

City of Biddeford
Planning Board
January 05, 2022 6:00 PM City Hall
Council Chambers & Zoom:
Jan 5, 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/94445805831?pwd=WjZxaS8zRSt3OCtKa1duVWQ3WFhrdz09>

Passcode: 072812

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US: +13017158592,,94445805831# or +13126266799,,94445805831#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or +1 253 215 8782 or +1
346 248 7799 or +1 669 900 9128

Webinar ID: 944 4580 5831

International numbers available: <https://biddeford.zoom.us/j/94445805831>

1. **PLEDGE OF ALLEGIANCE**
2. **DECLARATION OF QUORUM/VOTING MEMBERS**
3. **ADJUSTMENTS TO THE AGENDA**
4. **PLANNER'S BUSINESS**
5. **CONSENT AGENDA**
 - 5.A. Approval of Meeting Minutes from 12-1-21
[PB Minutes 120121-DRAFT.pdf](#)
6. **UNFINISHED BUSINESS**
7. **NEW BUSINESS**
 - 7.A. 2021.57 Determination of the Setback to the Greatest Practical Extent for Peter Cameron Hyzer & Jennifer Hyzer to rebuild a portion of an existing structure at 280 Hills Beach Road (Tax Map 56, Lot 18) in the CR/RP Zone.
 - 1 [2021.57 Hyzer 280 Hills Beach Rd GPE SR.pdf](#)
 - 2 [2021.57 Hyzer 280 Hills Beach Rd FOF.pdf](#)
 - 3 [21_1203_280 Hills Beach - Planning Transmittal.pdf](#)
 - 4 [21_1203_280 Hills Beach - GPE Planning Letter.pdf](#)
 - 5 [21_1203_Application_Form_GPE_signed.pdf](#)
 - 6 [21_1203_280 Hill's Beach -SEALED_REVISED.pdf](#)
 - 7 [21_1203_Biddeford Hyzer 280 Hills Beach Rd HHE_2021_1124.pdf](#)
 - 8 [21_1230 - 280 Hills Beach Road Site Diagram.pdf](#)
 - 7.B. 2021.58 Conditional Use Permit for Ripple Wellness Center to establish a Medical Marijuana Caregiver Store at 366 Hill Street (Tax Map 3, Lot 66-2) in the I-2 Zone.

[2021.58 366 Hill St CUP SR.pdf](#)
[Application Package.pdf](#)
[2021.58 366 Hill St CUP FOF.pdf](#)

- 7.C. 2021.08 Review a REVISED Sketch Plan for a 19-Lot Cluster Subdivision (West Brook Subdivision) for E & R Development Corp at the end of Winding Creek Lane (Tax Map 8, Lots 3-1 & a portion of lot 3) in the R-1-A Zone.

[2021.08 E&R Development West Brook REVISED Sketch SR JAN 2022.pdf](#)
[2021.08 West Brook Subdivision Biddeford Submission 12-15-21.pdf](#)
[2021.08 Board Report - Winding Creek Sketch Plan MARCH 2021.pdf](#)
[FINAL BRI Clifford Park Report 09292021.pdf](#)

8. OTHER BUSINESS

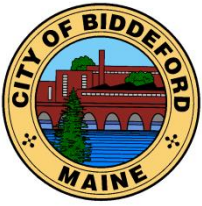
- 8.A. Election of Officers:

Vice Chair
Secretary

- 8.B. Planning Board Workshop: Preparation for the Joint City Council - Planning Board Workshop to be held January 11, 2022.

9. 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: December 1, 2021
Time: 6:00 PM
Location: City Hall Council Chambers & REMOTE ACCESS MEETING (1MRSA § 403-A permits public proceedings through remote access during the declaration of state of emergency due to COVID-19).

1. Pledge of Allegiance
2. Declaration of Quorum/Voting Members
Quorum Present: Bill Southwick (chair), Roch Angers, Bruce Benway, Sean Tarpey, Alexa Plotkin (voting alternate) and Michael Cantara (alternate)
Chair Southwick opened the meeting at 6:03 PM
3. Adjustments to the Agenda
4. Planner's Business
Planner, Greg Tansley announced that there would be a joint Planning Board and City Council Workshop on January 11, 2022. The topic will be working on the Comp Plan, proceeding until it is adopted and getting the final Comp Plan adopted.
5. Consent Agenda
5. A. Approval of Planning Board Meeting Minutes from November 17, 2021
MOTIONS: 6:06 PM
Angers-Motion- to approve the Meeting Minutes for November 17, 2021
Tarpey-Second
Chair Southwick-Roll Call for Vote-Motion Passed, 3-0 (Angers Tarpey, & Plotkin; Benway Abstained)
6. Unfinished Business
7. New Business
7. A. 2021.08 West Brook Subdivision (Winding Creek Lane extension) - Presentation by Biodiversity Research Institute (BRI) of the Wildlife Study conducted for E&R Development (Tax Map 8, Lots 3-1 & 3).
 - Mr. Tansley spoke about the project and reminded the Board and audience why this study was performed.
 - Steve Knapp from Biodiversity Research Institute (BRI) presented the study.
 - The fieldwork was done in July & August of 2021 on 3 separate visits.
 - BRI also did research of the site through Inland Fisheries & Wildlife (IFW).
 - Mr. Knapp stressed what a unique site this is as it is surrounded by an urban area and contains "high quality" habitat.

- Mr. Knapp spoke of the streams, pocket swamps, Blandings & Spotted Turtles.
- BRI had 3 recommendations for the development:
 - a. In order to limit the disturbance of the Blandings turtles to increase the buffer distance to at least 250' (300' preferred)
 - b. Obtain a survey of the site and critters by a qualified biologist.
 - c. Before and during the development of the site to consult with IFW.
- The Board discussed the project and study with Mr. Knapp and the Planning staff, Mr. Cantara suggested keeping BRI on the project through the approval process. Looking into an Alternatives Analysis was also suggested.

7B. 2021.11 Determination of the Setback to the Greatest Practical Extent for Sumi Dolben at 25 Mile Stretch Road (Tax Map 62, Lot 24 & 24-1) in the LR (Limited Residential) Zone.

- Mr. Di Matteo introduced the updates of the project to the Board
- He noted the changes on the proposal and the plans
- Attorney Sandra Guay from Archipelago Law, LLP represented the applicant regarding procedural issues for the Board and the project.
- Mike Morse of Morse Environmental Consultants represented the applicant; he distributed the Wetlands Delineation Report.
- Mr. Morse asked for two corrections on the City Report:
 - a. There has been no application submitted for this project
 - b. The Upland Edge of Wetland was used, not the Highest Annual Tide (HAT) Line.
- The following spoke from the public on this project:
 - a. Thomas Bean-representing 21,28 & 29 Mile Stretch Road (twice)
 - b. Ken Buechs of Ward 1
- The points brought up by the public were addressed by Attorney Sandra Guay and Mike Morse
- The Board, Planners and the Applicant Representatives discussed the project. The probability and location of a septic system, changes requested on the application, information submitted late, Rules of Planning Board Procedures and hiring outside counsel was among items discussed.

MOTIONS: 7:42 PM

Benway-Motion- To postpone addressing the item until the Planning Board gets a legal status of Shoreland zoning and septic information

Angers- Second

The Board continued to discuss the project. Planner Tansley advised the Board of the procedures of involving legal counsel. Mr. Tansley asked the Board on what specifically they would like the City Attorney to review and weigh in. The reply was that the Board would like Counsel's legal position of approving and or denying a project, and the boundaries of the Board's role. The Board felt that there is a great deal of uncertainty on deciding on this project. Mr. Tarpey voiced his concern as to how this project will affect the fisheries in Biddeford Pool, he would like the application corrected, cleaned up and resubmitted.

- The applicant agreed to resubmit the application package and re-appear before the Board.

MOTIONS: 8:02 PM

Benway-Withdraw original motion

Angers-Withdraw corresponding second

Benway-Motion-To table this item for now

Angers-Second

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

8. Other Business

- Planner Tansley discussed the schedule (draft) for the Comp Plan.
- He talked about the meeting for the Visioning for the Comp Plan December 10th (Open House) and December 11th (Charrette) with COVID restrictions along with an alternate way to participate.
- Speaking from the public regarding the Comp Plan:
Richard Rhames & Meaghan Daly
- Mr. Angers distributed a disk that had been prepared by Roger Hurtubise regarding the history of the fire of Diamond Match.
- Chair Southwick spoke about holding some workshops for the Planning Board and having speakers come in to discuss topics. He mentioned Inland Fisheries and Wildlife and the City Attorney. He has asked all Board Members to reach out to staff with ideas for Planning Board topics.

9. Adjourn

MOTIONS: 8:45

Benway-Motion-to adjourn

Angers-Second

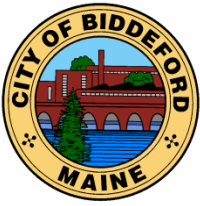
Chair Southwick-Roll Call for Vote-Motion Passed, 4-0 (Angers, Benway, Tarpey, & Plotkin)

Meeting adjourned at 8:46 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: December 30, 2021

RE: **2021.57 Determination of the Greatest Practical Extent for the reconstruction of a portion of a nonconforming structure in the Shoreland Overlay Zone by Peter Cameron Hyzer and Jennifer Hyzer at 280 Hills Beach Road (Tax Map 56, Lot 18).**

MEETING DATE: Wednesday, January 5, 2022 @ 6:00 PM

PROJECT DESCRIPTION

The project site is a conforming lot located within the Resource Protection overlay (RP) of the Shoreland Zone and the Coastal Residential (CR) base zone. It is bordered by Hills Beach Rd and residential properties to the north east, and Biddeford Pool/The Gut in all other directions. There are two residential structures on the property (Building #1 and Building #2), both of which are nonconforming. The applicant seeks to demolish a portion of Building #1 and reconstruct it using the existing footprint, and relocate the existing subsurface wastewater disposal system. The Planning Board must determine the setbacks from the shoreline of Biddeford Pool 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 #1 is located 116 feet from the Highest Annual Tide line (HAT) of The Gut, 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 is proposing to reconstruct Building #1 utilizing the existing footprint. Since only a portion of the building will be demolished, any relocation of the new construction would result in significant ground disturbance, as the entirety of the building would need to be relocated as well. Due to the topography and composition of the site, significant fill and/or blasting may be necessary if the existing Building #1 footprint is relocated further from the HAT line. If the Planning Board concurs, the applicant should clearly note on the final plan that the existing southernmost corner of Building #1, located 116' from the HAT, is the required setback to the shoreline to the greatest practical extent.

PROJECT DATA/INFORMATION

Note: **HIGHLIGHTED** information is pending.

1.	Applicant:	Peter Cameron Hyzer and Jennifer Hyzer 17206 SE 38 th Circle Vancouver, WA 98683
2.	Owner of Property:	Peter Cameron Hyzer and Jennifer Hyzer
3.	Agent:	Christopher Garland, AIA – Caleb Johnson Studio 110 Exchange St., Third Floor Portland, ME 04101
4.	Surveyor:	Northern Survey Engineering 41 Church Road Brunswick, ME 04011
4.	Project Location:	280 Hills Beach Road
5.	Project Tax Map #/Lot #:	Tax Map 56 Lot 18
6.	Lot Size:	3.95 acres +/-
7.	Base Zoning:	Coastal Residential
8.	Overlay Zoning:	Resource Protection
9.	Designations:	Back Coastal Dune Boundary and Erosion Hazard Zone
10.	Existing Use:	Residential- Single family dwelling
11.	Proposed Use:	Residential - Single family dwelling
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: 25 FT	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 December 2, 2021 2. Transmittal Letter (dated 12/2/2021) 3. Description of proposed development (dated 12/2/2021) 4. Plan entitled: <i>Boundary & Existing conditions Survey of: Land of Hyzer, 280 Hills Beach Road, Biddeford, Maine 04005</i>. Prepared by Northern Survey Engineering REV. date 11/22/2021 5. HHE-200 for Replacement Septic System 6. 280 Hills Beach Road – Site Diagram	
25.	Planning Board Review History: Final review and approval of the required setback to the greatest practical extent on January 5, 2022.	

WAIVER REQUESTS:

None.

ADDITIONAL COMMENTS

- The final plan should include the following revision:
 - o Add plan note that reads:

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 116 feet from the Highest Annual Tide (HAT) of The Gut, as denoted on this plan and shall not extend beyond the existing footprint of Building #1.

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. The applicant has provided a site diagram "21_1230 – 280 ..." which provides additional clarification of what is proposed for the site. 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 116 feet from the Highest Annual Tide (HAT) of The Gut, as denoted on the approved plan, and shall not extend beyond the existing footprint of Building #1.**
 - 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.**

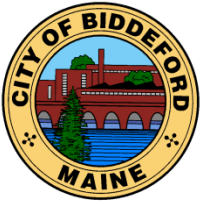
6. This approval shall expire one year from the date below if a substantial start is not made in construction. If a substantial start is made within one year of the date below, the applicant shall have one additional year to complete the project, thereafter this approval shall expire.

SAMPLE MOTIONS

- A. *Motion to approve the Determination of Greatest Practical Extent for Peter and Jennifer Hyzer based on the plans submitted by Caleb Johnson Studio, with revision date 11/22/2021, for 280 Hills Beach Road and approve the Findings of Fact and Conclusions of Law based on the Conditions outlined in the Staff Report dated December 30, 2021.*
- 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. Application form dated December 2, 2021
2. Transmittal Letter and Description of proposed development (dated 12/2/2021)
3. Plan entitled: *Boundary & Existing conditions Survey of: Land of Hyzer, 280 Hills Beach Road, Biddeford, Maine 04005*. Prepared by Northern Survey Engineering REV. date 11/22/2021
4. HHE-200 for Replacement Septic System
5. 280 Hills Beach Road – Site Diagram Application Package
6. 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

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 **Peter Cameron Hyzer and Jennifer Hyzer**, 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:	Peter Cameron Hyzer and Jennifer Hyzer 17206 SE 38 th Circle Vancouver, WA 98683
2.	Owner of Property:	Peter Cameron Hyzer and Jennifer Hyzer
3.	Agent:	Christopher Garland, AIA – Caleb Johnson Studio 110 Exchange St., Third Floor Portland, ME 04101
4.	Surveyor:	Northern Survey Engineering 41 Church Road Brunswick, ME 04011
4.	Project Location:	280 Hills Beach Road
5.	Project Tax Map #/Lot #:	Tax Map 56 Lot 18
6.	Lot Size:	3.95 acres +/-
7.	Base Zoning:	Coastal Residential
8.	Overlay Zoning:	Resource Protection
9.	Designations:	Back Coastal Dune Boundary and Erosion Hazard Zone
10.	Existing Use:	Residential- Single family dwelling
11.	Proposed Use:	Residential - Single family dwelling
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: 25 FT	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 December 2, 2021 2. Transmittal Letter (dated 12/2/2021) 3. Description of proposed development (dated 12/2/2021) 4. Plan entitled: <i>Boundary & Existing conditions Survey of: Land of Hyzer, 280 Hills Beach Road, Biddeford, Maine 04005</i>. Prepared by Northern Survey Engineering REV. date 11/22/2021 5. HHE-200 for Replacement Septic System 6. 280 Hills Beach Road – Site Diagram	
25.	Planning Board Review History: Final review and approval of the required setback to the greatest practical extent on January 5, 2022.	

CONCLUSIONS OF LAW

The Planning Board concludes based on the following that the proposed location of the nonconforming structure at 280 Hills Beach Road, being no closer than 116 feet from the Highest Annual Tide (HAT) line of the "Gut" and not to extend beyond the existing footprint of Building #1 and as depicted on the approved plan for Peter Cameron Hyzer and Jennifer Hyzer,

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:*** Modest lot size and required minimum setbacks limits locating the structure further from the Highest Annual Tide elevation than shown on the plan;
 - b. ***The slope of the land:*** The topography is modest in relief and does not limit the location of the structure;
 - c. ***The potential for soil erosion:*** The property is located in the Erosion Hazard Area, however, due to the size of the lot, this factor is not a limitation on the location of the structure.
 - d. ***The location of other structures on the property and on adjacent properties:*** There are structures adjacent to the property and the side and rear yard setbacks do limit the location of the structure.
 - e. ***The location of the septic system and other on-site soils suitable for septic systems:*** The existing septic system is located the building and the street, within the front yard setback and does not limit the location of the structure; and
 - f. ***The type and amount of vegetation to be removed to accomplish the relocation:*** There is no existing vegetation that would limit locating the structure further away from the protected resource.

DETERMINATION

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

Conditions of Approval:

1. **The new building shall be no closer than 116 feet from the Highest Annual Tide (HAT) of The Gut, as denoted on the approved plan, and shall not extend beyond the existing footprint of Building #1.**
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

December 3, 2021

Transmittal:
280 Hills Beach Road, Greatest Practical Extent Application

To: City of Biddeford, Planning Department
Cc: Greg Tansley
205 Main St
Biddeford, ME 04005

From: Caleb Johnson Studio
Cc: Christopher Garland
110 Exchange St, Third Floor
Portland, ME 04101

Included in this Application for Greatest Practical Extent:

- (10) copies of Application for Greatest Practical Extent
- (10) copies of Existing Conditions Survey
- (10) copies of Letter to the Planning Board Members
- (10) copies of Subsurface Wastewater Disposal System
- (1) check, #12316, made out to: City of Biddeford, for \$375.

End Transmittal.

280 Hills Beach Road, Greatest Practical Extent Application

Project Address: 280 Hills Beach Road, Biddeford, ME 04005
Map 56 Lot 18

Dear Members of the Planning Board

As agents for Peter Cameron Hyzer and Jennifer Hyzer, we are presenting 280 Hills Beach Road for a Greatest Practical Extent Application.

The property is zoned within the Resource Protection (RP) overlay of the Shoreland Zone within the Coastal Residential Zoning (CR). The entirety of the property exists within the RP Overlay. The property is conforming due to lot coverage (maximum allowed of 20% versus actual of 8.7%). The Main House structure (Building #1) itself is not conforming due to the setbacks from Highest Annual Tide (minimum required of 250'-0" in the RP overlay versus actual of 116'-0" +/- at the minimum) but conforms to all yard setbacks. The Guest House (Building #2) is non-conforming due to the side yard setback (minimum required of 25'-0" versus actual of 14'-8.4") as well as the 250'-0" setback for the RP Overlay. No work is being proposed on the Guest House (Building #2).

Our client's goal is to demolish a portion of a structure (Building #1) on site and rebuild it to meet modern standards while utilizing the structure's existing footprint to minimize soil, vegetation, utility and resource disturbance to the site. A subsurface wastewater disposal system is proposed as a part of this project, which will replace the existing, pre-1974 system.

The property is bound by Hills Beach Road and privately owned lots to the north east. Local code determines a 25-foot front yard setback requirement from the minor ROW. Our client does not propose building beyond this 25' line. To the west and south, the property is constrained by the High Water mark (7.4' contour NAVD88) from The Pool. To the east, the property is constrained by the High Water mark (see above) from The Gut. Building #1 is 116'-0" +/- away from this High Water mark at its minimum; see attached survey for reference. Our client does not propose building beyond this 116'-0" mark. The existing wastewater disposal system (while not noted on the enclosed survey by Northern Survey Engineering) is located to the East of Building #1, where the driveway enters Building #1, where the elevation marker for 24.9' occurs. The existing system predates 1974 and is proposed to be replaced as a part of this development. The replacement will conform to all state and local regulations. Included in this Application is a Subsurface Wastewater Disposal System Proposal for the replacement system.

As a portion of the existing structure is to be demolished, the new structure is required to conform to all city and Maine regulations to the greatest practical extent. The attached survey indicates the existing conditions. The City of Biddeford restricts the total footprint of all structures within RP Zone to 1,500 sq ft OR 30% larger than the footprint that existed at the time the district was established, whichever is larger. The height for structures within the RP Zone is restricted to 25'-0" or the height of the existing structure, whichever is greater. Building height is measured as the vertical distance between the mean original grade at the downhill side and the highest point of the structure not including chimneys.

CALEB JOHNSON

STUDIO

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Garland', written in a cursive style.

Christopher Garland, AIA on behalf of Caleb Johnson Studio
207.956.0983
chris@calebjohnsonstudio.com

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: <u>Greatest Practical Extent</u> | | |

Applicant Information:

Applicant's Name: Peter Cameron Hyzer and Jennifer Hyzer

Applicant's Mailing Address: 17206 SE 38th Circle, Vancouver, WA 98683

Applicant's Telephone: (857) 498-1537

What is Applicant's legal interest in the property?

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

Owner's Name: Peter Cameron Hyzer and Jennifer Hyzer

Owner's Address: 17206 SE 38th Circle, Vancouver, WA 98683

Owner's Telephone: (857) 498-1537

Agent's Name: Christopher Garland, AIA - Caleb Johnson Studio

Agent's Address: 110 Exchange St, Third Floor Portland ME 04101

Telephone: (207) 956-0983

Engineer/Surveyor: Northern Survey Engineering

Engineer/Surveyor's Address: 41 Church Road, Brunswick ME 04011

Telephone: (207) 440-3487

Project Location and Lot Information:

Street Address: 280 Hills Beach Road

Tax Map: 56 Lot: 18

Current Zoning: CR Shoreland Zoning: RP

Size of lot: 3.95 +/- ☒ acres ☐ s.f. Lot Frontage: 298' +/- Refer to Survey

Existing Use of Property: Single Family Residential

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

***SITE ABUTS "THE POOL" AND "THE GUT". SEE SURVEY. NO WETLANDS OR BODIES OF WATER EXIST ELSEWHERE ON SITE.

***ASSUMING FILL IS REQUIRED FOR NEW WASTEWATER DISPOSAL SYSTEM, SEE ATTACHMENT

Description of proposed use of property:

Project/Proposed Use Description: _____

Partial demolition and rebuild of an existing house on site ("Existing House, Building #1" per Survey), this Project seeks to

utilize the footprint of the existing structure to minimize soil, vegetation, utility and resource disturbance to the site. A new subsurface wastewater disposal system is also proposed, which would replace the existing, pre-1974 system on site.

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%): Current is 8.79%, Final TBD

Percent of structure expansion (Max. 30%): TBD, <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. N/A
2. _____
3. _____
4. _____
5. _____

Attachments:

A. Letters of Approval N/A

- ☐ 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. N/A

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

E. Engineered Plans, as required. SEE LINE G BELOW

✓ F. Site Survey

✓ G. Subsurface Wastewater Disposal System Proposal

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.

***CHECK MADE OUT TO "CITY OF BIDDEFORD" FOR \$375 IS INCLUDED WITH APPLICATION

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:

DocuSigned by:
Cameron Hyzer
6A88025A1E2E4B8...

Date: 12/2/2021

Signature of owner of property:

DocuSigned by:
Cameron Hyzer
6A88025A1E2E4B8...

Date: 12/2/2021

**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.**

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. |

RECORDING DATA

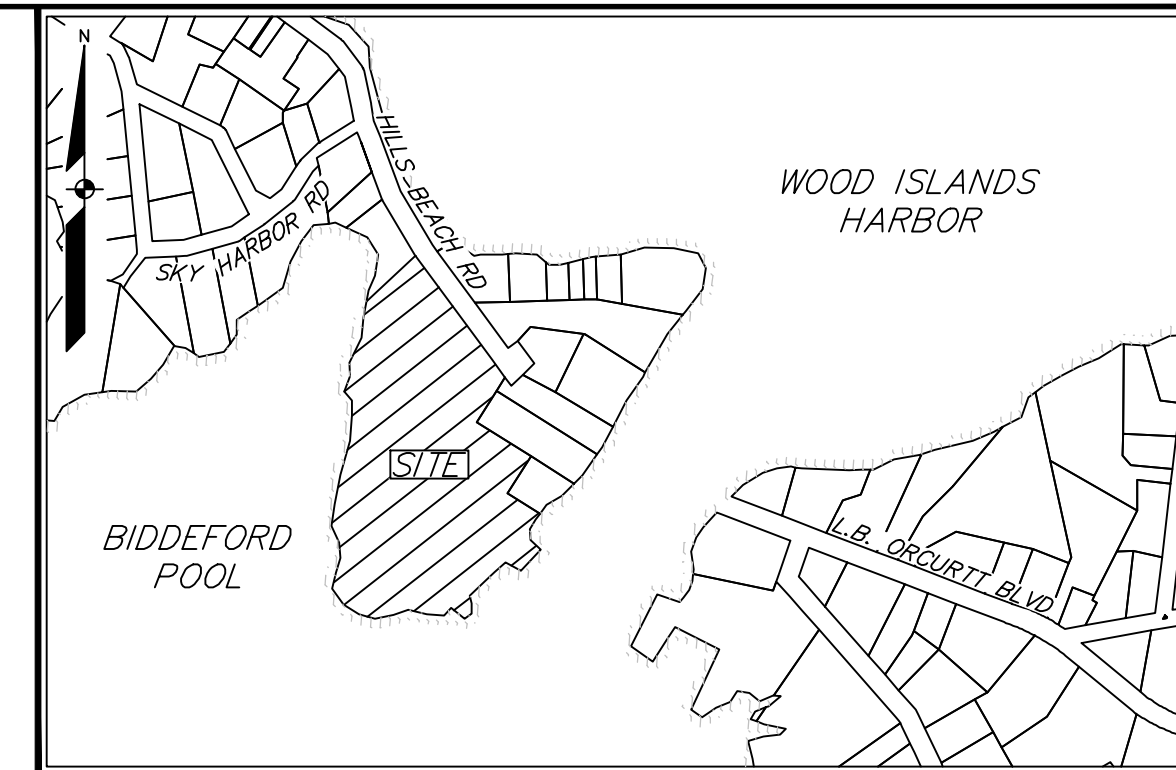
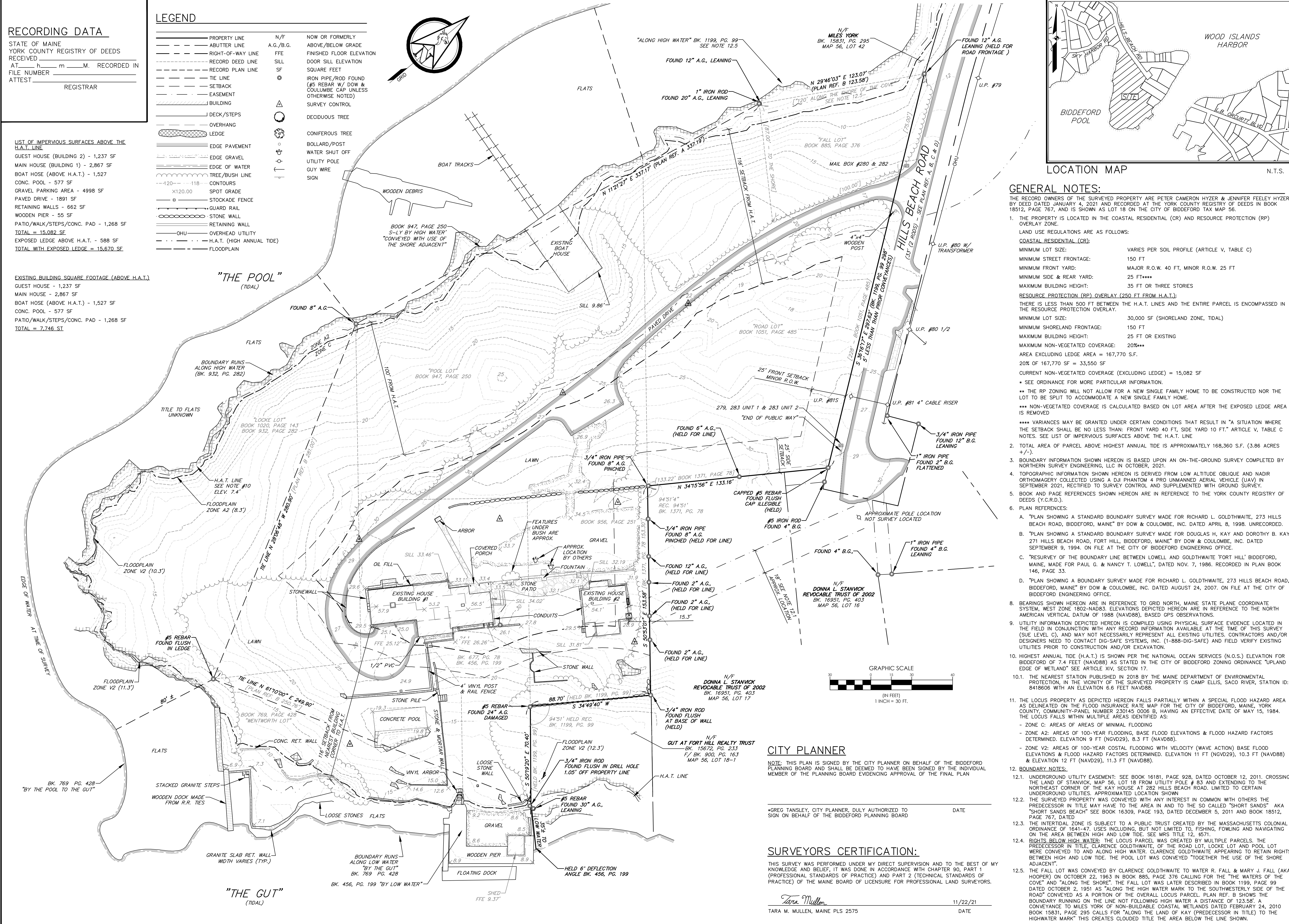
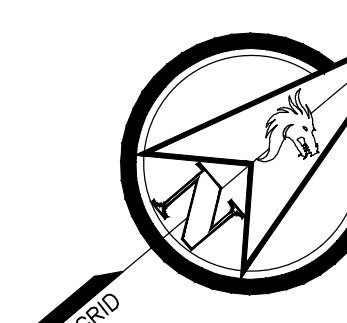
STATE OF MAINE
YORK COUNTY REGISTRY OF DEEDS
RECEIVED
AT _____ h _____ m _____ M. RECORDED IN
FILE NUMBER _____
ATTEST _____ REGISTRAR

LIST OF IMPERVIOUS SURFACES ABOVE THE H.A.T. LINE
QUEST HOUSE (BUILDING 2) - 1,237 SF
MAIN HOUSE (BUILDING 1) - 2,867 SF
BOAT HOSE (ABOVE H.A.T.) - 1,527
CONC. POOL - 577 SF
GRAVEL PARKING AREA - 4998 SF
PAVED DRIVE - 1891 SF
RETAINING WALLS - 662 SF
WOODEN PIER - 55 SF
PATIO/WALK/STEPS/CONC. PAD - 1,268 SF
TOTAL = 15,082 SF
EXPOSED LEDGE ABOVE H.A.T. - 588 SF
TOTAL WITH EXPOSED LEDGE = 15,670 SF

EXISTING BUILDING SQUARE FOOTAGE (ABOVE H.A.T.)
QUEST HOUSE - 1,237 SF
MAIN HOUSE - 2,867 SF
BOAT HOSE (ABOVE H.A.T.) - 1,527 SF
CONC. POOL - 577 SF
PATIO/WALK/STEPS/CONC. PAD - 1,268 SF
TOTAL = 7,746 SF

LEGEND

PROPERTY LINE	N/F	NOW OR FORMERLY
ABUTTER LINE	A.G./B.G.	ABOVE/BELOW GRADE
RIGHT-OF-WAY LINE	FFE	FINISHED FLOOR ELEVATION
RECORD DEED LINE	SILL	DOOR SILL ELEVATION
RECORD PLAN LINE	SF	SQUARE FEET
TIE LINE	○	IRON PIPE/ROD FOUND (#5 REBAR W/ DOW & COULUMBE CAP UNLESS OTHERWISE NOTED)
SETBACK		SURVEY CONTROL
EASEMENT		DECIDUOUS TREE
BUILDING		CONIFEROUS TREE
DECK/STEPS		BOLLARD/POST
OVERHANG		WATER SHUT OFF
LEDGE		UTILITY POLE
EDGE PAVEMENT		GUY WIRE
EDGE GRAVEL		SIGN
EDGE OF WATER		
TREE/BUSH LINE		
CONTOURS		
X120.00		
SPOT GRADE		
STOCKADE FENCE		
GUARD RAIL		
STONE WALL		
RETAINING WALL		
OHU		
OVERHEAD UTILITY		
H.A.T. (HIGH ANNUAL TIDE)		
FLOODPLAIN		



LOCATION MAP

GENERAL NOTES:

THE RECORD OWNERS OF THE SURVEYED PROPERTY ARE PETER CAMERON HYZER & JENNIFER FEELEY HYZER BY DEED DATED JANUARY 4, 2021 AND RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS IN BOOK 18512, PAGE 767, AND IS SHOWN AS LOT 18 ON THE CITY OF BIDDEFORD TAX MAP 56.

1. THE PROPERTY IS LOCATED IN THE COASTAL RESIDENTIAL (CR) AND RESOURCE PROTECTION (RP) OVERLAY ZONE.

LAND USE REGULATIONS ARE AS FOLLOWS:

COASTAL RESIDENTIAL (CR):

MINIMUM LOT SIZE: VARIES PER SOIL PROFILE (ARTICLE V, TABLE C)
MINIMUM STREET FRONTAGE: 150 FT
MINIMUM FRONT YARD: MAJOR R.O.W. 40 FT, MINOR R.O.W. 25 FT
MINIMUM SIDE & REAR YARD: 25 FT***
MAXIMUM BUILDING HEIGHT: 35 FT OR THREE STORIES

RESOURCE PROTECTION (RP) OVERLAY (250 FT FROM H.A.T.):

THERE IS LESS THAN 500 FT BETWEEN THE H.A.T. LINES AND THE ENTIRE PARCEL IS ENCOMPASSED IN THE RESOURCE PROTECTION OVERLAY.

MINIMUM LOT SIZE: 30,000 SF (SHORELAND ZONE, TIDAL)
MINIMUM SHORELAND FRONTAGE: 150 FT
MAXIMUM BUILDING HEIGHT: 25 FT OR EXISTING
MAXIMUM NON-VEGETATED COVERAGE: 20%***
AREA EXCLUDING LEDGE AREA = 167,770 S.F.
20% OF 167,770 SF = 33,550 SF

CURRENT NON-VEGETATED COVERAGE (EXCLUDING LEDGE) = 15,082 SF

* SEE ORDINANCE FOR MORE PARTICULAR INFORMATION.

** THE RP ZONING WILL NOT ALLOW FOR A NEW SINGLE FAMILY HOME TO BE CONSTRUCTED NOR THE LOT TO BE SPLIT TO ACCOMMODATE A NEW SINGLE FAMILY HOME.

*** NON-VEGETATED COVERAGE IS CALCULATED BASED ON LOT AREA AFTER THE EXPOSED LEDGE AREA IS REMOVED

**** VARIANCES MAY BE GRANTED UNDER CERTAIN CONDITIONS THAT RESULT IN "A SITUATION WHERE THE SETBACK SHALL BE NO LESS THAN: FRONT YARD 40 FT, SIDE YARD 10 FT." ARTICLE V, TABLE C NOTES. SEE LIST OF IMPERVIOUS SURFACES ABOVE THE H.A.T. LINE

2. TOTAL AREA OF PARCEL ABOVE HIGHEST ANNUAL TIDE IS APPROXIMATELY 168,360 S.F. (3.86 ACRES +/-).

3. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON AN ON-THE-GROUND SURVEY COMPLETED BY NORTHERN SURVEY ENGINEERING, LLC IN OCTOBER, 2021.

4. TOPOGRAPHIC INFORMATION SHOWN HEREON IS DERIVED FROM LOW ALTITUDE OBLIQUE AND NADIR ORTHOMAGERY COLLECTED USING A DJI PHANTOM 4 PRO UNMANNED AERIAL VEHICLE (UAV) IN SEPTEMBER 2021, RECTIFIED TO SURVEY CONTROL AND SUPPLEMENTED WITH GROUND SURVEY.

5. BOOK AND PAGE REFERENCES SHOWN HEREON ARE IN REFERENCE TO THE YORK COUNTY REGISTRY OF DEEDS (Y.C.R.D.).

6. PLAN REFERENCES:

A. "PLAN SHOWING A STANDARD BOUNDARY SURVEY MADE FOR RICHARD L. GOLDTHWAITE, 273 HILLS BEACH ROAD, BIDDEFORD, MAINE" BY DOW & COULOMBE, INC. DATED APRIL 8, 1998. UNRECORDED.

B. "PLAN SHOWING A STANDARD BOUNDARY SURVEY MADE FOR DOUGLAS H. KAY AND DOROTHY B. KAY, 271 HILLS BEACH ROAD, FORT HILL, BIDDEFORD, MAINE" BY DOW & COULOMBE, INC. DATED SEPTEMBER 9, 1994, ON FILE AT THE CITY OF BIDDEFORD ENGINEERING OFFICE.

C. "RESURVEY OF THE BOUNDARY LINE BETWEEN LOWELL AND GOLDTHWAITE 'FORT HILL' BIDDEFORD, MAINE, MADE FOR PAUL G. & NANCY T. LOWELL," DATED NOV. 7, 1986. RECORDED IN PLAN BOOK 146, PAGE 33.

D. "PLAN SHOWING A BOUNDARY SURVEY MADE FOR RICHARD L. GOLDTHWAITE, 273 HILLS BEACH ROAD, BIDDEFORD, MAINE" BY DOW & COULOMBE, INC. DATED AUGUST 24, 2007. ON FILE AT THE CITY OF BIDDEFORD ENGINEERING OFFICE.

8. BEARINGS SHOWN HEREON ARE IN REFERENCE TO GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE 1802-NAD83. ELEVATIONS DERIVED HEREON ARE IN REFERENCE TO THE NORTH AMERICAN VERTIC DATUM OF 1985 (NAVD85), BASED GPS OBSERVATIONS.

9. UTILITY INFORMATION DEPICTED HEREON IS COMPILED USING PHYSICAL SURFACE EVIDENCE LOCATED IN THE FIELD IN CONJUNCTION WITH ANY RECORD INFORMATION AVAILABLE AT THE TIME OF THIS SURVEY (SUE LEVEL C), AND MAY NOT NECESSARILY REPRESENT ALL EXISTING UTILITIES. CONTRACTORS AND/OR DESIGNERS NEED TO CONTACT DIG-SAFE SYSTEMS, INC. (1-888-DIG-SAFE) AND FIELD VERIFY EXISTING UTILITIES PRIOR TO CONSTRUCTION AND/OR EXCAVATION.

10. HIGHEST ANNUAL TIDE (H.A.T.) IS SHOWN PER THE NATIONAL OCEAN SERVICES (N.O.S.) ELEVATION FOR BIDDEFORD OF 7.4 FEET (NAVD88) AS STATED IN THE CITY OF BIDDEFORD ZONING ORDINANCE "UPLAND EDGE OF WETLANDS" SEE ARTICLE XIV, SECTION 17.

10.1. THE NEAREST STATION PUBLISHED IN 2018 BY THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION, IN THE VICINITY OF THE SURVEYED PROPERTY IS CAMP ELLIS, SAGO RIVER, STATION ID: 8418606 WITH AN ELEVATION 6.6 FEET NAVD88.

11. THE LOCUS PROPERTY AS DEPICTED HEREON FALLS PARTIALLY WITHIN A SPECIAL FLOOD HAZARD AREA AS DELINEATED ON THE FLOOD INSURANCE RATE MAP FOR THE CITY OF BIDDEFORD, MAINE, YORK COUNTY, COMMUNITY-PANEL NUMBER 230145 0006 B, HAVING AN EFFECTIVE DATE OF MAY 15, 1984. THE LOCUS FALLS WITHIN MULTIPLE AREAS IDENTIFIED AS:

- ZONE C: AREAS OF AREAS OF MINIMAL FLOODING

- ZONE A2: AREAS OF 100-YEAR FLOODING, BASE FLOOD ELEVATIONS & FLOOD HAZARD FACTORS DETERMINED: ELEVATION 9 FT (NGVD29), 8.3 FT (NAVD88).

- ZONE V2: AREAS OF 100-YEAR COASTAL FLOODING WITH VELOCITY (WAVE ACTION) BASE FLOOD ELEVATIONS & FLOOD HAZARD FACTORS DETERMINED: ELEVATION 11 FT (NGVD29), 10.3 FT (NAVD88) & ELEVATION 12 FT (NAVD29), 11.3 FT (NAVD88).

12. BOUNDARY NOTES:

12.1. UNDERGROUND UTILITY EASEMENT: SEE BOOK 16181, PAGE 928, DATED OCTOBER 12, 2011, CROSSING THE LAND OF STANVICK, MAP 56, LOT 18 FROM UTILITY POLE # 83 AND EXTENDING TO THE NORTHEAST CORNER OF THE KAY HOUSE AT 282 HILLS BEACH ROAD, LIMITED TO CERTAIN UNDERGROUND UTILITIES. APPROXIMATED LOCATION SHOWN.

12.2. THE SURVEYED PROPERTY WAS CONVEYED WITH ANY INTEREST IN COMMON WITH OTHERS THE PREDECESSOR IN TITLE MAY HAVE TO THE AREA IN AND TO THE SO CALLED "SHORT SANDS" AKA "SHORT SANDS BEACH" SEE BOOK 16309, PAGE 193, DATED DECEMBER 5, 2011 AND BOOK 18512, PAGE 767, DATED

12.3. THE INTERTIDAL ZONE IS SUBJECT TO A PUBLIC TRUST CREATED BY THE MASSACHUSETTS COLONIAL ORDINANCE OF 1641-47, USES INCLUDING, BUT NOT LIMITED TO, FISHING, FOWLING AND NAVIGATING ON THE AREA BETWEEN HIGH AND LOW TIDE. SEE MRS TITLE 12, §571.

12.4. RIGHTS BELOW HIGH WATER: THE LOCUS PARCEL WAS CREATED BY MULTIPLE PARCELS. THE PREDECESSOR IN TITLE REFERENCE GOLDTHWAITE, OF THE ROAD LOT, LOCKE LOT AND POOL LOT, WERE CONVEYED TO AND ALONG HIGH WATER. CLARENCE GOLDTHWAITE APPEARING TO RETAIN RIGHTS BETWEEN HIGH AND LOW TIDE. THE POOL LOT WAS CONVEYED "TOGETHER THE USE OF THE SHORE ADJACENT".

12.5. THE FALL LOT WAS CONVEYED BY CLARENCE GOLDTHWAITE TO WATER R. FALL & MARY J. FALL (AKA HOOPER) ON OCTOBER 22, 1983 IN BOOK 885, PAGE 376 CALLING FOR THE "WATERS OF THE COVE" AND "ALONG THE SHORE". THE FALL LOT WAS LATER DESCRIBED IN BOOK 1199, PAGE 99 DATED OCTOBER 2, 1951 AS "ALONG THE HIGH WATER MARK TO THE SOUTHWESTERLY SIDE OF THE ROAD" CONVEYED AS A PORTION OF THE OVERALL LOCUS PARCEL. PLAN REF. B SHOWS THE BOUNDARY RUNNING ON THE LINE NOT FOLLOWING HIGH WATER A DISTANCE OF 123.58'. A CONVEYANCE TO MILES YORK OF DONALD BUILDINGS COASTAL WETLANDS DATED FEBRUARY 24, 2010 BOOK 15831, PAGE 295 CALLS FOR "ALONG THE LAND OF KAY (PREDECESSOR IN TITLE) TO THE HIGHWATER MARK" THIS CREATES CLOUDED TITLE THE AREA BELOW THE LINE SHOWN.

CITY PLANNER

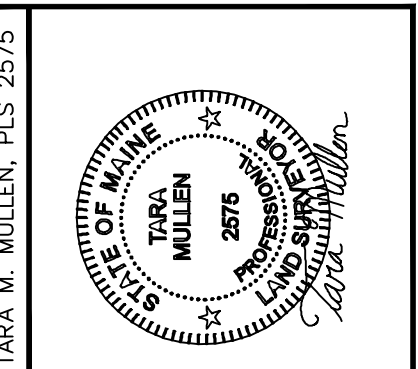
NOTE: THIS PLAN IS SIGNED BY THE CITY PLANNER ON BEHALF OF THE BIDDEFORD PLANNING BOARD AND SHALL BE DEEMED TO HAVE BEEN SIGNED BY THE INDIVIDUAL MEMBER OF THE PLANNING BOARD EVIDENCING APPROVAL OF THE FINAL PLAN

*GREG TANSLEY, CITY PLANNER, DULY AUTHORIZED TO SIGN ON BEHALF OF THE BIDDEFORD PLANNING BOARD

SURVEYORS CERTIFICATION:

THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT WAS DONE IN ACCORDANCE WITH CHAPTER 90, PART 1 (PROFESSIONAL STANDARDS OF PRACTICE) AND PART 2 (TECHNICAL STANDARDS OF PRACTICE) OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS.

Tara Mullen
TARA M. MULLEN, MAINE PLS 2575
11/22/21
DATE



REV#	BY	DATE	STATUS
1	TMM	10/18/21	REVISED LAND USE REGULATIONS PER CEO COMMENTS
2	TMM	10/19/21	REVISED H.A.T. LINE FROM D.E.P. TO N.O.S.
3	TMM	11/11/21	REVISED DIMENSIONAL REQUIREMENTS PER C.E.O. COMMENTS
4	TMM	11/22/21	REVISED DIMENSIONAL REQUIREMENTS PER C.E.O. COMMENTS AND ADDED APPROXIMATE LOCATION OF WATER SHUT OFF VALVES

Maine Dept. Health & Human Services
Div of Environmental Health, 11 SHS
(207) 287-2070 FAX (207) 287-4172

DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)			
MONOLITHIC 2 TREATMENT TANKS IN SERIES ☒ 1. Concrete ☒ a. Regular ☐ b. Low Profile (IF NEC.) ☐ 2. Plastic ☐ 3. Other: _____ CAPACITY: 2 - 1,000's GAL. SEE NOTE ON PAGE 3	DISPOSAL FIELD TYPE & SIZE ☐ 1. Stone Bed ☐ 2. Stone Trench ☒ 3. Proprietary Device ☐ a. Cluster array ☒ c. Linear ☒ b. Regular ☐ d. H-20 loaded ☐ 4. Other: _____ SIZE: 1584 ☒ sq. ft. ☐ lin. ft.	GARBAGE DISPOSAL UNIT ☐ 1. No ☐ 2. Yes ☒ 3. Maybe If Yes or Maybe, specify one below: ☐ a. Multi-compartment tank ☒ b. 2 tanks in series ☐ c. Increase in tank capacity ☒ d. Filter on tank outlet (RECOMMENDED IN SECOND TANK)	DESIGN FLOW 450 gallons per day BASED ON: ☒ 1. Table 4A (dwelling unit(s)) ☐ 2. Table 4C (other facilities) SHOW CALCULATIONS for other facilities EXISTING 4 BEDROOMS PROPOSED EXPANSION TO 5 BEDROOMS AT 90 GALLONS PER DAY EACH
SOIL DATA & DESIGN CLASS PROFILE CONDITION 2 / All at Observation Hole # TB F Depth 18 " of Most Limiting Soil Factor	DISPOSAL FIELD SIZING ☐ 1. Medium - 2.6 sq.ft./gpd ☒ 2. Medium-Large - 3.3 sq.ft./gpd ☐ 3. Large - 4.1 sq.ft./gpd ☐ 4. Extra-Large - 5.0 sq.ft./gpd	EFFLUENT/EJECTOR PUMP ☐ 1. Not required ☐ 2. May be required ☒ 3. Required Specify only for engineered systems: SEE NOTE ON PAGE 3 DOSE: _____ gallons	☐ 3. Section 4G (meter readings) ATTACH WATER-METER DATA LATITUDE AND LONGITUDE at center of disposal area Lat. N43 d 26 m 50.19 s Lon. W70 d 21 m 27.22 s if g.p.s., state margin of error

I certify that on <u>11/3/21</u> (date) I completed a site evaluation on this property and state that the data reported are accurate and that the proposed sytem is in compliance with the Subsurface Wastewater Disposal Rules (10-144A CMR 241).		
<u>Matthew Logan</u> Site Evaluator Signature	<u>324</u> SE #	<u>11-24-2021</u> Date
<u>MATTHEW LOGAN</u> Site Evaluator Name Printed	<u>(207) 756-9118</u> Telephone Number	<u>MATTLOGAN.MLE@GMAIL.COM</u> E-mail Address
M.L Environmental, LLC - P.O. Box 167, Bar Mills, Maine 04004 - (207) 756-9118		
Note: Changes to or deviations from the design should be confirmed with the Site Evaluator		

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SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Health and Human Services
Division of Environmental Health
(207) 287-2070 FAX (207) 287-4172

Town, City, Plantation BIDDEFORD	Street, Road Subdivision 280 HILLS BEACH ROAD	Owner's Name PETER & JENNIFER HYZER
--	---	---

****ML ENVIRONMENTAL, LLC ARE NOT SURVEYORS**.**
 PROPERTY INFORMATION APPROXIMATED PER SURVEY PLAN BY NORSE NORTHERN SURVEY ENGINEERING DATED 10-15-21.
 TOWN TAX MAP AND AERIAL PHOTOGRAPH.
 VERIFY PROPERTY LINES TO ASSURE ACCURATE LOCATION PRIOR TO SYSTEM INSTALLATION

SITE PLAN Scale 1" = 100 Ft. or as shown

SITE LOCATION PLAN
(Attach Map from Maine Atlas Recommended)

"THE GUT" TIDAL

APPROX. HIGH WATER MARK

PROPOSED 2-1000 GALLON SEPTIC TANKS IN SERIES AND PUMP STATION (MONOLITHIC TO ASSURE WATER TIGHTNESS)

EXISTING DWELLING (4 BEDROOMS)

APPROX. UTILITY EASEMENT

PROVIDE TEMPORARY EROSION AND SEDIMENT CONTROL PER MAINE DEP BEST MANAGEMENT PRACTICES

EXISTING 4 BEDROOM DWELLING, PROPOSED EXPANSION TO 5 BEDROOMS (TO BE PARTIALLY REPLACED)

EXISTING STONE RETAINING WALL

DRIVEWAY

APPROX. HIGH WATER MARK

"THE POOL" TIDAL

NOTE: VERIFY ALL UNDERGROUND UTILITIES PRIOR TO SYSTEM INSTALLATION. DISPOSAL SYSTEM TO BE 10' MIN FROM WATERLINE, RELOCATE WATERLINE, IF NECESSARY

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)										
Observation Hole TP 1 ☒ Test Pit ☐ Boring " Depth of Organic Horizon Above Mineral Soil					Observation Hole TB's ☒ Test Pit ☐ Boring " Depth of Organic Horizon Above Mineral Soil					
0	Texture	Consistency	Color	Mottling		0	Texture	Consistency	Color	Mottling
	SANDY LOAM	FRIABLE	DARK BROWN				TBA = 32" TO REFUSAL / BEDROCK			
10			YELLOW BROWN			10	TB B = 24" TO REFUSAL / BEDROCK			
20						20	TB C = 19" TO REFUSAL / BEDROCK			
30						30	TB D = 26" TO REFUSAL / BEDROCK			
40						40	TB E = 20" TO REFUSAL / BEDROCK			
50						50	TB F = 18" TO REFUSAL / BEDROCK			
Soil Classification 2 AIII/C Slope 0-3 % Limiting Factor 26 " Profile Condition					Soil Classification Slope Limiting Factor ☐ Ground Water Profile Condition % " ☐ Restrictive Layer ☒ Bedrock ☐ Pit Depth					

Math Hyzer
Site Evaluator Signature

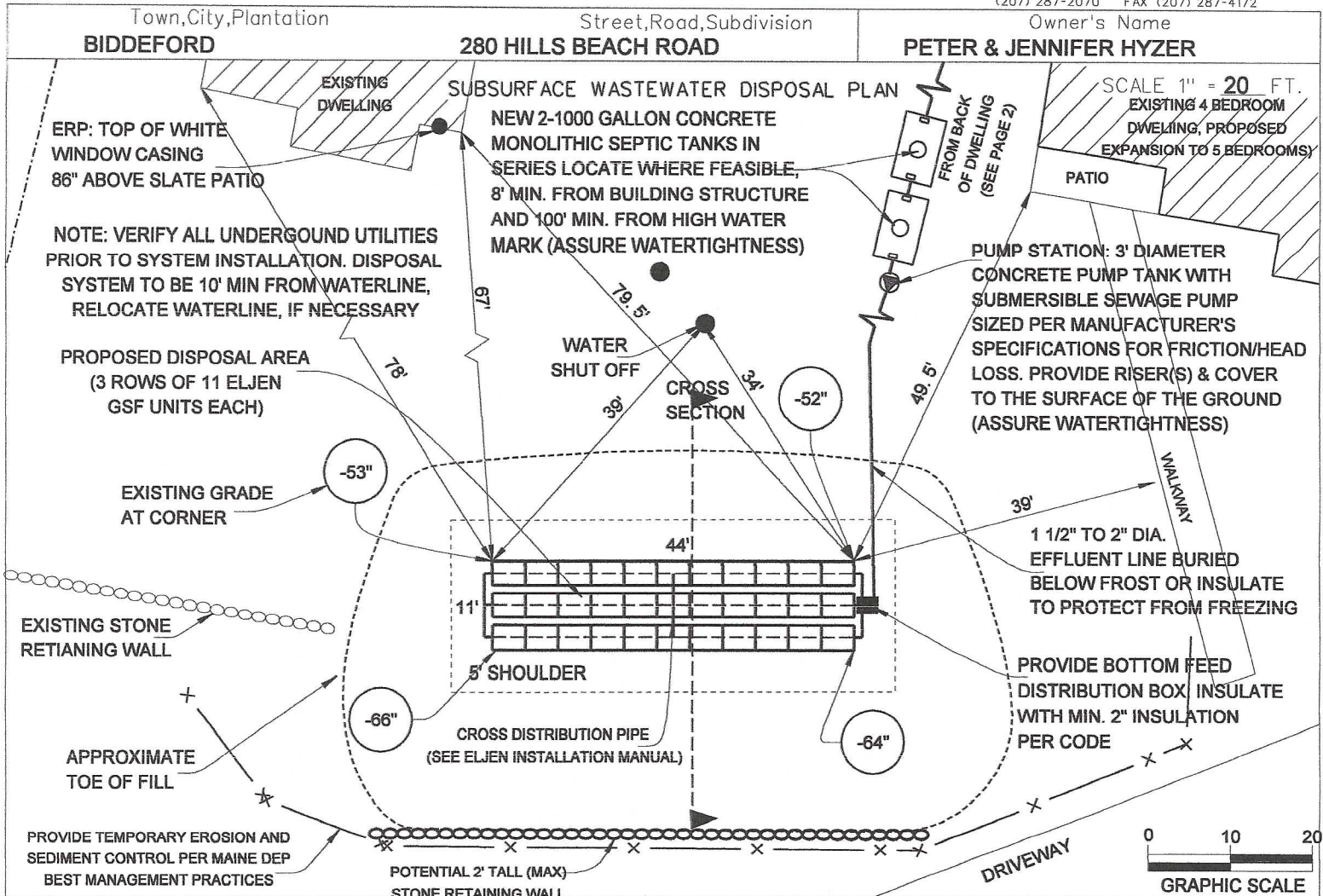
324
SE *

11-24-2021
Date

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SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Health and Human Services
Division of Environmental Health
(207) 287-2070 FAX (207) 287-4172



FILL REQUIREMENTS

Depth of Fill (Upslope) $\approx 23'' - 24''$
Depth of Fill (Downslope) $\approx 35'' - 37''$
DEPTHS AT CROSS-SECTION (shown below)

CONSTRUCTION ELEVATIONS

Finished Grade Elevation
Top of Distribution Pipe or Proprietary Device
Bottom of Disposal Area

SEE
DETAIL
BELOW

ELEVATION REFERENCE POINT

Location & Description TOP OF WHITE WINDOW CASING, 86" ABOVE SLATE PATIO
Reference Elevation is: 0.0" or -----

NOTE: THOROUGHLY SCARIFY UNDER ENTIRE DISPOSAL FIELD, SHOULDER AREA, & FILL EXTENSION AREA PRIOR TO FILL PLACEMENT, THEN BLEND FIRST 6" LIFT OF FILL INTO EXISTING SOIL SURFACE TO PROMOTE MIXING

DISPOSAL AREA CROSS SECTION

+/-7' 5' 11' 5' +/-17' - 18'

FILL EXT. SHOULDER SHOULDER FILL EXT.

4" DIA. PERFORATED PIPE

ELJEN GSF UNIT

EXISTING GRADE

3' 1' CROWN AT 3%

GRAVELLY COARSE SAND

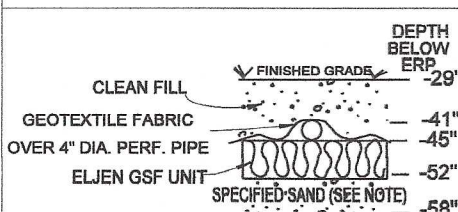
CAP TOE OF FILL WITH SANDY LOAM MATERIAL TO PREVENT WASTEWATER BREAKOUT

POTENTIAL STONE WALL (WITH 12 MIL. PLASTIC LINER)

EXISTING GRADE

SCARIFY (SEE NOTE ABOVE)

NOTE: SPECIFIED SAND: ASTM SPECS, WITH LESS THAN 10% PASSING A #100 SIEVE AND LESS THAN 5% PASSING A #200 SIEVE (THE SAND 6" UNDER, BETWEEN ROWS AND 1' AROUND THE PERIMETER OF THE GSF UNITS)



Matthew Lyne
Site Evaluator Signature

324
SE *

11-24-2021
Date

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M.L. Environmental, LLC - P.O. Box 167, Bar Mills, Maine 04004 - (207) 756-9118

BIDDEFORD

280 HILLS BEACH ROAD

PETER & JENNIFER HYZER

TOWN

LOCATION

APPLICANT'S NAME

1) The Plumbing and Subsurface Wastewater Disposal Rules adopted by the State of Maine, Division of Health and Human Services pursuant to 22 M.R.S.A. § 42 (the "Rules") are incorporated herein by reference and made a part of this application and shall be consulted by the owner/applicant, the system installer and/or building contractor for further construction details and material specifications. The system Installer should contact ML Environmental, L.L.C. at 756-9118, if there are any questions concerning materials, procedures or designs. The system installer and/or building contractor installing the system shall be solely responsible for compliance with the Rules and with all state and municipal laws and ordinances pertaining to the permitting, inspection and construction of subsurface wastewater disposal systems.

2) This application is intended to represent facts pertinent to the Rules only. It shall be the responsibility of the owner/applicant, system Installer and/or building contractor to determine compliance with and to obtain permits under all applicable local, state and/or federal laws and regulations (including, without limitation, Natural Resources Protection Act, wetland regulations, zoning ordinances, subdivision regulations, Site Location of Development Act and Minimum Lot Size law) before installing this system or considering the property on which the system is to be installed a "buildable" lot. It is recommended that a wetland scientist be consulted regarding wetland regulations. Prior to the commencement of construction/installation, the local plumbing inspector or Code Enforcement Officer shall inform the owner/applicant and M. L. Environmental, L.L.C. of any local ordinances which are more restrictive than the Rules in order that the design may be amended. All designs are subject to review by local, state and/or federal authorities. M.L Environmental, L. L. C.'s liability shall be limited to revisions required by regulatory agencies pursuant to laws or regulations in effect at the time of preparation of this application.

3) All information shown on this application relating to property lines, well locations, subsurface structures and underground facilities (such as utility lines, drains, septic systems, water lines, etc.) are based upon information provided by the owner/applicant and has been relied upon by M. L. Environmental, L.L.C. in preparing this application. The owner/applicant shall review this application prior to the start of construction and confirm this information. Well locations on abutting properties but not readily visible above grade should be confirmed by the owner/applicant prior to system installation to assure minimum setbacks.

4) Installation of a garbage (grinder) disposal is not recommended. If one is installed, an additional 1000 gallon septic tank or a septic tank filter shall be connected in series to the proposed septic tank. Risers and covers should be installed over the septic tank outlet per the "Rules" to allow for easy maintenance of filter.

5) The septic tank should be pumped within two years of installation and subsequently as recommended by the pump service, but in no event should the septic tank be pumped less often than every three years.

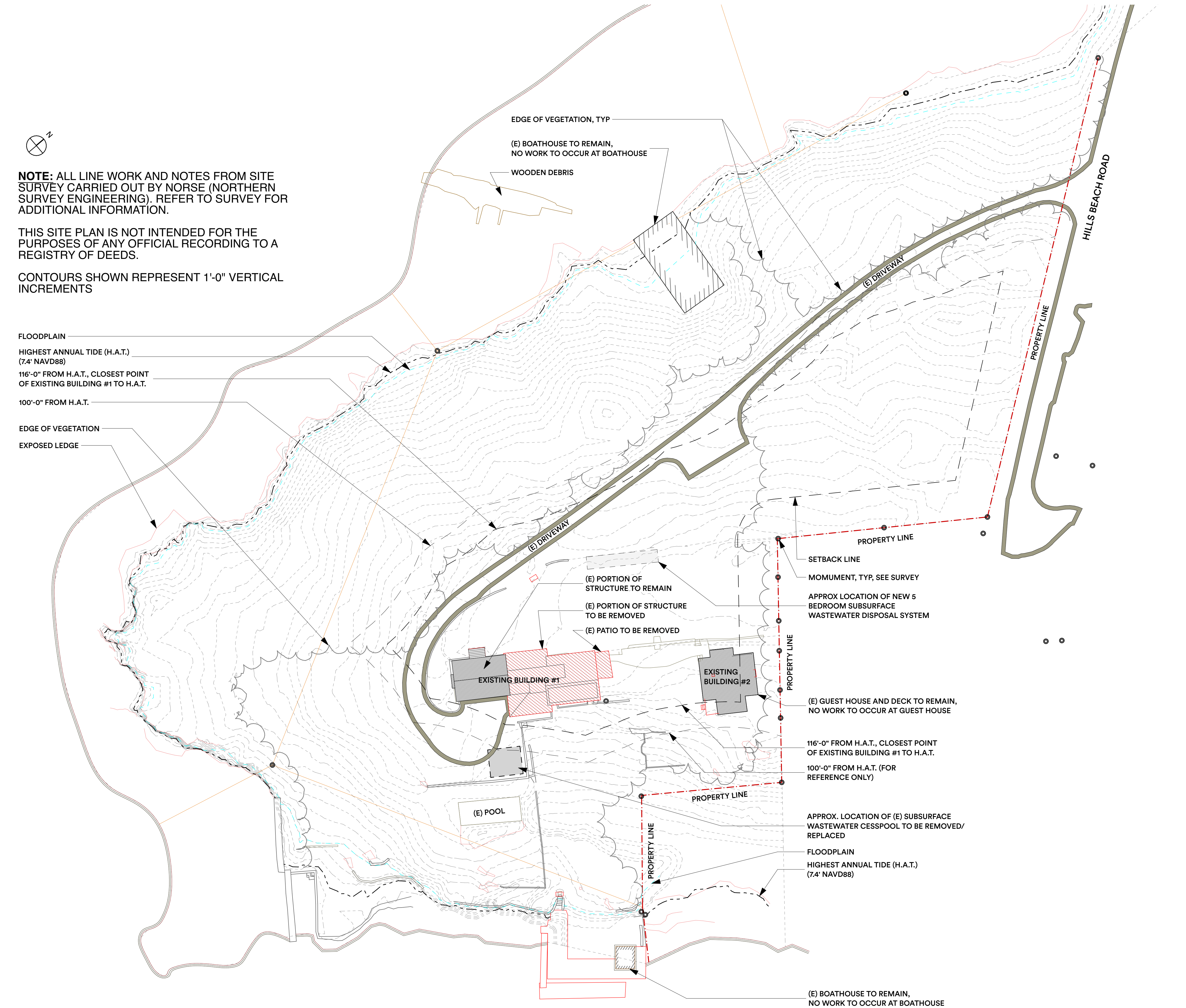
The system user shall avoid introducing kitchen grease or fats into this system. Chemicals such as septic tank cleaners and/or chlorine or water treatment backwash and controlled or hazardous substances shall not be disposed of in this system. Additives such as yeast or enzymes are discouraged, since they have not been proven to extend system life.

6) All septic tanks, pump stations and additional treatment tanks shall be installed to prevent ground water and surface water infiltration. Risers and covers should be properly installed to provide access while preventing surface water intrusion to within 6" of a finished ground surface.

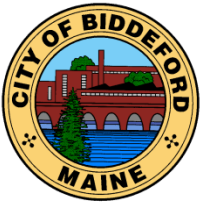
Vehicular traffic over disposal system is prohibited unless specifically designed with H-20 rated components.

BIDDEFORD	280 HILLS BEACH ROAD	PETER & JENNIFER HYZER
TOWN	LOCATION	APPLICANT'S NAME

- 7) The actual waste water flow or number of bedrooms shall not exceed the design criteria indicated on this application without a re-evaluation of the system as proposed
- 8) The general minimum setbacks between a well (public or private) and septic system serving a single family residence is 100-300 feet, unless the local municipality has a more stringent requirement. A well installed by an abutter within the minimum setback distances prior to the issuance of a permit for the proposed disposal system may void this design.
- 9) When a gravity system is proposed: BEFORE CONSTRUCTION/INSTALLATION BEGINS, the system installer or building contractor shall review the elevations of all points given in this application and the elevation of the existing and/or proposed building drain and septic tank inverts for compatibility to minimum pitch requirements. In gravity systems, the invert of the septic tank(s) outlet(s) should be at least 4 inches above the invert of the distribution box outlet at the disposal area.
- 10) When an effluent pump is required: Pump stations should be sized per manufacturer's specifications to meet lift requirements and friction loss. Provisions shall be made to make certain that surface and ground water does not enter the septic tank or pump station, by sealing/grouting all seams and connections, and by placement of a riser and lid at or above grade. An alarm device warning of a pump failure shall be installed. Also, when pumping is required of a chamber system, install a 'T' connection in the distribution box and place 3 inches of stone or a splash plate in the first chamber. Insulate gravity pipes, pump lines and the distribution box as necessary to prevent freezing.
- 11) On all systems, remove the vegetation, organic duff and old fill material from under the disposal area and any fill extension. Additional fill beyond indicated on plan may be necessary to replace organic matter. On sites where the proposed system is to be installed in natural soil, scarify the bottom and sides of the excavated disposal area with a rake. Do not use wheeled equipment on the scarified soil surface. For systems installed in fill, scarify the native soil by roto-tilling or scarifying with teeth of backhoe to a depth of at least 8 inches over the entire disposal and fill extension area to prevent glazing and to promote fill bonding. Place fill in loose layers no deeper than 8 inches and compact before placing more fill (this ensures that voids and loose pockets are eliminated to minimize the chance of leakage or differential settling). Do not use wheeled equipment on the scarified soil area until after 12 inches of fill is in place. Keep equipment off proprietary devices. Divert the surface water away from the disposal area by ditching or shallow landscape swales.
- 12) Unless noted otherwise, fill shall be gravelly coarse sand, which contains no more than 5% fines (silt and clay). Crushed stone shall be clean and free of any rock dust from the crushing process.
- 13) Do not install systems on loamy, silty, or clayey soils during wet periods since soil smearing/glazing may seal off the soil interface.
- 14) Seed all filled and disturbed surfaces with perennial grass seed, with 4" min. soil or soil amendment mix suitable for growing, then mulch with hay or equivalent material to prevent erosion. Alternatively, bark or permanent landscape mulch may be used to cover system. Woody trees or shrubs are not permitted on the disposal area or fill extensions.
- 15) If an advanced wastewater treatment unit is part of the design, the system shall be operated and maintained per manufacturer's specifications.



PRELIMINARY



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: December 30, 2021

RE: **2021.58 Conditional Use Permit for Ripple Wellness Center for a Medical Marijuana Caregiver store at 366 Hill Street (Tax Map 3, Lot 66-2) in the I-2 Industrial Zone**

MEETING DATE: Wednesday, January 5, 2022 @ 6:00 PM

PROJECT DESCRIPTION

The applicant, Ripple Wellness Center, is seeking to operate a Medical Marijuana Caregiver store at 366 Hill Street. The applicant is a potential buyer of the property, pending approval of the proposed permit. Medical marijuana caregiver stores are a conditional use in the I-2 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 new 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-2 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 Operational, Odor and Waste Management plan, which includes safety procedures, training, waste, and a plan of the building which indicates entrances, security cameras, and odor control measures.

The parking provided on-site is more than adequate per city ordinances.

PROJECT DATA/INFORMATION

Note: **HIGHLIGHTED** information is pending.

	<i>SUBJECT</i>	<i>DATA/INFORMATION</i>
1	Applicant:	Ripple Wellness Center 150 Guinea Road Biddeford, ME 04005
2	Owner of Property:	366 Hill Street, LLC P.O. Box 6265 Biddeford, ME 04005
3	Agent:	Donna Larson Kane 30 Spear Ave South Portland, ME 04106
4	Engineer/Surveyor:	N/A
5	Project Location:	366 Hill Street
6	Project Tax Map #/Lot #:	Tax Map 3, Lot 66-2
7	Existing Zoning:	Industrial (I-2)
8	Overlay Zoning:	None
9	Existing Use:	Vacant
10	Proposed Use:	Medical Marijuana Caregiver Store
11	City Approvals Required:	Conditional Use Permit
12	Uses in the Vicinity:	Industrial
13	Parcel Size:	1.19 Acres
14	Water Supply:	Public water
15	Sewerage Disposal:	Public sewer
16	Solid Waste Disposal:	Private hauler
17	Fire Protection:	City of Biddeford
18	Parking Spaces Required:	7
19	Parking Spaces Provided (total):	10, 1 accessible
20	Ownership of Road:	Hill 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:	
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:	January 5, 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. 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.**
 - 3. 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 Ripple Wellness Center for a Medical Marijuana Caregiver store at 366 Hill Street (Tax Map 3, Lot 66-2) and approve the findings of fact based on the conditions recommended by Staff in its Report dated December 30, 2021.*

ATTACHMENTS

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



366 Hill Street
Biddeford, ME

Conditional Use Permit Application
December 13, 2021



December 13, 2021

Greg Tansley, Deputy Director of Planning and Development
PO Box 586
Biddeford, ME 04005

Re: Ripple Wellness Center, 366 Hill Street

Dear Mr. Tansley,

Ripple Wellness, LLC is pleased to submit this application for a Conditional Use Permit for a medical marijuana caregiver store at 366 Hill St. The building is in good condition and needs minimal improvements. Improvements include creating a new secure entrance, a secure product storage area, and retail space with a lockable display case. In addition, we will install a state-of-the-art security system and key card room entry system.

We operate a vertically integrated (seed to sale) cultivation and processing facility in Saco. We are excited to bring our products to our existing patients and grow our patient base. Additionally, as Biddeford residents, we look forward to becoming active community members by supporting local non-profit charitable organizations that improve the lives of residents with unmet needs.

We believe we have provided all of the necessary information. Please don't hesitate to contact our planner Donna Larson Kane at 207-767-4688 if more information is needed. We look forward to meeting with the Planning Board on this project.

Sincerely

Katie Smegielski, Owner
Ripple Wellness, LLC

Att:

**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: Ripple Wellness Center

Applicant's Mailing Address: 150 Guinea Rd., Biddeford, ME

Applicant's Telephone: 207-210-4359

What is Applicant's legal interest in the property?

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

Owner's Name: 366 Hill Street, LLC

Owner's Address: PO Box 6265

Owner's Telephone: Chelsea, MA 02150

Agent's Name: Donna Larson Kane

Agent's Address: 30 Spear Ave, South Portland, ME 04106

Telephone: 207-767-4688

Engineer/Surveyor: N/A

Engineer/Surveyor's Address: _____

Telephone: _____

Project Location and Lot Information:

Street Address: 366 Hill St.

Tax Map: 3 Lot: 66-2

Current Zoning: I 2 Shoreland Zoning: no

Size of lot: 1.19 ☒ acres ☐ s.f. Lot Frontage: 330.97 feet

Existing Use of Property: The property is currently vacant. The prior occupant was a variety of business service type of use such as internet sales and pump and motor sales and services.

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 proposed use is medical marijuana caregiver retail store. The building will be fully equipped with state of the art security and odor control. All operation and management plans will be consistent with state rules and regulations.

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%): N/APercent 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: no building footprint expansionTotal new square feet paving/parking: no new parking proposed

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:

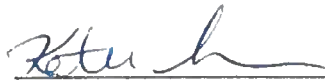
By signing this application, as the foresaid applicant or authorized agent:

- 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**

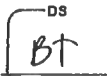
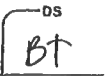
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|--------------------------|--------------------------|---|
| ☐ | ☐ | Provide copies of any covenants or restrictions that are intended to cover all or part of the land area to be developed. |
| ☐ | ☐ | Indicate limits of the wetland areas on the property. |
| ☐ | ☐ | 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. |

CONTRACT FOR THE SALE OF COMMERCIAL REAL ESTATE

TO BE RECEIVED UPON ACCEPTANCE OF THIS OFFER BY SELLER, from **Two Eisenhower Drive, LLC** or its assigns (hereinafter called "Purchaser"), the sum of Ten Thousand Dollars (\$10,000) as earnest money deposit toward the purchase and sale of certain real estate owned by **366 Hill Street, LLC** (hereinafter called "Seller") and located in York County at 366 Hill Street in Biddeford, Maine consisting of a 1,924 +/- SF building together with 1.19 +/- acres of land and being more fully described at said County's Registry of Deeds in Book 17662, Page 222 and depicted on the City of Biddeford Tax Assessor's Map 3, Block 66, Lot 2 upon the terms and conditions indicated below.

1. **PERSONAL PROPERTY:** The following items of personal property are included in this sale (if applicable) None.
2. **PURCHASE PRICE:** The total Purchase Price is Four Hundred Twenty Thousand Dollars [REDACTED] with payment to be made as follows:

 Earnest money: [REDACTED]
 Balance due at closing, in immediately available funds: [REDACTED]
3. **EARNEST MONEY/ACCEPTANCE:** The Boulos Company ("Escrow Agent") shall hold the earnest money in a non-interest bearing account and act as escrow agent until closing. This offer shall be valid until Thursday, November 4, 2021.
4. **TITLE:** Within thirty (30) days of the Effective Date (the "Title Review Period"), Purchaser shall notify Seller in writing (the "Title Objection Notice") of any matters affecting title to the property that are objectionable to Purchaser in Purchaser's sole discretion ("Title Defects"). Purchaser shall be deemed to have waived the right to object to any matter affecting title as of the Effective Date, except for any mortgage, tax lien, mechanics' lien, judgment lien, or other liens, encumbering the property (for which no objection is required), if Purchaser fails to specifically identify such matters in the Title Objection Notice, (each matter not objected to being a "Permitted Encumbrance"). Within seven (7) days of Seller's receipt of the Title Objection Notice, Seller shall notify Purchaser in writing whether or not Seller elects to cure any of the matters identified in the Title Objection Notice. If Seller elects to cure certain Title Defects, Seller shall use good faith efforts to cure such Title Defects and shall have a period of not more than thirty (30) days after notice of Seller's election within which to cure any such Title Defects (the "Title Cure Period"), and the Closing Date shall be extended until five (5) days after the expiration of the Title Cure Period. Seller agrees that, after the Effective Date, it shall not permit or suffer encumbrance of the property with any liens, easements, leases or other encumbrances without Purchaser's prior written consent except that Purchaser shall not unreasonably withhold or delay its consent to new leases. On or before the Closing Date, Seller shall remove at its sole cost any such matters affecting the title to the property suffered or created by or consented to by Seller after the Effective Date that are not approved by Purchaser. If Seller elects not to cure any Title Defects or if Title Defects which Seller elects to cure are not cured within the Title Cure Period, Purchaser shall elect, by written notice to Seller on or before the Closing Date, as the same may be extended, either (i) to accept title to the property subject to such uncured Title Defects without reduction of the purchase price and without any liability on the part of Seller therefore, in which case such Title Defects shall be Permitted Encumbrances, or (ii) to terminate this Contract, whereupon the earnest money immediately shall be returned to Purchaser and neither party shall have any further obligations under this Contract.

Page 1 of 6 Purchaser's Initials:  Seller's Initials:    

5. **DEED:** In return for payment in full of the purchase price, Seller shall convey the property on or before **December 31, 2021** (the "Closing Date") to Purchaser by Maine Statutory Short-Form Quit Claim Deed with Covenant (the "Deed"), and the parties agree to execute and deliver on the Closing Date such other documents that are customary and/or reasonably necessary to complete the conveyance, time being of the essence. It is a condition to Purchaser's obligations hereunder that title to the property shall be free and clear of all liens and encumbrances except for the following matters and otherwise in compliance with the requirements of this Contract: (i) zoning restrictions and land use laws and regulations and permits and approvals issued pursuant thereto; (ii) current taxes and assessments attributable to periods from and after the Closing, which Purchaser shall be liable to pay; (iii) leases and occupancies disclosed to Purchaser pursuant to Section 11 below; and (iv) any Permitted Encumbrance.
6. **LEASES/TENANT SECURITY DEPOSITS:** Seller agrees at closing to transfer to Purchaser, by proper assignment thereof, all Seller's rights under the current leases to the property and any and all security deposits held by Seller pursuant to said leases.
7. **POSSESSION/OCCUPANCY:** Possession/occupancy of property shall be given to Purchaser on the Closing Date subject only to the leases and tenancies disclosed to Purchaser pursuant to Section 11 below, unless otherwise agreed by both parties in writing.
8. **RISK OF LOSS:** Until transfer of title, the risk of loss or damage to the property by fire or otherwise is assumed by Seller unless otherwise agreed in writing. The property shall at closing be in substantially the same condition as of the Effective Date, excepting reasonable use and wear. If the property is materially damaged or destroyed prior to closing, Purchaser may either terminate this Contract and be refunded the earnest money deposit, or close this transaction and accept the property in its as-is condition together with an assignment of the Seller's right to any insurance proceeds relating thereto.
9. **PRORATIONS:** The following items shall be prorated as of the Closing Date:
 - a. Real Estate Taxes based on the municipality's current tax year. Seller is responsible for any unpaid taxes for prior years.
 - b. Purchaser and Seller shall each pay one-half of the transfer tax as required by the laws of the State of Maine.
 - c. Rents, estimated monthly common area maintenance charges, estimated monthly property tax payments, and all other additional rents received by Seller pursuant to leases of the property.
 - d. Fuel and utility expenses.
10. **DUE DILIGENCE:** Purchaser is advised to seek information from professionals regarding any specific issue of concern. Purchaser acknowledges receipt of disclosure form attached hereto. Neither Seller nor the Real Estate Licensees identified below make any representations or warranties regarding the condition, permitted use or value of Seller's real or personal property. Purchaser's obligation to close under this Contract is conditioned upon Purchaser's satisfaction with its investigations of the property, which may without limitation include condominium documents, survey, environmental assessment, engineering studies, wetlands or soils studies, zoning compliance or feasibility, and code compliance, all within forty-five (45) days of the Effective Date, time being of the essence.

All investigations will be done by professionals chosen and paid for by Purchaser. If the result of an investigation is unsatisfactory to Purchaser, Purchaser may declare this contract null and void by notifying Seller in writing within the specified number of days set forth above, and said earnest

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money shall be returned to Purchaser. If Purchaser does not notify Seller that Purchaser's investigations are unsatisfactory within the time period set forth above, this contingency is waived by Purchaser. In the absence of any investigation(s) mentioned above, Purchaser is relying completely upon Purchaser's own opinion as to the condition of the property. Purchaser agrees to restore any disturbance to the property caused by Purchaser's investigations, and Purchaser agrees to indemnify and hold Seller harmless for any claims, damages, losses or costs, including without limitation reasonable attorneys' fees, incurred or suffered by Seller as a result of Purchaser's investigations of the property, which indemnification obligation shall survive termination or closing under this Contract.

11. REVIEW OF LEASES AND INCOME AND EXPENSE INFORMATION: Seller represents: (a) that below is a complete list of all tenants occupying the property under leases or other tenancy arrangements or agreements (the "Leases"), (b) that the Leases are in full force and effect, (c) that to Seller's knowledge, all tenants under the Leases are in full compliance therewith and (d) that Seller is not in violation of its obligations under the Leases. Seller agrees to provide Purchaser within five (5) days of the Effective Date of this Contract complete copies of all Leases, including any amendments, and income and expense information concerning the property. Purchaser shall have five (5) days from the date Purchaser has been provided all Leases and income and expense information to review same, and if the result of the review is unsatisfactory to Purchaser, Purchaser may declare the Contract terminated and the earnest money shall be immediately refunded to Purchaser and thereafter neither party shall have any further obligation under this Contract. Seller represents and warrants that income and expense information provided to Purchaser will be true, accurate and complete in all material respects when given. Seller shall use reasonable efforts to obtain a tenant estoppel certificate and a subordination, non disturbance and attornment agreement in form reasonably satisfactory to Purchaser and/or Purchaser's lender for each Lease within ten (10) days from delivery of forms therefore. Purchaser shall also on a rolling basis have ten (10) days from the date of actual receipt of fully-executed written tenant estoppel certificates in which to terminate this Contract pursuant to this Section 11 due to unsatisfactory information contained therein and upon such termination the earnest money shall be immediately refunded to Purchaser and thereafter neither party shall have any further obligation under this Contract. Between the Effective Date and the closing, Seller shall not modify, voluntarily terminate or enter into new leases or tenancy arrangements or agreements shall obtain Purchaser's written consent to any modification or termination of Leases and to any new lease that Seller proposes to enter into with respect to the property, Purchaser's consent not to be unreasonably withheld, conditioned or delayed. In the event that Seller modifies or terminates any Leases or enters into a new Lease without Purchaser's consent, Purchaser's sole remedy shall be to terminate this Contract and receive an immediate refund of the earnest money and thereafter neither party shall have any further obligation under this Contract. Failure of Purchaser to timely notify Seller of its termination of the Contract pursuant to any of its foregoing rights to do so under this Section 11 shall be deemed to be a waiver of the applicable right under this Section 11 to terminate the Contract. At the closing, Seller shall deliver written notice to the tenants and occupants of the property of the transfer of the property, and of the tenants' security deposits, to Purchaser. **TENANTS at the Property: NONE.**

12. FINANCING: No financing contingency. This is a cash offer.

13. AGENCY DISCLOSURE: Purchaser and Seller acknowledge that The Boulos Company and The Dunham Group are the only brokerage companies involved in this transaction. The brokerage commission shall be split 50/50 between the brokerage companies and shall be the responsibility of the Seller. The commission shall be paid at closing.

14. DEFAULT: If the sale of the property as contemplated hereunder is not consummated solely by reason of Purchaser's default hereunder, provided that Seller is then ready, willing and able to

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consummate the sale of the property as contemplated by this Contract and provided further that all conditions to Purchaser's obligation to consummate such purchase have been satisfied or waived by Purchaser, Seller shall be entitled to either (i) pursue any and all legal and/or equitable remedies or (ii) terminate this Contract and receive the earnest money as full and complete liquidated damages for the breach are difficult to ascertain and/or prove and the earnest money is a reasonable estimate and forecast of such actual damages. The parties acknowledge that the payment of the earnest money is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to Seller. In the event of an undisputed default by either party, the Escrow Agent may deliver the earnest money to the party entitled to it under this Contract, with written notice to both parties pursuant to Maine Real Estate Commission regulations. If a dispute arises between Purchaser and Seller as of the existence of a default hereunder and said dispute is not resolved by the parties within thirty (30) days, the Escrow Agent may elect to file and action in interpleader and deposit the earnest money in the court to resolve said dispute, or otherwise disburse the earnest money pursuant to Maine Real Estate Commission regulations. Purchaser and Seller, jointly and severally, shall indemnify Escrow Agent for all costs, losses, expenses, and damages, including reasonable attorneys' fees, incurred by the Escrow Agent in connection with said action and/or in connection with any dispute relating to this Contract and/or the earnest money.

15. **MEDIATION:** Any dispute or claim arising out of or relating to this Contract or the premises addressed in this Contract shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules of the American Arbitration Association. This clause shall survive the closing of this transaction.
16. **PRIOR STATEMENTS:** This Contract sets forth the entire agreement between the parties, and there are no other representations, agreements or understandings with respect to the subject matter of this Contract. This Contract shall be construed according to the laws of the State of Maine.
17. **HEIRS/ASSIGNS:** This Contract shall extend to and be obligatory upon heirs, personal representatives, successors, and assigns of the respective parties.
18. **COUNTERPARTS:** This Contract may be signed on any number of identical counterparts, including telefax copies and electronically transmitted copies with the same binding effect as if all of the signatures were on one instrument.
19. **EFFECTIVE DATE:** This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or to their agents. Time is of the essence of this Contract. Seller or Licensees are given permission by the parties to complete the Effective Date blank below with the date of the last signature of the parties, and that date shall be the Effective Date for all purposes under this Contract, and if that blank is not completed then the Effective Date shall be the date of the last signature of the parties. Except as expressly set forth to the contrary in this Contract, the use of the term "days" in this Contract, including all addenda made a part hereof, shall mean calendar days. Deadlines in this Contract, including all addenda, expressed as "within x days" or the like shall be counted from the Effective Date, unless another starting date is expressly set forth, beginning with the first day after the Effective Date, or such other established starting date, and ending at 5:00 pm, Eastern Time, on the last day counted.
20. **CONFIDENTIALITY:** Buyer and Seller authorize the disclosure of the information herein to the real estate licensees, attorneys, lenders, appraisers, inspectors, investigators, and other involved in the transaction necessary for the purpose of closing this transaction. Buyer and Seller authorize the lender and/or closing agent preparing the closing statement to release a copy of the closing statement to the parties and their licensees prior to, at and after the closing.

Page 4 of 6 Purchaser's Initials: Seller's Initials:

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21. A copy of this Contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, consult an attorney.
22. Seller acknowledges that the laws of the State of Maine provide that every buyer of real property located in Maine must withhold a withholding tax equal to 2 ½% of the consideration unless Seller furnishes to Purchaser a certificate by the Seller stating, under penalty of perjury, that Seller is a resident of the State of Maine or the transfer is otherwise exempt from withholding.
23. CONDITIONS: A.) In the event that either the Seller or Purchaser are involved in an IRS 1031 Like-Kind tax deferred exchange or similar tax related transaction, all parties agree to cooperate provided that there are no additional costs, obligations, or fundamental changes within the guidelines of this Contract; and
 B.) The sale of the property shall be contingent upon Purchaser getting confirmation from the City of Biddeford that the property approved for a cannabis business.
 C.) Property to be sold in "where-is, as-is" condition.

The parties agree that none of the above are collateral agreements. It is the intent of the parties that except as expressly set forth in this Contract, all covenants, representations, statements and obligations of both parties herein shall not survive closing.

Two Eisenhower Drive, LLC or its assigns

Legal Name of Purchaser

11/03/2021

Date

By:


Signature

DAVID E. MACHESENEY MANAGER
Name/Title, there unto duly authorized

Seller accepts Purchaser's offer and agrees to deliver the premises at the price and upon the terms and conditions set forth above and agrees to pay the The Boulos Company and NAI The Dunham Group a brokerage commission based on the listing agreement for services.

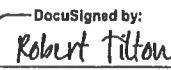
Signed this _____ day of November, 2021.

366 Hill Street, LLC

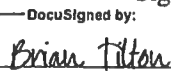
Legal Name of Seller

11/3/2021

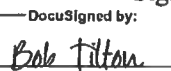
Date

By: 
Signature

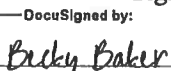
Robert Tilton CEO
Name/Title, there unto duly authorized

By: 
Signature

Brian Tilton member
Name/Title, there unto duly authorized

By: 
Signature

Bob Tilton Member
Name/Title, there unto duly authorized

By: 
Signature

Becky Baker Member
Name/Title, there unto duly authorized

Page 5 of 6 Purchaser's Initials: _____ Seller's Initials: RT BT BT BB

Project Overview

366 Hill Street

- Proposed 975 sf medical marijuana storefront
- 1,025 sf reserved for general storage
- Renovation of existing space/no site improvements or structural changes
- Located in I-2 Zone
- Construction Drawings Completed by Tyler Crespo
- All local building, electrical, plumbing permits will be pulled by fully insured professional contractors
- State Licensed and in full compliance of all local and state ordinances and regulations sense 2016.

Team Introduction

Tyler Crespo , Operations Manager Medical Marijuana Registry #CGR-28867

- Responsible for oversight and management of all operations within the Ripple Wellness portfolio.
- Extensive experience running a successful medical cannabis caregiver cultivation space dating back to 2016, solventless concentrate toll processing / extractions as well as licensed business to business wholesale and distribution with our 10 licensed retail partners throughout Maine.
- co-owner of New England packaging solutions, a successful non-cannabis, retail / wholesale packaging and industry supply distribution company with our flagship location at 413 Western Ave in South Portland opened in 2018. we are New England's cannabis industry supply leader.
- After losing his father in September 21' to an 18 month battle with a rare form of terminal lymphoma, which responded positively to a holistic cannabis oil therapy. Tyler has made it a goal to get more of this medicine directly in the hands of the consumer and the need for a "direct to patient" outlet could not be more necessary for the Ripple Wellness Portfolio.

Katie Smegielski, Owner and Business Manager Medical Marijuana Registry # CGR 28867, Control 705960

- Responsible for managing the company , including licensing, permitting, compliance, record keeping and human resources.
- Katie Moved to Portland Maine in late 2015 and started cultivating medical cannabis for personal use as well as a caregiver to her 6 designated medical patients.
- As the venture grew, she incorporated Ripple Wellness LLC. in 2019 while expanding cultivation as well as retail sales avenues and establishing a successful vertically integrated platform.
- With extensive production, operations and event planning experience Katie successfully managed the Stage Crew for New England's Famed Gillette Stadium in Foxboro Massachusetts during the 2015 season prior to moving to Maine to pursue a career in the medical cannabis industry.
- After A life changing accident, Katie has found salvation in pain management with medical cannabis and her quality of life is directly benefited by regimented holistic therapy.

Operational, Odor, Waste Management Procedures

Safety Procedures

- All product stored in locked display cases
- All excess product stored in locked vault
- All Product is packaged and sealed
- All doors and windows are locked at all times
- A full surveillance and security plan will be drafted by Johnson Controls pending Conditional Use approval.

Odor Mitigation

- HVAC unit separated from buildings heating and cooling systems
- Carbon filters & fans installed to remove odors
- Innovative solutions patented active air purification dxb-100 units to be installed.
<https://innovative-solutions.org/technology/>)
- “Progaurd” creates plasma with extremely high levels of both and positive and negative charges. Bipolar ionization kills pathogens and neutralizes odors including terpenes naturally occurring in cannabis.
- Use Ona Gel all-natural odor neutralizer to eliminate odors
- Monthly maintenance check of carbon filters
- Filter replacement every 6-9 months
- Log will be used to track maintenance activities

Training

- Odor mitigation Standard Operating Procedures (SOP) will be part of employee initial training.
- Laminated instructions will be posted in vault and employee break area
- Odor mitigation SOP’s will be printed in a binder and kept on site
- Annual review of SOP
- Proper handling of marijuana waste (liquid and solid) will be part of initial employee training

Complaint Response

- Manager will respond within 24 hours
- Full assessment and proposed solution will be completed along with recommendation for installation of additional Odor Mitigation Systems and Procedures

Marijuana Waste Plan

- Records of all marijuana waste will be kept and tracked in METRC compliant seed to sale system as required by the State of Maine Office of Marijuana Policy.
- All marijuana waste will be securely stored in a locked closet within the secure vault, in labeled containers with lids.
- All marijuana waste will be mixed with domestic waste to be indiscernible.

- Will maintain a contract with a waste management company will remove solid marijuana waste

Prohibitions

- No placement or dumping of marijuana solid waste product on the property or any public place
- Improper disposal cause for termination
- Security camera in Vault will record all vault activity, including handling of marijuana waste

Hazardous Waste

- Retail location will not produce hazardous waste. If a hazardous material is produced, employees will follow Hazardous Waste SOP's.

Wastewater

- Retail location will not produce any marijuana related wastewater

Project Compliance with Standards

The proposed use meets specific requirements set forth in this ordinance and would be in compliance with applicable state or federal laws;

The applicant is in compliance with rules established by the Maine Office of Marijuana Policy. See attached Caregiver Card issued by the State of Maine.

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;

The attached architectural drawings have been designed to meet fire and life safety codes. Construction drawings will be reviewed by the Code Enforcement Department and the Fire Department of the City of Biddeford.

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;

The site has both parking area lighting and wall mounted lighting. No additional lighting is proposed.

The provisions for buffers and on-site landscaping provide adequate protection to neighboring properties from detrimental or unsightly features of the development;

The area surrounding the building is wooded and provides a buffer from surrounding properties. No cutting of the buffer is proposed. No changes to the existing landscape beds in the front of the building are proposed.

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;

To minimize odors, all products will be packaged and sealed. The attached Odor Control Plan will be implemented to remove any residual odor created by the use. The hours of operation 10AM – 7PM are designed to minimize the impact on nearby properties.

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;

The site has 10 parking spaces and 1 accessible parking spaces. All parking spaces and access aisles meet local standards. Deliveries to the site will be via passenger vehicles or trucks. No large trucks will be delivering to the site.

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;

The speed limit is 35 mph on this portion of Hill St. To improve visibility, this section of Hill St is marked as "no parking". Traffic to the site includes employees, customers, and deliveries. On a typical day 25 -30 trips/day are expected.

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;

Ripple Wellness will maintain the property to a high standard. All signs will be designed to be low-profile so as to not be obtrusive to nearby properties.

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;

The property will not be altered to make the building or use more visible than it is currently.

The proposed use would be in compliance with Biddeford's Comprehensive Plan;

The City Council has approved medical marijuana as a conditional which is consistent with the Comprehensive Plan.

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;

This project doesn't include any exterior changes to the building so as to not create any changes to the size, scale and design of the building.

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;

No new impervious is proposed with this project.

Adequate provision has been made for disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;

The building is connected to the public sewer system. The attached waste disposal plan outlines how marijuana waste will be managed. An existing dumpster in an enclosure will be used for domestic waste.

Adequate provision has been made to control erosion or sedimentation;

No site disturbance is proposed with this project.

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;

No changes to the existing stormwater management facilities are proposed with this project. No new impervious surface will be added.

The proposed water supply would meet the demands of the proposed use for fire protection purposes;

No changes to the fire protection system are proposed with this project.

Adequate provision has been made for the transportation, storage, and disposal of hazardous substances and materials as defined by state law;

No hazardous substances are proposed for this project. Marijuana waste will be handled as according to the Waste Disposal Plan.

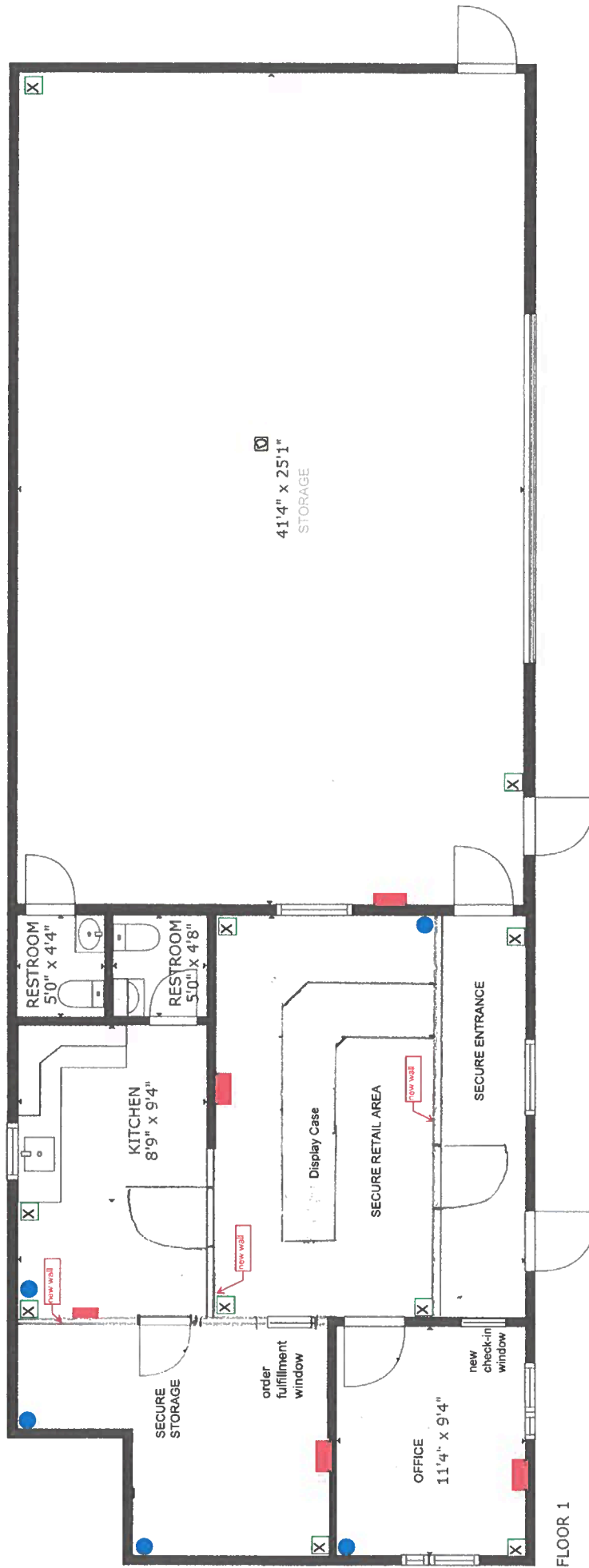
The proposed use would not have an adverse impact on scenic vistas or on significant wildlife habitat or wetland areas and water bodies which could be avoided by reasonable modification of the proposal;

No expansions to the building are proposed.

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.

This project is not located in a Shoreland Zone.

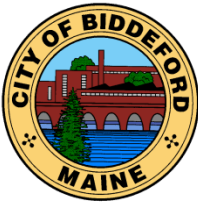
Ripple Wellness Center
366 Hill Street
Biddeford, ME



- micro-ionized UV sterilization units DxB100
- charcoal filter and ventilation fan
- X security camera and motion sensor

GROSS INTERNAL AREA
FLOOR 1: 1813 sq. ft
TOTAL: 1813 sq. ft

SIZES AND DIMENSIONS ARE APPROXIMATE. ACTUAL MAY VARY.



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: 2021.58 Conditional Use Permit for Ripple Wellness Center for a Medical Marijuana Caregiver store at 366 Hill Street (Tax Map 3, Lot 66-2) in the I2 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 **Ripple Wellness Center** to operate a Medical Marijuana Caregiver store at 366 Hill 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:	Ripple Wellness Center 150 Guinea Road Biddeford, ME 04005
2	Owner of Property:	366 Hill Street, LLC P.O. Box 6265 Biddeford, ME 04005
3	Agent:	Donna Larson Kane 30 Spear Ave South Portland, ME 04106
4	Engineer/Surveyor:	N/A
5	Project Location:	366 Hill Street
6	Project Tax Map #/Lot #:	Tax Map 3, Lot 66-2
7	Existing Zoning:	Industrial (I-2)
8	Overlay Zoning:	None
9	Existing Use:	Vacant
10	Proposed Use:	Medical Marijuana Caregiver Store
11	City Approvals Required:	Conditional Use Permit
12	Uses in the Vicinity:	Industrial
13	Parcel Size:	1.19 Acres

14	Water Supply:	Public water
15	Sewerage Disposal:	Public sewer
16	Solid Waste Disposal:	Private hauler
17	Fire Protection:	City of Biddeford
18	Parking Spaces Required:	7
19	Parking Spaces Provided (total):	10, 1 accessible
20	Ownership of Road:	Hill 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:	
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:	January 5, 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.

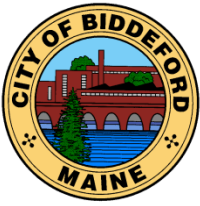
APPROVAL GRANTED:

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 366 Hill Street (Tax Map 3, Lot 66-2) 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.**
3. **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 nay property that is not under control of the establishment.**

Planning Board Chairperson

Date



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: December 30, 2021

RE: **2021.08 Revised Sketch Plan Review for a 19 Lot Cluster Subdivision (West Brook Subdivision) on Winding Creek Lane for E & R Development (Tax Map 8, Lots 3-1 and a portion of Lot 3) in the R1-A Zone.**

MEETING DATE: Wednesday, January 5, 2022 @ 6:00 PM

PROJECT DESCRIPTION

The applicant, E & R Development, presents a revised plan for a 19 Lot Cluster Subdivision located on a proposed extension to Winding Creek Lane. The site is approximately 8.3 acres in size, and located in the Residential 1 (R-1-A) zone. The project was previously presented to the Board for Sketch Plan Review at the March 17, 2021 meeting as an 18 lot subdivision. Comments were provided by the Planning Board. A wildlife study was completed, as required by the Planning Board, and presented at the December 1, 2021 meeting.

COMPLIANCE WITH CITY ORDINANCES

The application is before the Planning Board as required by Chapter 66 (Subdivisions) subject to Subdivision review and approval. Per the City's Subdivision ordinance (66-26), all applications have a three tiered approval process beginning with a Sketch Plan review.

At the March 17, 2021 meeting, the project was decided to be a major subdivision.

In addition to a cover letter, the applicant has submitted a new Cluster Sketch Plan and a plan showing a conventional subdivision layout, as required by the Subdivision Ordinance (Section 66-30.C). Utilizing a cluster design will allow for the conservation of 2.76 acres of open space.

WAIVER REQUESTS

Article VI, Section 16 (Cluster developments), C.8, states: *"Distance between buildings shall not be less than 30 feet"*. The applicant is requesting that this standard be waived to allow for additional flexibility in house siting on the lots. Staff are of the opinion that by going with a Cluster Subdivision, which

presents a much improved design from what had been presented in March, 2021, providing this waiver makes some sense.

CONCLUSION

The Planning Board should review this proposed cluster subdivision in the context of at least related items:

1. The Board Report provided in March from Long Meadow Planning and Landscape Architecture; and
2. The Wildlife Report from Biodiversity Research Institute.

If the Board needs copies of either of these reports, they are available online at <https://www.biddefordmaine.org/2478/Video-Agendas-Minutes> by selecting the Planning Board "Agenda Packet".

This meeting provides an opportunity for the Board and interested parties to provide additional comments on the proposed project. Following the meeting, the Applicant should be able to proceed with design and engineering to prepare a Preliminary Subdivision Review package for future review.



ANDREW S. MORRELL
ROBERT C. LIBBY, Jr.
WALTER E. PELKEY
STEVEN J. BLAKE

Berry, Huff, McDonald, Milligan Inc.
Engineers, Surveyors

380B Main Street
Gorham, Maine 04038

Tel. (207) 839-2771
www.bh2m.com

December 15, 2021

Greg Tansley
Biddeford City Planner
P.O. Box 586
Biddeford, Maine 04005

Re: Cluster Sketch Plan
West Brook Subdivision

Dear Greg;

On behalf of the applicant, E&R Development Corp., we are submitting a 19-lot residential subdivision design under the cluster development standards.

We have prepared two sketch plans as required in the application procedure. One layout showing a standard 19 lot subdivision meeting the standards of the underlying zone; the second as a 19-lot cluster subdivision indicating open space and significant natural features. The number of lots in the cluster development will not exceed the number of lots in the standard subdivision.

At the March 17, 2021 planning board meeting it was voted to require a wildlife study to be completed and paid for by the applicant. The study was completed by BRI Environmental and the results were presented to the planning board at the December meeting.

We have reviewed the BRI recommendations and the potential impacts to the cluster concept and we propose to maintain 150-foot stream setback along most of our project. There are two areas of our site that we would request a 100-foot stream setback. One is at the rear of Lot 18 and the second at the proposed stormwater pond at the end of the proposed road in order to facilitate the required grading. These two areas however would meet the minimum stream setback of 100 feet that the City requires.

Our design does not result in any alteration to the mapped wetlands and no vernal pools were identified within the 19-lot project on the 8.30 acres.

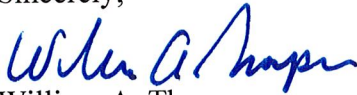
One of the goals to support the BRI study is to prevent fragmentation of wildlife corridors. Past alternative designs and development concepts in this area of our project included roadway

connections that crossed West Brook with associated wetland impacts. As stated above this West Brook Subdivision does not propose any wetland alterations.

As outlined on the subdivision plan the net residential calculations show the allowable number of lots to be 29. Our proposal is far less and includes the permanently preserved open space of 2.76 acres.

We look forward to presenting this plan at the January planning board meeting and to receive planning board comments.

Sincerely,



William A. Thompson
Project Manager

encl.
cc: E&R Development

**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: E&R Development Corp.

Applicant's Mailing Address: P.O. Box 444 Biddeford, Maine 04005

Applicant's Telephone: 207 283-3000

What is Applicant's legal interest in the property?

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

Owner's Name: Same as Applicant

Owner's Address: _____

Owner's Telephone: _____

Agent's Name: William Thompson - BH2M

Agent's Address: 380B Main Street Gorham, Maine 04038

Telephone: 207 839-2771

Engineer/Surveyor: Robert Libby - BH2M PLS #2190

Engineer/Surveyor's Address: 380B Main Street Gorham, Maine 04038

Telephone: 207 839-2771

Project Location and Lot Information:

Street Address: Winding Creek Lane

Tax Map: 8 Lot: 3-1 & portion of Lot 3

Current Zoning: Residential IA (RI-A) Shoreland Zoning: N/A

Size of lot: 8.30 ☒ acres ☐ s.f. Lot Frontage: 55'

Existing Use of Property: Wooded parcel with trails

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

Mapped forested wetlands to be protected

Description of proposed use of property:

Project/Proposed Use Description: Proposed 19 Lot Cluster Subdivision with public sewer, water
and underground electric

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: 19 Lots

☐ 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. Waiver of distance between buildings required to be no less than 30'
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:

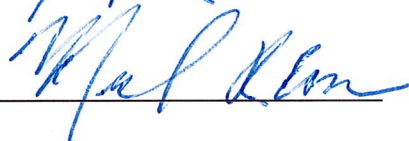
-Project may need to apply for a Maine Construction General Permit and shall comply with the requirements of DEP Chapter 500 Stormwater Regulations, as they apply.

Signature of applicant:



Date: 12/14/2021

Signature of owner of property:



Date: 12/14/2021

**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.**

From: Mike Eon
Sent: Monday, November 22, 2021 1:36 PM
To: William Thompson
Cc: Mike; Barnie Roberge
Subject: Fwd: Winding Creek

FYI, I found it in my e-mail.

Mike

Begin forwarded message:

From: "Labrecque, Paul" <paul.labrecque@biddefordmaine.org>
Subject: RE: Winding Creek
Date: June 29, 2021 at 4:09:50 PM EDT
To: William Thompson <wthompson@bh2m.com>
Cc: Mike Eon <meon@mikeeonassoc.com>

Good afternoon William,

I have reviewed the proposed new addition to Winding Creek Lane. My only recommendation at this time would be to add a fire hydrant in the vicinity of Lot 17 & 18 of the new addition. The existing fire hydrant is located at 14 Winding Creek. The estimated distance from this hydrant to the end of current Winding Creek is currently 526' +/- . By installing an additional hydrant between lot 17 & 18, I estimate the remaining distance from this new hydrant to the end of the proposed road would be under 800' if my estimates are correct.

Please contact me if you have any questions or concerns.

Regards,

Paul

From: William Thompson <wthompson@bh2m.com>
Sent: Tuesday, June 15, 2021 4:06 PM
To: Labrecque, Paul <paul.labrecque@biddefordmaine.org>
Cc: Mike Eon <meon@mikeeonassoc.com>
Subject: FW: Winding Creek

Hi Assistant Chief LaBrecque , I have been asked by my client, Mike Eon to forward this concept plan to you showing a proposed subdivision at the end of Winding Creek Lane . A few months ok, Mike Eon met with you to outline this proposal . Since that meeting, we have met with the planning board and revised the concept to create a cluster design

NOTES:

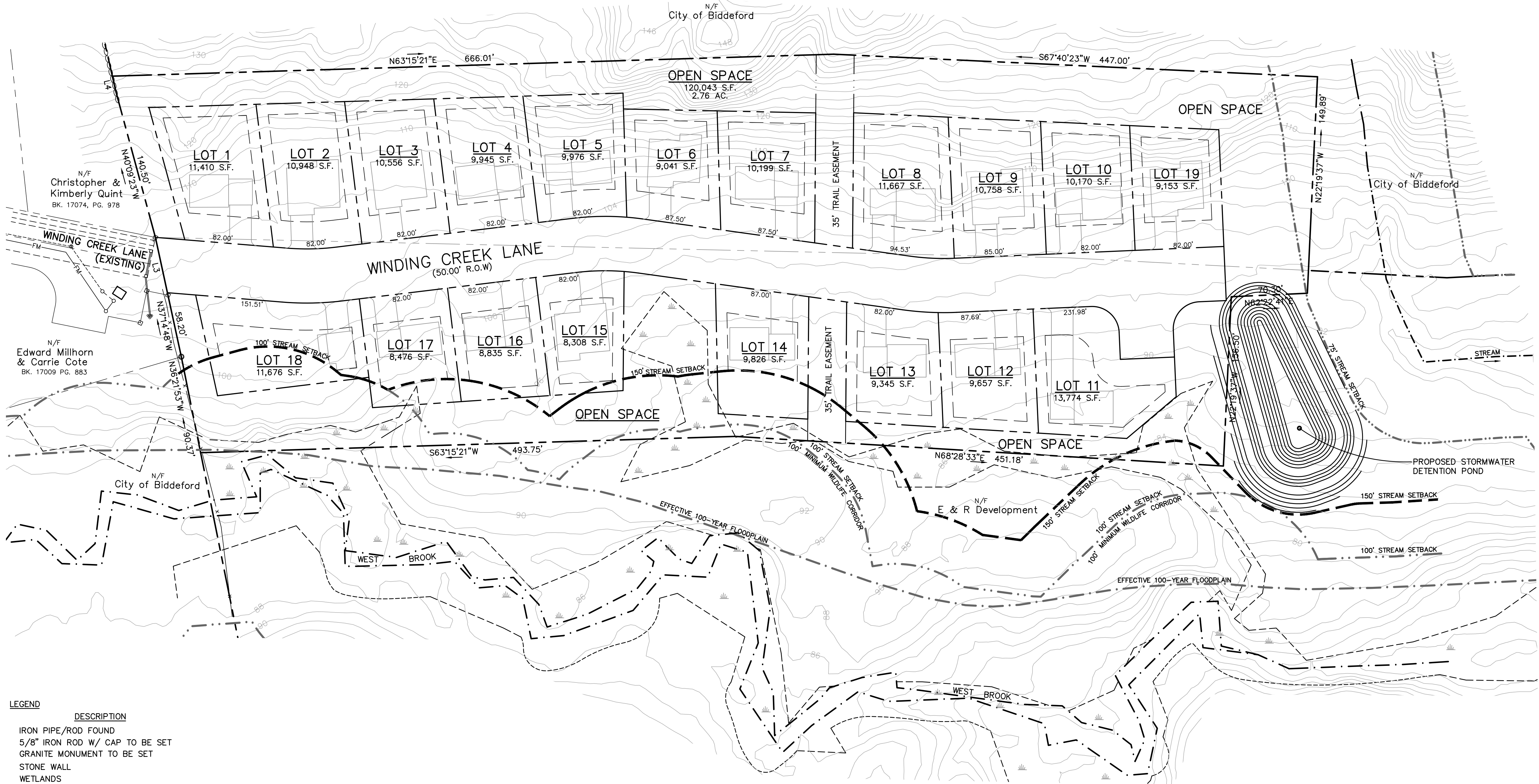
1. APPLICANT: E & R DEVELOPMENT CORP.
P.O BOX 444, BIDDEFORD, ME
2. SURVEYOR: ROBERT C. LIBBY JR., PLS#2190
BH2M
380B MAIN STREET
GORHAM, ME
3. ENGINEER: CHRISTOPHER MACDONALD, PE#11985
BH2M
380B MAIN STREET
GORHAM, ME
4. ZONE: RESIDENTIAL 1A (R1-A)
5. LOT STANDARDS: CONVENTIONAL - MIN. LOT SIZE: 10,000 S.F.
MIN. STREET FRONTAGE: 100'
MIN. SETBACKS
FRONT: 40' OR AS REQUIRED BY
THE CITY OF BIDDEFORD
SIDE & REAR: 10'
CLUSTER - MIN. LOT SIZE: 7,500 S.F.
MIN. FRONTAGE - 75'
MIN. SETBACKS
FRONT 25'
SIDE AND REAR 10'
MIN. DISTANCE BETWEEN BLDGS OF 30'
WAIVER REQUEST - SECTION 16
CLUSTER DEVELOPMENTS, SECTION C.8.
6. PROPOSED USE: RESIDENTIAL SUBDIVISION
7. WATER SUPPLY: PUBLIC WATER
8. SEWER: PUBLIC SEWER
9. TAX MAP: MAP 8 LOT 3-1 & P.O. 3

10. PARCEL DEED: BOOK 3458, PAGE 43
11. TOTAL PARCEL: 8.3897 ACRES
12. WETLAND MAPPING & VERNAL POOLS: MARK HAMPTON
HAMPTON ASSOCIATES
PORTLAND, ME
13. ELECTRIC/TELEPHONE: UNDERGROUND
14. EASEMENTS SHALL BE RESERVED FOR PATHS/TRAILS FROM WINDING CREEK TO ACCESS CLIFFORD PARK.
15. ALL CONSTRUCTION AND SITE ALTERATIONS SHALL BE DONE IN ACCORDANCE WITH THE EROSION PREVENTION PROVISIONS OUTLINED IN THE MAINE EROSION CONTROL AND SEDIMENTATION HANDBOOK FOR CONSTRUCTION: BEST MANAGEMENT PRACTICES.
16. DRIVEWAY CUTS NEED TO BE BUILT PER CITY DETAIL TO KEEP STREET ASSOCIATED STORMWATER IN THE GUTTER LINE.
17. THE ROADWAY IS PROPOSED TO BE PUBLIC UPON COMPLETION OF CONSTRUCTION AND ACCEPTED BY THE CITY, HOWEVER NO CITY SERVICES WILL BE PROVIDED UNTIL SAID STREET IS ACCEPTED BY THE CITY.
18. THE CONTRACTOR SHALL NOTIFY THE CITY OF BIDDEFORD ENGINEERING DEPARTMENT FOR REQUIRED INSPECTION OF THE ROADWAY.
19. ALL LOT OWNERS WILL BE REQUIRED TO BE A MEMBER OF THE WEST BROOK HOME OWNERS ASSOCIATION RESPONSIBLE FOR MAILBOXES, PLOWING AND TRASH REMOVAL UNTIL SUCH TIME AS THE CITY ACCEPTS THE STREET AND ANY IMPROVEMENTS.
20. ROADWAY RIGHT OF WAY AND ALL NECESSARY EASEMENTS WILL BE DEDICATED TO THE CITY OF BIDDEFORD.

21. NET RESIDENTIAL DENSITY CALCULATION
- | | |
|-----------------------------|--------------|
| TOTAL PARCEL AREA | 365,457 S.F. |
| 1 100 YEAR FLOOD ZONE | 0 S.F. |
| 2 WETLANDS | 13,489 S.F. |
| 3 SUSTAINED SLOPES (>33%) | 0 S.F. |
| 4 VERY POORLY DRAINED SOILS | N/A |
| 5 POORLEY DRAINED SOILS | N/A |
| 6 RIGHT OF WAY | 52,105 S.F. |
| | 299,863 S.F. |

SPACE STANDARD FOR RESIDENTIAL 1A
MINIMUM DENSITY - 10,000 S.F.
NET RESIDENTIAL DENSITY: $\frac{299,863 \text{ S.F.}}{10,000 \text{ S.F.}} = 29.9$ LOTS (ALLOWABLE)

22. OPEN SPACE: PROPOSED - 120,043 S.F.
PARCEL AREA - 365,457 S.F.
% OPEN SPACE - 32.8%



SYMBOL

- I/P / R/F
● IRS
□ GMS
--- STONE WALL
--- WETLANDS
--- PROPERTY LINE
--- ABUTTER'S PROPERTY LINE
--- EDGE OF PAVEMENT
--- EXISTING CONTOUR
--- PROPOSED STREAM SETBACK
--- ABOVE GROUND
--- N/F

LEGEND

DESCRIPTION

- IRON PIPE/ROD FOUND
5/8" IRON ROD W/ CAP TO BE SET
GRANITE MONUMENT TO BE SET
STONE WALL
WETLANDS
PROPERTY LINE
ABUTTER'S PROPERTY LINE
EDGE OF PAVEMENT
EXISTING CONTOUR
PROPOSED STREAM SETBACK
NOW OR FORMERLY

LINE DATA:
L3 - N37°14'48"W 52.26'
L4 - S37°51'03"E 13.52'

Scale: 1" = 50'
50' 0 50' 100'

REVISION		DESCRIPTION
NO.	DATE	
1	11/19/21	Submitted To City Planner
2	12/8/21	Note Revis./Planning Submission



BH2M
Berry, Huff, MacDonald, Milfigan Inc.
Engineers, Surveyors
380B Main Street
Gorham, Maine 04038
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FOR
E & R Development Corp.
P.O. Box 444
Biddeford, Maine

CLUSTER SKETCH PLAN
WINDING CREEK LANE
WEST BROOK SUBDIVISION
WINDING CREEK LANE
BIDDEFORD, MAINE

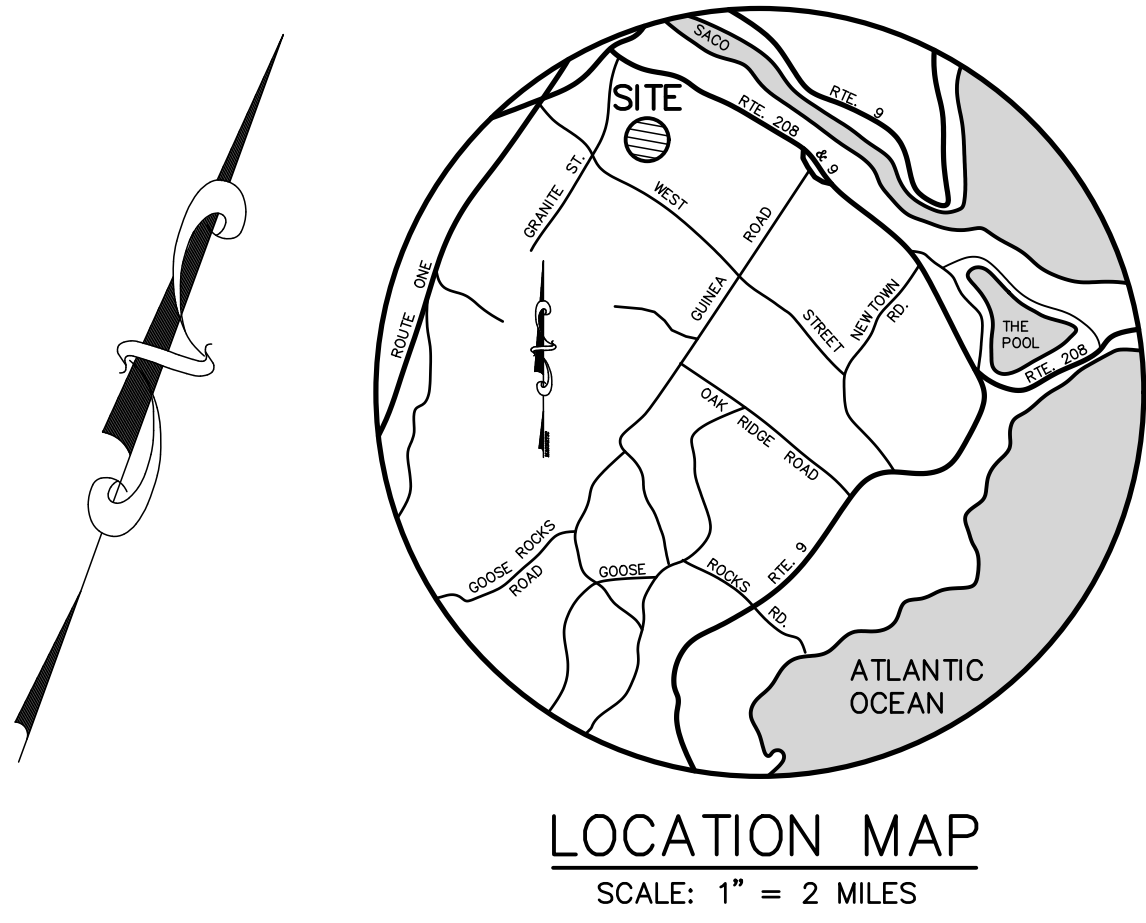
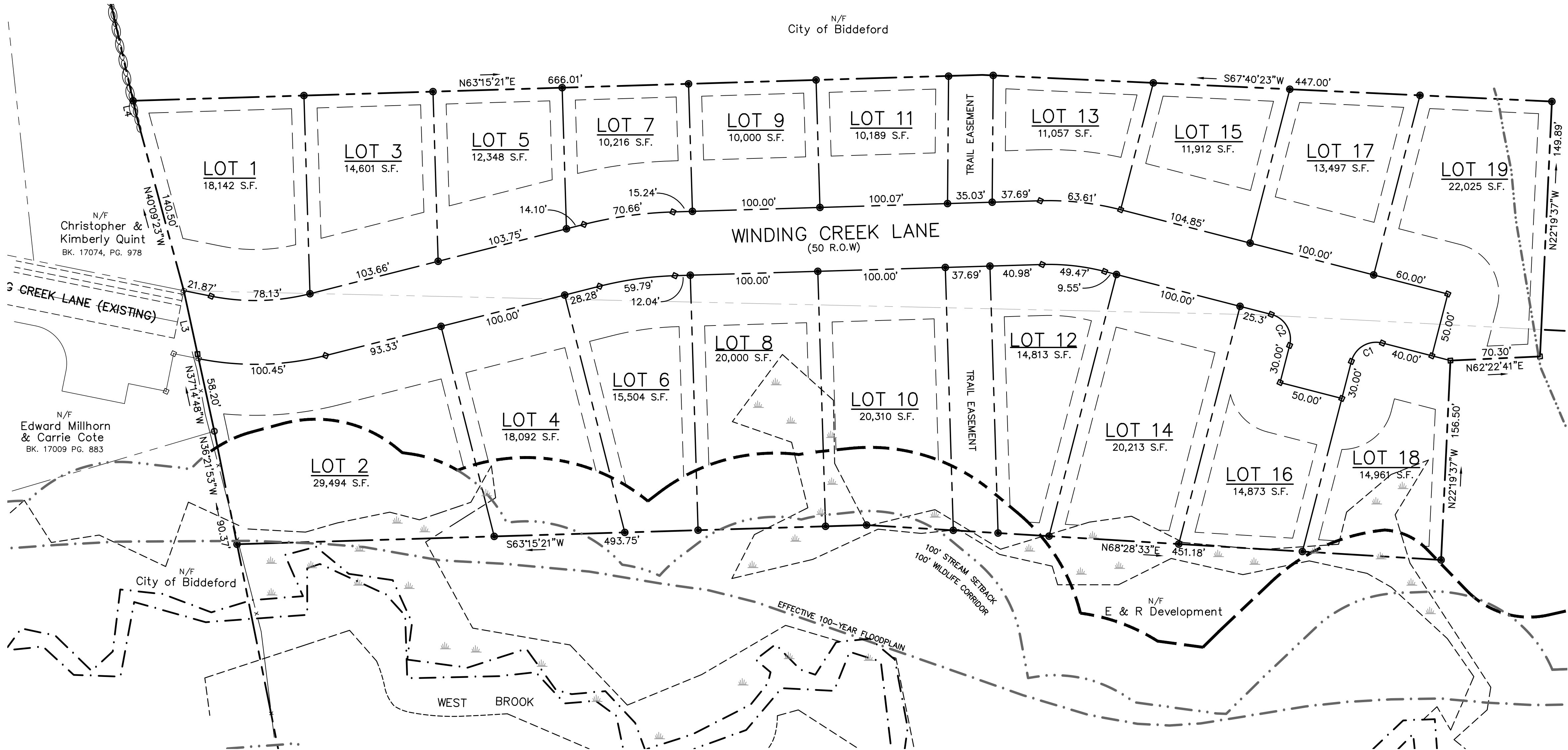
DESIGNED C. MacDonald	DATE Dec. 2020
DRAWN Dept.	SCALE As Noted
CHECKED W. Thompson	JOB. NO. 20217

SHEET
1

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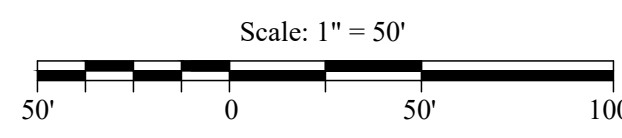
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17. NO DRIVEWAYS ALLOWED IN ANY DRAINAGE OR TRAIL
EASEMENTS.
18. THE ROADWAY IS PROPOSED TO BE PUBLIC UPON COMPLETION
OF CONSTRUCTION AND ACCEPTED BY THE CITY, HOWEVER NO
CITY SERVICES WILL BE PROVIDED UNTIL SAID STREET IS
ACCEPTED BY THE CITY. THE HOMEOWNERS ASSOCIATION
SHALL BE RESPONSIBLE FOR COST OF CURB SIDE REFUSE
PICKUP. IF A DUMPSTER IS PREFERRED THE LOCATION SHALL
BE APPROVED BY THE CITY.
19. THE CONTRACTOR SHALL NOTIFY THE CITY OF BIDDEFORD
ENGINEERING DEPARTMENT FOR REQUIRED INSPECTION OF THE
ROADWAY.
20. ALL LOT OWNERS WILL BE REQUIRED TO BE A MEMBER OF THE
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SYMBOL	LEGEND	DESCRIPTION
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● IRS	5/8" IRON ROD W/ CAP TO BE SET	
□ GMS	GRANITE MONUMENT TO BE SET	
○ ○ ○ ○ ○	STONE WALL	
—	WETLANDS	
---	PROPERTY LINE	
---	ADJUTER'S PROPERTY LINE	
---	EDGE OF PAVEMENT	
---	PROPOSED STREAM SETBACK	
---	EXISTING CONTOUR	
---	ABOVE GROUND	
---	NOW OR FORMERLY	

CURVE DATA
C1 - L=31.42', R=20.00'
C2 - L=31.42', R=20.00'



I CERTIFY THAT THIS SURVEY CONFORMS
TO THE MAINE BOARD OF LICENSURE
FOR PROFESSIONAL LAND SURVEYORS
TECHNICAL STANDARDS OF PRACTICE FOR
A STANDARD BOUNDARY SURVEY WITH
THE FOLLOWING EXCEPTIONS:

1. NO SURVEYORS REPORT

THIS PLAN REVIEWED AND APPROVED BY THE CITY
OF BIDDEFORD PLANNING BOARD.

DATE

CHAIR

NO.	DATE	REVISION	DESCRIPTION

BH2M

Barry, Huff, MacDonald, Miligan Inc.
Engineers, Surveyors

380B Main Street
Gorham, Maine 04038

Tel. (207) 839-2771
www.bh2m.com

FOR
E & R Development Corp.
P.O. Box 444
Biddeford, Maine

CONVENTIONAL LAYOUT

WEST BROOK SUBDIVISION

WINDING CREEK LANE
BIDDEFORD, MAINE

DESIGNED	DATE
C. MacDonald	December 2020
DRAWN	SCALE
Dept.	As Noted
CHECKED	JOB. NO.
W. Thompson	20217

SHEET

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PLANNING BOARD
REPORT

March 10, 2021

Biddeford Planning Board
Greg Tansley, City Planner
City of Biddeford
205 Main Street
Biddeford, Maine 04005

Application: Winding Creek Drive– E & R Development Corp.
(Tax Map 8 Lot 3-1 and Lot 3)

Subdivision Sketch Plan Review

Review Status: New application

Board members and Mr. Tansley,

The following application and attached information has been provided for review:

1. Application form dated 2/9/2021.
2. Cover letter dated 2/9/2021, from BH2M Engineers, Surveyors.
3. Sketch Plan entitled: *Winding Creek Subdivision, Winding Creek Lane, Biddeford, Maine For: E & R Development Corp.* Prepared by BH2M Engineers, Surveyors, dated December 2020.

Attachments:

4. Letter of Understanding (Between the City, applicant and Gervais Dube) (ATT. 1)
5. Staff Memo to the City Council by Carl Walsh, Recreation Director, Meeting Date: 10-20-2020 (ATT. 2)
6. *Proposed Land Conveyances* Map (referenced in Staff Memo above and in the Letter of Understanding, Exhibit A) (ATT. 3)

With review of the above information and the Land Development Regulations and Subdivision Ordinance, I offer the following comments on compliance with the City's ordinances.

PROJECT DESCRIPTION

The applicant seeks to create 18 residential lots via an extension of Winding Creek Lane, a dead-end public street that connects to Granite Street by means of Robin Court and Alison Avenue. The site is approximately 8.3 acres in size, approximately 350 feet wide and 1,050 feet in length, located in the Residential 1 (R-1-A) zone. It is adjacent to the West Brook, straddling lands owned by E & R

Development Corp. (Tax Map 8 Lot 3) and a portion of Clifford Park that is owned by the City (Tax Map 8 Lot 3-1). The applicant, along with adjacent property owner Gervais Dube (Tax Map 30 Lot 58) and the City have an understanding on land conveyances among the three parties as outlined in the attached letter.

COMPLETENESS REVIEW

The application is before the Planning Board as required by Chapter 66 (Subdivisions) subject to Subdivision review and approval. Per the City's Subdivision ordinance (66-26), all applications have a three tier approval process beginning with a Sketch plan review.

The applicant has submitted a cover letter with a brief description of the proposal accompanied by a concept design of the proposed lots that appears to be adequate for a Sketch Plan review. The applicant also submitted information related to right, title and interest in the form of the letter of understanding between the applicant and the City and the referenced Attachment A. Items submitted to the City Council, along with the staff review by the Director of Recreation, is also attached for the Board's consideration.

REVIEW PROCESS

As outlined in Sec. 66-30, the Planning Board and the applicant have three primary objectives/areas of focus: 1) general nature of the project and its impact on the community; 2) determining the development is a major or minor subdivision; and if a clustered subdivision is a development that the Board is interested in the applicant to consider and submit.

Another item for discussion and action is to determine if the application, prior to review and approval of the preliminary plan will require any studies for the Board's consideration. This is outlined in Sec. 66-38. Staff recommends the Board requires a Wildlife Study as per Sec. 70 of the Land Development Regulations.

And lastly, in addition to the items above, and with an eye on the preliminary plan review application, it would be helpful for the applicant to provide a narrative(s) that address how the application conforms to the various applicable standards required by Chapter 66.

COMPLIANCE WITH THE CITY'S ORDINANCES

When considering the review at this point, it is intended by the process to be general in nature, the applicant should take the opportunity to introduce the project and the Board should ask questions and provide feedback. The following are comments that Board and the applicant may consider in the discussion:

ENVIRONMENTALLY SENSITIVE AREAS (Sec. 66-39(b)(8))

When reviewing the context of the overall area through a lens of land conservation and plant and wildlife habitat, it appears that this and subsequent developments as identified in the Letter of Understanding, will encroach and likely block what looks to be a corridor connecting conserved land within Clifford Park (Maine Coast Heritage Trust conservation easement) and the Blandings Park

Wildlife Sanctuary (conserved significant wildlife habitat). This particular location in the City is part of an identified *Undeveloped Habitat Block* that is 939 acres in size and as having State Listed Animal Habitats. See Beginning with Habitat maps (FIG. 1 & 2) and annotated City GIS Tax Map (FIG. 3).

1. Though this area is within a growth district for the City, the Planning Board and the applicant may want to consider growth that reflects, what is likely, the valuable and sensitive wildlife and plant habitat in this locale. This might be realized through different locations and/or form of the proposed development.
2. The development site's limits appear to have been informed by a specific design. This process results in a shape of land area that may not be appropriate when considering other factors, such as the environmental assets adjacent to the proposed development. A clustered form of development would likely result in a different shape of land that might inform a different location and one that could have less impact to the environment. (See FIG. 4)
3. The type of development proposed can be characterized as sprawl, continuation of the suburban housing development that was constructed in the 1980's through the early 2000's along Alison Ave, Robin Circle and Winding Creek Lane, as it progresses onward in a mostly linear fashion. The result is a proposed development that is characterized by lots that average more than 60% than the minimum lot size. Some of this is due to the frontage and front yard setbacks required in the underlying district.

PUBLIC TRAIL NETWORK

Existing trails located in Clifford Park are in the vicinity of the proposed development, and it appears from the Proposed Land Conveyances map (attached) that some are directly impacted.

4. Subsequent development plans for the application should include the delineation of these trails for reference and the opportunity to inform development design.
5. The 25' to 35' width proposed for the trail easements through the development should be discussed and ensure that it is sufficient. For a point of reference, the corridor for many sections of the Eastern Trail is typically 75 feet wide.
6. It appears the proposed trail along the south side of the development is located within a natural swale or drainage way that is not ideal.

LAND NOT SUITABLE FOR DEVELOPMENT (Sec. 66-71)

7. The applicant should identify these areas and address the standards outlined in this section.
8. Net Density Calculations (Sec. 44 in Article VI of the Zoning Ordinance) will need to be addressed and added to the plans.

WAIVER REQUESTS

None requested. The applicant should review compliance with standards and provide a list of those standards they seek a waiver from along with a rationale for the Board to grant it.

CONCLUSION

The Planning Board and applicant should discuss the comments/topics outlined above, along with other comments the Board, applicant and staff may have regarding the specifics of the proposed development. In summary, the Board and applicant may want to consider the following:

1. Is the proposed development in the best location as it relates to the larger environmental context of the area (see FIG. 4).
2. Is there other development options, such as a cluster development or multi-family condominium, available to add housing in this area that could be less impacting on the public use and environmental resource of the area;
3. The Board should solicit feedback from the Conservation Commission;
4. The Board should determine what studies are to be completed as part of or prior to the subsequent preliminary plan application. Staff is recommending a wildlife study be required per Sec. 70 of the Land Development Regulations.
5. In the absence of information and insight from the Conservation and Commission and a Wildlife Habitat Study, the Board may want to consider another Sketch Plan prior to the applicant submitting preliminary plan application.
6. Per Sec. 66-30, the Board should determine whether the application is a major or minor subdivision and might consider if a clustered plan is to be submitted per 66-30(c).

SUGGESTED MOTIONS

Move to find the application Winding Creek Subdivision/E & R Development Corp. is determined to be a Major Subdivision and that a Wildlife Habitat Study of the vicinity of the proposed development and as it relates to potential impacts to existing plant and wildlife habitats, be prepared by a qualified Wildlife Biologist, to be engaged by the City at the expense of the applicant.

In addition:

Move to have the applicant E & R Development Corp. regarding the Winding Creek Subdivision application, prepare and submit two clustered development sketch plans as outlined Section 66-30(c) in the Subdivision Ordinance, and to be considered by the Planning Board prior to submitting a preliminary plan application.

Feel free to contact me with questions.

Best regards,



Christopher Di Matteo
City of Biddeford Contract Planner.
cdimatteo@longmeadowpla.com
207.604.4245

[Welcome](#) [Layers](#) [Legend](#)

Beginning with HABITAT

Conserved Lands and Undeveloped Habitat Blocks

This map viewer is an on-line adaptation of the Beginning with Habitat Map 3. It depicts the State of Maine's conserved lands database including lands in federal, state, and nonprofit ownership. Some privately owned conservation lands may not be represented. For the most accurate and current information about land ownership, consult with the local assessor and/or other local land management agencies. If public access potential to any of the properties displayed here is uncertain, landowners should be contacted first to determine if permission is necessary. If errors are noted in the current depiction of resources, please contact our office:

www.BeginningWithHabitat.org

Ownership Types:

- Federal: National parks, forests, and wildlife refuges.
- State: Wildlife Management Areas and other properties managed by the Department of Inland Fisheries and Wildlife, state parks, and parcels managed by the Bureau of Parks & Lands.
- Municipal: Town parks, water district properties, community forests, etc.
- Private Conservation: Properties owned and managed by private (usually nonprofit) organizations such as The Nature Conservancy, Maine Coast Heritage Trust; Trust for Public Land, and local land trusts.
- Easement: Voluntary legal agreements that allow landowners to realize economic benefit by permanently restricting the amount and type of future development and other uses on all or part of their property as they continue to own and use it.

Focus Areas of Statewide Ecological Significance:

- Focus Areas of Statewide Ecological Significance have been designated based on an unusually rich convergence of rare plant and animal occurrences, high value habitat, and relatively intact natural landscapes (the combined elements of Beginning with Habitat Maps 1-3). Focus area boundaries were drawn

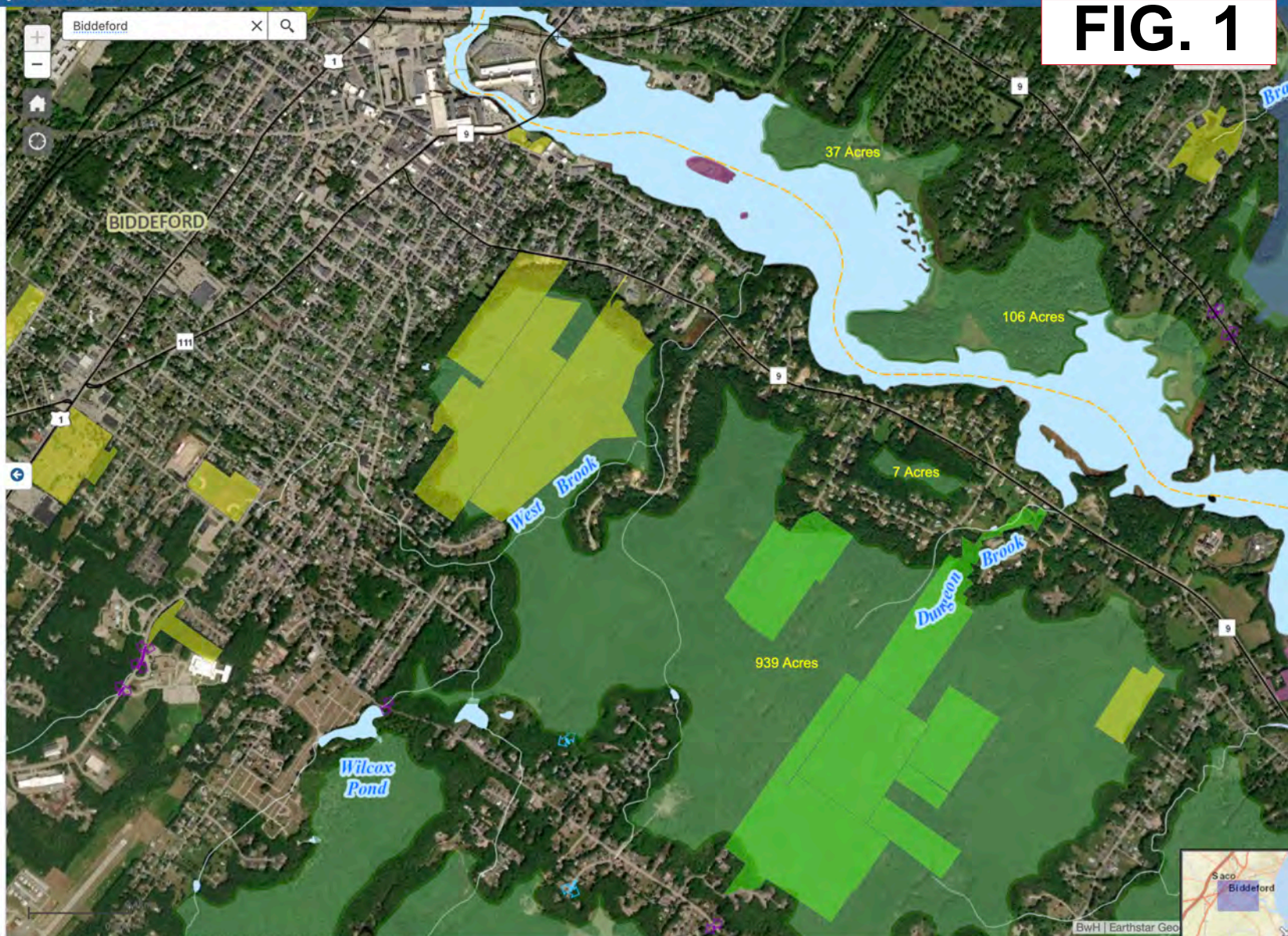


FIG. 1

Plant and Animal Habitats

FIG. 2

Welcome Layers Legend

Layer Details:

Toggle layers on and off. Layers with gray checkbox will appear once zoomed to visible scale.

- ☐ Endangered Fish Species
- ☐ Maine State Listed Plants
- ☒ Significant Vernal Pools

- ☒ Deer Wintering Areas

- ☐ Essential Plover and Tern Habitat
- ☒ Exemplary Natural Communities

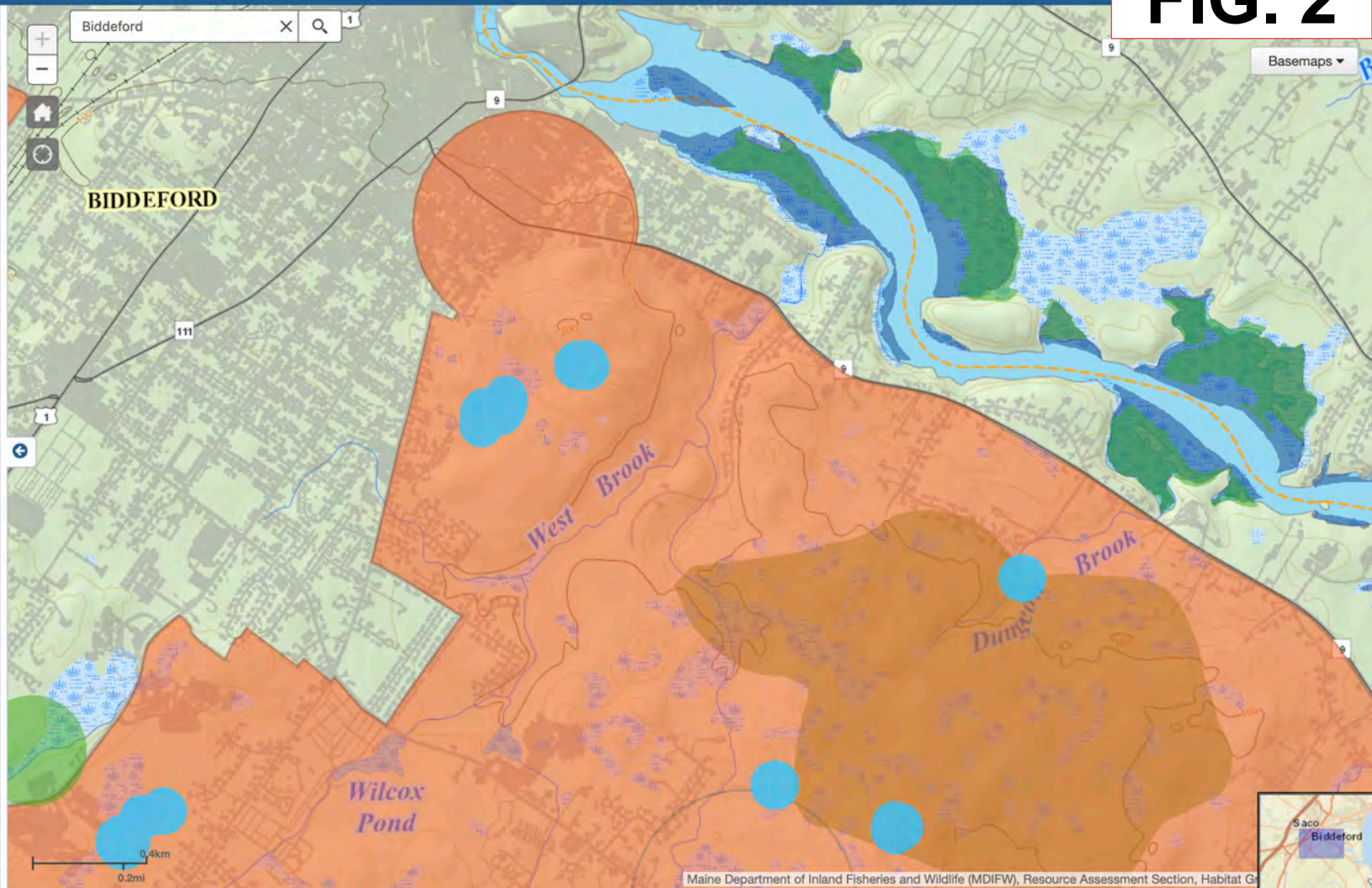
- ☒ State Listed Animal Habitats

- ☐ Inland Wading Bird and Waterfowl Habitat
- ☐ Shorebird Habitat
- ☐ Seabird Nesting Islands
- ☐ Shellfish Beds
- ☒ Tidal Wading Bird and Waterfowl Habitat

- ☐ Atlantic Salmon Spawning Habitat
- ☐ Atlantic Salmon Rearing Habitat
- ☐ Wild Brook Trout Habitat

Hover:

- ☒ Check this box to enable your mouse to hover over features on the map. Click on the feature to identify more information.





LETTER OF UNDERSTANDING

By Order of the Biddeford City Council (2020.100), the City Manager has been authorized to enter into a land conveyance agreement with both E & R Development Corporation (or official designee) and Mr. Gervais Dube (or official designee) under the terms of which there shall be an exchange of interests in certain parcels of real estate situated at and near Clifford Park, so-called, in Biddeford, Maine. The land mentioned as being owned by Mr. Gervais Dube in said Order is actually owned by Gervais Dube Properties, Inc. which will be hereinafter referred to as "Dube" and E & R Development Corporation shall be hereinafter referred to as "E & R". The City of Biddeford shall be referred to as "Biddeford".

E & R intends to transfer to Biddeford two separate parcels of land being designated as "Land to be Conveyed to the City of Biddeford from E & R Development Corp. 35.1+/- Acres" and "Land to be Conveyed to the City of Biddeford from E & R Development Corp., 24.1+/- Acres" in exchange for the transfer of land designated "Land to be Conveyed to E & R Development Corp. from the City of Biddeford-4.3+/- acres", all as shown as diagonally lined areas on plan entitled "Proposed Land Conveyances" attached hereto as Exhibit A.

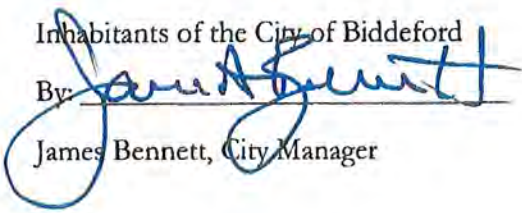
Dube intends to transfer to Biddeford a parcel of land designated as "Land to be Conveyed to the City of Biddeford from Gervais Dube-42.6+/- Acres" as shown as box lined areas on the above referenced plan. The City shall be obligated to provide Dube with an appraisal of the property to be transferred and an enforceable agreement that the transferred property shall only be used for recreational purposes.

E & R intends to develop portions of its remaining property, the property it is acquiring from the City and property it intends to acquire from Dube as additions to the existing Parkside Subdivision and the existing Winding Creek subdivision, said additions to contain a total of 50 residential lots, more or less. E & R understands and agrees that it shall promptly apply for and proceed diligently to obtain approvals for such additions, it being the desire of E & R that all municipal reviewing agencies give due consideration to the transfers made hereunder in the reviewing process and the issuance of all licenses, approvals and permits. E & R shall be entitled to retain such necessary drainage easements, filter beds, and outfall areas as may be required to secure approval of the development plans by any applicable governmental agencies.

The parties hereto recognize that E & R will be expending significant sums of money in reliance on the understanding set forth herein.

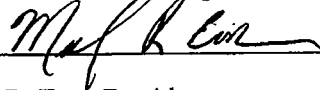
Dated: January 15, 2021

Inhabitants of the City of Biddeford

By: 

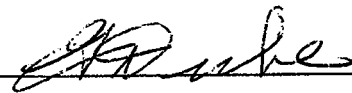
James Bennett, City Manager

E & R Development Corporation

BY: 

Michael R. Eon, President

Gervais Dube Properties, Inc.

By: 

Gervais Dube, President

1022-114-ltrunderstanding/l/rrevised1/14/2020

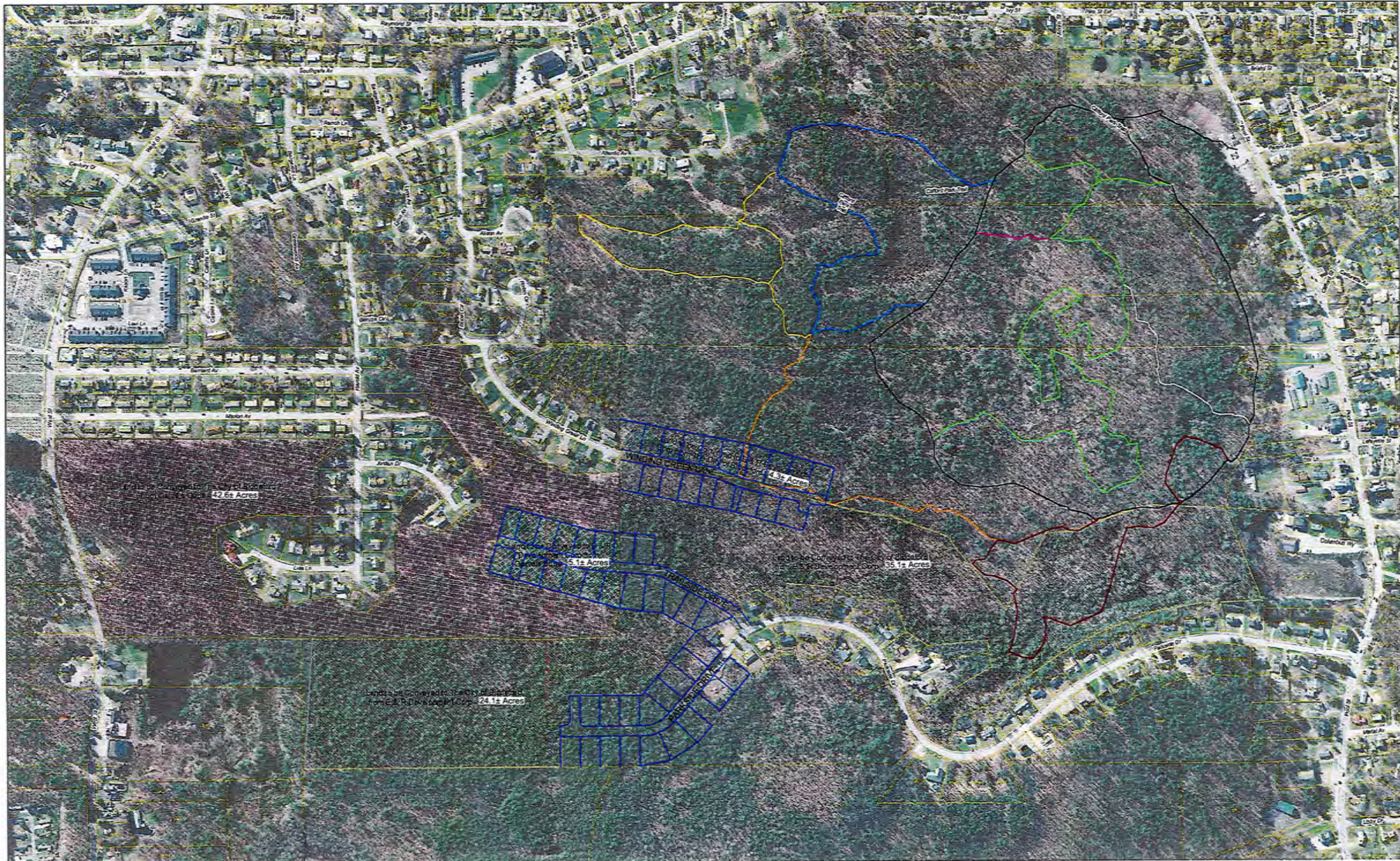


EXHIBIT A Proposed Land Conveyances

Legend

Proposed Parcels to be Transferred

	City of Biddeford to ESR Development Corp		Genas Due to ESR Development Corp
	ESR Development Corp to the City of Biddeford		Genas Due to the City of Biddeford

	Clifford Park Trails		Blue Trail		Pink Trail
	Clifford Park Trails		Green Trail		Yellow Trail
	Black Trail		Orange Trail		



City Council

Meeting Date: 10-20-2020

Meeting Time: 6:00 PM

Agenda Item No: 2020.100

Item Description: Clifford Park Land Conveyance

Submitted by: Carl Walsh, Recreation Director

Supporting Information/Documentation:

Please see attached map

Key Terms:

N/A

Executive Summary:

For many years now the Recreation Commission has had great interest in an exchange of property from Mr. Mike Eon adjacent to Clifford Park that includes the falls. This is often a destination for the public however, it is private property. This beautiful feature added to the trail system would give members of the public the opportunity to enjoy this natural resource.

Detailed Review:

Over the years there have been on again off again discussions regarding this piece of property which has focused on a land swap. The current plan would provide the public access to the falls. This would provide Mr. Eon a piece of land approximately 5 acres reduced from approximately 12 acres discussed over the past year. In this transaction with Mr. Eon the public would be receiving approximately 60 acres. Also during recent discussions Mr. Gervais Dube has come to the table with Mr. Eon and has offered to convey approximately 42 acres off of West Street. He would do this in exchange for the city paying for a private appraisal. In total this would add approximately 100 acres to Clifford Park. The park currently has 140+ acres.

Funding Source:

Cost for the appraisal would come from account 22002-60463 Park Improvements should a final plan be accepted in the future.

Staff Recommendation:

Staff is looking for the support of council to continue discussions with the property owners and submit a final plan to council for approval.

The Recreation Commission supports the addition of these properties to Clifford Park.



Clifford Park Habitat Connectivity Report

City of Biddeford



Prepared by BRI Environmental
September 2021



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Exhibits

Exhibit A: Location Map

Exhibit B: Resource Map

Exhibit C: Photo Log

Exhibit D: Agency Consultation

Exhibit E: Plant List

1.0 Introduction

On May 24, 2021 Biodiversity Research Institute (BRI) was retained by the City of Biddeford (City) to review potential impacts of a proposed residential development on wildlife and wildlife habitat in the vicinity of Clifford Park in Biddeford. Since the City was particularly interested in perspectives on how the Proposed Area of Development (PAD) might potentially be used by wildlife travelling between Clifford Park and the larger area to the south, BRI selected a Survey Area that is larger than the PAD to better ascertain the potential impacts that may result from the project under review. The review area included an approximately 264-acre area located near Winding Creek Road, in Biddeford Maine (Site). The Proposed Area of Development (PAD) included approximately 22 acres. **Exhibit A** shows the location of the Survey area and the PAD. This report summarizes the results of BRI's desktop review and a site walk conducted in the survey area.

2.0 Geographic Setting

The Survey Area is characterized by forested uplands which reach approximately 180 Feet in elevation. Just east of the Survey Area is Thunder Island. The closest waterbody is the Saco River, that is approximately 0.1 miles to the east at its nearest point. The Site is surrounded by residential development to the north and west. The remainder of the Site is surrounded by forested land.

The Site falls within the US Environmental Protection Agency's (EPA) Eco-region of the Northeastern Coastal Zone within the Gulf of Maine Coastal Lowland. The EPA's description of the region is as follows:

The Northeastern Coastal Zone ecoregion covers most of southern New England and the coastal areas of New Hampshire and southern Maine. Its landforms include irregular plains and plains with low to high hills. Appalachian oak forests and northeastern oak-pine forests are the natural vegetation types, with mostly mesic Inceptisol soils. The Northeastern Coastal Zone contains relatively nutrient-poor soils and concentrations of continental glacial lakes, some of which are sensitive to acidification. Although attempts were made to farm much of the Northeastern Coastal Zone after the region was settled by Europeans, land use now mainly consists of forests, woodlands, and urban and suburban development, with only some minor areas of pasture and cropland.

The Gulf of Maine Coastal Lowland ecoregion is a 10- to 20-mile wide coastal strip, stretching from Casco Bay in Maine to Plymouth Bay in Massachusetts. It is mostly an arcuate embayment type of coast with extensive glacial sand, silt, and clay deposits blanket this region, with a coastal pattern typified by plutonic capes and intervening sand beaches that front the region's largest salt marshes. The ecoregion has relatively low relief, and elevations are mostly from sea level to 250 feet. Mt. Agamenticus, west of Ogunquit, Maine, is the atypical high spot at 691 feet. Bedrock geology consists mostly of metasedimentary rocks, intruded by several Paleozoic and Mesozoic plutonic bodies. Soils have a mesic temperature regime in most of the region, although frigid soils

occur in the Maine portion. The vegetation mosaic includes white oak and red oak forests, some isolated chestnut oak woodlands, extensive post-settlement white pine, pitch pine in sandy areas, pitch pine bogs, some Atlantic white cedar swamps, red maple swamps, and *Spartina* saltmarsh. The vegetation contains some southern hardwood species (e.g., shagbark hickory, flowering dogwood, and chestnut oak) that reach the northern limit of their range within this ecoregion. There are also some subarctic maritime species that reach their southern limit, such as crowberry, golden heather, and oysterleaf. The region's forests and farms are being rapidly converted to residential developments and bedroom communities of larger nearby cities.¹

3.0 Methods

Prior to the site visit, BRI conducted a desktop review of publicly available data, which included the National Wetlands Inventory (NWI)², Natural Resources Conservation Service (NRCS) Soil Survey³, Beginning with Habitat data (BWH)⁴, topographic maps, and aerial photos.

Identified wetlands and waterbodies within the review area were not delineated, but mapped based in part on the Routine On-site Determination method described in the 1987 USACE Wetlands Delineation Manual⁵ (1987 Manual) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region⁶ (Regional Supplement). Wetlands are classified by type in accordance with *Classification of Wetlands and Deepwater Habitats of the United States*⁷ (Cowardin et al. 1979).

Existing vernal pools, which have been previously identified within Survey Area, were observed and a review of the Site for additional vernal pools was also completed. While the Site walk occurred outside of the recommended survey season, potential pools were reviewed for potential significance. Significance is defined within Chapter 335 of the Natural Resources Protection Act (NRPA):

“A vernal pool, also referred to as a seasonal forest pool, is a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer. Vernal pools have no permanent inlet or outlet and no viable

¹ Ecoregions of New England http://ecologicalregions.info/data/vt/new_eng_front.pdf

² U.S. Fish and Wildlife Service National Wetland Inventory Mapper <https://www.fws.gov/wetlands/data/mapper.html>

³ U.S. NRCS Web Soil Survey <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

⁴ Maine Beginning with Habitat Online Mapper <https://webapps2.cgis-solutions.com/beginningwithhabitat/>

⁵ USACE. 1987. Wetlands Delineation Manual. January 1987. Wetlands Research Program Technical Report Y-871. 143 pp. Available online at: <http://www.cpe.rutgers.edu/Wetlands/1987-Army-Corps-Wetlands-Delineation-Manual.pdf>

⁶ USACE. 2012. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0). January 2012. 176 pp. Available online at: [http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/reg supp/NCNE suppv2.pdf](http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/reg%20supp/NCNE%20suppv2.pdf)

⁷ Cowardin, L.M., V. Carter, F.C. Golet, and E.T. Roe. 1979. *Classification of Wetlands and Deepwater Habitats of the United States*. December 1979. 142 pp. Available online at: <https://www.fws.gov/wetlands/documents/Classification-of-Wetlands-and-Deepwater-Habitats-of-the-United-States.pdf>

*populations of predatory fish. A vernal pool may provide the primary breeding habitat for wood frogs (*Rana [Lithobates] sylvatica*), spotted salamanders (*Ambystoma maculatum*), blue-spotted salamanders (*Ambystoma laterale*), and fairy shrimp (*Eubranchipus* sp.), as well as valuable habitat for other plants and wildlife including several rare, threatened, and endangered species. A vernal pool intentionally created for the purposes of compensatory mitigation is included in this definition.”*

Bird species occurring within the Survey Area were identified on a site walk survey completed throughout the entire Survey Area, including the PAD (**Exhibit A**). The survey was completed by two biologists walking slowly through the area while intermittently stopping to scan the area with binoculars and to listen for calls. Walking routes emphasized maximizing survey area coverage and adjacent areas of interest. Individual birds detected visually or aurally during our survey were identified and recorded as present. Lastly, to provide additional perspectives on the bird species that could be expected within the Survey Area and the PAD during the breeding season, we reviewed and summarized bird observation records reported by the general public and others on eBird (www.eBird.org).

Mammalian species were identified through a site walk (i.e., area search) throughout the entire Survey Area, including the PAD (**Exhibit A**). The survey was completed by a biologist walking slowly through the area while intermittently stopping to scan the area for mammal sign. Walking routes emphasized maximizing survey area coverage and adjacent areas of interest. Individual mammals detected visually or using tracks or scat during the survey were identified and recorded as present. For presence of bats, we looked for good foraging and roosting habitat within the Survey Area.

Generalized habitat types were characterized in the field using standard accepted terminology and mapped as necessary to supplement habitat type characterizations available from state databases.

4.0 Results

Field surveys were completed on July 23, 28, and August 4, 2021. Weather at the time of surveys ranged from sunny to partly cloudy. The survey area included approximately 264 acres as shown in **Exhibit A**. A natural resources map is included as **Exhibit B**, a photo log is included as **Exhibit C**, and a plant list is included as **Exhibit E**.

4.1 Habitats

Upland and wetland habitats on the Site are predominantly forested with some areas of open canopy associated with large boulders or bedrock outcrops. Forests on Site are primarily Oak-Pine Forest or Oak-Pine Woodlands. In areas of lower elevation and near streams, forests are predominantly Hemlock Forests. Several wetlands were found on Site, some associated with both perennial and intermittent streams. In general, most wetlands on the Site are forested with small inclusions of open water, emergent or shrub vegetation. Commonly occurring forested wetland habitats on the Site include Hemlock-Harwood Pocket Swamps, Upper Floodplain Hardwood Forests, and Red Maple-Sensitive Fern Swamps (Gawler and Cutko 2010). A total of 58 plant species were identified during the survey. The MDIFW identified the presence of Deer Wintering Areas (DWA) within the vicinity of the Survey Area (Section 5). Based on the results of the survey there are some areas within the Survey Area which may be used for shelter, but nothing that appears to be a traditional wintering habitat (i.e., cedar swamp). **Exhibit E** includes a plant list along with Latin names for all observed species. General descriptions of these habitat types are described below.

Oak-Pine Forests and Woodlands

Oak-Pine Forests, as described in Gawler and Cutko (2010), are closed canopy forests dominated by a mixture of red oak and white pine. Oak-Pine Woodlands are very similar to Oak-Pine Forests and are contiguous on Site. Oak-Pine Woodlands include similar diagnostic species to the forest, with a more open canopy. Herbaceous cover is sparse due to the closed canopy, and often includes species such as bracken fern and lowbush blueberry. In Oak-Pine Woodlands, herbaceous vegetation is more prominent and includes species such as bracken fern, starflower, and wintergreen. Both forests and woodlands occur on low to mid slopes, and occasionally on upper slopes. Soils in these communities are typically well-drained and often shallow, as is the case on this Site as a result of the bedrock and boulders. Mature habitats offer cavity nesting wildlife excellent potential for nesting habitat and the presence of oaks provide forage for several species of mammals and birds. Photo 1 includes a representative view of an Oak-Pine Forested upland.



Photo 1: A representative view of a forested Oak-Pine forested upland on Site.

Hemlock Forest

Hemlock Forests, as described in Gawler and Cutko (2010), are closed canopy forests dominated by more than 50% hemlock. In most cases, hemlock is co-dominant with species such as yellow birch, red oak, red spruce, red maple, or sugar maple. White pine is also commonly found within these forests. These forests are characterized by dense canopy cover, which allows little light penetration to sub-strata, and



Photo 2: A representative view of a forested Hemlock forested upland on Site.

therefore the shrub and herbaceous layers are sparse. Common shrubs include American beech and saplings of hemlock or balsam fir. Herbaceous species are limited, but include sparse coverage by species such as Canada mayflower, starflower, partridge berry, wild sarsaparilla, and wintergreen. This forest type is ranked as S4, and historically was impacted by the high demand for hemlock. Today these forests are often quite old and provide high ecological quality as the demand for hemlock by the timber industry has waned. These forests often provide habitat for coniferous forest specialist birds such as the black-throated green warbler, yellow-bellied flycatcher, blackburnian warbler, Red Crossbill, and northern parula. Maintaining surrounding lands as forest is important in the conservation of hemlock stands of this type.

Hemlock-Hardwood Pocket Swamp

These forested wetland types include both coniferous and deciduous species, typically (and as observed on the Site), these wetlands are small isolated pocket depressions with upland dominated landscapes. Trees commonly include hemlock and red maple, with an occasionally dense shrub community including highbush blueberry and winterberry. Herbaceous vegetation is variable, but often includes dense patches of ferns such as marsh fern. These wetlands commonly occur in isolated basins and sometimes occur perched on hillsides. Soils are generally acidic and include shallow layers of peat over depleted mineral soils. These swamps are often associated with vernal pools, as they tend to be isolated with no inlet or outlet. Although our survey was completed outside of the vernal pool season, we suspect several of these pocket swamps likely provide vernal pool habitat in the spring. This habitat type is rare in Maine, S2⁸, and while no rare species were observed within these features during the survey, these pocket wetlands often provide habitat to Blanding's turtles and spotted turtles. These species are known to the area, based on input from the Maine Department of Inland Fisheries and Wildlife (MDIFW) (Section 5.0). These wetlands occur as small forest patches and the conservation of these habitats depends on maintaining surrounding forested buffers.



Photo 3: A representative view of a Hemlock-Hardwood Pocket Swamp on Site.

⁸ S1-Critically Imperiled; S2-Imperiled; S3-Rare; S4-Aparently Secure; S5-Demonstratably Secure

Upper Floodplain Hardwood Forests

These wetlands occur along mapped streams within the Site. This community has almost complete canopy cover and is dominated by yellow birch, red maple, and occasionally green ash. Shrubs are generally limited as a result of frequent flooding, but the herbaceous layer is lush and transitions from spring ephemerals early in the growing season to ferns and forbs such as sensitive fern, ostrich fern, tall meadow rue, and Jack-in-the-pulpit later in the summer. These habitats provide refuge and foraging opportunities for several species such as barred owl and belted kingfishers. While none were observed during the field work, wood turtles often over winter in stream habitats and occupy upper floodplain forests during their active season to forage. Upper Floodplain Hardwood Forests are rare (S2) in Maine, and have been degraded by past timber harvest or the presence of invasive species such as Asiatic bittersweet, Japanese knotweed, or Japanese barberry.



Photo 4: A representative view of an Upper Floodplain Hardwood Forest on Site

Red Maple-Sensitive Fern Swamp

Red Maple-Sensitive Fern Swamps occur in level flats, terraces, and along smaller streams on the Site. These wetlands are dominated by red maple with a nearly closed canopy. Green ash and yellow birch occur, and occasionally. Shrub species include winterberry, arrowwood, and alder. The herbaceous layer is well developed and is dominated by sensitive fern and interrupted fern, along with sedges and rushes. These habitats are often on flats or near streams and soils are mineral and often very deep. These habitats are seasonally flooded, but maintain saturated conditions for much of the growing



Photo 5: A representative view of a Red Maple-Sensitive Fern Swamp on Site.

season. While no rare species were observed during the field visit, spotted turtles often overwinter in these habitats. These wetlands, when adjacent to streams, also provide important habitat for wood turtles as the turtles overwinter in the stream and utilize the floodplain for foraging. Overall, this wetland type is common in the state (S4).

4.3 Streams and Aquatic Habitats

Eight streams are present on the Site and all drain of them into West Brook, a tributary of the Saco River. West Brook is a large, perennial stream that consists of a bedrock, cobble, and gravel bottom. Fish and macroinvertebrates are present within West Brook. Photo 6 shows a representative view of West Brook. Higher order tributaries to West Brook have mineral substrates and macroinvertebrates while several of the smaller streams have sandy and silty substrates.



Photo 6: A representative view of West Brook in the Survey Area.

4.4 Vernal pools

The site walk was completed outside of the active breeding season for obligate species, and therefore we cannot determine the significance of vernal pools on Site. Nine potentially significant vernal pools were identified within the Survey Area, and none of these were identified within the PAD. Most of the observed potential vernal pools (PVP) were identified within pocket wetlands, which appear to provide high quality habitat. A wood frog (*Lithobates sylvaticus*) was observed within the survey area (Photo 7).



Photo 7: A wood frog observed within the Survey Area.

4.5 Mammals

A qualitative mammal survey was completed on August 4, 2021. The survey route covered approximately 4 miles. A total of 6 mammal species were detected in the Survey Area (Table 1). Based on the habitat present, species that may occur within the Survey Area are provided in the

Table 1 with an asterisk. These species were not observed, and are assumed present based on the habitat within the Survey Area.

Mammal habitat within Clifford Park and the Survey Area includes older-growth, upland forest and areas of exposed bedrock and boulders. The areas of upland forest provide excellent shelter and forage opportunities for a variety of mammals, and many of the dominant overstory species (i.e., oak) are mast producing and excellent food sources. Bats in particular may utilize these forests, which include large diameter trees that can provide summer roosting opportunities and provides great foraging habitat for bats to feed while protected under the canopy to avoid predators. The forested habitat within the Survey Area provide prime habitat for bats and other mammals within suburban environment and it provides forage and shelter during all seasons. Large diameter trees provide shelter from wind and heavy snow and may provide summer roosting and nesting habitat. Importantly, there are small caves and boulders that give mammals dens and shelter for winter hibernation. A number of snags were observed during the survey. These standing dead trees can provide critical solar heating sites for bat maternity colonies. Overall, the Site likely provides refuge for numerous mammals from the surrounding municipal area. Some of mammals present likely use both the Survey Area and adjacent urban setting for foraging, but some rely solely on the property in the Survey Area.

Table 1. List of mammal species detected or potentially occurring in the Survey Area during the site walk survey conducted on August 4th, 2021.

Common Name	Scientific Name
Coyote	<i>Canis latrans</i>
Star-nosed mole*	<i>Condylura cristata</i>
Opossum*	<i>Didelphis virginiana</i>
Porcupine	<i>Erethizon dorsatum</i>
Flying squirrel*	<i>Glaucomys spp</i>
Snowshoe hare*	<i>Lepus americanus</i>
Stripped Skunk	<i>Mephitis mephitis</i>
Short-tailed weasel*	<i>Mustela erminea</i>
Whitetail Deer	<i>Odocoileus virginianus</i>
Raccoon	<i>Procyon lotor</i>
Squirrel Sp.	<i>Sciurus sp.</i>
Masked shrew*	<i>Sorex cinereus</i>
Black bear*	<i>Ursus americanus</i>
Red Fox	<i>Vulpes vulpes</i>

*Assumed potentially present based on habitat

4.6 Birds

BRI conducted a bird survey on July 23, 2021. The survey route covered roughly 6 miles. A comprehensive list of the 27 bird species detected in the entire survey area is presented in Table 2.

No bird species listed as Threatened or Endangered on the Maine State List of Threatened and Endangered Species were detected during the survey. Two species considered Species of Special Concern (Eastern Wood-pewee and American Redstart) in Maine were detected. Neither of these species were detected within the PAD.

Additional bird observations reported in the citizen science platform eBird (www.ebird.org) detected 20 species in the Survey Area that were not encountered during our site walk survey. These include six species listed as Species of Special Concern (Black-and-White Warbler, Canada Warbler, Chimney Swift, Eastern Kingbird, Tennessee Warbler, and Chestnut-sided Warbler) and none listed as Threatened or Endangered. Based on the habitat types present at the Site, the Site would be unlikely to support bird species listed as Threatened or Endangered on the Maine State List. While the timing of our survey took place after breeding bird surveys are typically conducted, we detected many of the species that would be expected at the Site given the habitat characteristics.

Table 2. Comprehensive list of bird species detected in the Survey Area during the site walk survey conducted on July 23, 2021.

Common Name	Scientific Name
American Crow	<i>Corvus brachyrhynchos</i>
American Goldfinch	<i>Spinus tristis</i>
American Redstart	<i>Setophaga ruticilla</i>
American Robin	<i>Turdus migratorius</i>
Black-capped Chickadee	<i>Poecile atricapillus</i>
Black-throated Green Warbler	<i>Dendroica virens</i>
Blue Jay	<i>Cyanocitta cristata</i>
Brown Creeper	<i>Certhia americana</i>
Cedar Waxwing	<i>Bombycilla cedrorum</i>
Chestnut-sided Warbler	<i>Setophaga pensylvanica</i>
Chimney Swift	<i>Chaetura pelagica</i>
Downy Woodpecker	<i>Dryobates pubescens</i>
Eastern Phoebe	<i>Sayornis phoebe</i>
Eastern Wood-pewee	<i>Contopus virens</i>
Gray Catbird	<i>Dumetella carolinensis</i>
Great Crested Flycatcher	<i>Myiarchus crinitus</i>
Hairy Woodpecker	<i>Dryobates villosus</i>
Hermit Thrush	<i>Catharus guttatus</i>

Common Name	Scientific Name
Herring Gull	<i>Larus argentatus</i>
Northern Cardinal	<i>Cardinalis cardinalis</i>
Northern Flicker	<i>Colaptes auratus</i>
Ovenbird	<i>Seiurus aurocapilla</i>
Pileated Woodpecker	<i>Dryocopus pileatus</i>
Red-eyed Vireo	<i>Vireo olivaceus</i>
Song Sparrow	<i>Melospiza melodia</i>
Tufted Titmouse	<i>Baeolophus bicolor</i>
White-breasted Nuthatch	<i>Sitta carolinensis</i>

4.7 Amphibians and Reptiles

Amphibians and reptiles were observed qualitatively during the wetland and natural resource site walk. Several common species were observed within the Survey Area including wood frog, redback salamander, green frog, and leopard frog (Maine Special Concern Species). Table 3 includes species observed, along with those that may occur based on habitat within the Survey Area. Species that may occur, but were not observed are indicated with an asterisk.

Table 3. Comprehensive list of reptiles and amphibians detected or potentially occurring in the Survey Area during the site walk survey conducted on July 28, 2021.

Common Name	Scientific Name
Blue-spotted salamander*	<i>Ambystoma laterale</i>
Spotted salamander*	<i>Ambystoma maculatum</i>
American toad*	<i>Anaxyrus americanus</i>
Painted turtle*	<i>Chrysemys picta</i>
Spotted turtle*	<i>Clemmys guttata</i>
Blanding's turtle*	<i>Emydoidea blandingii</i>
Wood turtle*	<i>Glyptemys insculpta</i>
Gray treefrog*	<i>Hyla versicolor</i>
Eastern milksnake*	<i>Lampropeltis triangulum</i>
Green frog	<i>Lithobates clamitans</i>
Pickerel frog*	<i>Lithobates palustris</i>
Northern leopard frog	<i>Lithobates pipiens</i>
Wood frog	<i>Lithobates sylvaticus</i>
Eastern newt*	<i>Notophthalmus viridescens</i>
Eastern red-backed salamander	<i>Plethodon cinereus</i>
Spring peeper*	<i>Pseudacris crucifer</i>
Eastern ribbon snake*	<i>Thamnophis sauritus</i>
Common garter snake*	<i>Thamnophis sirtalis</i>

*Assumed potentially present based on habitat

5.0 Agency Consultation

A desktop review of publicly available data from the Maine Department of Environmental Protection and the Maine Department of Inland Fisheries and Wildlife (MDIFW) showed no mapped habitats or known occurrence of Rare, Threatened or Endangered Species. Species inquiries were sent to the Maine Natural Areas Program (MNAP) and the MDIFW on May 21, 2021.

The response from the MDIFW identified several species as potentially being present within the Site. **Exhibit D** includes the response from the MDIFW. Four rare reptiles may occur within the area: Blanding's turtle, spotted turtle, wood turtle, and eastern ribbon snake. Table 4 includes a summary of the preferred habitats of these species, their State protection status and the Buffer distance recommended by MDIFW.

Table 4. Summary of Protected Wildlife Identified as Potentially Occurring within the Survey Area.

Common Name	Latin Name	Habitat Preferences	State Protection Status	Recommended Buffer Distance
Blanding's turtle	<i>Emydoidea blandingii</i>	vernal pools, acidic wetlands small wetland complexes and larger marsh complexes in large blocks of forested habitat.	Endangered	250' undisturbed vegetative buffer from potential habitats.
Spotted turtle	<i>Clemmys guttata</i>	small streams, shrub swamps, wet meadows, bogs, and forested swamps	Threatened	250' undisturbed vegetative buffer from potential habitats.
Wood turtle	<i>Glyptemys insculpta</i>	riparian meadows, shrub thickets, farmland, and deciduous forests as well as bogs, forested wetlands, vernal pools, and streams	Special Concern	300-foot undisturbed, intact vegetative cover
Eastern Ribbon Snake	<i>Thamnophis sauritus</i>	edges of emergent marshes, wet meadows, scrub-shrub wetlands, beaver impoundments, bogs, river and stream floodplains,	Special Concern	None provided

6.0 Regulatory Implications

Development projects in the State of Maine are regulated by the Maine Department of Environmental Protection (MDEP). Developments that include 20 or more acres of single or common scheme of development (i.e., large projects completed over multiple stages with the same owner or shared infrastructure) require a Site Location of Development Act (SLODA) permit. These permits often take anywhere from 6 months to 1 year to complete based on the complexity of the project. The purpose of SLODA is to permit large projects and mitigate potential environmental impact from developments such as subdivisions and large commercial projects. The SLODA permit also requires that the permittee consult with the Maine Department of Inland Fisheries and Wildlife (MDIFW) as well as the Maine Historic Preservation Commission (MHPC) to avoid potential impacts to rare species or habitats as well as avoid impacts to historic resources. The SLODA process also involves input from the general public through required notices in public papers along with public informational meetings.

In addition, the Maine Natural Resource Protection Act (NRPA) regulates impacts to resources such as fresh water wetlands, vernal pools, and streams. For impacts (i.e., fill or clearing) greater than 4,300 sq. ft., a NRPA permit must be obtained from the MDEP. The state also protects Significant Habitat through Chapter 335 of NRPA. Significant Vernal Pools along with a 250-foot buffer are protected under NRPA. Certain wetlands (those within 25 feet of a stream, or those that contain significant wildlife habitat) are considered Wetlands of Special Significance, and are protected from impacts to a greater extent.

Development within Maine that disturbs more than one acre of land requires the permittee to obtain a Maine Stormwater Permit as described in Chapter 500, Maine's Stormwater Rules. These permits vary based on the size and complexity of the project and the intent is to manage stormwater, which results from impervious surfaces.

Federal oversight of natural resources is triggered by projects with a Federal Nexus. Most commonly, developments such as the proposed, trigger federal jurisdiction through impacts to Waters of the United States. Temporary or permanent fill, for roads or bridges, across jurisdictional wetlands are permitted by the U.S. Army Corps. of Engineers (USACE). These impacts require a Section 404, and sometimes Section 410, permit. Projects regulated by the USACE also require compliance with the Endangered Species Act (ESA) which involves coordination with the U.S. Fish and Wildlife Service (USFWS) and the Environmental Protection Agency (EPA). Most commonly in Maine, there is one federally listed species of bat known to occur in Maine, the northern long-eared bat, which is protected under the ESA. This species is non-migratory and are expected to occur within the state year-round.

The northern long-eared bat hibernates in caves and mines during winter. During summer, these bats roost singly or in colonies underneath bark, in cavities or in crevices of both live trees and dead trees, and rock structures. Males and non-reproductive females may also roost in cooler places, like caves and mines, during summer. The northern long-eared bat is also known to occasionally roost in anthropogenic structures, such as barns and sheds.

The northern long-eared bat was listed as threatened under the ESA on April 2, 2015. A final 4(d), rule was subsequently published in the Federal Register on January 14, 2016. The 4(d) rule specifically defines the "take" prohibitions for this species. "Take" is defined by the ESA as 'to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect' any endangered species. Purposeful take is when the reason for the activity or action is to conduct some form of take. Intentionally killing or harming bats is also purposeful take and is prohibited. "Incidental take" is defined by the Endangered Species Act as take that is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." For example, harvesting trees can kill bats that are roosting in the trees, but the purpose of the activity is not to kill bats.

7.0 Discussion

Based on our desktop review and field surveys, the Clifford Park area and the PAD provide excellent wildlife habitat for a variety of species. The field work confirmed that several common birds and mammals utilize the area, and more importantly the PAD and larger Survey Area likely provide habitat to several protected reptiles and amphibians. The consultation response from the MDIFW identified that spotted turtles, Blanding's turtles, wood turtles, and ribbon snakes may occur within the Survey Area. The review of the habitat present within the Survey Area and the PAD confirm that habitat used by these species is present. In addition, while the survey was completed outside the breeding season, there are several features that are likely vernal pools. During the fieldwork, biologists observed wood frogs in upland areas which indicate that these species are present within both the Survey Area and PAD.

Habitat within the Survey Area accounts for approximately 1.4 square miles (~920 acres) of intact and unfragmented forested habitat within the City of Biddeford. Habitat connectivity is defined as the degree to which the landscape facilitates or impedes animal movement and other ecological processes. Maintaining habitat connectivity (i.e. unfragmented habitat) allows wildlife to migrate and disperse throughout changing seasons, boost biodiversity and resilience in degraded ecosystems, safeguards genetic flow between populations, and ensure species are better able to adapt to changes. The Survey Area may include species which require intact upland and wetland habitats within close proximity. Several mapped significant vernal pools occur adjacent to the subject parcels (within Clifford Park) and several potential pools were observed within the Survey Area. Vernal pools provide important habitat for several obligate species including the yellow spotted salamander, blue spotted salamander, and wood frog. These species

require not only seasonal pools for breeding, but spend much of their time within adjacent upland and wetland habitats. In the case of the yellow and blue spotted salamander, these species may disperse hundreds or even thousands of feet from the breeding pool. Recent studies completed have identified direct loss of vernal pools as well as loss of critical upland and terrestrial habitat as significant drivers for the loss of obligate vernal pool species (Calhoun 2008). The state of Maine protects terrestrial habitats within 250 feet of a significant pool, but connectivity to a larger intact forested habitat is best to maintain a healthy vernal pool ecosystem.

To the southeast there is an area of mapped Deer Wintering Habitat (DWA). Deer wintering areas include a variety of habitat components that may change with forest condition and management strategy. These habitat components contribute to the long-term functioning of a DWA as a source of winter shelter and food. White-tailed deer utilize predominantly mature coniferous forest habitat during critical winter conditions. Biologists did not identify any significant wintering habitat (i.e., dense stands of northern white cedar or similar). There are some areas of hemlock forest which are commonly used for shelter from passing storms or some temperature refuge due to dense overstory cover, but these forests are not typically considered “yards” or wintering areas. There is however significant deer sign throughout the Survey Area, likely a result from the mast producing species of oak, which are prevalent throughout the area.

The Survey Area includes several streams, both perennial and intermittent. In general, wider riparian and habitat corridors provide overall higher habitat quality and diversity. However, a balance must be struck between the need for development and the need to maintain habitat corridors. The U.S. Department of Agriculture (USDA) made recommendations on the minimum riparian corridor based on several species (i.e., large mammals, small mammals, birds, and herptiles). While recommendations may vary, generally larger mammals require a minimum of 330-foot corridors and smaller species such as reptiles and amphibians or small mammals require 200-foot corridors. This is general guidance, and corridor widths often vary by species. In most cases, the recommended corridor width is much larger than the minimum standard (Bentrop 2008).

8.0 Recommendations

Based on our site work and a review of supplemental information, we have prepared the following list of recommendations for either additional work or questions to be answered by the applicant to better understand the potential impacts as they relate to the proposed project.

Questions That the Developer Should Answer for the Planning Board:

- Does this proposed development require 20 or more acres of disturbance? Is this development within a common scheme of development (i.e., same owner or utilize common infrastructure) as adjacent developments such that it exceeds 20 acres?
- Is there more than one (1) acre of disturbance and has the applicant obtained or plan to obtain a Stormwater Permit?
- Has the applicant completed a natural resource survey (i.e., wetland delineation and vernal pool survey) of the Survey Area (entire parcel)? If so are there any mapped significant vernal pools within 250' of the PAD?
- Is there a proposed impact within protected resource (i.e., within 250' of a significant vernal pool, freshwater wetland, or stream)?
- Is there proposed fill (temporary or permanent) within jurisdictional wetlands?
- Has the applicant coordinated with the MDIFW with regard to potential impacts to protected species or habitats?
- Based on our review of the development layout, it appears that buffers to streams and associated habitats are inadequate (i.e., narrower than recommended). Has an alternatives analysis been completed to ensure that the development focuses on areas, which would avoid fragmentation and reduce impacts on natural resources?

Recommendations:

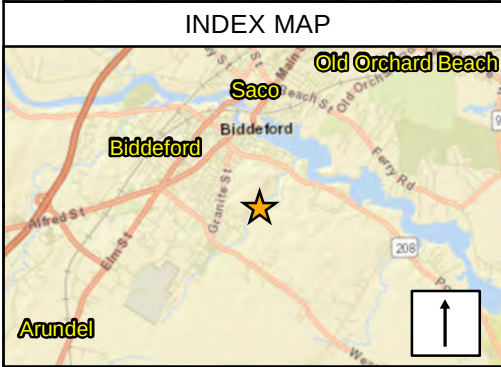
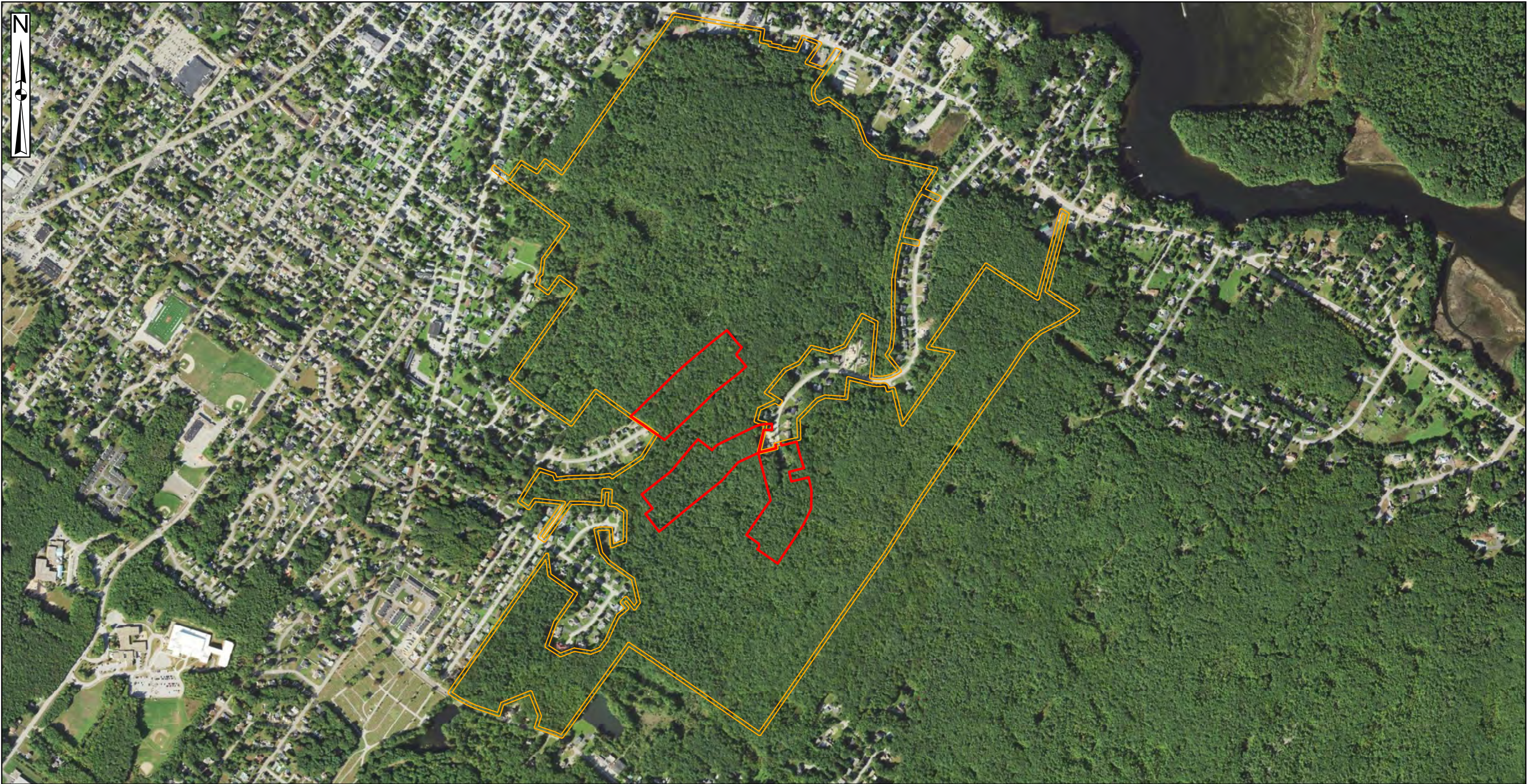
- We recommend that the development better utilize the property to cluster development in order to reduce fragmentation and increase riparian corridors in size. Based on the current layout we have reviewed the riparian buffer provided in some locations is less than 100 feet, and does not include any buffer on wetlands adjacent to streams.
- We recommend including recommended buffers on habitat for rare species (i.e., spotted turtles, Blanding's turtles, wood turtles, and ribbon snakes), which would include up to 300 feet from habitats used by these species. These buffers would extend into currently proposed areas of development. At the very least, if these buffers are not included, a survey for these species should be completed by a qualified biologist.
- Consultation with the MDIFW should occur, given the proximity of rare reptiles and amphibians and the habitats present within the Survey Area. Any survey for rare species should involve coordination with the MDIFW.

- Given the presence of potential habitat for the northern long-eared bat, we recommend consultation with MDIFW. Restrictions stemming from the presence of this species often entail avoidance of tree clearing during the bat's active season. If these conditions cannot be met, we would recommend acoustic surveys to evaluate use of the PAD by target bat species.

9.0 Literature Cited

- Bentrup, G. 2008. Conservation buffers: design guidelines for buffers, corridors, and greenways. Gen. Tech. Rep. SRS-109. Asheville, NC: Department of Agriculture, Forest Service, Southern Research Station. 110 p.
- Calhoun, A. and P. deMaynadier. 2008. Science and Conservation of Vernal Pools in Northeastern North America. CRC Press; Boca Raton, FL.
- Gawler, S. and A. Cutko. 2010. Natural Landscapes of Maine: A Guide to Natural Communities and Ecosystems. Augusta, ME: Maine Department of Conservation, Maine Natural Areas Program. 277 p.

Exhibit A:
Location Map



LEGEND

- Proposed Area of Development
- Project Survey Boundary


Biodiversity Research Institute
innovative wildlife science

SCALE:

0 800 1,600 Feet
1 inch = 800 feet

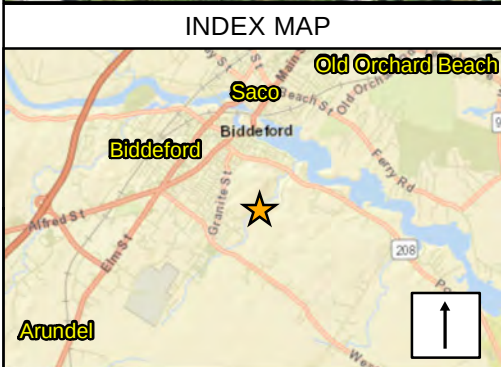


**PROJECT LOCATION MAP - AERIAL
BIDDEFORD, MAINE**

SEPTEMBER 28, 2021

Exhibit B:

Natural Resource Map



LEGEND

- Photograph Location
- ▲ Potential Vernal Pool
- Stream
- ▭ Wetland
- Proposed Area of Development
- Project Survey Boundary


Biodiversity Research Institute
innovative wildlife science

SCALE:
0 800 1,600 Feet
1 inch = 800 feet


**RECON NATURAL RESOURCES &
PHOTOGRAPHIC LOCATION MAP
BIDDEFORD, MAINE**

SEPTEMBER 29, 2021

Exhibit C:
Photo Log

HABITAT SURVEY PHOTO LOG (PHOTOS TAKEN 7/28/2021)

Photo Point 1



Photo Point 2



Photo Point 3



Photo Point 4



Photo Point 5



Photo Point 6



Photo Point 7



Photo Point 8



Photo Point 9



Photo Point 10



Photo Point 11



Photo Point 12



Photo Point 13



Photo Point 14



Photo Point 15



Photo Point 16



Photo Point 17



Photo Point 18



Photo Point 19



Photo Point 20



Exhibit D:
Agency Consultation



STATE OF MAINE
DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
284 STATE STREET
41 STATE HOUSE STATION
AUGUSTA ME 04333-0041



June 22, 2021

Steve Knapp
Biodiversity Research Institute
276 Canco Road
Portland, ME 04103

RE: Information Request – Winding Creek Lane Project, Biddeford

Dear Steve:

Per your request received on May 21, 2021, we have reviewed current Maine Department of Inland Fisheries and Wildlife (MDIFW) information for known locations of Endangered, Threatened, and Special Concern species; designated Essential and Significant Wildlife Habitats; and inland fisheries habitat concerns within the vicinity of the *Winding Creek Lane Solar* project in Biddeford. Note that as project details are lacking, our comments are non-specific and should be considered preliminary.

Our Department has not mapped any Essential Habitats that would be directly affected by your project.

Endangered, Threatened, and Special Concern Species

Bats - Of the eight species of bats that occur in Maine, the three *Myotis* species are afforded special protection under Maine's Endangered Species Act (MESA, 12 M.R.S §12801 et. seq.): little brown bat (State Endangered), northern long-eared bat (State Endangered), and eastern small-footed bat (State Threatened). The five remaining bat species are designated as Species of Special Concern: big brown bat, red bat, hoary bat, silver-haired bat, and tri-colored bat. While a comprehensive statewide inventory for bats has not been completed, based on historical evidence it is likely that several of these species occur within the project area during migration and/or the breeding season. However, our Agency does not anticipate significant impacts to any of the bat species as a result of this project.

Blanding's Turtle - Multiple occurrences of Blanding's turtles, a State Endangered species, have been documented in the immediate vicinity and within the proposed project area. In Maine, Blanding's turtles are found most frequently in complexes of small, vernal pools, acidic wetlands and larger marsh complexes in large blocks of forested habitat. Development activity that compromises riparian integrity or migration permeability among seasonally critical wetlands can lead to degradation of habitat quality and potential loss of local populations. Additionally, development projects that lead to significant increases in local traffic volume will likely lead to increased roadkill and possible extirpation of the local population. If these habitats are present in the project area, we recommend that they be avoided and adequately buffered with a 250-foot undisturbed, intact vegetative cover.

Spotted Turtle - Occurrences of spotted turtle, a State Threatened species, have been documented within the vicinity of the search area of the proposed project. Spotted turtles are most frequently associated with complexes of small, acidic wetlands and vernal pools located in large, intact landscapes. They also use small streams, shrub swamps, wet meadows, bogs, and forested swamps. Similar to Blanding's turtle, if

these habitats are present in the project area, we recommend that they be avoided and adequately buffered with a 250-foot undisturbed, intact vegetative cover.

Wood Turtle - Occurrences of wood turtle, a State Species of Special Concern, have been documented within the vicinity of the search area of the proposed project. Wood turtles use a mix of aquatic and terrestrial habitats throughout the year including riparian meadows, shrub thickets, farmland, and deciduous forests as well as bogs, forested wetlands, vernal pools, and streams. If these habitats are present in the project area, we recommend that they be avoided and adequately buffered with a 300-foot undisturbed, intact vegetative cover.

MDIFW is willing to work closely with the applicant to design a project that attempts to limit potential impacts to any of the turtle species listed above.

Eastern Ribbon Snake - There is a potential for occurrences of Eastern ribbon snake, a state Species of Special Concern, within the proposed project. This rare species is a slender, semiaquatic snake often observed near the edges of emergent marshes, wet meadows, scrub-shrub wetlands, beaver impoundments, bogs, river and stream floodplains, and vegetated shorelines of ponds and lakes.

Significant Wildlife Habitat

Deer Wintering Areas (DWAs) – The project search area intersects with a DWA. DWAs contain habitat cover components that provide conditions where deer find protection from deep snow and cold wind, which is important for overwinter survival. MDIFW recommends that development projects be designed to avoid losses or impacts to the continued availability of coniferous winter shelter. Any removal of vegetation should be conducted in such a way that improves the quality and vigor of the coniferous species providing this winter shelter.

Significant Vernal Pools - At this time, MDIFW Significant Wildlife Habitat maps indicate no known presence of Significant Vernal Pools in the project search area; however, a comprehensive statewide inventory for Significant Vernal Pools has not been completed. Therefore, we recommend that surveys for vernal pools be conducted within the project boundary by qualified wetland scientists prior to final project design to determine whether there are Significant Vernal Pools present in the area. These surveys should extend up to 250 feet beyond the anticipated project footprint because of potential performance standard requirements for off-site Significant Vernal Pools, assuming such pools are located on land owned or controlled by the applicant. Once surveys are completed, survey forms should be submitted to our Agency for review well before to the submission of any necessary permits. Our Department will need to review and verify any vernal pool data prior to final determination of significance.

Fisheries Habitat

We recommend that 100-foot undisturbed vegetated buffers be maintained along streams. Buffers should be measured from the edge of stream or associated fringe and floodplain wetlands. Maintaining and enhancing buffers along streams that support coldwater fisheries is critical to the protection of water temperatures, water quality, natural inputs of coarse woody debris, and various forms of aquatic life necessary to support conditions required by many fish species. Stream crossings should be avoided, but if a stream crossing is necessary, or an existing crossing needs to be modified, it should be designed to provide full fish passage. Small streams, including intermittent streams, can provide crucial rearing habitat, cold water for thermal refugia, and abundant food for juvenile salmonids on a seasonal basis and undersized crossings may inhibit these functions. Generally, MDIFW recommends that all new,

modified, and replacement stream crossings be sized to span at least 1.2 times the bankfull width of the stream. In addition, we generally recommend that stream crossings be open bottomed (i.e. natural bottom), although embedded structures which are backfilled with representative streambed material have been shown to be effective in not only providing habitat connectivity for fish but also for other aquatic organisms. Construction Best Management Practices should be closely followed to avoid erosion, sedimentation, alteration of stream flow, and other impacts as eroding soils from construction activities can travel significant distances as well as transport other pollutants resulting in direct impacts to fish and fisheries habitat. In addition, we recommend that any necessary instream work occur between July 15 and October 1.

This consultation review has been conducted specifically for known MDIFW jurisdictional features and should not be interpreted as a comprehensive review for the presence of other regulated features that may occur in this area. Prior to the start of any future site disturbance we recommend additional consultation with the municipality, and other state resource agencies including the Maine Natural Areas Program, Maine Department of Marine Resources, and Maine Department of Environmental Protection in order to avoid unintended protected resource disturbance.

Please feel free to contact my office if you have any questions regarding this information, or if I can be of any further assistance.

Best regards,

A handwritten signature in black ink, appearing to read 'Becca Settele', with a stylized, flowing script.

Becca Settele
Wildlife Biologist

382000

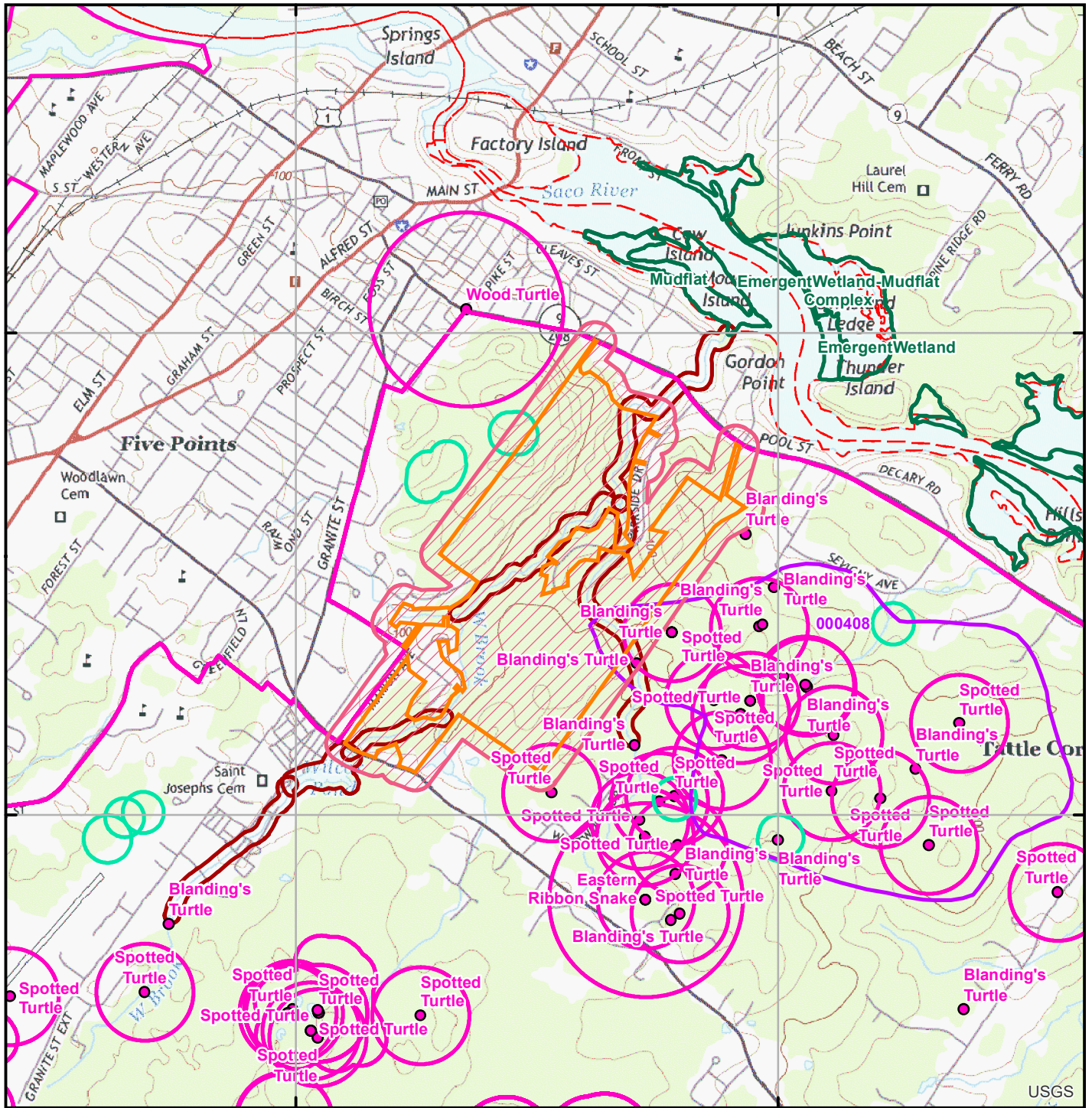
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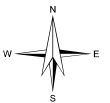
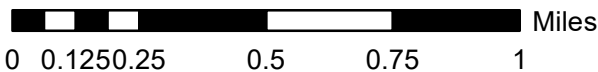
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Environmental Review of Fish and Wildlife Observations and Priority Habitats

Project Name:

Project Name: Winding Creek Lane, Biddeford
(Version 1)Maine Department of
Inland Fisheries and Wildlife

Projection: UTM, NAD83, Zone 19N

Date: 6/22/2021

- ProjectSearchAreas - All Versions
- Maine Cliff and Talus Areas

- Deer Winter Area
- LUPC p-fw
- Cooperative DWAs
- Seabird Nesting Islands
- Shorebird Areas
- Inland Waterfowl and Wading Bird
- 2008 Iwwh - Shoreland Zoning
- Tidal Waterfowl and Wading Bird
- Significant Vernal Pools
- Environmental Review Polygons

- Roseate Tern
- Piping Plover and Least Tern
- Aquatic ETSc - 2.5 mi review
- Rare Mussels - 5 mi review
- Maine Heritage Fish Waters
- Arctic Charr Habitat
- Redfin Pickerel and Swamp Darter Habitats - buffer100ft
- Special Concern occupied habitats - 100ft buffer
- Wild Lake Trout Habitats

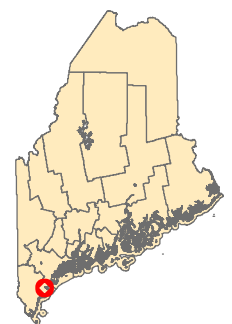


Exhibit E:
Plant List

Common Name	Latin Name
Striped Maple	<i>Acer pensylvanicum</i>
Red Maple	<i>Acer rubrum</i>
Sugar Maple	<i>Acer saccharum</i>
Speckled Alder	<i>Alnus incana</i>
Service Berry (Shadbush)	<i>Amelanchier arborea</i>
Wild Sarsaparilla	<i>Aralia nudicaulis</i>
Jack-in-the-pulpit	<i>Arisaema triphyllum</i>
Japanese Barberry	<i>Berberis thunbergii</i>
Paper Birch	<i>Betula papyrifera</i>
Fringed Sedge	<i>Carex crinita</i>
Hop Sedge	<i>Carex lupulina</i>
Tussock Sedge	<i>Carex stricta</i>
Oriental Bittersweet	<i>Celastrus orbiculatus</i>
Bluebead Lily	<i>Clintonia borealis</i>
Sweet Fern	<i>Comptonia peregrina</i>
Goldthread	<i>Coptis trifolia</i>
Bunchberry	<i>Cornus canadensis</i>
Three-way Sedge	<i>Dulichium arundinaceum</i>
Narrow Leaved Goldenrod	<i>Euthamia graminifolia</i>
Green Ash	<i>Fraxinus pennsylvanica</i>
Checkerberry	<i>Gaultheria procumbens</i>
Witch Hazel	<i>Hamamelis ovalis</i>
Common St. Johnswort	<i>Hypericum perforatum</i>
Winterberry	<i>Ilex verticillata</i>
Soft Rush	<i>Juncus effusus</i>
Northern Water-horehound	<i>Lycopus americanus</i>
Maleberry	<i>Lyonia ligustrina</i>
Swamp Candle	<i>Lysimachia terrestris</i>
False Lily-of-the-Valley	<i>Maianthemum dilatatum</i>
False Solomon Seal	<i>Maianthemum racemosum</i>
Ostrich Fern	<i>Matteuccia struthiopteris</i>
Partridgeberry	<i>Mitchella repens</i>
Ghost Pipe	<i>Monotropa uniflora</i>
Interrupted Fern	<i>Osmunda claytoniana</i>
Royal Fern	<i>Osmunda regalis</i>
Cinnamon Fern	<i>Osmundastrum cinnamomeum</i>
Red Pine	<i>Pinus resinosa</i>
White Pine	<i>Pinus strobus</i>

Common Name	Latin Name
Christmas Fern	<i>Polystichum acrostichoides</i>
Bracken fern	<i>Pteridium aquilinum</i>
White Oak	<i>Quercus alba</i>
Red Oak	<i>Quercus rubra</i>
Swamp dewberry	<i>Rubus hispidus</i>
Common Elderberry	<i>Sambucus nigra</i>
Darkgreen Bulrush	<i>Scirpus atrovirens</i>
Woolgrass	<i>Scirpus cyperinus</i>
Steeplebush	<i>Spiraea tomentosa</i>
Meadowsweet	<i>Spiraea latifolia</i>
New York Fern	<i>Thelypteris noveboracensis</i>
Marsh Fern	<i>Thelypteris palustris</i>
Northern White Cedar	<i>Thuja occidentalis</i>
Eastern Hemlock	<i>Tsuga canadensis</i>
Broadleaved Cattail	<i>Typha latifolia</i>
Lowbush Blueberry	<i>Vaccinium angustifolium</i>
Highbush Blueberry	<i>Vaccinium corymbosum</i>
Highbush Blueberry	<i>Vaccinium corymbosum</i>
Arrowwood	<i>Viburnum dentatum</i>
Wild Raisin	<i>Viburnum nudum</i>