

Town of Kittery Planning Board Meeting March 14, 2019

ITEM 2 - 230 U.S. Route 1 – Final Site Plan Review

Action: Approve or deny final site plan Owner/Applicant Green Brook, LLC requests consideration to develop a food truck pod on a 1.04 acre lot located at 230 U.S. Route 1 (Tax Map 22 Lot 14) in the Commercial (C-1) Zone. Agent is Barbara Jenny.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Sketch Plan Review	11/8/2018 Planning Board Meeting	APPROVED
YES	Site Visit	11/27/18	HELD
YES	Preliminary Plan Review Completeness/Acceptance	1/10/19	ACCEPTED
YES	Public Hearing	February 14, 2019	HELD
YES	Preliminary Plan Approval	February 14, 2019	GRANTED
YES	Final Plan Review and Decision	March 14, 2019	PENDING

Applicant: 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, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.L - 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

The plan is to develop a 3-truck food pod that will operate seasonally, and during the daylight hours from approximately 11 am to dusk daily on a lot located at the corner of U.S Route 1 and U.S. Route 1 Bypass in the Commercial (C-1) Zone. The parcel is 1.04 acres in size contains an existing commercial building known as the Mural Building. The uses within the building include retail (antiques & up-cycled furnishings), storage (for retail), art studios/maker space, and office (massage therapist).

The food truck pod would be located in the northern end of the lot in an area that would be defined by a row of trough planters.

Sketch plan review and a site walk for the application were completed last month by the Board. The application is now at preliminary plan review stage. A revised plan has been submitted based upon staff comments and the Board's input at the site walk.

The Board accepted the preliminary site plan application as complete at its January 10th meeting. **At the February 14th meeting a public hearing was held and the preliminary plan was approved. Since that time, a waiver request to the Commissioner of Maine DOT has been made by the Town in support of the proposed placement of planter troughs in the State ROW for traffic control and pedestrian safety.**

Staff Review

1. The proposed use is considered as a restaurant under our Code which is a permitted use in the Commercial zone.
2. The proposed use has reached the threshold of site plan review by the Planning Board under Sections 16.10.3.1, 16.10.3.2 & 16.10.3.6.C. The food truck pod use will require more than five (5) additional parking spaces.

3. The parcel meets all of the applicable dimensional standards as outlined for the C-1 & C-3 zones (16.3.2.13). As proposed, the trucks are not connected to water or power so there are no setback issues as they do not meet the definition of structure, however, if power or water is to be supplied in the future they would be attached to a utility connected to the ground and therefore classified a structure and would be required to meet structure setbacks for the zone.
4. Parking The final plan depicts thirty-six (36) parking spaces. The applicant has provided parking for all of the existing uses of the site as well as proposed use. The parking requirement for all of the proposed uses per code is thirty-one (31). The parking requirement (16.8.9.4) for drive-in restaurants, which is how we are treating the food truck use is one space per every three seats, with seating calculated by dividing the total floor area with customer access by 15. The calculation for total floor area, since the seating will be at picnic tables, was to calculate the square footage of the proposed three (3) picnic tables, which comes 70 sf. That number is divided by 15 which comes to 4.66 rounded up to 5 and added to 15 which results in a required twenty (20) spaces for the food trucks. The number of the required spaces and the total provided should be indicated on the final plan.
5. The required minimum number of accessible spaces for a parking lot size of 26-50 spaces is 2 spaces. The plan depicts two accessible spaces.
6. On-site traffic flow is indicated on the plan and the applicant is showing a physical separation of the food truck pod and picnic tables from that flow by the use of trough planters and removable non-locking 4" bollards. There appears to be sufficient area in the protected space for pedestrians. The applicant is also proposing directional flow striping and signage at the entrances/exits to control traffic and ensure safe entry and exiting.
7. Restroom facilities will consist of a plumbed facility for the vendor in the Mural building and two (2) porta-potties for customers which complies with the State health code. The porta-potties have been moved closer to the food truck area and some screening has been provided.
8. Trash/recycling/composting enclosures will be provided for customers and vendors and are shown on the site plan.
9. Landscaping is now shown on the site plan and more detail has been provided for the types and number of plantings. Attached.
10. Traffic. The site plan clearly indicates on-site traffic flow. Direction of traffic through the parking lot is shown as one-way. Traffic off the Bypass and from traffic circle via Route 1 will be able to use two entrances, which are two-way. Staff concerns about the lack of protection of the pedestrian space from cars entering via the north entrance has been addressed through the placement of additional trough planters along the edge of the MDOT ROW, painted divided lane and stop lines and signage indicating "stop" and "No Left Turn". At the south entrance, there will also be striping and signage to control flow into and out of the site. Update: Bill Doukas, DOT Southern Region Engineer will be meeting with a group at DOT headquarters on Monday, March 11 to come to decision summary on the traffic flow plan and the waiver request for the trough planters in the ROW. (They include the State Traffic Engineer, Legal Division, etc.) (A field visit was completed last Friday, March 1).

Recommendation / Action

Approve the final site plan application dated 9/25/18, revised 2/15/19 from owner/applicant Green Brook, LLC to develop a food truck pod on a 1.04 acre lot located at 230 U.S. Route 1 (Tax Map 22 Lot 14) in the Commercial (C-1) Zone.

M22 L14

FINDINGS OF FACT

UNAPPROVED

For 230 U.S. Route 1

Site Plan Review

Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and required by the Planning Board.

WHEREAS: Owner/Applicant Green Brook, LLC requests consideration to develop a food truck pod on a 1.04 acre lot located at 230 U.S. Route 1 (Tax Map 22 Lot 14) in the Commercial (C-1) Zone. Agent is Barbara Jenny.

Hereinafter the “Development,”

And pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 3/14/2019;

Sketch Plan Review	APPROVED	11/8/2018
Preliminary Plan Completeness Review	ACCEPTED	1/1/2019
Site Walk	HELD	11/27/2018
Public Hearing	HELD	2/14/2019
Preliminary Plan Approval	GRANTED	2/14/2019
Final Plan Approval	GRANTED	3/14/2019

And pursuant to the application, plans and other documents considered to be a part of the plan approval by the Planning Board in this finding consist of the following { *as noted in the Plan Review Notes prepared for 3/14/2019* } (hereinafter the “Plan”):

1. Site Plan Review Application, dated 12/15/2018
2. Kittery Food Truck Pod @ Mural Building Lot Site Plan, dated 9/25/18, revised 2/05/19
3. Kittery Food Truck Pod @ Mural Building Lot Traffic Flow Plan, dated 9/25/18, revised 2/05/19
4. Kittery Food Truck Pod @ Mural Building Lot Landscape Plan, dated 9/25/18, revised 2/15/19
5. Landscaping Details – Kittery Food Truck Pod, 230 US Route 1 Bypass

NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by section **16.10.8.3.4** and as recorded below:

FINDINGS OF FACT

Action by the Planning Board must be based upon findings of fact which certify or waive compliance with all the required standards of this Code, and which certify the development meets the following requirements:

A. Development Conforms to Local Ordinances.

<p><i>The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.</i></p>	
<p>Finding: The proposed development conforms to one of the primary objectives of comprehensive plan for economic development as it creates a creative and viable redevelopment of an underutilized commercial parcel on the Rt. 1 By-pass. The site plan and subdivision plans comply with the provisions of Title 16.</p>	
<p>Conclusion: This standard appears to be met.</p>	
<p>Vote of ___ in favor ___ against ___ abstaining</p>	
<p>B. Freshwater Wetlands Identified.</p>	
<p><i>All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.</i></p>	
<p>Finding: There are no wetlands present.</p>	
<p>Conclusion: This standard appears to be met.</p>	
<p>Vote of ___ in favor ___ against ___ abstaining</p>	
<p>C. River, Stream or Brook Identified.</p>	
<p><i>Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in 38 M.R.S. §480-B, Subsection 9.</i></p>	
<p>Finding: None present.</p>	
<p>Conclusion: This standard appears to be met.</p>	
<p>Vote of ___ in favor ___ against ___ abstaining</p>	
<p>D. Water Supply Sufficient.</p>	
<p><i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i></p>	
<p>E. Municipal Water Supply Available.</p>	
<p><i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i></p>	
<p>Finding: The food trucks will utilize private water supplies.</p>	
<p>Conclusion: This standard appears to be met.</p>	
<p>Vote of ___ in favor ___ against ___ abstaining</p>	
<p>F. Sewage Disposal Adequate.</p>	
<p><i>The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.</i></p>	
<p>Finding: The food trucks will utilize private sewage disposal.</p>	
<p>Conclusion: This standard appears to be met.</p>	
<p>Vote of ___ in favor ___ against ___ abstaining</p>	
<p>G. Municipal Solid Waste Disposal Available.</p>	

The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.

Finding: Solid waste disposal will be through private means. The proposed development will not burden the Town's facility.

Conclusion: This standard appears to be met.

Vote of _ in favor _ against _ abstaining

H. Water Body Quality and Shoreline Protected.

Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Finding: This standard is not applicable.

Conclusion: This standard appears to be met.

Vote of _ in favor _ against _ abstaining

I. Groundwater Protected.

The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

Finding: This standard is not applicable.

Conclusion: This standard appears to be met.

Vote of _ in favor _ against _ abstaining

J. Flood Areas Identified and Development Conditioned.

All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.

Finding: There is no proposed development located within a flood prone area.

Conclusion: This standard appears to be met.

Vote of _ in favor _ against _ abstaining

K. Stormwater Managed.

The proposed development will provide for adequate stormwater management.

Finding: No changes will be necessary to the existing stormwater management system for the site.

Conclusion: This standard appears to be met.

Vote of _ in favor _ against _ abstaining

L. Erosion Controlled.

The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

Finding: This standard is not applicable.

Conclusion: This standard appears to be met.

Vote of in favor against abstaining

M. Traffic Managed.

The proposed development will:

1. Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and
2. Provide adequate traffic circulation, both on-site and off-site.

Finding: The site plan clearly indicates on-site traffic flow. Direction of traffic through the parking lot is shown as one-way. Traffic off the Bypass and from traffic circle via Route 1 will be able to use two entrances, which are two-way. Staff concerns about the lack of protection of the pedestrian space from cars entering via the north entrance has been addressed through the placement of additional trough planters along the edge of the MDOT ROW, painted divided lane and stop lines and signage indicating “stop” and “No Left Turn”. At the south entrance, there will also be striping and signage to control flow into and out of the site. The applicant has provided Maine DOT with a traffic flow plan for the site.

Conclusion: This standard appears to be met.

Vote of in favor against abstaining

N. Water and Air Pollution Minimized.

The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:

1. Elevation of the land above sea level and its relation to the floodplains;
2. Nature of soils and sub-soils and their ability to adequately support waste disposal;
3. Slope of the land and its effect on effluents;
4. Availability of streams for disposal of effluents;
5. Applicable state and local health and water resource rules and regulations; and
6. Safe transportation, disposal and storage of hazardous materials.

Finding:

1. The proposed development is located outside of a floodplain.
- 2-4. Are not applicable to the proposed development.
5. The proposed development will adhere to all applicable State regulations.
6. Not applicable to the proposed development.

Conclusion: This standard appears to be met.

Vote of in favor against abstaining

O. Aesthetic, Cultural and Natural Values Protected.

The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Finding: The property does not include any significant aesthetic, cultural or natural values that require protection.

<u>Conclusion:</u> The requirement appears to be met.
Vote of __ in favor __ against __ abstaining
P. Developer Financially and Technically Capable.
<i>Developer is financially and technically capable to meet the standards of this section.</i>
<u>Finding:</u> The site contains existing commercial development that is viable and no major investment in the property is necessary to establish the food truck park.
<u>Conclusion:</u> This standard appears to be met.
Vote of __ in favor __ against __ abstaining

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

Waivers:

1. None.

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

1. Subject to MDOT approval of the traffic flow plan.
2. No changes, erasures, modifications, or revisions may be made to the approved plan, including no further land division or additional dwelling units established prior to Planning Board-approval.
3. All Notices to Applicant contained in the Findings of Fact (dated: March 14, 2019).

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

4. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar.

Notices to Applicant (NOT to be depicted on the final plan):

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required,

must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.

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

The Planning Board authorizes the Planning Board Chairperson, or Vice Chair, to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of in favor against abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON March 14, 2019

Dutch Dunkelberger, Planning Board Chair

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.

Landscaping Details—Kittery Food Truck Pod, 230 US Route 1 Bypass

The property is currently edged on the northeast by existing trees, shrubs, and grass. Likewise, the sloped 'island' at the center of the property just south of the Mural building contain shrubs, brambles, and trees, as does the bottom southeastern corner of the property. The long strip along the Bypass is currently grassed.

Our plan for new plantings includes:

- **Purple love grass** (*Eriogonum spectabilis*), a decorative grass, 8-12 spaced evenly, planted in the Bypass strip as a continuing line from the guardrail south (no decorative grass behind the guardrail as lower grasses (as per DOT limitations) will not be seen from the road, and will also impede mowing of lawn grass),
- Charming **cosmos** planted around the utility poles behind the guardrail on that strip,
- Re-seeding with lush **low-mow grass** on the entirety of the Bypass strip,
- Drought tolerant container annuals for the trough planters, including **cosmos** (*cosmos bipinnatus*), **coneflower** (*Echinacea*), **tickseed** (*Coreopsis*), **Mexican sunflower** (*Tithonia rotundifolia*), **nasturtium** (*Tropaeolum majus*)
- Organic edibles in one or two trough planters such as **tomatoes**, **cilantro**, **basil**, **nasturtium**.

Also, additional pine/s will be planted behind the porta-potties if necessary to fill out the existing screen of three pines, between the neighboring senior housing.



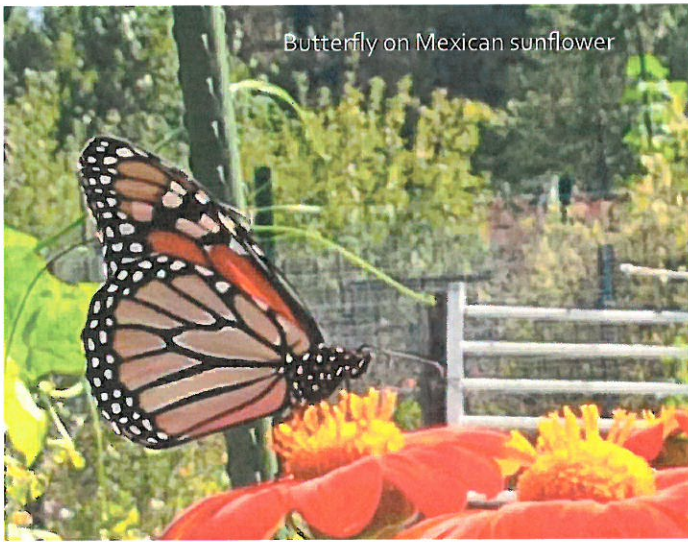
Trough with nasturtium, cosmos, and basil



Cosmos



Mexican sunflower

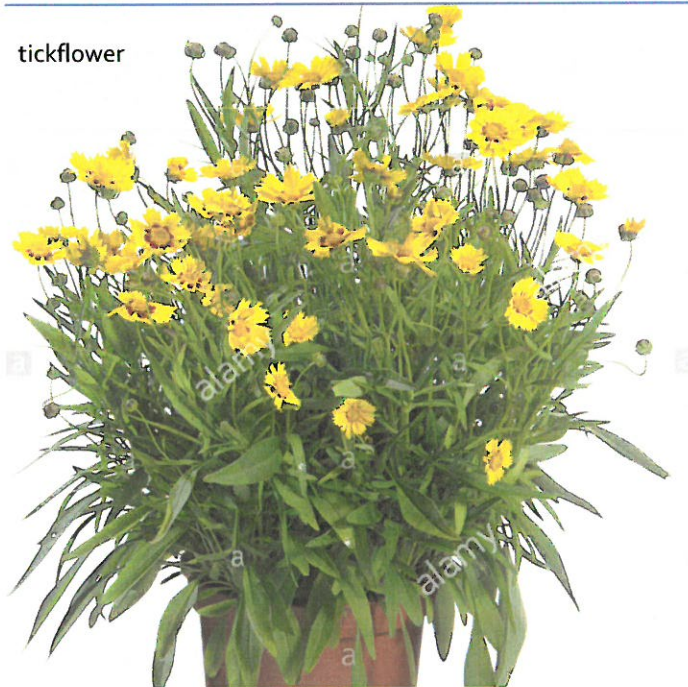


Butterfly on Mexican sunflower

Purple love grass



tickflower

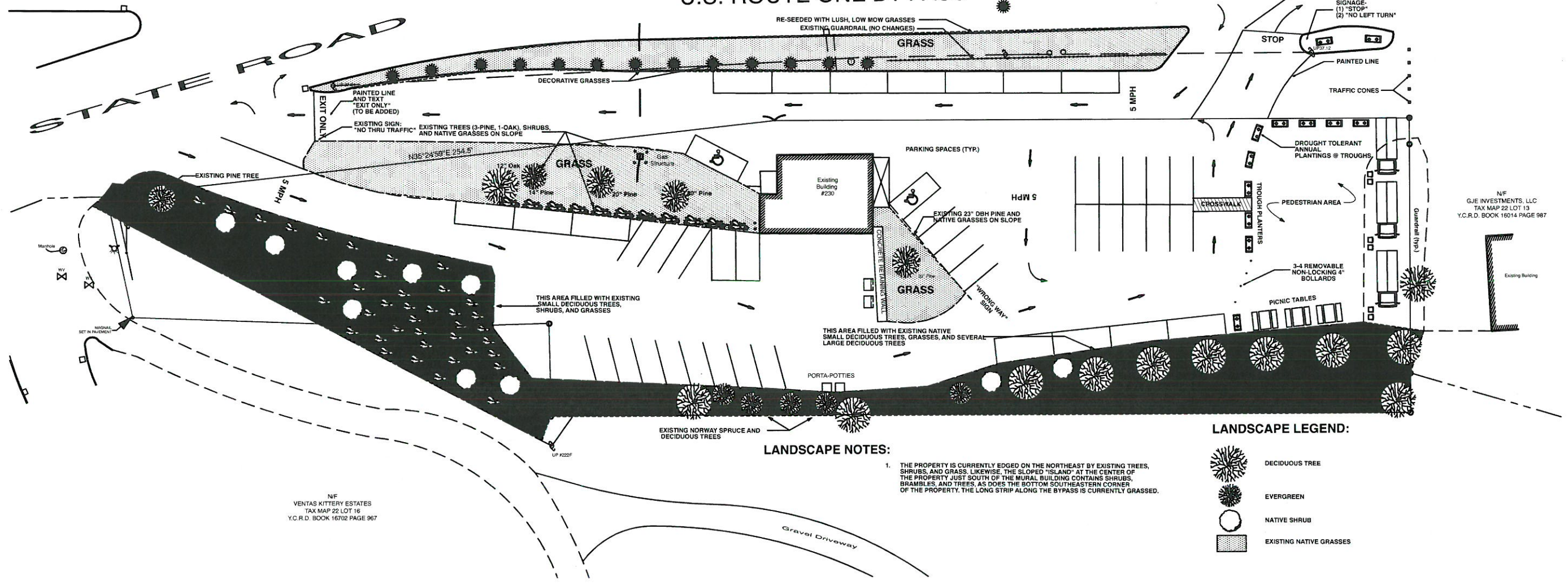


Low-mow grass



GPS:
 LATITUDE: 43.046668, LONGITUDE: 70.74271420000002
 N 43° 6'16.8", W 70° 44'33.771"





U.S. ROUTE ONE BY-PASS



LANDSCAPE NOTES:

1. THE PROPERTY IS CURRENTLY EDGED ON THE NORTHEAST BY EXISTING TREES, SHRUBS, AND GRASS. LIKEWISE, THE SLOPED "ISLAND" AT THE CENTER OF THE PROPERTY JUST SOUTH OF THE MURAL BUILDING CONTAINS SHRUBS, BRAMBLES, AND TREES, AS DOES THE BOTTOM SOUTHEASTERN CORNER OF THE PROPERTY. THE LONG STRIP ALONG THE BYPASS IS CURRENTLY GRASSED.

LANDSCAPE LEGEND:

-  DECIDUOUS TREE
-  EVERGREEN
-  NATIVE SHRUB
-  EXISTING NATIVE GRASSES

1 PROPOSED SITE PLAN
 SCALE: 1" = 40'

C-1	DATE 2-05-19	OWNER GREENBROOK LLC 94 PLEASANT STREET PORTSMOUTH NH 03801	KITTERY FOOD TRUCK POD @ MURAL BUILDING LOT 230 STATE ROAD, KITTERY, ME 03904	DESCRIPTION/FILE KITTERY FOOD TRUCKS LANDSCAPE PLAN	DRAWN BY MDB DESIGN LLC 81 LINCOLN AVENUE PORTSMOUTH, NH 03801 603.436.4256	MAP 22 LOT 14
	SCALE 1" = 40'-0"			DATE 9/25/18 KITTERY PLANNING BOARD APPROVAL		