Jessa

Jessa Kellogg
Shoreland Resource Officer/
Stormwater Coordinator
Town of Kittery
200 Rogers Road
Kittery, Maine 03904
www.kitteryme.gov
p: (207) 475-1321

ZONING DATA PER KITTERY TOWN CODE "TITLE 16 LAND USE AND DEVELOPMENT CODE" (LAST AMENDMENT 7/25/16). (SEE NOTE #6).

BASE ZONE: RESIDENTIAL-SUBURBAN (R-S)

OVERLAY ZONES:

WATER BODY/WETLAND PROTECTION AREA - 250' (OZ-SL-250')

R-S BASE ZONE REQUIREMENTS:

MINIMUM LAND AREA PER DWELLING UNIT: 30,000 SQ. FT.**
 MINIMUM LOT SIZE: 30,000 SQ. FT.**
 MINIMUM STREET FRONTAGE: 150 FT.
 MINIMUM FRONT YARD: 40 FT.
 MINIMUM REAR AND SIDE YARDS: 15 FT.
 MINIMUM SEPARATION DISTANCE BETWEEN PRINCIPAL BUILDINGS ON SAME LOT:***
 MAXIMUM BUILDING HEIGHT: 35 FT.

MINIMUM SETBACK FROM WATER BODY AND WETLAND DEPENDENT USES: 0 FT.

MAXIMUM BUILDING COVERAGE: 20%

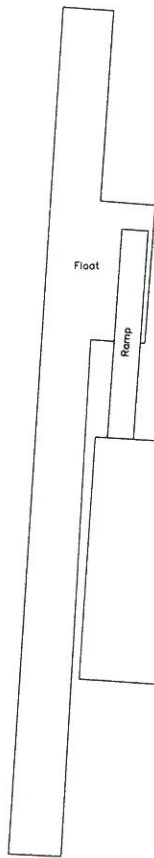
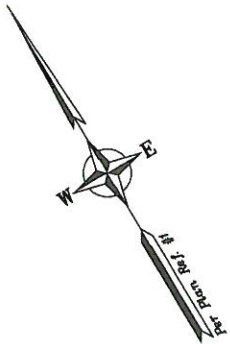
OZ-SL-250' REQUIREMENTS (SEE 16.3.2.17):

MINIMUM LOT SIZE: 20,000 SQ. FT.
 MINIMUM LAND AREA PER DWELLING UNIT: 20,000 SQ. FT.
 MINIMUM SHORE FRONTAGE: 50 FT.
 MAXIMUM DEVEGETATED COVERAGE*: 20%
 *SEE 16.3.2.17.D.1.d.iii

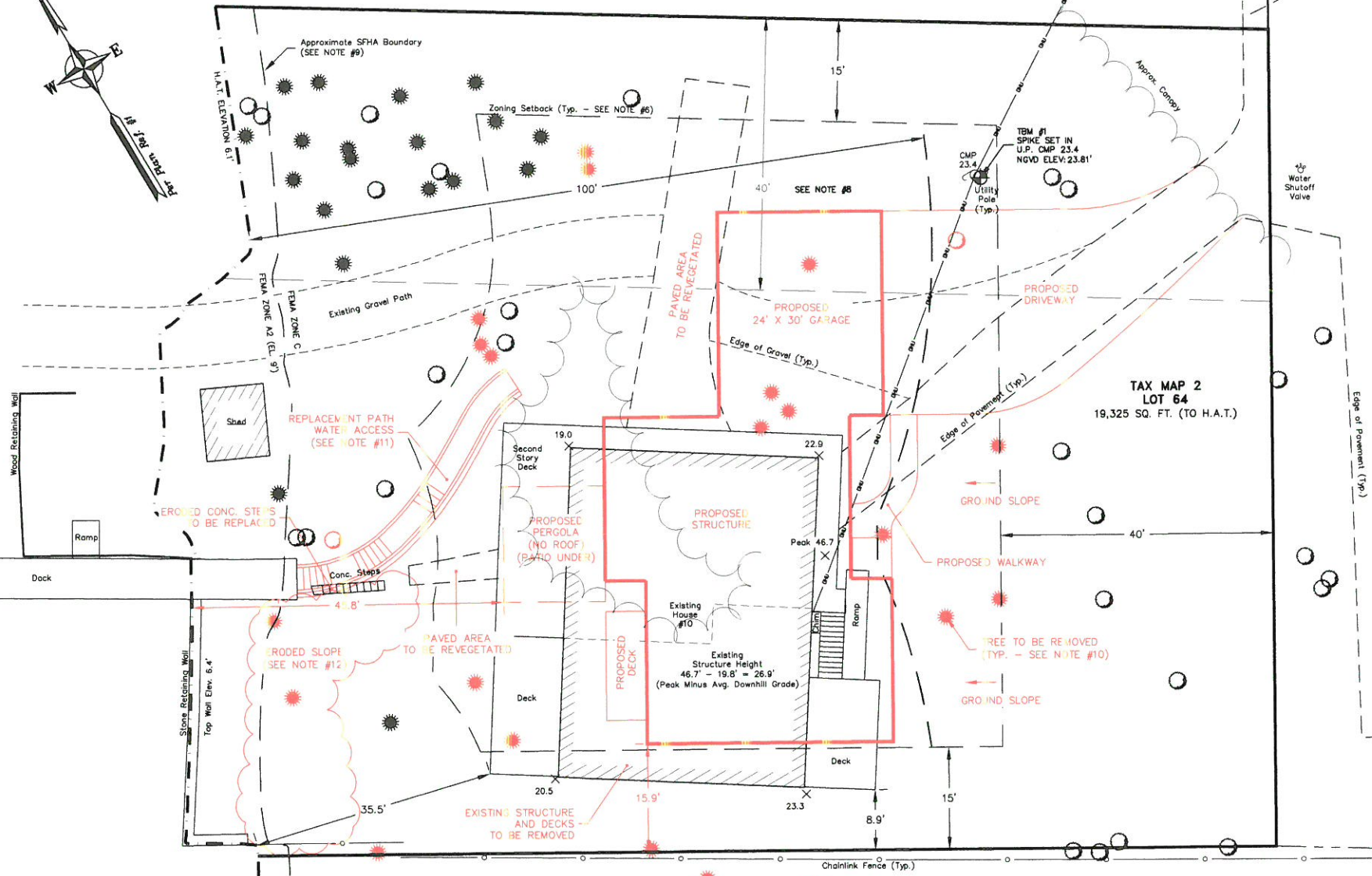
PRINCIPAL AND ACCESSORY STRUCTURES SETBACK: 75 FT. FROM NORMAL HIGH WATER, UPLAND EDGE OF A COASTAL WETLAND

ACCESSORY PATIO/DECK < 500 SQ. FT. SETBACK: 75 FT. FROM NORMAL HIGH WATER, UPLAND EDGE OF A COASTAL WETLAND

** WITH PUBLIC SEWAGE DISPOSAL
 *** MINIMUM DISTANCE BETWEEN PRINCIPAL BUILDINGS ON THE SAME LOT IS THE HEIGHT EQUIVALENT TO THE TALLER BUILDING.



PISCATAQUA RIVER



EXISTING STRUCTURE NONCONFORMANCE WITHIN 100' SETBACK*:

PRINCIPAL STRUCTURE AREA 2,757± SQ. FT.

*NO EXPANSIONS AFTER 1/1/1989

EXISTING BUILDING COVERAGE:

BUILDING	1,757± SQ. FT.
SHED	100± SQ. FT.
TOTAL	1,857± SQ. FT. (1,857 SQ. FT. / 19,325 SQ. FT. = 9.6%)

EXISTING DEVEGETATED COVERAGE CALCULATION:

LOT AREA	19,325± SQ. FT.
BUILDINGS	1,857± SQ. FT.
DECK/STEPS/DOCK	1,080± SQ. FT.
PAVEMENT	1,408± SQ. FT.
GRAVEL	1,131± SQ. FT.
RETAINING WALL	79± SQ. FT.
TOTAL	5,555± SQ. FT. (5,555 SQ. FT. / 19,325 SQ. FT. = 28.7%)

EXISTING CLEARED CANOPY COVERAGE:

TOTAL CLEARED CANOPY 1,500± SQ. FT. (7.8%)

PROPOSED STRUCTURE NONCONFORMANCE WITHIN 100' SETBACK*:

PRINCIPAL STRUCTURE AREA 2,799± SQ. FT. (INCLUDES BUILDING, PATIO, DECK)

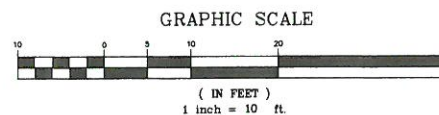
PROPOSED BUILDING COVERAGE:

BUILDING	2,448± SQ. FT.
SHED	100± SQ. FT.
TOTAL	2,548± SQ. FT. (2,548 SQ. FT. / 19,325 SQ. FT. = 13.2%)

PROPOSED DEVEGETATED COVERAGE CALCULATION:

LOT AREA	19,325± SQ. FT.
BUILDINGS	2,548± SQ. FT.
DECK	96± SQ. FT.
PATIO	255± SQ. FT.
PAVEMENT	1,340± SQ. FT.
GRAVEL	665± SQ. FT.
RETAINING WALL	79± SQ. FT.
PATH	214± SQ. FT.
DOCK	93± SQ. FT.
WALKWAY	124± SQ. FT.
TOTAL	5,414± SQ. FT. (5,414 SQ. FT. / 19,325 SQ. FT. = 28.0%)

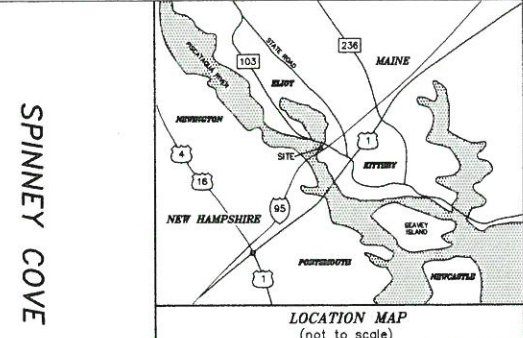
FOR REVIEW



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

Kittery, Maine - Planning Board Approval
 Date of Approval _____
 Chairman _____ Date _____

REV.	DATE	STATUS	BY	CHKD	APPD.



- PLAN REFERENCES:**
- "PLAN OF LAND FOR TOWN OF KITTERY, SPINNEY COVE DRIVE, KITTERY, MAINE" PREPARED BY ANDERSON LIVINGSTON ENGINEERS, INC., DATED JUNE 1996, NOT RECORDED
 - "PLAN SHOWING GRAY LODGE DEVELOPMENT" PREPARED BY ALBERT MOULTON CE, DATED SEPTEMBER 3, 1952 AND RECORDED AT THE Y.C.R.D. AS PLAN BOOK 22 PAGE 85.

- NOTES:**
- OWNERS OF RECORD:
 TAX MAP 2 LOT 64
 LOBO REALTY, LLC
 Y.C.R.D. BOOK 14198 PAGE 652
 Y.C.R.D. BOOK 14198 PAGE 653
 DATED AUGUST 18, 2004
 - TOTAL EXISTING PARCEL AREA:
 TAX MAP 2 LOT 64
 19,325± SQ. FT. (AREA TO H.A.T.)
 - BASIS OF BEARING IS PER PLAN REFERENCE #1.
 - APPROXIMATE ABUTTER'S LINES SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
 - EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
 - ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF YORK PRIOR TO DESIGN OR CONSTRUCTION.
 - THE BOUNDARY SHOWN HEREON IS DETERMINED FROM WRITTEN RECORDS, FIELD EVIDENCE AND PAROL TESTIMONY RECOVERED AT THE TIME OF SURVEY AND MAY BE SUBJECT TO CHANGE IF OTHER EVIDENCE BECOMES AVAILABLE.
 - 40' STRIP IS "SUBJECT TO ANY EXISTING EASEMENTS OR RIGHTS INsofar AS THE SAME MAY BE PRESENTLY IN FORCE" PER Y.C.R.D. BOOK 14198 PAGE 653. CONSULTATION WITH AN ATTORNEY IS ADVISED PRIOR TO ANY PERMANENT IMPROVEMENT IN THE 40' STRIP SHOWN HEREON.
 - REFERENCE IS MADE TO FEMA FIRM 230171 0007 C, EFFECTIVE JULY 5, 1984.
 - OWNER MET WITH THE SHORELAND RESOURCE OFFICER ON 8/30/17 REGARDING GUIDANCE OF REMOVAL OR REPLANTING OF TREES SHOWN HEREON.
 - REFER TO DESIGN DRAWINGS FOR PATH PREPARED BY WOODBURN AND COMPANY FOR DETAILS AND SPECIFICATIONS. PENDING REVIEW BY MDEP.
 - PROPOSED STABILIZATION PLANS OF THE ERODING SLOPE PREPARED BY WOODBURN AND COMPANY IS PENDING REVIEW BY MDEP.

SHORELAND DEVELOPMENT PLAN
 FOR PROPERTY AT
10 Spinney Cove Drive
 Kittery, York County, Maine
 OWNED BY
Lobo Realty, LLC
 187 White Mountain Highway, Milton, NH 03851
 PREPARED FOR APPLICANT
 Bob Bourdeau
 187 White Mountain Highway, Milton, NH 03851

EASTERLY SURVEYING, Inc.
 191 STATE ROAD, SUITE #1
 KITTERY, MAINE 03904
 (207) 439-6333

SCALE: 1" = 10'
 PROJECT NO. 17661
 DATE: 10/26/17
 SHEET: 1 OF 1
 DRAWN BY: A.M.P.
 CHECKED BY: P.L.A.
 DRAWING No: 17661_SHORELAND_DEV
 FIELD BOOK No: "Kittery #35"

Tax Map 2 Lot 64

Landscape Notes

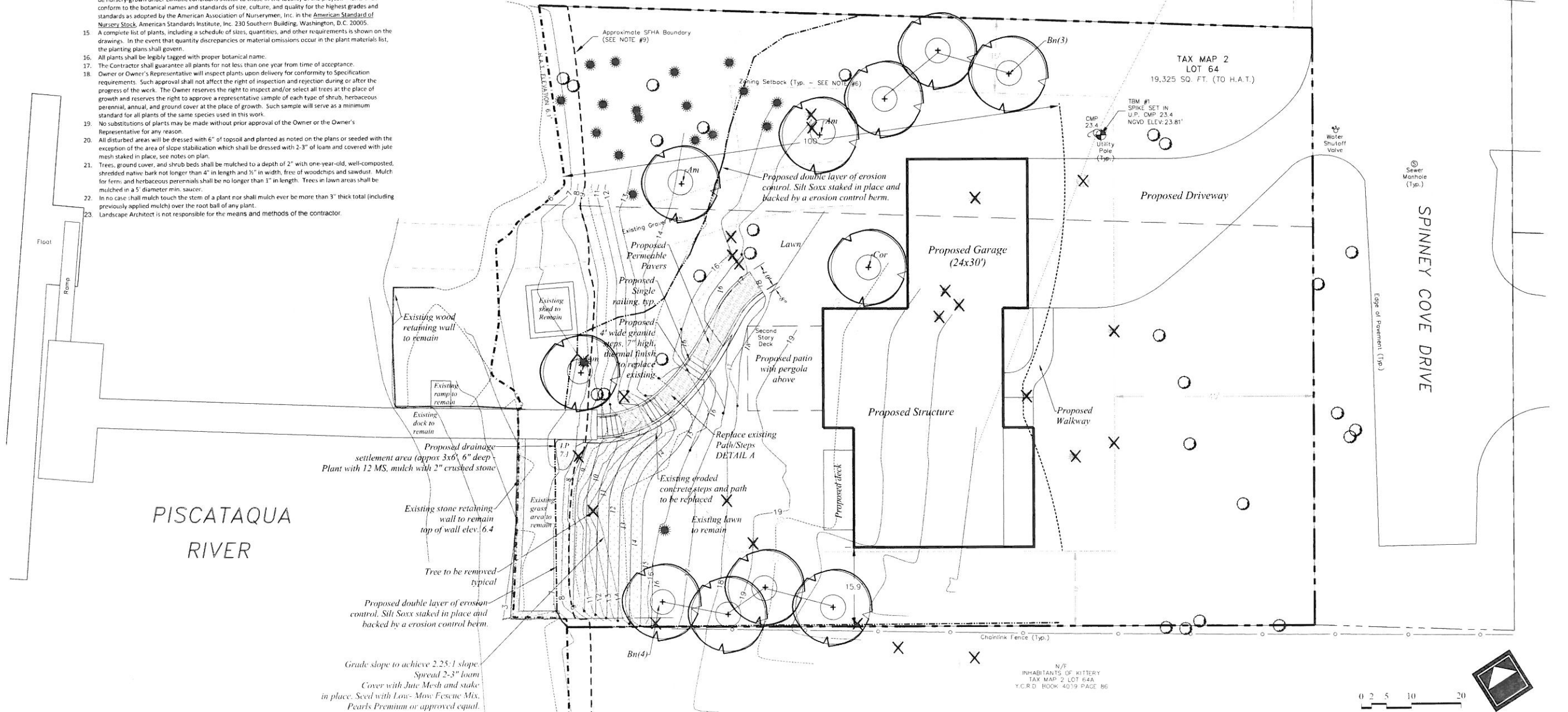
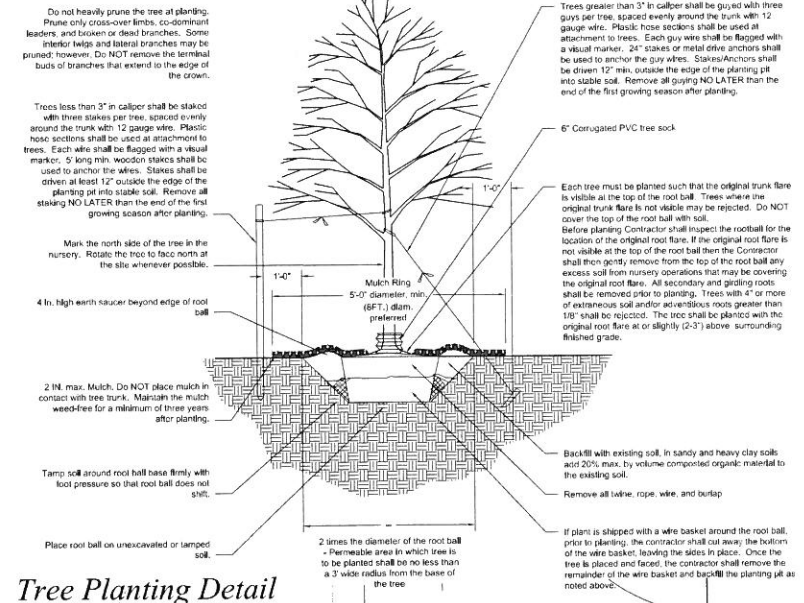
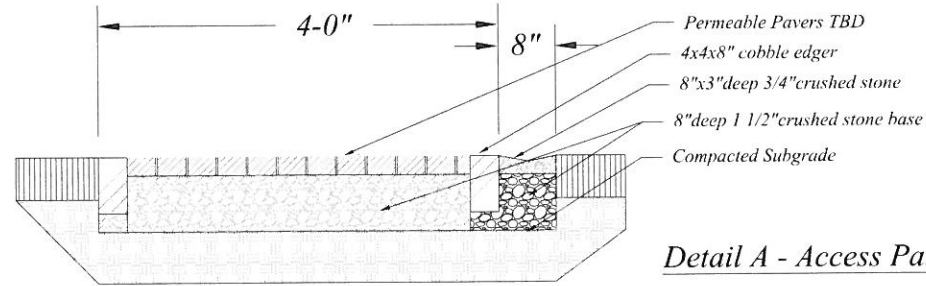
- Design is based on survey and Shoreland Development plans for 10 Spinney Cove Drive by North Easterly Surveying, Inc. dated 9/20/2017 and may require adjustment due to actual field conditions.
- The contractor shall follow best management practices during construction and shall take all means necessary to stabilize and protect the site from erosion.
- Contractor shall be a Maine Certified Erosion Control Contractor.
- Erosion Control shall be in place prior to construction.
- Erosion Control of cons st of Silt Soxx shall be staked in place between the work and Water bodies. Wetlands and/or drainage ways prior to any construction, backed with an erosion control mix berm, see location on plan.
- The Contractor shall verify layout and grades and inform the Landscape Architect or Client's Representative of any discrepancies or changes in layout and/or grade relationships prior to construction.
- It is the contractor's responsibility to verify drawings provided are to the correct scale prior to any bid, estimate or installation. A graphic scale bar has been provided on each sheet for this purpose. If it is determined that the scale of the drawing is incorrect, the landscape architect will provide a set of drawings at the correct scale, at the request of the contractor.
- Trees to Remain within the construction zone shall be protected from damage for the duration of the project by snow fence or other suitable means of protection to be approved by Landscape Architect or Client's Representative. Do not fill or mulch on the trunk flare. In order to protect the integrity of the roots, branches, trunk and bark of the tree(s) no vehicles or construction equipment shall drive or park in or on the area within the drip line(s) of the tree(s). Do not store any refuse or construction materials or materials within the tree protection area.
- Location, support, protection, and restoration of all existing utilities and appurtenances shall be the responsibility of the Contractor.
- The Contractor shall verify exact location and elevation of all utilities with the respective utility owners prior to construction. Call DIGSAFE at 1-888-344-7233.
- The Contractor shall procure any required permits prior to construction.
- Prior to any landscape construction activities Contractor shall test all existing loam and loam from off-site intended to be used for lawns and plant beds using a thorough sampling throughout the supply. Soil testing shall indicate levels of pH, nitrates, macro and micro nutrients, texture, soluble salts, and organic matter. Contractor shall provide Landscape Architect with test results and recommendations from the testing facility along with soil amendment plans as necessary for the proposed plantings to thrive. All loam to be used on site shall be amended as approved by the Landscape Architect prior to placement.
- Contractor shall notify landscape architect or owner's representative immediately if at any point during demolition or construction a site condition is discovered which may negatively impact the completed project. This includes, but is not limited to, unforeseen drainage problems, unknown subsurface conditions, and discrepancies between the plan and the site. If a contractor is aware of a potential issue, and does not bring it to the attention of the landscape architect or owner's representative immediately, they may be responsible for the labor and materials associated with correcting the problem.
- The Contractor shall furnish and plant all plants shown on the drawings and listed thereon. All plants shall be nursery grown under climatic conditions similar to those in the locality of the project. Plants shall conform to the botanical names and standards of size, culture, and quality for the highest grades and standards as adopted by the American Association of Nurserymen, Inc. in the American Standard of Nursery Stock, American Standards Institute, Inc. 230 Southern Building, Washington, D.C. 20005.
- A complete list of plants, including a schedule of sizes, quantities, and other requirements is shown on the drawings. In the event that quantity discrepancies or material omissions occur in the plant materials list, the planting plans shall govern.
- All plants shall be legibly tagged with proper botanical name.
- The Contractor shall guarantee all plants for not less than one year from time of acceptance.
- Owner or Owner's Representative will inspect plants upon delivery for conformity to Specification requirements. Such approval shall not affect the right of inspection and rejection during or after the progress of the work. The Owner reserves the right to inspect and/or select all trees at the place of growth and reserves the right to approve a representative sample of each type of shrub, herbaceous perennial, annual, and ground cover at the place of growth. Such sample will serve as a minimum standard for all plants of the same species used in this work.
- No substitutions of plants may be made without prior approval of the Owner or the Owner's Representative for any reason.
- All disturbed areas will be dressed with 6" of topsoil and planted as noted on the plans or seeded with jute mesh staked in place, see notes on plan.
- Trees, ground cover, and shrub beds shall be mulched to a depth of 2" with one-year-old, well-composted, shredded native bark not longer than 4" in length and 3/4" in width, free of woodchips and sawdust. Mulch for fern and herbaceous perennials shall be no longer than 1" in length. Trees in lawn areas shall be mulched in a 5' diameter min. saucer.
- In no case shall mulch touch the stem of a plant nor shall mulch ever be more than 3" thick total (including previously applied mulch) over the root ball of any plant.
- Landscape Architect is not responsible for the means and methods of the contractor.

Plant List

TREES	Symbol	Botanical Name	Common Name	Quantity	Size	Comments
	Bn	Betula nigra 'Heritage'	Heritage River Birch	7	10-12 ht.	BB Multi-Stemmed
	Am	Amelanchier x grandiflora 'Robin Hill'	Robin Hill Serviceberry	3	2-2.5' cal	BB
	Cor	Cornus alternifolia	Pagoda Dogwood	1	7-8' ht.	BB Multi-Stemmed

PERENNIALS, GROUNDCOVERS, VINES and ANNUALS

Symbol	Botanical Name	Common Name	Quantity	Size	Comments
Ms	Martynia struthioptera	Ostrich Fern	12	1 gal	



woodburn & company
LANDSCAPE ARCHITECTURE
705 Kent Place, New Hampshire Phone: 603.659.5919

Lobo Realty, LLC
Water Access and Slope Stabilization Plan
10 Spinney Cove Drive Kittery, Maine

Drawn By: RW
Checked By: RW
Scale: see plan
Date: 2017-10-18
Revisions: 2017-10-26 ISSUED FOR SUBMISSION

L-1
Sheet 1 of 1
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