

City of Biddeford

Planning Board

March 02, 2022 6:00 PM Zoom: Mar 2, 2022 06:00 PM Eastern Time (US and Canada)

Topic: Planning Board

Please click the link below to join the webinar:

<https://biddeford.zoom.us/j/98138340200?pwd=TkRhMCt4UGtwaWc0VEdraDJxYjU0UT09>

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669 900 9128 or +1 253 215 8782**

Webinar ID: 981 3834 0200

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1. DECLARATION OF QUORUM/VOTING MEMBERS

2. ADJUSTMENTS TO THE AGENDA

3. PLANNER'S BUSINESS

4. CONSENT AGENDA

4.A. Approval of Meeting Minutes from February 16, 2022

[PB Minutes 021622-DRAFT.pdf](#)

5. UNFINISHED BUSINESS

6. NEW BUSINESS

6.A. 2022.03 Conditional Use Permit for Undertow Cannabis Co LLC to operate a medical marijuana caregiver storefront at 30 Morin Street (Tax Map 11, Lot 3) in the I-1 Zone. The company has leased an 896 SF building (formerly R&W Engraving) off Route 1 intending to sell exclusive and third party medical cannabis flowers, extracts, edibles and a wide selection of local branded merchandise. Growing/cultivation would not occur at this location.

Applicant: Undertow Cannabis, LLC

Agent: Self, Jill Polster, Esq.

Tax Map/Lot: Tax Map 11, Lot 3

Zone: Industrial-1

Overlay Zone: None

Defined Land Use: Marijuana Establishment (Medical Marijuana Caregiver Retail)

Application Type: Conditional Use Permit

Application status: Request for Final Approval. Draft findings included. Public comment will be accepted for this item.

[2022.03 Undertow Cannabis 30 Morin St CUP SR.pdf](#)
[Undertow Site Plan Review Applicationt.pdf](#)
[2022.03 Undertow Cannabis 30 Morin St CUP draft FOF.pdf](#)
[site plan signatures.jpg](#)
[Land survey 30 morin st.pdf](#)
[30 Morin Biddeford blueprints.pdf](#)

- 6.B. 2022.06 Site Plan Review of 5 Alfred Street for Seth Harkness (Tax Map 38, Lot 400) in the MSRD 1 Zone. The purpose of the project is to convert eight offices on the second floor to eight studio and one bedroom apartments. There will be no changes to the exterior footprint of the building.

Applicant: Seth Harkness

Agent: Self

Tax Map/Lot: Tax Map 38, Lot 400

Zone: MSRD-1

Overlay Zone: Historic Preservation

Defined Land Use: Residential (8 Apartments)

Application Type: Site Plan

Application status: Request for Final Approval. Draft findings included. Public comment will be accepted for this item.

[2022.06 Harkness 5 Alfred Subdivision SR.pdf](#)

[2022.06 Harkness 5 Alfred Subdivision draft FOF.pdf](#)

[2022.05-Application.pdf](#)

- 6.C. 2021.45 Determination of the Greatest Practical Extent for Dan & Roberta Lynnworth. The property is located at 52 Fortunes Rocks Drive (Tax Map 64, Lot 33) in the Shoreland Resource Protection, Coastal Residential Zone. The purpose of the project is to tear down and replace a garage used for storage.

Applicant: Dan Lynnworth

Agent: Self, Mike Richman

Tax Map/Lot: Tax Map 64, Lot 33

Zone: Coastal Residential

Overlay Zone: Resource Protection Shoreland Zone

Defined Land Use: Storage Building

Application Type: Dertermination of the Setback to the greatest Practical Extent from the wetland

Application status: Request for Final Approval. Draft findings included. Public comment will be accepted for this item.

[2021.45 Lynnworth-52 Fortunes Rocks Rd GPE SR.pdf](#)

[2021.45 Lynnworth-52 Fortunes Rocks Rd FOF.pdf](#)

[Lynnworth Application Materials.pdf](#)

[Lynnworth Plans.pdf](#)

7. **OTHER BUSINESS**

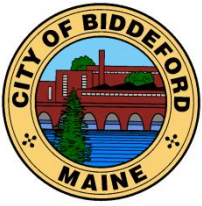
- 7.A. Comprehensive Plan Public Sessions Workshop: The Planning Board will be presented

with a compiled draft Comprehensive Plan Policies and Strategies for consideration for the public sessions to occur in March. The draft policies and strategies will be reviewed and refined to ultimately reflect those Policies and Strategies the Board wishes to ask session participants to indicate their support for each on a scale of 1 to 5, with 1 being of strong support and 5 being strong opposition. The public sessions planned for later in March will provide input to the Board in its formulation of the final policies and strategies to be ultimately included in the Draft Plan which will be the subject of a Public Hearing later in the Spring.

It is not anticipated that public input will be accepted during this workshop item.

8. ADJOURN

The Board reserves the right to halt official business at 9:30 p.m. Items not heard at tonight's meeting shall be rescheduled to the next meeting of the Board. All materials pertaining to items on the agenda are available for public review at the Biddeford Planning Department, second floor, Biddeford City Hall during normal business hours.



CITY OF BIDDEFORD

Planning and Development Department

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Planning Board Meeting Minutes **DRAFT**

Date: February 16, 2022
Time: 6:00 PM
Location: REMOTE ACCESS MEETING (1MRSA § 403-A permits public proceedings through remote access during the declaration of state of emergency due to COVID-19).

1. Declaration of Quorum/Voting Members

Quorum Present: Bill Southwick (Chair), Roch Angers, Bruce Benway, Sean Tarpey, Spiros Droggitis, Alexa Plotkin (Alternate) and Michael Cantara (Alternate)

Staff Present: Greg Tansley (Planner), Hannah Bonine (Asst. Planner), Nan Whitten
Christopher DiMatteo (Consulting Planner)

Chair Southwick opened the meeting at 6:00 PM

2. Adjustments to the Agenda

3. Planner's Business

4. Consent Agenda

4 A. Approval of Planning Board Meeting Minutes from February 2, 2022

MOTIONS: 6:02 PM

Benway-Motion- to approve the Meeting Minutes from February 2, 2022

Angers-Second

Chair Southwick-Roll Call for Vote-Motion Passed, 4-0 (Angers, Benway, Tarpey & Droggitis)

5. New Business

2021.058 Public Hearing, take comments, and make a recommendation to the City Council regarding a zoning amendment to revise the Historic Preservation Ordinance. This amendment would remove the 90-day demolition stay provision for buildings listed on the National Register. This change is required by the U.S. Department of the Interior in order for Biddeford to attain "Certified Local Government" status through the Maine Historic Preservation Commission, opening new grant opportunities for historic preservation purposes.

- Brad Favreau, Economic Development Coordinator for the City of Biddeford presented the proposed changes to the Board.
- Brad talked about the fact that they presented to the Board for CLG status last summer and were approved by the state but The National Park Department of the Interior wants the 90-day stay of demo for structures on the National Register struck from the ordinance. The National Register of Historic Places designation is honorary and the Federal Officials do not recognize honorary designations.

- He then went onto talking about designating buildings as historically significant and different areas where there are some structures that are historically significant and how this will fit into the Comp Plan.
- Speaking from the public-Richard Rhames

MOTIONS: 6:22 PM

Benway-Motion- to recommend the amendments be forwarded to the City Council with a positive recommendation

Angers-Second

Chair Southwick-Roll Call for Vote-Motion Passed, 4-0 (Angers, Benway, Tarpey & Droggitis)

6. Unfinished Business

6.A. 2021.31 Final Review of a 6-Lot Cluster Subdivision for Ginger Hill Design + Build at 918 Pool Street (Tax Map 4, Lot 48) in the Coastal Residential (CR) and Rural Farm (RF) Zones.

- **Representing the applicant:**
Bill Walsh-Walsh Engineering
Connor Ritter-Walsh Engineering
Emily Ingwersen-Ginger Hill Design + Build
- **Consulting Planner, Chris DiMatteo** brought the Board up to speed on changes made to satisfy the comments and requests made at the previous meeting.
- **Emily Ingwersen** told the Board about the intentions of the company. She mentioned they are very conservation conscious and hired wildlife and soils studies without prompting from the City. Emily also talked about changes they have made in the subdivision to go along with what the Planning Board members have mentioned.
- **Bill Walsh** talked about the changes the applicant has made on the plans and the fact that the ordinance allows them to have 8 lots but due to their commitment to the preservation of the land they only have 6 lots.
- **Speaking from the public-Richard Rhames.**
- **Members of the Board** addressed the applicant with gratitude and praise of their consideration and extra effort.

MOTIONS: 6:40

Benway-Motion- to approve the Cluster Subdivision and Conditional Use Permit for Ginger Hill at 918 Pool Street based on the plans submitted by Walsh Engineering, dated January 12, 2022 and revised February 8, 2022 based on the compiled submission dated February 10, 2022, and approve the Findings of Fact and Conclusions of Law based on the Conditions outlined in the Draft Findings of Fact in the Planning Board packet for February 16, 2022. In addition, that the Planning Board authorizes the City Planner to sign the final plan on behalf of the Planning Board and declares that the final plan once signed by the City Planner shall be deemed to have been signed by individual members of the Planning Board.

Angers-Second

Chair Southwick-Roll Call for Vote-Motion Passed, 4-0 (Angers, Benway, Tarpey & Droggitis).

6.B. Final Review of a 6-Lot Cluster Subdivision for Ginger Hill Design + Build at 158 Oak Ridge Road (Tax Map 4, Lot 57) in the Rural Farm (RF) Zone.

- **Representing the applicant:**
Bill Walsh-Walsh Engineering
Connor Ritter-Walsh Engineering
Emily Ingwersen-Ginger Hill Design & Build
- **Consulting Planner DiMatteo told the Board what changes had been made in the subdivision since the applicant last appeared before the Board.**
- **Emily told the Board about going before the Conservation Commission with both projects prior to being asked.**
- **She talked about the changes they have made per the Board's request and the preservation of the meadow.**
- **Bill Walsh also talked about the changes made to the plans**
- **Speaking from the public-Richard Rhames**
- **Emily clarified a bit of the public comments regarding the intended purpose of the soil maps.**
- **Planner Tansley concurred with the applicant's discernment of the purpose of the soil maps.**

MOTIONS: 7:04 PM

Benway-Motion- to approve the Cluster Subdivision and Conditional Use Permit for Ginger Hill at 158 Oak Ridge Road based on the plans submitted by Walsh Engineering, dated January 12, 2022 and revised February 4, 2022 based on the compiled submission dated February 10, 2022, and approve the Findings of Fact and Conclusions of Law based on the Conditions outlined in the Draft Findings of Fact in the Planning Board packet for February 16, 2022. And that that the Planning Board authorizes the City Planner to sign the final plan on behalf of the Planning Board and declares that the final plan once signed by the City Planner shall be deemed to have been signed by individual members of the Planning Board.

Angers-Second

Chair Southwick-Roll Call for Vote-Motion Passed, 4-0 (Angers, Benway, Tarpey & Droggitis).

7. Other Business

8. Adjourn

MOTIONS: 7:06 PM

Benway-Motion-to adjourn

Angers-Second

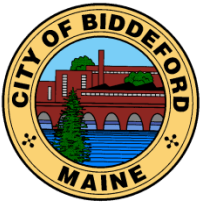
Chair Southwick-Roll Call for Vote-Motion Passed, 4-0 (Angers, Benway, Droggitis & Tarpey)

Meeting adjourned at 7:07 PM

Planning Board Chair/Vice Chair

Date

These minutes are summary and are not intended to be verbatim. Archived meetings are viewable on the City's website: www.biddefordmaine.org.



CITY OF BIDDEFORD

Planning and Development Department

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Hannah.Bonine@biddefordmaine.org

PLANNING BOARD REPORT

TO: Chair Southwick and the Biddeford Planning Board

FROM: Hannah Bonine, Assistant City Planner 

DATE: February 24, 2022

RE: **2022.03 Conditional Use Permit for Undertow Cannabis Company for a Medical Marijuana Caregiver retail store at 30 Morin Street (Tax Map 11, Lot 3) in the I-1 Industrial Zone**

MEETING DATE: Wednesday, March 2, 2022 @ 6:00 PM

PROJECT DESCRIPTION

The applicant, Undertow Cannabis, is seeking to operate a Medical Marijuana Caregiver store at 30 Morin Street. The applicant intends to lease the existing building. Medical marijuana caregiver stores are a conditional use in the I-1 zone.

There are no site improvements proposed and all renovations would occur within the existing structure. Proposed renovations include an odor control system, security system, a secure entrance, a product storage area, and a retail space.

COMPLIANCE WITH CITY ORDINANCES

Medical marijuana caregiver stores are a conditional use in the I-1 zone.

To receive approval from the Planning Board, the applicant must establish compliance with the Conditional Use Standards (Article VII, Section 6), Performance Standards (Article VI, Section 77), and Site Plan Review (Article XI).

The applicant has submitted an Odor Mitigation plan and a Waste & Wastewater Disposal plan, which include operational and safety procedures, intended employee training, waste disposal, and a plan of the building which indicates entrances, security cameras, and odor control measures.

The parking provided on-site is adequate per city ordinances. 4 parking spaces will be required, including one van accessible space.

PROJECT DATA/INFORMATION

Note: **HIGHLIGHTED** information is pending.

	<i>SUBJECT</i>	<i>DATA/INFORMATION</i>
1	Applicant:	Undertow Cannabis Co, LLC c/o John Claudino 455 Pool Street Biddeford, ME 04005
2	Owner of Property:	30 Morin Street, LLC c/o John Claudino and Jake Claudino 30 Morin Street Biddeford, ME 04005
3	Agent:	Jill G. Polster, Esq. – Cohen Law Maine P.O. Box 5404 Portland, ME 04101
4	Engineer/Surveyor:	J.C. Cavanaugh Architecture, LLC c/o Joanna Cavanaugh 21 Bradeen Street, Suite 307 Springvale, ME 04083
5	Project Location:	30 Morin Street
6	Project Tax Map #/Lot #:	Tax Map 11, Lot 3
7	Existing Zoning:	Industrial (I-1)
8	Overlay Zoning:	None
9	Existing Use:	Formerly R&W Engraving + Quick Copy Center
10	Proposed Use:	Medical Marijuana Caregiver Store
11	City Approvals Required:	Conditional Use Permit
12	Uses in the Vicinity:	Industrial
13	Parcel Size:	0.08 Acres
14	Water Supply:	Public water
15	Sewerage Disposal:	Public sewer
16	Solid Waste Disposal:	Public trash
17	Fire Protection:	City of Biddeford
18	Parking Spaces Required:	3
19	Parking Spaces Provided (total):	4
20	Ownership of Road:	Morin Street is a public road
21	Estimated Site Development Costs:	N/A
22	Financial Capacity Letter:	N/A

23	Waivers Needed:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
24	Waivers Granted:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
25	Variances Needed for Approval:	None
26	Other Permits Obtained:	None
27	Other Non-City Permits Required:	None
28	Covenants, By-laws, Restrictions Required by the Planning Board:	None
29	LDR Attachment A: Fees Paid:	All Planning fees have been paid.
30	Planning Board Review History: Final Review:	March 2, 2022

WAIVER REQUESTS

Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)

NEXT STEPS/SUGGESTED ACTIONS

- A. Recommend the Planning Board grant the waiver request for a full site plan review given the scope and scale of the proposal – a retail store with no site improvements.**
- B. If the applicant has addressed the outstanding items to the satisfaction of the Planning Board, and Planning Board approves the project, Staff recommend doing so with the following Conditions of Approval attached:**
 - 1. Improvements to the parking area, including striping paved parking spaces (3 spaces and 1 van accessible space), must be completed by May 15, 2022. A compliance inspection needs to occur by Code Enforcement to verify the parking lot is properly striped and that the accessible parking space has been striped/marked properly. The ADA van accessible space should be immediately adjacent to the front doorway to left so passengers access on the right of the vehicle. ADA van accessible spaces must be 8' minimum width with a 8' minimum width striped access aisle to the right.**
 - 2. Standard Conditions of Approval apply.**
 - 3. The applicant shall obtain all other pertinent local, state and federal permits/licenses/insurance such as building, electrical, plumbing, etc., prior to commencing business.**
 - 4. The applicant shall comply with Land Development Regulations, Article VI (Performance Standards), Section 77 (Marijuana establishments) including, but not**

limited to, the odor of marijuana shall not be detectable off-premises, meaning not-detectable on any property that is not under control of the establishment.

SAMPLE MOTIONS

- A. *Motion to Waive Article XI, Section II – Full Site Plan Review.*
- B. *Motion to approve the Conditional Use Permit for Undertow Cannabis Company for a Medical Marijuana Caregiver store at 30 Morin Street (Tax Map 11, Lot 3) and approve the findings of fact based on the conditions recommended by Staff in its Report dated February 24, 2022.*

ATTACHMENTS

- 1. Application Package
- 2. Draft Findings of Fact and Conclusions of Law

CITY OF BIDDEFORD, MAINE
PLANNING BOARD
P.O. Box 586, 205 Main Street Biddeford, Maine 04005
207-284-9115

APPLICATION FORM

Type of Application:

☐ Shoreland Zoning Permit ☐ Site Plan Review ☐ Extraction
☒ Conditional Use Permit ☐ Subdivision ☐ Private Way
☐ Other: _____

Applicant Information:

Applicant's Name: Undertow Cannabis Co LLC - John Claudino
Applicant's Mailing Address: 455 Pool Street, Biddeford, ME 04005
Applicant's Telephone: 207-298-4381

What is Applicant's legal interest in the property?

☐ Owner ☐ Potential Buyer with Contract ☒ Lease/Rental Agreement

Owner's Name: 30 Morin St LLC - John Claudino and Jake Claudino
Owner's Address: 30 Morin St., Biddeford, ME 04005
Owner's Telephone: 508-431-8282

Agent's Name: Jill G. Polster, Esq.
Agent's Address: Cohen Law Maine, P.O. Box 5404, Portland, ME 04101
Telephone: 207-387-3192

Engineer/Surveyor: J.C. Cavanaugh Architecture LLC - Joanne Cavanaugh
Engineer/Surveyor's Address: 21 Bradeen St., Suite 307, Springvale, ME 04083
Telephone: 207-324-2666

Project Location and Lot Information:

Street Address: 30 Morin St., Biddeford, ME 04005
Tax Map: 11 Lot: 3
Current Zoning: I-1 Shoreland Zoning: No

Size of lot: .0800 ☒ acres ☐ s.f. Lot Frontage: _____

Existing Use of Property: Former R&W Engraving + Quick Copy Center for 30 Years

Property currently serviced by:

☒ City Road	☐ Private Road
☒ Public Sewer	☐ Septic System
☒ Public Water	☐ Private Well
☒ Public Trash	☐ Private Hauler

Slope Conditions in Area of Construction (if applicable):

☐ Flat (0-3 % slope) ☐ Rolling (3-8% slope) ☐ Hilly (8-15% slope) ☐ Steep (15% + slope)

Are there any wetlands or waterbodies on the site? ☐ Yes ☒ No If yes, attach information

Do you plan to bring fill onto the lot? ☐ Yes ☒ No If yes, attach information

Description of proposed use of property:

Project/Proposed Use Description: The existing structure will be renovated into a medical marijuana caregiver retail store. 450 s.f. will be retail space with 100 s.f. of office space. 350 s.f. will be storage space, packaging space, and an existing restroom.

Property to be serviced by:

☒ City Road	☐ Private Road
☒ Public Sewer	☐ Septic System
☒ Public Water	☐ Private Well
☒ Public Trash	☐ Private Hauler

Is this project part of a larger project? ☐ Yes ☒ No

☐ If in a Shoreland Zone:

Percent of residential lot coverage (Max. 20%): _____

Percent of structure expansion (Max. 30%): _____

☐ If Subdivision Review, number of lots proposed: N/A

☐ If a Private Way is proposed, number of lots served: N/A

☐ **If Site Plan Review, you must provide the following information:**

Total new square feet footprint of structures: N/A

Total new square feet paving/parking: N/A

Waiver Requests (attach details):

1. _____
2. _____
3. _____
4. _____
5. _____

Attachments:

A. Letters of Approval

- ☐ Fire Department - Contact Chief or Deputy Chief - 282-9986
- ☐ Ability to Serve for Water Service – Maine Water - 282-1543
- ☐ Ability to Serve for Sewer Service- Engineering Dept (Sewer) - Tom Milligan 284-9118
- ☐ Police Department - E-911 Road Name Designation - Contact Joanne Fisk - 282-5127

B. Letter to Planning Board describing project, waiver requests, proposed improvements, addressing permit requirements, etc.

C. Photographs of site.

D. Architectural renderings/drawings of proposed buildings, as required.

E. Engineered Plans, as required.

Fees (due at time of application):

Refer to “Attachment A Fees and Charges” of the Land Development Regulations for more information. Consult with Planning Staff if you have questions.

Required Signatures:

By signing this application, as the foresaid applicant or authorized agent:

- I certify that I have read and completely understand the application;
- I certify that the information contained in this application and it's attachments are true and correct;
- I understand that all information provided on this form and all other documents submitted as part of my proposal is a matter of public record;
- I understand that copies of this information may be supplied upon request to an interested party.
- I understand that additional funds may be required through the course of review for special studies, legal review costs, and/or engineering review.
- I understand that by submitting this application I am not guaranteed a place on any particular agenda. I further understand that the City Planner will place me on an agenda for review when the application is deemed substantially complete.

☐ Project proposed to have 1 acre or more of site disturbance:

-Project may need to apply for a Maine Construction General Permit and shall comply with the requirements of DEP Chapter 500 Stormwater Regulations, as they apply.

Signature of applicant: _____

Date: _____

Signature of owner of property: _____

Date: _____

**IF PLAN APPROVAL IS ANTICIPATED, PROVIDE 2 FULL SIZE MYLARS & 2 FULL SIZE PAPER COPIES FOR BOARD SIGNATURE (AS APPLICABLE).
CHECK WITH PLANNING STAFF FOR CLARIFICATION.**

CHECKLIST FOR *SITE PLAN* REQUIREMENTS

YES NO

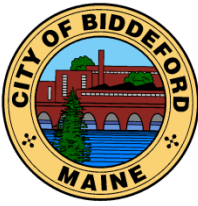
- | | | |
|--------------------------|--------------------------|--|
| ☐ | ☐ | Be on sheet size of 24 by 36 inches. |
| ☐ | ☐ | The scale of said plan shall be not less than one inch equals 50 feet and shall be indicated on the plat by use of a bar scale. |
| ☐ | ☐ | The plan shall bear the date, title, north point. |
| ☐ | ☐ | The plan shall contain a location or vicinity sketch (suggested scale one inch equals 800 feet). |
| ☐ | ☐ | The plan shall contain the name and address of the developer and applicant. |
| ☐ | ☐ | All appropriate dimensional requirements. |
| ☐ | ☐ | Existing and proposed easements. |
| ☐ | ☐ | Plan of the site showing existing watercourses and water bodies, seasonal wet areas. |
| ☐ | ☐ | Plan of the site showing soil type and location of test borings. |
| ☐ | ☐ | Location of all existing and proposed utilities. |
| ☐ | ☐ | Topographic contours (every five percent for zero to three percent slope; or every two feet for steeper areas). |
| ☐ | ☐ | Plan should include preservation and supplementation of existing dominant vegetation. |
| ☐ | ☐ | Plan shall indicate which features are to be retained and which are to be removed or altered. |
| ☐ | ☐ | Location of stonewalls, graveyards, fences, stands of trees, and other important unique natural areas and site features, including but not limited to floodplains, deer wintering areas, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with description of such features. |
| ☐ | ☐ | Plan view of all buildings with their use, size, location, and first-floor elevation in respect to grade. |
| ☐ | ☐ | Standard elevation view of existing and proposed buildings or structures on-site. |

YES NO

- | | | |
|--------------------------|--------------------------|---|
| ☐ | ☐ | Outline of any buildings located within 200 feet of such existing or proposed buildings or structures indicating their shape, size, location, heights and volume. |
| ☐ | ☐ | Existing use of abutting properties shall be identified with approximate location of any structures thereon including access roads. |
| ☐ | ☐ | Location, width, curbing, and paving of access ways, egress ways, and streets within the site for both pedestrian and vehicular use. |
| ☐ | ☐ | The location of off-street parking and loading spaces with a layout of the parking indicated. |
| ☐ | ☐ | The size and proposed location of water mains and sanitary sewerage facilities will all necessary engineering data. |
| ☐ | ☐ | The size and location of all other existing and proposed public service connections including, without limitation, gas lines, power lines, telephone lines, and fire alarm connections and locations, indicating whether above or below ground. |
| ☐ | ☐ | The type, nature, and composition of all solid, liquid, and gaseous waste, industrial or otherwise, and the location, type, and design criteria of the storage and disposal facilities dealing with such waste. |
| ☐ | ☐ | A landscape plan and open space areas indicating grade change, vegetation to be preserved, new plantings used to stabilize areas of cut and fill, screening; plus size, location, purpose and type of vegetation. |
| ☐ | ☐ | A drainage plan including location, elevation, layout of catch basins and other surface and subsurface drainage features. |
| ☐ | ☐ | Location, size and design of proposed signs and other advertising or instructional devices. |
| ☐ | ☐ | Existing and proposed contours and finished grade elevations as well as the type, extent, and location of existing and proposed landscaping and open space areas which will be retained. |
| ☐ | ☐ | Location and type of lighting for outdoor facilities. |
| ☐ | ☐ | Lines of existing and proposed abutting streets showing width. |
| ☐ | ☐ | Surveyed property lines showing their bearing and distances and monument locations. |
| ☐ | ☐ | If subdivision is involved, the lines and names of all proposed streets, lanes, ways, or easements intended to be dedicated for public or private use. |

YES **NO**

- | | | |
|--------------------------|--------------------------|---|
| ☐ | ☐ | Provide copies of any covenants or restrictions that are intended to cover all or part of the land area to be developed. |
| ☐ | ☐ | Indicate limits of the wetland areas on the property. |
| ☐ | ☐ | Delineate existing zoning boundaries within 1,000 feet of the site. |
| ☐ | ☐ | Stamp and signature of either a Maine licensed land surveyor, professional engineer, or architect responsible for said plan. |
| ☐ | ☐ | Any other exhibits or data deemed necessary by the Planning Board to evaluate the proposed development for site plan review purposes. |



CITY OF BIDDEFORD

Planning and Development Department

205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

FINDINGS OF FACT AND CONCLUSIONS OF LAW

CONDITIONAL USE PERMIT (CUP)

RE: 2022.03 Conditional Use Permit for Undertow Cannabis Company for a Medical Marijuana Caregiver retail store at 30 Morin Street (Tax Map 11, Lot 3) in the I-1 Industrial Zone

Pursuant to the provisions of the City of Biddeford Code of Ordinances Land Development Regulations, Article VII (Conditional Use Permits), Article XI (Site Plan Review), and Article VI (Performance Standards), the Biddeford Planning Board has considered the application of **Undertow Cannabis** to operate a Medical Marijuana Caregiver store at 30 Morin Street. Based on its review, including supportive data, public hearing testimony and related materials contained in the record, the Planning board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

Note: **HIGHLIGHTED** information is pending.

	<i>SUBJECT</i>	<i>DATA/INFORMATION</i>
1	Applicant:	Undertow Cannabis Co, LLC c/o John Claudino 455 Pool Street Biddeford, ME 04005
2	Owner of Property:	30 Morin Street, LLC c/o John Claudino and Jake Claudino 30 Morin Street Biddeford, ME 04005
3	Agent:	Jill G. Polster, Esq. – Cohen Law Maine P.O. Box 5404 Portland, ME 04101
4	Engineer/Surveyor:	J.C. Cavanaugh Architecture, LLC c/o Joanna Cavanaugh 21 Bradeen Street, Suite 307 Springvale, ME 04083
5	Project Location:	30 Morin Street
6	Project Tax Map #/Lot #:	Tax Map 11, Lot 3
7	Existing Zoning:	Industrial (I-1)

8	Overlay Zoning:	None
9	Existing Use:	Formerly R&W Engraving + Quick Copy Center
10	Proposed Use:	Medical Marijuana Caregiver Store
11	City Approvals Required:	Conditional Use Permit
12	Uses in the Vicinity:	Industrial
13	Parcel Size:	0.08 Acres
14	Water Supply:	Public water
15	Sewerage Disposal:	Public sewer
16	Solid Waste Disposal:	Public trash
17	Fire Protection:	City of Biddeford
18	Parking Spaces Required:	3
19	Parking Spaces Provided (total):	4
20	Ownership of Road:	Morin Street is a public road
21	Estimated Site Development Costs:	N/A
22	Financial Capacity Letter:	N/A
23	Waivers Needed:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
24	Waivers Granted:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
25	Variances Needed for Approval:	None
26	Other Permits Obtained:	None
27	Other Non-City Permits Required:	None
28	Covenants, By-laws, Restrictions Required by the Planning Board:	None
29	LDR Attachment A: Fees Paid:	All Planning fees have been paid.
30	Planning Board Review History: Final Review:	March 2, 2022

CONCLUSIONS OF LAW:

1. The proposed use meets specific requirements set forth in this ordinance and would be in compliance with applicable state or federal laws;
2. The proposed use would not create fire safety hazards by providing adequate access to the site, or to the buildings on the site, for emergency vehicles and would not create hazards through the storage of chemicals and wastes;
3. The proposed exterior lighting, where allowed, would not create hazards to motorists traveling on adjacent public streets or is adequate for the safety of occupants or users of

the site or would not damage the value and diminish the usability of adjacent properties;

4. The provisions for buffers and on-site landscaping provide adequate protection to neighboring properties from detrimental or unsightly features of the development;
5. The proposed use would not have a significant, detrimental effect on the use and peaceful enjoyment of abutting property as the result of noise, vibrations, fumes, odor, dust, glare, hours of operation, or other causes;
6. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets would not create hazards to public safety or traffic congestion;
7. The proposed use would generate a volume of traffic that can reasonably be accommodated by the existing road network, or would not create unreasonable traffic hazards or would not exacerbate an existing traffic hazard, or would not create unreasonable traffic congestion;
8. The proposed use would not have a significant, detrimental effect on the value of adjacent properties which could be avoided by reasonable modification of the proposal;
9. The proposed use would not have an adverse impact on the privacy of the residents of the immediate area (within 500 feet) which could be avoided by reasonable modification of the proposal;
10. The proposed use would be in compliance with Biddeford's Comprehensive Plan;
11. The proposed use would not have an adverse impact on the immediate neighborhood or the community relative to architectural design, scale, bulk and building height, identity and historical character, or visual integrity, which could be avoided by reasonable modification of the proposal;
12. The design of the site would not result in significant flood hazards or flood damage or would be in conformance with applicable flood hazard protection requirements;
13. Adequate provision has been made for disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;
14. Adequate provision has been made to control erosion or sedimentation;
15. Adequate provision has been made to handle stormwater runoff or other drainage problems on the site; and the proposed development will not unduly burden off-site surface water systems;

16. The proposed water supply would meet the demands of the proposed use for fire protection purposes;
17. Adequate provision has been made for the transportation, storage, and disposal of hazardous substances and materials as defined by state law;
18. The proposed use would not have an adverse impact on scenic vistas or on significant wildlife habitat or wetland areas and water bodies which could be avoided by reasonable modification of the proposal;
19. When located in the Shoreland Zone, the proposed use would meet the purposes of Shoreland Zoning as identified in Article XIV, Section 1 (Purposes) of this ordinance.

APPROVAL GRANTED:

Based on the evidence available and the conclusions above, the Biddeford Planning Board approves the Conditional Use Permit for the proposed project summarized above, located at 30 Morin Street (Tax Map 11, Lot 3) in accordance with the submitted application, supporting data, representations made, other related materials on file, and the following Conditions of Approval:

1. **Improvements to the parking area, including striping paved parking spaces (3 spaces and 1 van accessible space), must be completed by May 15, 2022. A compliance inspection needs to occur by Code Enforcement to verify the parking lot is properly striped and that the accessible parking space has been striped/marked properly. The ADA van accessible space should be immediately adjacent to the front doorway to left so passengers access on the right of the vehicle. ADA van accessible spaces must be 8' minimum width with a 8' minimum width striped access aisle to the right.**
2. **Standard Conditions of Approval apply.**
3. **The applicant shall obtain all other pertinent local, state and federal permits/licenses/insurance such as building, electrical, plumbing, etc., prior to commencing business.**
4. **The applicant shall comply with Land Development Regulations, Article VI (Performance Standards), Section 77 (Marijuana establishments) including, but not limited to, the odor of marijuana shall not be detectable off-premises, meaning not-detectable on any property that is not under control of the establishment.**

Planning Board Chairperson

Date

Fees (due at time of application):

Refer to "Attachment A Fees and Charges" of the Land Development Regulations for more information. Consult with Planning Staff if you have questions.

Required Signatures:

By signing this application, as the foresaid applicant or authorized agent:

- I certify that I have read and completely understand the application;
- I certify that the information contained in this application and it's attachments are true and correct;
- I understand that all information provided on this form and all other documents submitted as part of my proposal is a matter of public record;
- I understand that copies of this information may be supplied upon request to an interested party.
- I understand that additional funds may be required through the course of review for special studies, legal review costs, and/or engineering review.
- I understand that by submitting this application I am not guaranteed a place on any particular agenda. I further understand that the City Planner will place me on an agenda for review when the application is deemed substantially complete.

☐ Project proposed to have 1 acre or more of site disturbance:

-Project may need to apply for a Maine Construction General Permit and shall comply with the requirements of DEP Chapter 500 Stormwater Regulations, as they apply.

Signature of applicant:

John Cardine

Date:

7/13/2022

Signature of owner of property:

Jacob Cardine

Date:

7/13/2022

**IF PLAN APPROVAL IS ANTICIPATED, PROVIDE 2 FULL SIZE MYLARS & 2 FULL SIZE PAPER COPIES FOR BOARD SIGNATURE (AS APPLICABLE).
CHECK WITH PLANNING STAFF FOR CLARIFICATION.**

PLAN NOTES:

- 1) THE OWNERS OF RECORD ARE JACOB CLAUDINO AND JOHN CLAUDINO.
- 2) THE DEED OF RECORD IS RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS IN DEED BOOK 18838 PAGE 650.
- 3) THE CADASTRAL REFERENCES ARE CITY OF BIDDEFORD TAX MAP 11 LOT 3.
- 4) MORIN AVENUE LOCATION AND WIDTH IS PER "PLAN OF THE BIDDEFORD INDUSTRIAL PARK" BY WELLS ENGINEERING AND DATED JULY 1, 1977. RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 87 PAGE 37.
- 5) THE LAND DOES NOT FALL IN A "SPECIAL FLOOD HAZARD AREA" PER F.E.M.A. SEE COMMUNITY #230145 PANEL #0008B, EFFECTIVE DATE MAY 15, 1984.
- 6) ZONING: THE PARCEL FALLS IN THE "I-1" GENERAL INDUSTRIAL ZONE.
DIMENSIONAL REQUIREMENTS:
FRONTAGE- 50'
FRONT SETBACK- 30'
SIDE SETBACK- 25'
REAR SETBACK- 25'
AN OFFICIAL ZONING DETERMINATION AND REQUIREMENTS MUST BE OBTAINED FROM THE CITY OF BIDDEFORD AND ALL OTHER APPLICABLE REGULATORY BODIES BEFORE BUILDING IMPROVEMENTS OR CONVEYING LAND OR INTEREST.
- 7) UTILITY LOCATION SHOWN IS APPROXIMATE. THIS PLAN MAY NOT SHOW ALL UTILITIES USED OR IN DISUSE. ALL APPROPRIATE UTILITY OFFICES AND A UTILITY LOCATION SERVICE SHOULD BE CONTACTED BEFORE DOING ANY EXCAVATION.
- 8) THIS PLAN IS NOT INTENDED TO DEPICT LIMITS OR EXTENTS OF FEE TITLE OWNERSHIP. AN OPINION OF TITLE SHOULD BE RENDERED BY AN ATTORNEY.
- 9) NORTHEASTERN LAND SURVEYING AND THE SIGNING SURVEYOR RESERVE THE RIGHT TO BE HELD HARMLESS FROM ALL THIRD PARTY CLAIMS.
- 10) BEARINGS AND COORDINATES ARE MAINE STATE GRID WEST 1983 AND WERE DERIVED FROM OBSERVATIONS MADE WITH A CARLSON BRX7 OPERATING AS A ROVER USING MANE STATE DEPARTMENT OF TRANSPORTATION CONTINUOUSLY OPERATING REFERENCE STATION DATA.
- 11) SPOT ELEVATIONS AND CONTOURS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 AND WERE DERIVED FROM OBSERVATIONS MADE WITH A CARLSON BRX7 OPERATING AS A ROVER USING MANE STATE DEPARTMENT OF TRANSPORTATION CONTINUOUSLY OPERATING REFERENCE STATION DATA.
- 12) SOIL TYPE IS C1B PER THE U.S.D.A NATURAL RESOURCES CONSERVATION SERVICES WEB SOIL SURVEY.
- 13) THE EXISTING BUILDING IS SERVICED BY PUBLIC WATER AND SEWER.
- 14) THE LOT IS FLAT (1' TOPOGRAPHIC CONTOURS ARE SHOWN ON THIS PLAN) WITH NO TREES. THE LOT IS COVERED BY 1 BUILDING, A PAVED PARKING AREA AND GRASS LAWN.
- 15) NO SIGNIFICANT CHANGES TO THE EXTERIOR OF THE EXISTING BUILDING, SIGNAGE SIZE AND LOCATION OR THE GRADE AND FUNCTION OF THE SURROUNDING LAND IS PLANNED AT THIS TIME.

PLAN REFERENCES:

- 1) "THE NADEAU FARM" BY LIBBY & DOW AND DATED AUGUST 2, 1965. RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 42 PAGE 10.
- 2) PLAN OF THE BIDDEFORD INDUSTRIAL PARK" BY WELLS ENGINEERING AND DATED JULY 1, 1977. RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 87 PAGE 37.

EMBOSSED SEAL
(PLAN NOT VALID WITHOUT)

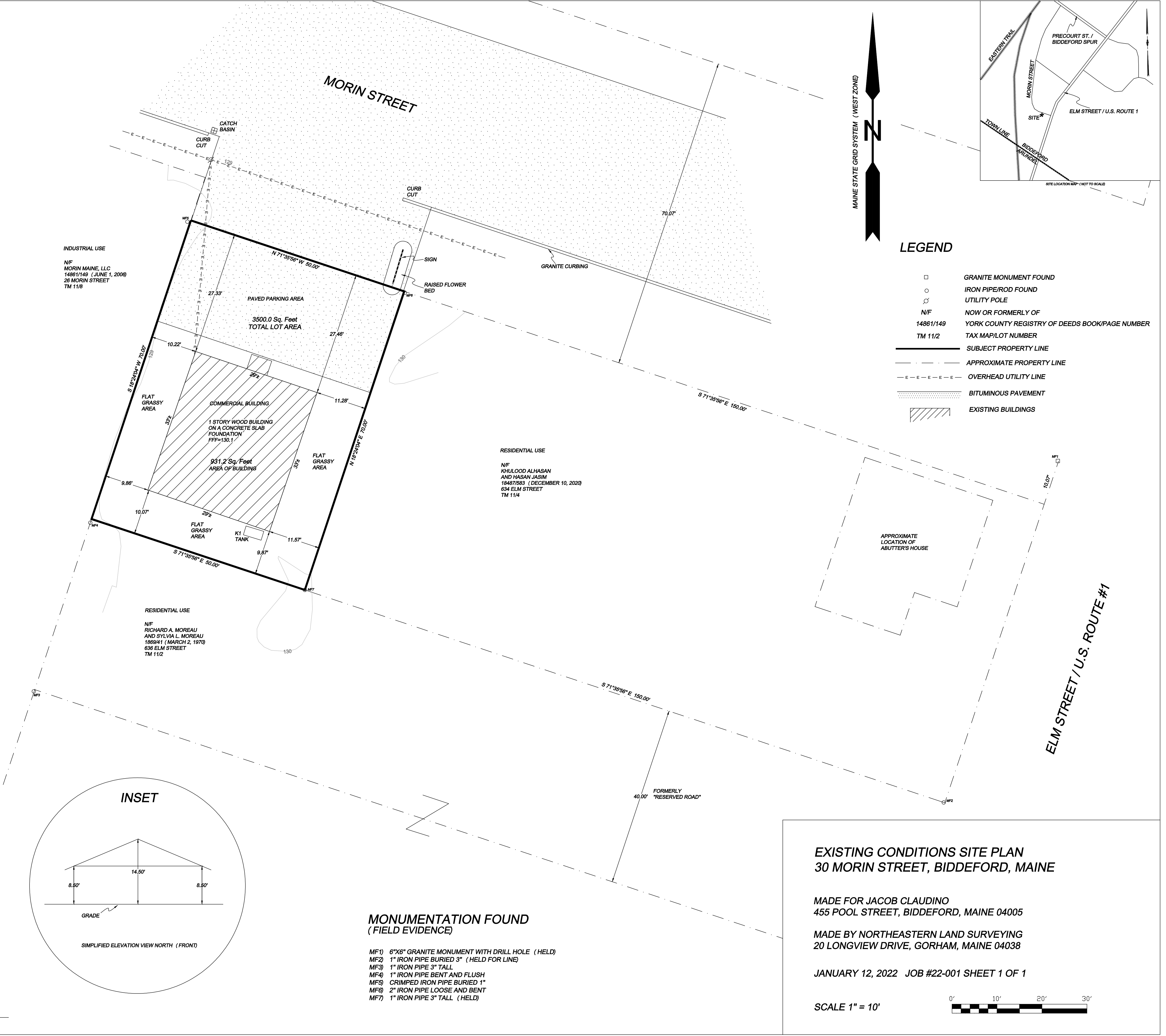
INK SEAL

I HEREBY STATE TO
JACOB CLAUDINO ALONE AND EXCLUSIVE OF ALL THIRD
PARTIES, THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND
BELIEF, THIS PLAN SUBSTANTIALLY CONFORMS WITH THE MAINE
BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS RULES
EFFECTIVE APRIL 1, 2001

PRELIMINARY

COPYRIGHT 2022 NORTHEASTERN LAND SURVEYING
ALL RIGHTS RESERVED

GENE SCHLEH PLS 2063



EXISTING CONDITIONS SITE PLAN
30 MORIN STREET, BIDDEFORD, MAINE

MADE FOR JACOB CLAUDINO
455 POOL STREET, BIDDEFORD, MAINE 04005

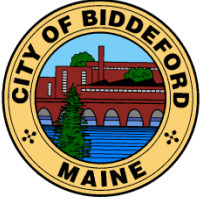
MADE BY NORTHEASTERN LAND SURVEYING
20 LONGVIEW DRIVE, GORHAM, MAINE 04038

JANUARY 12, 2022 JOB #22-001 SHEET 1 OF 1

SCALE 1" = 10'



ELM STREET / U.S. ROUTE #1



CITY OF BIDDEFORD

Planning and Development Department

Hannah Bonine
Assistant City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

Hannah.Bonine@biddefordmaine.org

PLANNING BOARD STAFF REPORT

TO: Chair Southwick and the Biddeford Planning Board

FROM: Hannah Bonine, Assistant City Planner 

DATE: February 24, 2022

RE: 2022.06 Site Plan Review for Seth Harkness to convert the 2nd Floor of 5 Alfred Street (Tax Map 38, Lot 400) into eight studio and one-bedroom apartments in the MSRD-1 Zone.

MEETING DATE: March 2, 2022

1. INTRODUCTION

The applicant, Seth Harkness, is under contract to purchase the Sexton Professional Building at 5 Alfred Street. This has historically been occupied by Grady's TV and several other small storefronts. The 2nd Floor has historically been used as offices. The applicant proposes to keep the ground floor as is which is not subject to the Planning Board's review.

The creation of eight (8) apartments, however, is subject to Site Plan Review. It would have been also subject to Subdivision Review if not for a 2019 statutory amendment to the State Subdivision Law which states the following:

MRS Title 30-A, §4402. Exceptions:

6. *Division of new or existing structures. Beginning July 1, 2018, a division of a new or existing structure into 3 or more dwelling units whether the division is accomplished by sale, lease, development or otherwise in a municipality where the project is subject to municipal site plan review.*

A. *For the purposes of this subsection, "municipal site plan review" means review under a municipal ordinance that sets forth a process for determining whether a development meets certain specified criteria,*

which must include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and which may include criteria regarding other environmental effects, layout, scale, appearance and safety.

- B. The municipal reviewing authority in each municipality shall determine whether a municipal site plan review ordinance adopted by the municipality meets the requirements of paragraph A.*

Staff Recommend that for this and future similar applications we review the project under Site Plan Review and have reviewed this as such. Recently, the Staff Review Committee (The "SRC" is a delegated review body for "minor" projects) approved the conversion of the space above the Wonderbar for 5 apartments. The SRC reviewed and approved the project under this provision which was more timely and less onerous on the applicant. Since this application is for more than 5 units, the SRC does not have the authority to review and approve it which is why it is before the Planning Board.

Included below and in the Findings of Fact is language evidencing that the Board determined it would review the project under Site Plan Review rather than subdivision. If the Board determines otherwise, we will adjust the review process on March 2.

2. PROJECT DATA/INFORMATION

Note: **HIGHLIGHTED** information is pending.

	<i>SUBJECT</i>	<i>DATA/INFORMATION</i>
1.	Applicant:	Seth Harkness 25 Summer Street Portland, ME 04102
2.	Owner of Property:	Sexton Professional Building, LLC C/o Sue and Grady Sexton 5 Alfred Street, Suite 101 Biddeford, ME 04005
3.	Agent:	Self
4.	Engineer/Surveyor:	None
5.	Project Location:	5 Alfred Street
6.	Project Tax Map #/Lot #:	Tax Map 38, Lot 400
7.	Existing Zoning:	MSRD-1
8.	Overlay Zoning:	None
9.	Existing Use:	Commercial business on 1st floor, small offices on 2 nd floor
10.	Proposed Use:	8 Apartments (with continued uses on 1 st floor)

11.	City Approvals Required:	Site Plan Review. The Board has determined that pursuant to <i>MRS Title 30-A, §4402, Exceptions, 6, A</i> , the Board reviewed this project under the Site Plan Review exception to subdivision review.
12.	Uses in the Vicinity:	Commercial, Residential
13.	Parcel Size:	.02 Acres
16.	Water Supply:	Public water
17.	Sewerage Disposal:	Public sewer
18.	Solid Waste Disposal:	Private hauler
19.	Fire Protection:	City of Biddeford
20.	Parking Spaces Required:	8
21.	Parking Spaces Provided (total): # Handicapped Spaces:	20+ in adjacent lot (10 Foss Street), included in sale
22.	Ownership of Road:	Alfred Street is a public street
23.	Estimated Site Development Costs:	N/A
24.	Financial Capacity Letter:	N/A
25.	Waivers Needed:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
26.	Waivers Granted:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
27.	LDR Attachment A: Fees Paid:	All Fees Paid - pending
28.	Planning Board Review History: Final Review:	March 2, 2022

3. EXISTING CONDITIONS

The Sexton Professional Building is currently occupied by commercial tenants on the 1st floor. The 2nd floor currently has small offices, which are proposed to be converted into small apartments.

4. PROJECT PROPOSAL

5 Studio and 3 1-Bedroom Apartments on the 2nd Floor.

5. STAFF REVIEW

- a. ZONING: Multi-family dwellings are a permitted use in the MSRD-1 Zone.

b. REVIEW STANDARDS: Site Plan Review (Article XI), Performance Standards (Article VI).

c. WAIVERS:

i. Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)

Staff note: There are no site improvements proposed as part of this application.

d. OUTSTANDING ITEMS TO BE ADDRESSED PRIOR TO APPROVAL:

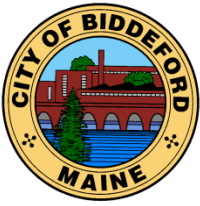
1. Fees Due: \$825
2. Provide Ability to Serve Letters from:
 - i. Maine Water
 - ii. Biddeford Wastewater Department
 - iii. Biddeford Fire Department (Note: the building will be sprinklered upon completion of the project per Code Enforcement. State Fire Marshall review and approval is not required for this project.

6. NEXT STEPS/SUGGESTED ACTIONS

- **Recommend the Planning Board grant the waiver for a full site plan review submittal given the scale, location, and nature of the proposal.**
- **If the applicant has addressed the outstanding items to the satisfaction of the Board, and the Board approves the project, Staff recommend doing so with the following Conditions of Approval attached:**
 1. **The applicant shall obtain all other pertinent local, state and federal permits, licenses, and insurance such as blasting, building, electrical, plumbing, etc., prior to commencing business, unless authority issuing said permit allows for such actions.**
 2. **Standard Conditions of Approval apply.**

ATTACHMENTS

1. Application
2. Draft Findings of Fact and Conclusions of Law



CITY OF BIDDEFORD

Planning and Development Department

205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

FINDINGS OF FACT AND CONCLUSIONS OF LAW

SITE PLAN REVIEW

RE: 2022.06 Site Plan Review for Seth Harkness to convert the 2nd Floor of 5 Alfred Street (Tax Map 38, Lot 400) into eight studio and one-bedroom apartments in the MSRD-1 Zone.

Pursuant to the provisions of the City of Biddeford Code of Ordinances Land Development Regulations, Article VII (Conditional Use Permits), Article XI (Site Plan Review), and Article VI (Performance Standards), the Biddeford Planning Board has considered the application of **Seth Harkness** to convert office space to residential units at 5 Alfred Street (Grady's Building). Based on its review, including supportive data, public hearing testimony and related materials contained in the record, the Planning Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

Note: **HIGHLIGHTED** information is pending.

	<i>SUBJECT</i>	<i>DATA/INFORMATION</i>
1.	Applicant:	Seth Harkness 25 Summer Street Portland, ME 04102
2.	Owner of Property:	Sexton Professional Building, LLC C/o Sue and Grady Sexton 5 Alfred Street, Suite 101 Biddeford, ME 04005
3.	Agent:	Self
4.	Engineer/Surveyor:	None
5.	Project Location:	5 Alfred Street
6.	Project Tax Map #/Lot #:	Tax Map 38, Lot 400
7.	Existing Zoning:	MSRD-1
8.	Overlay Zoning:	None
9.	Existing Use:	Commercial business on 1st floor, small offices on 2 nd floor
10.	Proposed Use:	8 Apartments (with continued uses on 1 st floor)

11.	City Approvals Required:	Site Plan Review. The Board has determined that pursuant to <i>MRS Title 30-A, §4402, Exceptions, 6, A</i> , the Board reviewed this project under the Site Plan Review exception to subdivision review.
12.	Uses in the Vicinity:	Commercial, Residential
13.	Parcel Size:	.02 Acres
16.	Water Supply:	Public water
17.	Sewerage Disposal:	Public sewer
18.	Solid Waste Disposal:	Private hauler
19.	Fire Protection:	City of Biddeford
20.	Parking Spaces Required:	8
21.	Parking Spaces Provided (total): # Handicapped Spaces:	20+ in adjacent lot (10 Foss Street), included in sale
22.	Ownership of Road:	Alfred Street is a public street
23.	Estimated Site Development Costs:	N/A
24.	Financial Capacity Letter:	N/A
25.	Waivers Needed:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
26.	Waivers Granted:	Full Site Plan Review - Article XI, II (Procedure for Site Development Submission Requirements)
27.	LDR Attachment A: Fees Paid:	All Fees Paid - pending
28.	Planning Board Review History: Final Review:	March 2, 2022

CONCLUSIONS OF LAW:

1. The proposed use meets specific requirements set forth in this ordinance and would be in compliance with applicable state or federal laws;
2. The proposed use would not create fire safety hazards by providing adequate access to the site, or to the buildings on the site, for emergency vehicles and would not create hazards through the storage of chemicals and wastes;
3. The proposed exterior lighting, where allowed, would not create hazards to motorists traveling on adjacent public streets or is adequate for the safety of occupants or users of the site or would not damage the value and diminish the usability of adjacent properties;
4. The provisions for buffers and on-site landscaping provide adequate protection to neighboring properties from detrimental or unsightly features of the development;

5. The proposed use would not have a significant, detrimental effect on the use and peaceful enjoyment of abutting property as the result of noise, vibrations, fumes, odor, dust, glare, hours of operation, or other causes;
6. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets would not create hazards to public safety or traffic congestion;
7. The proposed use would generate a volume of traffic that can reasonably be accommodated by the existing road network, or would not create unreasonable traffic hazards or would not exacerbate an existing traffic hazard, or would not create unreasonable traffic congestion;
8. The proposed use would not have a significant, detrimental effect on the value of adjacent properties which could be avoided by reasonable modification of the proposal;
9. The proposed use would not have an adverse impact on the privacy of the residents of the immediate area (within 500 feet) which could be avoided by reasonable modification of the proposal;
10. The proposed use would be in compliance with Biddeford's Comprehensive Plan;
11. The proposed use would not have an adverse impact on the immediate neighborhood or the community relative to architectural design, scale, bulk and building height, identity and historical character, or visual integrity, which could be avoided by reasonable modification of the proposal;
12. The design of the site would not result in significant flood hazards or flood damage or would be in conformance with applicable flood hazard protection requirements;
13. Adequate provision has been made for disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;
14. Adequate provision has been made to control erosion or sedimentation;
15. Adequate provision has been made to handle stormwater runoff or other drainage problems on the site; and the proposed development will not unduly burden off-site surface water systems;
16. The proposed water supply would meet the demands of the proposed use for fire protection purposes;
17. Adequate provision has been made for the transportation, storage, and disposal of hazardous substances and materials as defined by state law;

18. The proposed use would not have an adverse impact on scenic vistas or on significant wildlife habitat or wetland areas and water bodies which could be avoided by reasonable modification of the proposal;
19. When located in the Shoreland Zone, the proposed use would meet the purposes of Shoreland Zoning as identified in Article XIV, Section 1 (Purposes) of this ordinance.

APPROVAL GRANTED:

Based on the evidence available and the conclusions above, the Biddeford Planning Board approves the proposed project summarized above, located at 5 Alfred Street (Tax Map 38, Lot 400) in accordance with the submitted application, supporting data, representations made, other related materials on file, and the following Conditions of Approval:

1. **Standard Conditions of Approval apply.**
2. **The applicant shall obtain all other pertinent local, state and federal permits/licenses/insurance such as building, electrical, plumbing, etc., prior to commencing business.**

Planning Board Chairperson

Date

RECEIVED
2-8-22

1:44 PM

April 29, 2015

**CITY OF BIDDEFORD, MAINE
PLANNING BOARD
P.O. Box 586, 205 Main Street Biddeford, Maine 04005
207-284-9115**

APPLICATION FORM

Type of Application:

☐ Shoreland Zoning Permit

☐ Site Plan Review

☐ Extraction

☐ Conditional Use Permit

☒ Subdivision

☐ Private Way

☐ Other: _____

Applicant Information:

Seth.Harkness@gmail.com

Applicant's Name: Seth Harkness

Applicant's Mailing Address: 25 Summer St. Portland, ME 04102

Applicant's Telephone: 207 939 2774

What is Applicant's legal interest in the property?

☐ Owner

☒ Potential Buyer with Contract

☐ Lease/Rental Agreement

Owner's Name: Sexton Professional Building LLC - Sue + Grady Sexton

Owner's Address: 5 Alfred St, Suite 101

Owner's Telephone: _____

Agent's Name: _____

Agent's Address: _____

Telephone: _____

Engineer/Surveyor: _____

Engineer/Surveyor's Address: _____

Telephone: _____

Project Location and Lot Information:

Street Address: 5 Alfred St

Tax Map: 38 Lot: 400

Current Zoning: MSRD 1 Shoreland Zoning: NO

Size of lot: 0.2 ☒ acres ☐ s.f. Lot Frontage: 73 ft.

Existing Use of Property: Commercial businesses on first floor,
small offices on second floor

Property currently serviced by:

- | | |
|--|--|
| ☒ City Road | ☐ Private Road |
| ☒ Public Sewer | ☐ Septic System |
| ☒ Public Water | ☐ Private Well |
| ☐ Public Trash | ☒ Private Hauler |

Slope Conditions in Area of Construction (if applicable):

- ☒ Flat (0-3 % slope) ☐ Rolling (3-8% slope) ☐ Hilly (8-15% slope) ☐ Steep (15% + slope)

Are there any wetlands or waterbodies on the site? ☐ Yes ☒ No If yes, attach information

Do you plan to bring fill onto the lot? ☐ Yes ☒ No If yes, attach information

Description of proposed use of property:

Project/Proposed Use Description:

Convert eight offices on second floor to
eight studio and one-bedroom apartments.
No change to exterior footprint of building.

Property to be serviced by:

- | | |
|--|--|
| ☒ City Road | ☐ Private Road |
| ☒ Public Sewer | ☐ Septic System |
| ☒ Public Water | ☐ Private Well |
| ☐ Public Trash | ☒ Private Hauler |

Is this project part of a larger project? ☐ Yes ☒ No

☐ If in a Shoreland Zone:

Percent of residential lot coverage (Max. 20%): _____

Percent of structure expansion (Max. 30%): _____

☐ If Subdivision Review, number of lots proposed: _____☐ If a Private Way is proposed, number of lots served: _____☐ If Site Plan Review, you must provide the following information:

Total new square feet footprint of structures: _____

Total new square feet paving/parking: _____

Waiver Requests (attach details):

1. _____
2. _____
3. _____
4. _____
5. _____

Attachments:

A. Letters of Approval

- ☐ Fire Department - Contact Chief or Deputy Chief - 282-9986
- ☐ Ability to Serve for Water Service – Maine Water - 282-1543
- ☐ Ability to Serve for Sewer Service- Engineering Dept (Sewer) - Tom Milligan 284-9118
- ☐ Police Department - E-911 Road Name Designation - Contact Joanne Fisk - 282-5127

B. Letter to Planning Board describing project, waiver requests, proposed improvements, addressing permit requirements, etc.

C. Photographs of site.

D. Architectural renderings/drawings of proposed buildings, as required.

E. Engineered Plans, as required.

Fees (due at time of application):

Refer to "Attachment A Fees and Charges" of the Land Development Regulations for more information. Consult with Planning Staff if you have questions.

Required Signatures:

By signing this application, as the foresaid applicant or authorized agent:

- I certify that I have read and completely understand the application;
- I certify that the information contained in this application and it's attachments are true and correct;
- I understand that all information provided on this form and all other documents submitted as part of my proposal is a matter of public record;
- I understand that copies of this information may be supplied upon request to an interested party.
- I understand that additional funds may be required through the course of review for special studies, legal review costs, and/or engineering review.
- I understand that by submitting this application I am not guaranteed a place on any particular agenda. I further understand that the City Planner will place me on an agenda for review when the application is deemed substantially complete.

☐ Project proposed to have 1 acre or more of site disturbance:

-Project may need to apply for a Maine Construction General Permit and shall comply with the requirements of DEP Chapter 500 Stormwater Regulations, as they apply.

Signature of applicant:

Seth Harkness

Date: Feb 2 - 2022

Signature of owner of property:

Date: _____

**IF PLAN APPROVAL IS ANTICIPATED, PROVIDE 2 FULL SIZE MYLARS & 2 FULL SIZE PAPER COPIES FOR BOARD SIGNATURE (AS APPLICABLE).
CHECK WITH PLANNING STAFF FOR CLARIFICATION.**

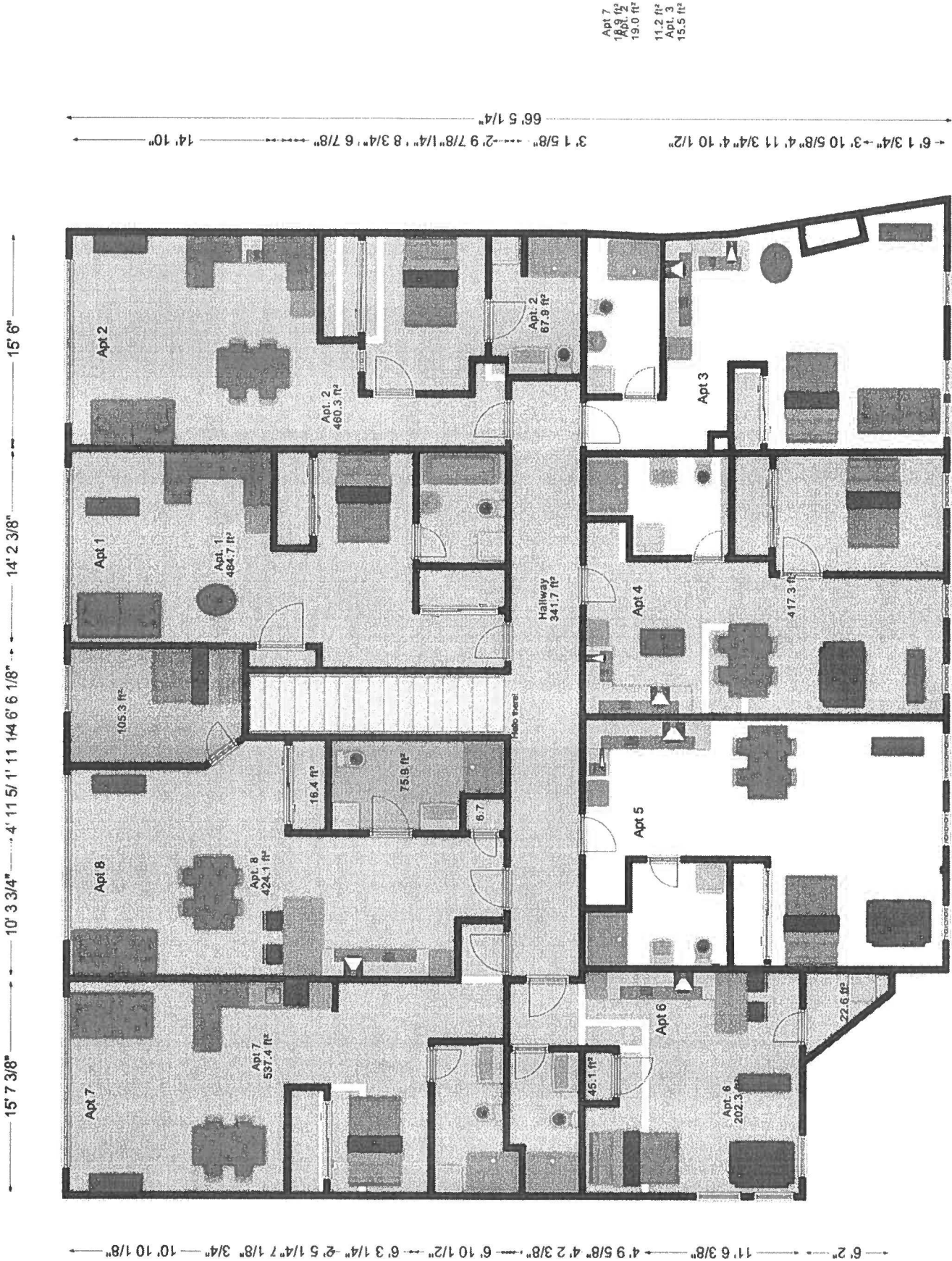
5 Alfred Street Apartment Conversion

I propose to convert eight existing office spaces on the second floor of 5 Alfred Street into eight studio and one-bedroom apartments. There will be no change to the exterior footprint of the building. The project will also include the installation of a full sprinkler system meeting NFPA 13 standards. Tenant parking will be in the adjoining private parking lot at 10 Foss Street. This lot is included in the purchase of 5 Alfred Street and it contains over 20 parking spots.

5 Alfred Street

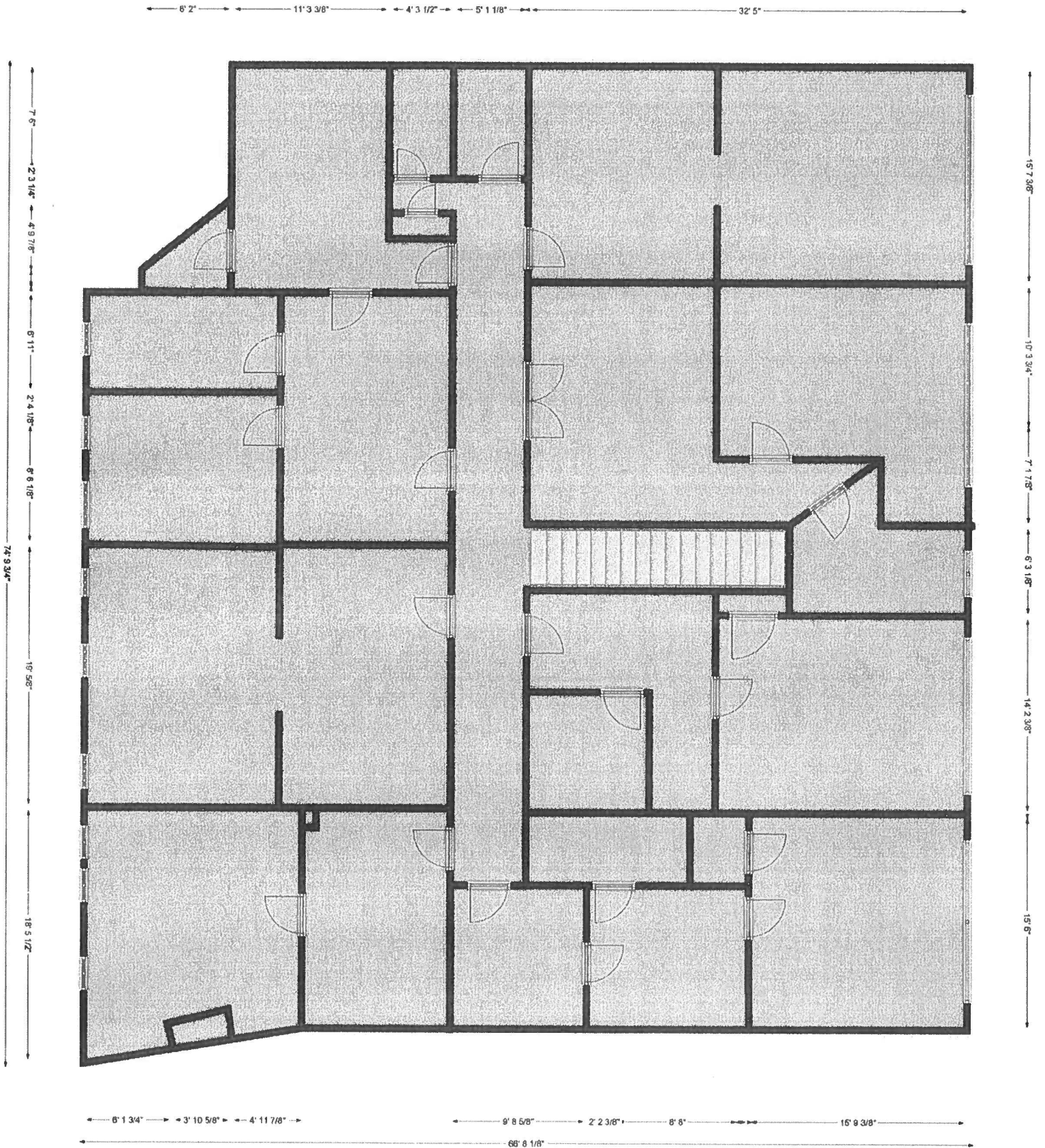


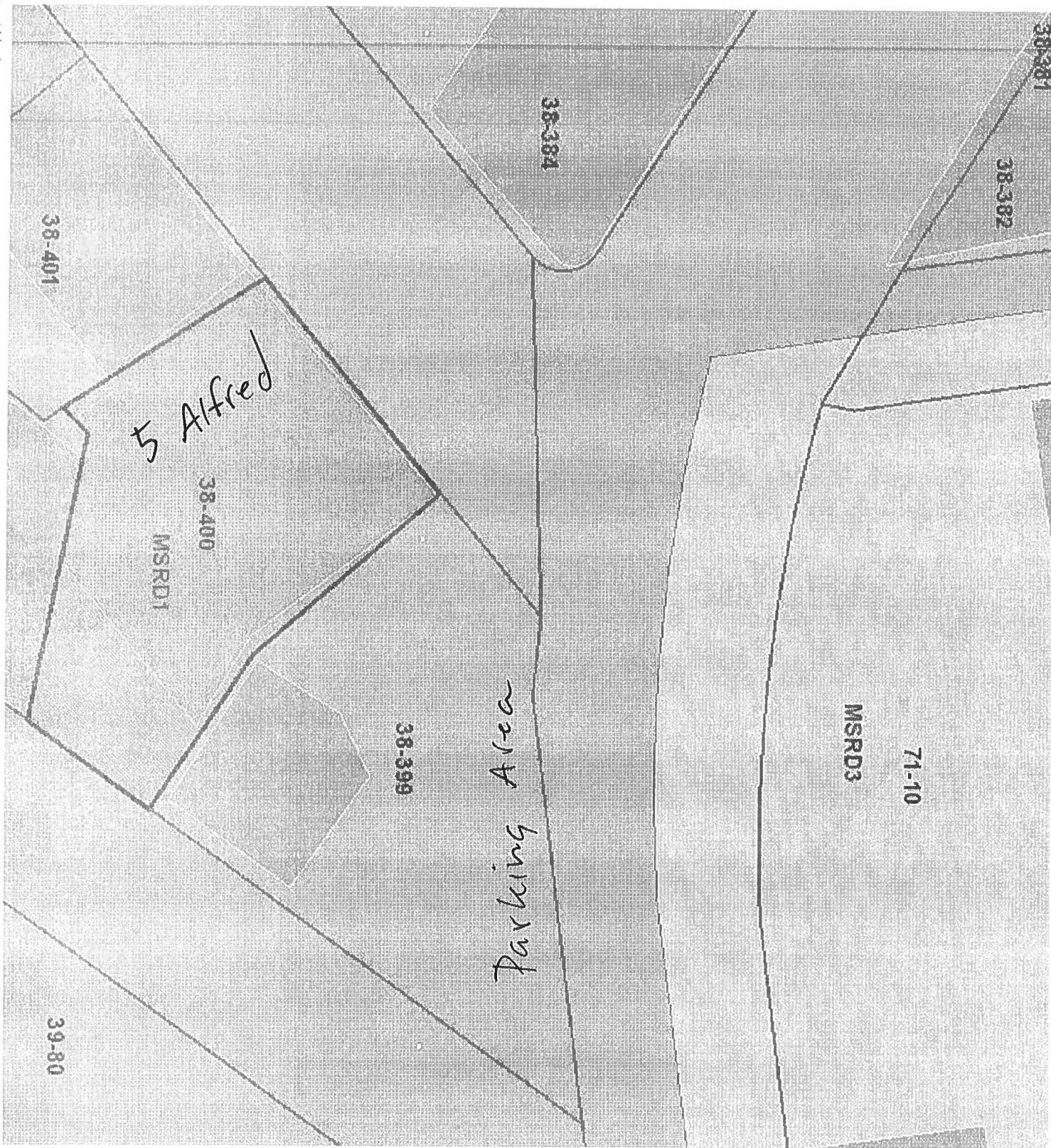
5 Alfred, second floor proposed

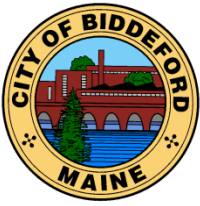


Apt. 7
18.9 ft²
19.0 ft²
11.2 ft²
Apt. 3
15.5 ft²

5 Alfred, second floor existing







CITY OF BIDDEFORD

Planning and Development Department

Hannah Bonine
Assistant City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

Hannah.Bonine@biddefordmaine.org

PLANNING BOARD REPORT

TO: Chair Southwick and the Biddeford Planning Board

FROM: Hannah Bonine, Assistant City Planner 

DATE: February 24, 2022

RE: **2021.46 Determination of the Greatest Practical Extent for the reconstruction of a nonconforming structure in the Resource Protection Shoreland Overlay Zone for Dan and Roberta Lynnworth at 52 Fortunes Rocks Road (Tax Map 64, Lot 33).**

MEETING DATE: Wednesday, March 2, 2022 @ 6:00 PM

PROJECT DESCRIPTION

The project site is located within the Resource Protection overlay (RP) of the Shoreland Zone and the Coastal Residential (CR) base zone. It is located a few lots down the street from the applicant's residence, at 46 Fortunes Rocks Road. There is currently an old storage building on the property. The applicant seeks to demolish this building and construct a new building to be used for storage. The Planning Board must determine the setbacks from the wetlands in the rear of the lot to the *greatest practical extent*.

COMPLIANCE WITH CITY ORDINANCES

The application is before the Planning Board for reconstruction of a nonconforming building within the Shoreland Zone per the Shoreland Zoning Ordinance (Article XIV, Section 12.C.4 *Reconstruction*). As outlined in this provision, the Planning Board is required to determine the greatest practical extent the distance the new structure can be located from the protected resource, as directed in Section 12.C.3 *Relocation*.

The existing building is located 24.3 feet from the upland edge of the wetland, within the 250-foot setback required in the Resource Protection (RP) district. When determining the greatest practical extent, the Board must consider factors outlined in Section 12.C.3 and included below:

- The size of the lot,
- The slope of the land,
- The potential for soil erosion,
- The location of other structures on the property and on adjacent properties

- The location of the septic system and other on-site soils suitable for septic systems,
- The type and amount of vegetation to be removed to accomplish the relocation.

The applicant has outlined details related to these factors in their application narrative.

Code Enforcement confirmed the required front setback of 23.7 feet, based on the average front setbacks of surrounding properties. When the existing structure is relocated to the front setback, it measures 34.8 feet from the upland edge of the wetlands.

PROJECT DATA/INFORMATION

Note: **HIGHLIGHTED** information is pending.

1.	Applicant:	Dan and Roberta Lynnworth 46 Fortunes Rocks Road Biddeford, ME 04005
2.	Owner of Property:	Dan and Roberta Lynnworth
3.	Agent:	Mike Richman – Custom Concepts, Inc. 383 US Route 1 – Suite 1A Scarborough, ME 04074
4.	Surveyor:	Stephen J. Martin, PLS 36 Straw Road Gorham, ME 04038
4.	Project Location:	52 Fortunes Rocks Road
5.	Project Tax Map #/Lot #:	Tax Map 64, Lot 33
6.	Lot Size:	0.83 acres +/-
7.	Base Zoning:	Coastal Residential
8.	Overlay Zoning:	Resource Protection
9.	Designations:	None
10.	Existing Use:	Personal Storage
11.	Proposed Use:	Personal Storage
12.	Floodplain Status:	None
13.	Approvals Required:	Determination of the Required Setback to the Greatest Practical Extent
14.	Uses in the Vicinity:	Residential - Single family dwelling
15.	Dimensional Requirements (Base Zone - CR):	
	Min. Setback from R.O.W: 40 FT (23.7' as determined by the CEO)	Minimum Rear Setback: 25 FT
	Minimum Side Setback: 25 FT	Maximum Height: 3 stories / 35 FT
16.	Shoreland Zoning Setbacks: Resource Protection: Minimum Setback from the normal high-water line (Highest Annual Tide) of other water bodies, tributary streams, or the upland edge of a wetland: 250' or as depicted on the plan. Reconstruction of a nonconforming structure located less than the required setback for a new structure is to be located to the greatest practical extent	

	from the shoreline (HAT) as depicted on the approved plans (referenced below) and signed by the Planning Board considering all factors outlined in Section 12.C.3 and 12.C.4 of Article XIV (Shoreland Zoning Ordinance) of the City's Land Development Regulations and subject to the Board's Conditions of Approval.	
17.	Waivers Needed:	a. None
18.	Waivers Granted:	a. None
19.	Variances Needed for Approval:	None
20.	Other Approvals Required:	Building Permits from the Biddeford Code Enforcement Office.
21.	Other Permits Obtained:	None
22.	Other Non-City Permits Required:	None
23.	LDR Attachment A: Fees Paid:	Yes
24.	Application Materials Submitted: 1. Application form (dated 9/10/2021) 2. Cover Letter (dated 2/7/2021) 3. Plan entitled: <i>Shoreland Zone Setback Requirements To The Greatest Practical Extent Site Plan: 52 Fortunes Rocks Road, Biddeford, Maine 04005</i>. Prepared by Stephen J. Martin, PLS. (dated 10/28/2021) 4. Plan entitled: <i>Site Plan & Calculations – The Lynnworth Storage Building</i>. Prepared by Mark Richman, Custom Concepts Inc. (dated 2/4/2022) 5. Plan entitled: <i>Building Plans – The Lynnworth Storage Building</i>. Prepared by Mark Richman, Custom Concepts Inc. (dated 2/4/2022)	
25.	Planning Board Review History: Final review and approval of the required setback to the greatest practical extent on March 2, 2022.	

WAIVER REQUESTS:

None.

ADDITIONAL COMMENTS

- The final plan should include the following revision:
 - o Amend the signature recording plan Note 5 as follows:

Purpose of this Plan: This plan depicts reconstruction of a non-conforming structure to meet the shoreland setback requirement to the greatest practical extend, pursuant to Article XIV Shoreland Zoning Ordinance, Section 12.C.4 of the City of Biddeford's Land Development Regulations. The new building shall be no closer than 34.8 feet from the upland edge of the wetland, as denoted on this plan.

CONCLUSION

The Planning Board should review Section 12.C.4 and 12.C.3 for the determination of the setback from the shoreline to the greatest practical extent for the reconstruction of a nonconforming structure and determine if it concurs with the required setback from the shoreline proposed.

With the submittal of a site plan to the City Planner for review and approval, the application appears to address the applicable provisions in the City's Shoreland Zoning Ordinance (Article XIV), and a conditional approval (conditioned to recommended plan revisions) appears to be in order. Suggested conditions of approval can be found in the draft Findings of Fact.

NEXT STEPS/SUGGESTED ACTIONS

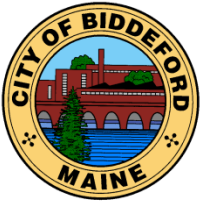
- A. If the applicant has addressed the outstanding items to the satisfaction of the Planning Board, and Planning Board approves the project, Staff recommend doing so with the following Conditions of Approval attached:**
- 1. The new building shall be no closer than 34.8 feet from the upland edge of the wetland, as denoted on the approved plan.**
 - 2. Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation and ground cover that are removed or destroyed in order to relocate a structure must be reestablished. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.**
 - 3. Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.**
 - 4. The Code Enforcement Officer shall review and approve conformance to Section 15 of the Shoreland Zoning Ordinance.**
 - 5. Obtain all required permits from Maine Department of Environmental Protection and the Biddeford Code Enforcement Office.**
 - 6. This approval shall expire one year from the date below if a substantial start is not made in construction. If a substantial start is made within one year of the date below, the applicant shall have one additional year to complete the project, thereafter this approval shall expire.**

SAMPLE MOTIONS

- A. *Motion to approve the Determination of Greatest Practical Extent for Dan and Roberta Lynnworth based on the plans submitted by Custom Concepts, Inc., for 52 Fortunes Rocks Road and approve the Findings of Fact and Conclusions of Law based on the Conditions outlined in the Staff Report dated February 24, 2022.*
- B. *Due to the coronavirus pandemic the Planning Board authorizes the City Planner to sign the final plan on behalf of the Planning Board and declares that the final plan once signed by the City Planner shall be deemed to have been signed by individual members of the Planning Board.*

ATTACHMENTS

1. Draft Findings of Fact and Conclusions of Law
2. Application form (dated 9/10/2021)
3. Cover Letter (dated 2/7/2021)
4. Plan entitled: *Shoreland Zone Setback Requirements To The Greatest Practical Extent Site Plan: 52 Fortunes Rocks Road, Biddeford, Maine 04005*. Prepared by Stephen J. Martin, PLS. (dated 10/28/2021) (Referenced in the submittal as PB1)
5. Plan entitled: *Site Plan & Calculations – The Lynnworth Storage Building*. Prepared by Mark Richman, Custom Concepts Inc. (dated 2/4/2022) (Referenced in the submittal as PB2)
6. Plan entitled: *Building Plans – The Lynnworth Storage Building*. Prepared by Mark Richman, Custom Concepts Inc. (dated 2/4/2022) (Referenced in the submittal as PB3)



CITY OF BIDDEFORD

Planning and Development Department

205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

FINDINGS OF FACT AND CONCLUSIONS OF LAW

RECONSTRUCTION OF A NONCONFORMING STRUCTURE WITHIN THE SHORELAND ZONE

Determination of the Required Setback to the Greatest Practical Extent

Pursuant to the provisions of the City of Biddeford Land Development Regulations Article XIV, Shoreland Zoning, the Biddeford Planning Board has considered the application by **Dan and Roberta Lynnworth**, including supportive data, public hearing testimony and related materials contained in the record. Based on Public Comment and Staff's review and recommendation, the Planning Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1.	Applicant:	Dan and Roberta Lynnworth 46 Fortunes Rocks Road Biddeford, ME 04005
2.	Owner of Property:	Dan and Roberta Lynnworth
3.	Agent:	Mike Richman – Custom Concepts, Inc. 383 US Route 1 – Suite 1A Scarborough, ME 04074
4.	Surveyor:	Stephen J. Martin, PLS 36 Straw Road Gorham, ME 04038
4.	Project Location:	52 Fortunes Rocks Road
5.	Project Tax Map #/Lot #:	Tax Map 64, Lot 33
6.	Lot Size:	0.83 acres +/-
7.	Base Zoning:	Coastal Residential
8.	Overlay Zoning:	Resource Protection
9.	Designations:	None
10.	Existing Use:	Personal Storage
11.	Proposed Use:	Personal Storage
12.	Floodplain Status:	None
13.	Approvals Required:	Determination of the Required Setback to the Greatest Practical Extent
14.	Uses in the Vicinity:	Residential - Single family dwelling
15.	Dimensional Requirements (Base Zone - CR):	

	Min. Setback from R.O.W: 40 FT (23.7' as determined by the CEO)	Minimum Rear Setback: 25 FT
	Minimum Side Setback: 25 FT	Maximum Height: 3 stories / 35 FT
16.	Shoreland Zoning Setbacks: Resource Protection: Minimum Setback from the normal high-water line (Highest Annual Tide) of other water bodies, tributary streams, or the upland edge of a wetland: 250' or as depicted on the plan. Reconstruction of a nonconforming structure located less than the required setback for a new structure is to be located to the greatest practical extent from the shoreline (HAT) as depicted on the approved plans (referenced below) and signed by the Planning Board considering all factors outlined in Section 12.C.3 and 12.C.4 of Article XIV (Shoreland Zoning Ordinance) of the City's Land Development Regulations and subject to the Board's Conditions of Approval.	
17.	Waivers Needed:	a. None
18.	Waivers Granted:	a. None
19.	Variances Needed for Approval:	None
20.	Other Approvals Required:	Building Permits from the Biddeford Code Enforcement Office.
21.	Other Permits Obtained:	None
22.	Other Non-City Permits Required:	None
23.	LDR Attachment A: Fees Paid:	Yes
24.	Application Materials Submitted: 1. Application form (dated 9/10/2021) 2. Cover Letter (dated 2/7/2021) 3. Plan entitled: <i>Shoreland Zone Setback Requirements To The Greatest Practical Extent Site Plan: 52 Fortunes Rocks Road, Biddeford, Maine 04005</i>. Prepared by Stephen J. Martin, PLS. (dated 10/28/2021) 4. Plan entitled: <i>Site Plan & Calculations – The Lynnworth Storage Building</i>. Prepared by Mark Richman, Custom Concepts Inc. (dated 2/4/2022) 5. Plan entitled: <i>Building Plans – The Lynnworth Storage Building</i>. Prepared by Mark Richman, Custom Concepts Inc. (dated 2/4/2022)	
25.	Planning Board Review History: Final review and approval of the required setback to the greatest practical extent on March 2, 2022.	

CONCLUSIONS OF LAW

The Planning Board concludes based on the following that the proposed location of the nonconforming structure at 52 Fortunes Rocks Road, being no closer than 34.8 feet from the upland edge of the wetland as depicted on the approved plan for Dan and Roberta Lynnworth, signed by the Planning Board (or its designee), is in compliance with the required setback from the shoreline to the greatest practical extent.

1. Pursuant to the City's Land Use Regulations, Article XIV, Section 12.C, when considering the relocation, reconstruction or replacement of a nonconforming structure located less than the required setback from the shoreline, the Planning Board shall consider the following:
 - a. *The size of the lot*
 - b. *The slope of the land*
 - c. *The potential for soil erosion*
 - d. *The location of other structures on the property and on adjacent properties*
 - e. *The location of the septic system and other on-site soils suitable for septic systems*
 - f. *The type and amount of vegetation to be removed to accomplish the relocation*

DETERMINATION

Based on the evidence available and the conclusions above, the Biddeford Planning Board approves the application with the following conditions:

Conditions of Approval:

- A. **If the applicant has addressed the outstanding items to the satisfaction of the Planning Board, and Planning Board approves the project, Staff recommend doing so with the following Conditions of Approval attached:**
 1. **The new building shall be no closer than 34.8 feet from the upland edge of the wetland, as denoted on the approved plan.**
 2. **Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation and ground cover that are removed or destroyed in order to relocate a structure must be reestablished. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.**
 3. **Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.**
 4. **The Code Enforcement Officer shall review and approve conformance to Section 15 of the Shoreland Zoning Ordinance.**
 5. **Obtain all required permits from Maine Department of Environmental Protection and the Biddeford Code Enforcement Office.**
 6. **This approval shall expire one year from the date below if a substantial start is not made in construction. If a substantial start is made within one year of the**

date below, the applicant shall have one additional year to complete the project, thereafter this approval shall expire.

Planning Board Chairman

Date

CITY OF BIDDEFORD, MAINE
PLANNING BOARD
P.O. Box 586, 205 Main Street Biddeford, Maine 04005
207-284-9115

APPLICATION FORM

Type of Application:

- | | | |
|---|---|--------------------------------------|
| ☒ Shoreland Zoning Permit | ☐ Site Plan Review | ☐ Extraction |
| ☐ Conditional Use Permit | ☐ Subdivision | ☐ Private Way |
| ☐ Other: _____ | | |

Applicant Information:

Applicant's Name: DAN & ROBERTA LYNNWORTH
Applicant's Mailing Address: 46 FORTUNES ROCKS ROAD, BIDDEFORD ME 04005
Applicant's Telephone: 978-395-1650
What is Applicant's legal interest in the property?
☒ Owner ☐ Potential Buyer with Contract ☐ Lease/Rental Agreement

Owner's Name: SAME
Owner's Address: SAME
Owner's Telephone: SAME

Agent's Name: MIKE RICHMAN - CUSTOM CONCEPTS INC.
Agent's Address: 383 US ROUTE ONE - SUITE 1A SCARFORD ME 04074
Telephone: 207-883-0093 XT 11

Engineer/Surveyor: STEPHEN J. MARTIN PLS
Engineer/Surveyor's Address: 36 STRAW ROAD, GORHAM, ME 04038
Telephone: 207-839-8131

Project Location and Lot Information:

Street Address: 52 FORTUNES ROCKS ROAD
Tax Map: 64 Lot: 33
Current Zoning: CR Shoreland Zoning: YES

Size of lot: 1-43.775 ☐ acres ☒ s.f. Lot Frontage: 100'-0"

Existing Use of Property: STORAGE

Property currently serviced by:

☒ City Road

☐ Private Road

☐ Public Sewer

☐ Septic System

☐ Public Water

☐ Private Well

☒ Public Trash

☐ Private Hauler

Slope Conditions in Area of Construction (if applicable):

☒ Flat (0-3 % slope) ☐ Rolling (3-8% slope) ☐ Hilly (8-15% slope) ☐ Steep (15% + slope)

Are there any wetlands or waterbodies on the site? ☒ Yes ☐ No

If yes, attach information

Do you plan to bring fill onto the lot?

☐ Yes ☒ No

If yes, attach information

Description of proposed use of property:

Project/Proposed Use Description: STORAGE

Property to be serviced by:

☒ City Road

☐ Private Road

☐ Public Sewer

☐ Septic System

☐ Public Water

☐ Private Well

☒ Public Trash

☐ Private Hauler

Is this project part of a larger project?

☐ Yes ☒ No

☐ If in a Shoreland Zone:

Percent of residential lot coverage (Max. 20%): 20%

Percent of structure expansion (Max. 30%): _____

☐ If Subdivision Review, number of lots proposed: _____

☐ If a Private Way is proposed, number of lots served: _____

☐ If Site Plan Review, you must provide the following information:

Total new square feet footprint of structures: _____

Total new square feet paving/parking: _____

Waiver Requests (attach details):

1. _____
2. _____
3. _____
4. _____
5. _____

Attachments:

A. Letters of Approval

- ☐ Fire Department - Contact Chief or Deputy Chief - 282-9986
- ☐ Ability to Serve for Water Service – Maine Water - 282-1543
- ☐ Ability to Serve for Sewer Service- Engineering Dept (Sewer) - Tom Milligan 284-9118
- ☐ Police Department - E-911 Road Name Designation - Contact Joanne Fisk - 282-5127

B. Letter to Planning Board describing project, waiver requests, proposed improvements, addressing permit requirements, etc.

- ✓ C. Photographs of site.
- ✓ D. Architectural renderings/drawings of proposed buildings, as required.
- E. Engineered Plans, as required.

Fees (due at time of application):

Refer to "Attachment A Fees and Charges" of the Land Development Regulations for more information. Consult with Planning Staff if you have questions.

Required Signatures:

By signing this application, as the foresaid applicant or authorized agent:

- I certify that I have read and completely understand the application;
- I certify that the information contained in this application and it's attachments are true and correct;
- I understand that all information provided on this form and all other documents submitted as part of my proposal is a matter of public record;
- I understand that copies of this information may be supplied upon request to an interested party.
- I understand that additional funds may be required through the course of review for special studies, legal review costs, and/or engineering review.
- I understand that by submitting this application I am not guaranteed a place on any particular agenda. I further understand that the City Planner will place me on an agenda for review when the application is deemed substantially complete.

☐ Project proposed to have 1 acre or more of site disturbance:

-Project may need to apply for a Maine Construction General Permit and shall comply with the requirements of DEP Chapter 500 Stormwater Regulations, as they apply.

Signature of applicant:

M. J. - AGENT

Date: 9/10/2021

Signature of owner of property:

Dalton R. P. [Signature]

Date: 9/10/2021

**IF PLAN APPROVAL IS ANTICIPATED, PROVIDE 2 FULL SIZE MYLARS & 2 FULL SIZE PAPER COPIES FOR BOARD SIGNATURE (AS APPLICABLE).
CHECK WITH PLANNING STAFF FOR CLARIFICATION.**

To Whom It May Concern:

I hereby authorize Michael Richman of Custom Concepts Inc. Architecture to act as our Agent in regard to any designs, applications, approvals and permits for the following property:

52 FORTUNES ROCKS RD., BIDDEFORD, ME 04005

Legal Property Address

Daniel A. Lynnworth

Roberta M. Lynnworth

Legal Owner Signature

978-395-1650

Contact Phone Number

09/10/2021

Date

Mailing Address:

Daniel & Roberta Lynnworth
46 Fortunes Rocks Rd.
Biddeford, ME 04005



February 7, 2022

To the Planning Board
City of Biddeford, Maine

On behalf of my clients, Dan and Roberta Lynnworth, owners of 52 Fortunes Rocks Road, I am requesting Planning Board approval of a Greatest Practical Extent (GPE) setback, demolition of an existing structure (garage) and relocation/rebuild/expansion as per GPE. Once approved, we will continue to work with Code Enforcement to relocate/rebuild within the approved buildable area as per Code.

Project Overview:

The Lynnworth's live year-round at #46 and they purchased #52 in April '21 with the existing building on it. Over the past year they have been in discussions with the Code Enforcement office and Planning Board Staff regarding this proposal to prepare for a review by the Planning Board and demo/rebuild as per GPE.

The primary goals of the project are:

- Remove the existing structure and re-build per Planning Board approved GPE as allowed by Code.

Some general points on our GPE proposal:

- The lot is in Shoreland, Resource Protection and Coastal Residential zones which allows relocation and expansion, with Planning Board approval of GPE, and as per Code
- Steve Martin, PLS has documented the existing conditions and indicated the GPE as documented in the signed/stamped survey, attached
- The GPE setback of 34.8ft is >10ft farther from the wetland flag line/resource than existing conditions
- Once GPE is approved, we will work with the Code Enforcement Office on the rebuild/relocation, and that will comply with Codes and specifically allowable lot coverage and expansion for the building: up to 1000sq ft and no more than 20ft high; and for the lot: up to 20% maximum coverage (+/-1500 sq ft)

Enclosed and attached you will find the following:

- Planning Board Application Form
- Agent Authorization Letter for Mike Richman, Custom Concepts, Inc.
- Survey & Drawings
 - o PB1 – Existing Conditions/GPE Survey: “Shoreland Zone Setback Requirements To The Greatest Practical Extent Site Plan” with GPE indicated, Stamped by Stephen Martin, PLS
 - o PB2 – drawing of existing conditions and proposed building
 - o Wetlands Letter by Mark Hampton, CSS/LSE
 - o Additional drawing showing elevation(s) of building concept

If you have any questions or need any further information, please call me at 207-883-0083.

Thank you,

Michael E. Richman - Custom Concepts Inc. Architecture (for Dan & Roberta Lynnworth)

*Response to Shoreland Zone Code
Section 12.3.C paragraph 2*

(Lynnworth / 52 Fortunes Rocks Rd project)

Extracted from: <https://ecode360.com/15175405?highlight=shoreland&searchId=11433102739674595>

(numbers added for clarity)

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider (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, and (6) the type and amount of vegetation to be removed to accomplish the relocation. (7) When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15S. In addition, the area from which the relocated structure was removed must be replanted with vegetation.

1. **Size of the Lot.**
 - a. The lot is 100ft wide at the road, bounded on the North by a single-family home (#50), and the South by an empty lot; the rear of the property is wetlands at an angle across the rear of the property
 - b. The front setback of 23.7ft is the average of 6 neighboring properties recorded by Stephen Martin, PLS & was approved by Roby Fecteau/Code Office on 11/17/21.
 - c. The wetlands were located and flagged by Mark Hampton CSS/LSE, then recorded by Stephen Martin, PLS on the Existing Conditions Survey
 - d. With the structure moved forward to the front-setback, the rear-setback is measured from the wetland flag line to the rear of the structure in that forward location. This measurement is 34.8ft and more than 10ft farther from the wetlands than existing conditions.
2. **Slope of the land**
 - a. The land is relatively flat; minimal elevation change across the property & proposed building area
 - b. Aside from minor grading at the foundation as is customary, there is no plan to change the overall slope of the land
3. **Potential for soil erosion**
 - a. During demo/reconstruction, erosion control will be used consistent with Code and best practices
4. **Location of other structures on the property and on adjacent properties**
 - a. The existing structure (overhang shadow) is 16ft wide x 24ft deep
 - b. The closest point on the existing structure to the wetland flag line is 24.3ft
5. **Location of the septic system and other on-site soils suitable for septic systems**
 - a. The existing conditions do not have a septic system
 - b. Our proposal does not call for a wastewater disposal or a septic system
6. **The type and amount of vegetation to be removed to accomplish the relocation**
 - a. Any vegetation removed that is subject to Code will be replanted/replaced as per Code
7. **When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15S. In addition, the area from which the relocated structure was removed must be replanted with vegetation.**
 - a. It is not necessary to remove native or established vegetation within the wetland setback area
 - b. We will comply with all applicable Code requirements, relative to vegetation removal/replacement/replanting for anything impacted during a demo/rebuild



MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

6674

June 3, 2021

Mr. Dan Lynnworth
46 Fortunes Rocks Road
Biddeford, ME 04005

Re: Wetland Delineation, portion of parcel at 52 Fortunes Rocks Road Biddeford, ME

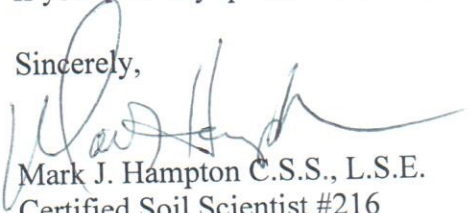
Dear Dan,

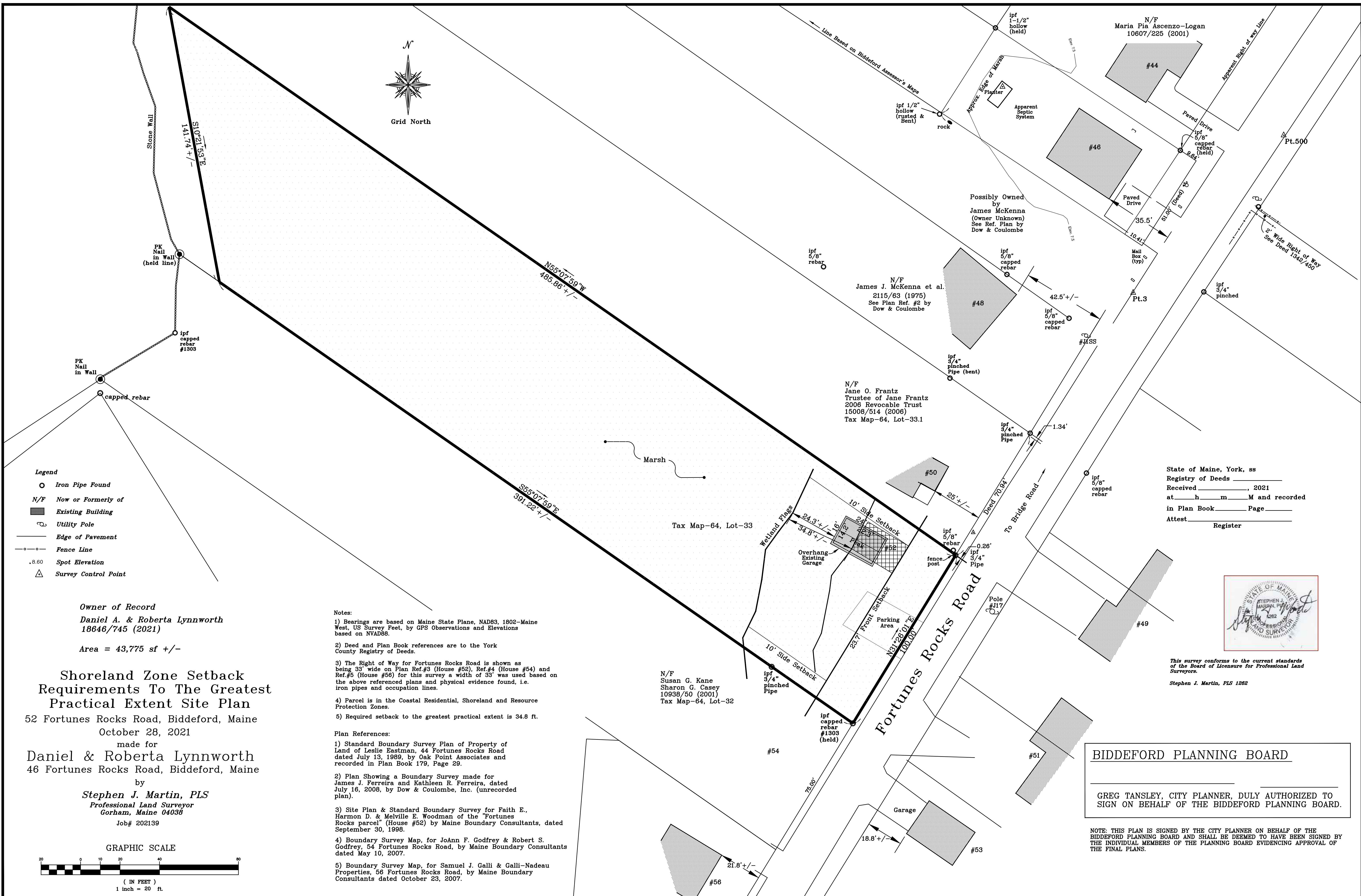
I have completed a delineation of wetlands on a portion of the parcel located at 52 Fortunes Rocks Road Biddeford, ME. The wetland delineation was completed in accordance with the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual for the Northcentral and Northeast Regions dated January 2012. These manuals require the presence of three parameters for a wetland to be present, wetland hydrology, hydrophytic vegetation, and hydric soils.

The wetlands I found on the parcel were flagged with yellow flagging. The flagging was labeled in an alphanumeric sequence. The wetland flags will be located by Steve Martin Surveyor. The wetlands found onsite are scrub/shrub wetlands. The wetlands on the property meet the definition of wetlands of special significance as defined by Maine Department of Environmental Protection.

If you have any questions or require additional information, please contact me.

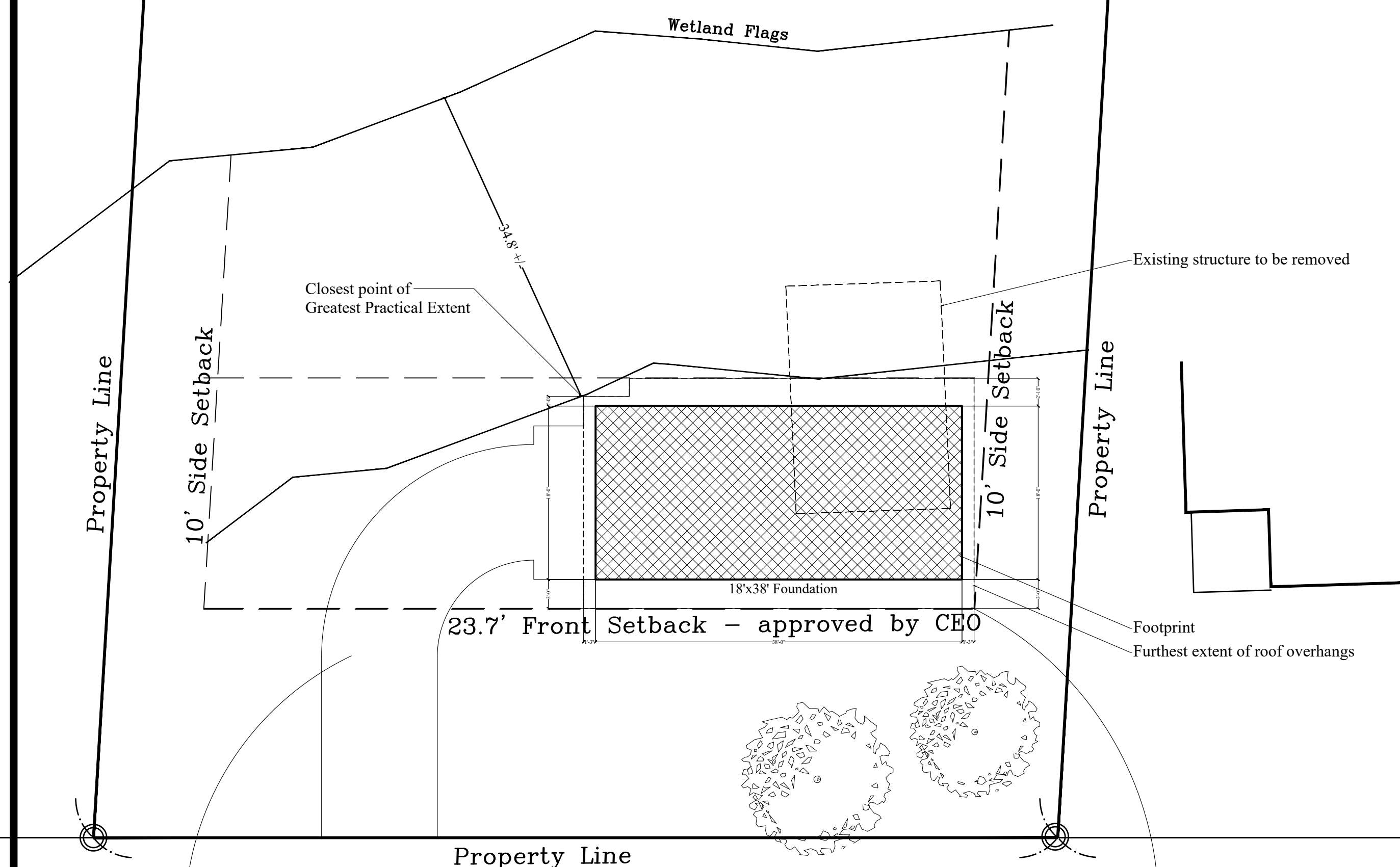
Sincerely,


Mark J. Hampton C.S.S., L.S.E.
Certified Soil Scientist #216
Licensed Site Evaluator #263



Proposed Conditions

Tax Map-64, Lot-33



Fortunes Rocks Road

 **Site Plan**
Scale: 1"=10'-0"
Existing
Professional Land Surveyor
Gorham, Maine 04038

Lot Coverage

Includes: Impervious surfaces

Lot area above Elevation 7.5 = +/- 7,488 sq.ft.

Allowable Lot Coverage = +/- 1,498 sq.ft.

Lot Coverage as shown = +/- 1,497 sq.ft.

The final layout of Lot Coverage to be determined, but not to exceed the allowable 1,498 sq.ft.

Building Coverage

Includes: Structure to the dripline

Allowable Building Coverage = 1,000 sq.ft.

Building Coverage as shown = +/- 950 sq.ft.
The final layout of Building Coverage to be determined, but not to exceed the allowable 1,000 sq.ft.

 **Site Plan**
Scale: 1"=10'-0"
Proposed
New conditions provided by:
Custom Concepts Inc. Architecture

[illegible]



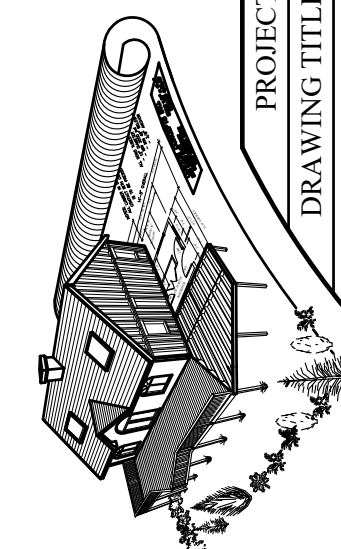
CUSTOM CONCEPTS, INC.

• ARCHITECTURE •

383 U.S. ROUTE 1, SUITE 1a - SCARBOROUGH, MAINE 04074
 Phone: (207) 883-0083 WWW.CUSTOMCONCEPTS.COM

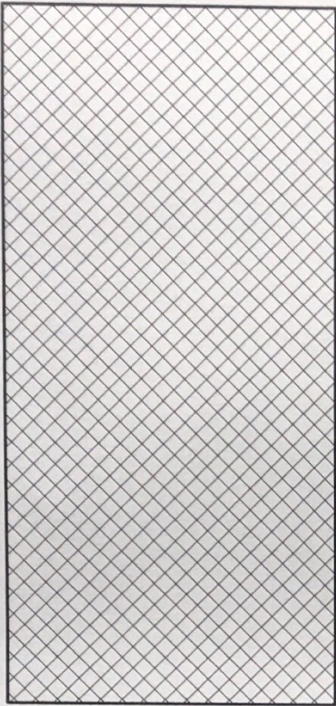
PROJECT: The Lynnhurst Storage Building

JOB NUMBER: 2021-26	Preliminary Design	☐ Design Development ☒ Client Review ☐ Construction Estimating ☐ Construction Administration
DRAWN BY: MER	OWNER APPROVAL:	

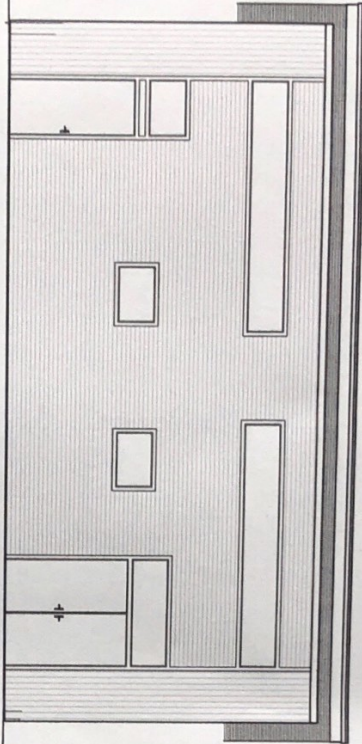


DATE:
Feb 4, 2022

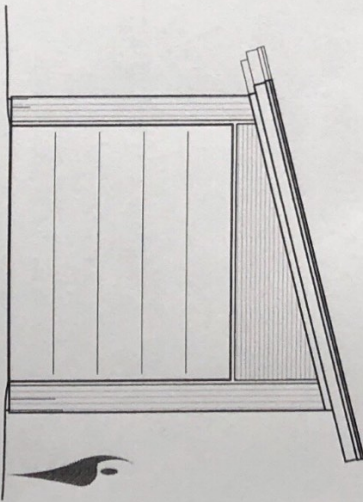
PB2



Left Elevation
Not to Scale



Main Elevation
Not to Scale



Right Elevation
Not to Scale

PB3 Rev. 1 Feb. 4, 2012		CUSTOM CONCEPTS, INC. ARCHITECTURE		PROJECT: The Lynworth Storage Building		JOB NUMBER: 2021-26		☐ Revised		☐ Revised		☐ Revised																																		
		383 U.S. ROUTE 1, SUITE 1A - SCARBOROUGH, MAINE 04074 Phone: (207) 883-0083 WWW.CUSTOMCONCEPTSINC.COM		DRAWN BY: MER		SCALE: As noted		☐ Client Review		☐ Client Review		☐ For Permit																																		
		DRAWING TITLE: Building plans		OWNER APPROVAL:		☐ Client Review		☐ Client Review		☐ For Permit		☐ For Permit																																		
		PROJECT: The Lynworth Storage Building		JOB NUMBER: 2021-26		☐ Revised		☐ Revised		☐ Revised																																				
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