

ITEM

24-011

To hold a Public Hearing to consider and act on approval of a Wharfing
Out Permit at 25 Ledge Road, as recommended by the
Coastal Waters Commission



CUMBERLAND POLICE DEPARTMENT

290 TUTTLE ROAD
CUMBERLAND, MAINE 04021

CHARLES J. RUMSEY, IV
CHIEF OF POLICE

EMERGENCY
911

BUSINESS
(207) 829-6391

FAX
(207) 829-2211

To: Town Manager Bill Shane

From: Police Chief Chip Rumsey

Date: Tuesday, February 20, 2024

Subject: Recommended approval of application for new pier and floats at 25 Ledge Road

The Coastal Waters Commission, at its February 6th meeting, voted to recommend that the Council approve the pending application by Ann Powers and Richard Giunta of 25 Ledge Road for a new pier and floats.

Proper public notice was achieved by the Clerk's Office by noticing abutters by postcard, by posting notice in Town Hall, and by posting the notice on the Town's website.

The Coastal Waters Commission conducted a site walk at 25 Ledge Road prior to its February 6th meeting. Present at the site walk was Tim Forrester of Flycatcher, LLC on behalf of the property owners. Members of the CWC were able to view the area where the pier and floats will be installed and ask questions regarding the process.

At the beginning of the February 6th meeting, Chair Rick Thompson led a public hearing regarding this application. No members of the public were present. There was a quorum of the CWC, and members reviewed the criteria for approval of the application as specified by ordinance 226-25. Following the public hearing, the CWC voted unanimously *to recommend that the Council approve the pending permit with no conditions.*



December 18, 2023

Mr. Richard Thompson
Chair, Coastal Waters Commission
290 Tuttle Road
Cumberland, Maine 04021

**Re: Shoreland Zoning and Building Permit Applications on behalf of Ann Powers and Richard Giunta,
25 Ledge Road, Cumberland, Maine.**

Dear Richard,

On behalf of Ann Powers and Richard Giunta, Flycatcher, LLC (Flycatcher) is pleased to submit a Shoreland Zoning Application and a Building Permit Application to the Town of Cumberland to replace a damaged wharf in kind and to replace the pier, ramp, and float with similar structures. The property was previously developed with a twenty-four (24) foot wide by forty-six (46) foot long wharf that contained a twelve (12) foot wide by eighteen (18) foot long building and a dock consisting of a six (6) foot wide by twenty (20) foot long pier, a three (3) foot wide by forty-four (44) foot long seasonal ramp, and a twelve (12) foot wide by twelve (12) foot long seasonal float. There is also an existing set of access stairs that consists of two (2), four (4) feet wide by six (6) feet long landings with a four (4) foot wide by eighteen (18) foot long run of stairs in between the first and second landing and a twenty-four (24) foot long run of stairs from the second landing that extended to the wharf. During the December 23, 2022 storm, the shoreline experienced a significant rotational failure which destroyed the wharf and exposed soils along the entire shoreline. The wharf was temporarily relocated to the intertidal area to allow the Applicant to remove the damaged building and to stabilize the shoreline before rebuilding the wharf. The Applicants now propose to rebuild a new pier in the same location with the same dimensions as the former structure. Applications have been submitted to the U.S. Army Corps of Engineers (ACOE), Maine Projects Office in Augusta, Maine and to the Maine Department of Environmental Protection (MDEP). Copies of those approvals are included in the attached application materials.

Thank you in advance for your consideration of this Application. If you require any additional information or clarifications, please feel free to contact me at 207 – 615 - 1527 or by email at lisa@flycatcherllc.com.

Respectfully submitted,

Tim Forrester

Director of Coastal Resources
Lower Falls Landing, 106 Lafayette Street, Suite 2A
Yarmouth, ME 04096

FOR OFFICE USE ONLY:

PERMIT NO.: _____

ISSUE DATE: _____

FEE AMOUNT: _____

Town of Cumberland Shoreland Zoning Permit Application

GENERAL INFORMATION

1. APPLICANT	2. APPLICANT ADDRESS	3. APPLICANT PHONE NUMBER
4. PROPERTY OWNER	5. PROPERTY OWNER ADDRESS	6. PROPERTY OWNER PHONE NUMBER
7. CONTRACTOR:	8. CONTRACTOR'S ADDRESS:	9. CONTRACTOR'S PHONE NUMBER:
10. LOCATION / ADDRESS OF PROPERTY	11. TAX MAP & LOT NUMBER, AND DATE LOT WAS CREATED	12. ZONING DISTRICT
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS AND WELLS (PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3).		
14. PROPOSED USE OF PROJECT	15. ESTIMATED COST OF CONSTRUCTION	

SHORELAND PROPERTY INFORMATION

16. LOT AREA (SQ. FT.)	17. FRONTAGE ON ROAD (FT.)
18. SQ. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES	19. ELEVATION ABOVE 100 YEAR FLOOD
20. FRONTAGE ON WATERBODY (FT.)	21. HEIGHT OF PROPOSED STRUCTURE
22. EXISTING USE OF PROPERTY	23. PROPOSED USE OF PROPERTY

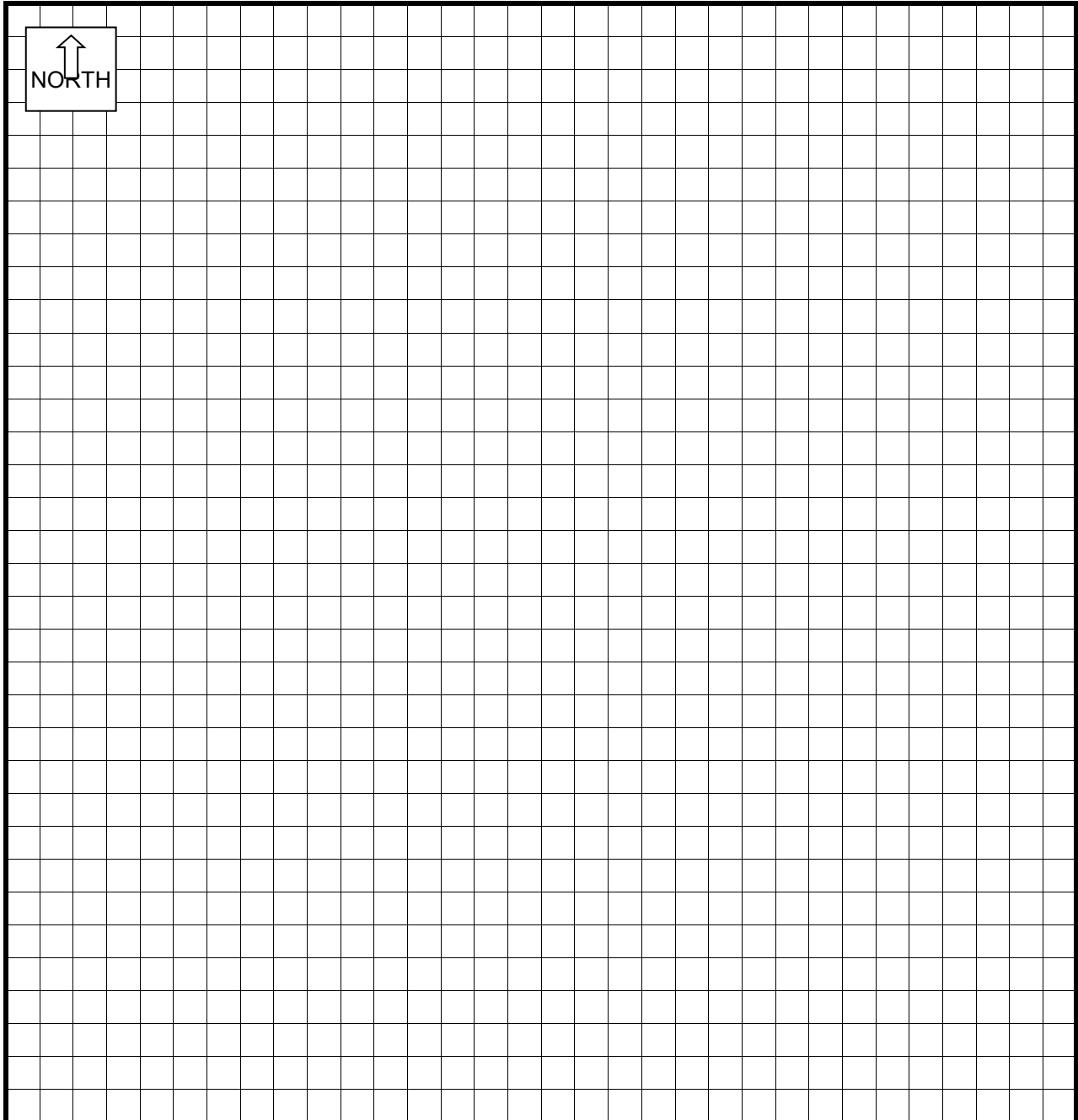
NOTE: Questions 24 & 25 apply only to expansions of portions of existing structures which are less than the required setback from the high water mark.

24. A) TOTAL FLOOR AREA OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89 (SQ. FT.) 	25. A) TOTAL VOLUME OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89 (CU. FT.)
B) FLOOR AREA OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT (SQ. FT.) 	B) VOLUME OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT (CU. FT.)
C) FLOOR AREA OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK (SQ. FT.) 	C) VOLUME OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK (CU. FT.)
D) % INCREASE OF FLOOR AREA OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89 (% INCREASE = (B+C)/Ax100)	D) % INCREASE OF VOLUME OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89 (%) (% INCREASE = (B+C)/Ax100)

SITE PLAN

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE, YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURE TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING, AND AFTER CONSTRUCTION. (See attached guidelines.)

A large grid for a site plan, with a north arrow in the top left corner. The grid is 30 units wide and 30 units high. The north arrow is a square with an upward-pointing arrow and the word "NORTH" below it.

Scale: _____ inches = _____ feet.

EXTERIOR ELEVATIONS

DRAW A SIMPLE SKETCH SHOWING BOTH EXISTING AND PROPOSED STRUCTURES WITH DIMENSIONS:

SEE PROJECT PLANS

FRONT OR REAR ELEVATION

SEE PROJECT PLANS

SIDE ELEVATION

Scale: _____ inches = _____ feet.

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

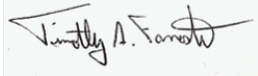
- ☐ PLANNING BOARD REVIEW APPROVAL (e.g. Subdivision, Site Plan Review)
- ☐ BOARD OF APPEALS REVIEW APPROVAL
- ☐ FLOOD HAZARD DEVELOPMENT PERMIT
- ☐ EXTERIOR PLUMBING PERMIT (Approved HHE-200 Application Form)
- ☐ INTERIOR PLUMBING PERMIT
- ☐ D.E.P. PERMIT (Site Location, Natural Resource Protection Act)
- ☐ ARMY CORPS OF ENGINEERS PERMIT (e.g. Sec. 404 of Clean Waters Act)
- ☐ ARMY CORPS OF ENGINEERS PERMIT (e.g. Sec. 404 of Clean Waters Act)

OTHERS:

<input type="checkbox"/> _____	<input type="checkbox"/> _____
<input type="checkbox"/> _____	<input type="checkbox"/> _____

NOTE: Applicant is advised to consult with the Code Enforcement Officer and appropriate State and Federal agencies to determine whether additional permits, approvals, and reviews are required.

I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE **CUMBERLAND** SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.



APPLICANT'S SIGNATURE

DATE

AGENT'S SIGNATURE (if applicable)

DATE

* If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

APPROVAL OR DENIAL OF APPLICATION
(For Office Use Only)

THIS APPLICATION IS:

MAP _____ LOT _____

☐ APPROVED

☐ DENIED

IF APPROVED, THE FOLOWING CONDITIONS ARE PRESCRIBED:

IF DENIED, REASON FOR DENIAL:

NOTE: IN APPROVING A SHORELAND ZONING PERMIT, THE PROPOSED USE SHALL COMPLY WITH THE PURPOSES AND REQUIREMENTS OF THE SHORELAND ZONING ORDINANCE FOR THE TOWN OF CUMBERLAND.

CODE ENFORCEMENT OFFICER

DATE

* This permit will expire one year fom the date of issuance, if no substantial start is made in construction.

INSPECTION CHECKLIST:

☐ Prior to Clearing and Excavation

☐ Prior to Foundation Pour

☐ Prior to Final Landscaping

☐ Prior to Occupancy

Permit # _____

Fee Amount _____

Town of Cumberland, Maine Building Permit Application Tax Map/Lot No.: _____
MINIMUM PERMIT FEE \$50.00 (See back for info) Zoning/Overlay District _____
DATE RECEIVED _____ PERMIT # _____

Applicant Name: _____ **Phone #:** _____

Mailing Address: _____

Email Address: _____

Owner's Name: _____ **Phone #:** _____

Mailing Address: _____

Contractor Name: _____ **Phone #:** _____

Mailing Address: _____

Property Location: _____

Lot Dimensions: _____ x _____ **Area:** _____ **Number of dwelling units:** _____

Plumbing: Sewer Permit Issued?: yes ☐ no ☐ n/a ☐ **Septic Permit Issued?:** yes ☐ no ☐ n/a ☐

Street Opening?: yes ☐ no ☐ n/a ☐ **Private way?:** yes ☐ no ☐ n/a ☐ **Driveway Entrance?:** yes ☐ no ☐ n/a ☐

Plans Filed: Scaled Plot Plan?; - yes ☐ no ☐ n/a ☐ **Full Construction Drawings?:** yes ☐ no ☐ n/a ☐

Area of Land to be Disturbed if over 1 acre: _____ **Amount of soil disturbed (square feet):** _____

Amount of Excavation and/or fill if over 1,000 cubic yards: _____

Description of Proposed Construction: _____

Setback Info: Front Yard: _____ **Side Yard #1:** _____ **Side Yard #2:** _____ **Rear Yard:** _____

Building Info: Length: _____ ft. **Width:** _____ ft. **Height:** _____ ft. **Area:** _____ sq. ft.

Shoreland Overlay District: yes ☐ no ☐ **Resource Protection District:** yes ☐ no ☐ **Floodplain Permit:** _____

Notice of Intent (DEP) ME Const. General Permit _____

Estimated Cost of Construction: \$ _____ **Permit Fee:** \$ _____

Owner/Agent signature: _____ **Date signed:** _____

Office use only: TYPE OF CONSTRUCTION: _____ **USE GROUP** _____

CONDITIONS OF APPROVAL: _____

CODE ENFORCEMENT OFFICER _____ **Date Permit Issued:** _____

BUILDING INSPECTIONS MONDAY THROUGH THURSDAY – 829-2207

[Type here]

[Type here]

rvsd 8/20

Building Permit Application Checklist

All building plans must meet or exceed Maine Uniform Building and Energy Codes (MUBEC), IRC-2015, IBC-2015 & IEBC-2015 as adopted by the State of Maine.

All building permits (EXCEPT for sheds and decks) are a MINIMUM \$50.00 fee.

Sheds & Decks are a MINIMUM \$25.00 fee (Up to 400 sq. ft. then \$.10 per additional sf)

New Home applications needed:

- **Growth Permit \$100.00**
- **Building Permit Application and Fee** (Finished Areas \$.40 per sf – Unfinished areas \$.20 per sf)
- **Septic/Sewer Permit** - 3 SIGNED COPIES OF HHE-200 Fee (non-engineered complete system is \$390.00) **or** Sewer connection permit (\$50.00) & user unit fee (Varies)
- **Deed** for the Property
- **One (1) copy of full size construction plans, one (1) 11x17 size plans & (1) electronic set of plans**
- **Plans must include:** 4 elevations, framing cross-section (including sizes of structural members), foundation plan, floor plan (each room use labeled), structural steel, ridges, beams involving LVL's, or Paralam's, (stamped by engineer), plot plan; lot size and accurate locations of all existing and proposed structures with set-backs (per scale noted on plot plan), and drainage. **Please be aware that structurally complicated buildings must be reviewed by an Engineer.**

Impact Fee: Will be applied to all new homes & all additions to homes that are less than 5 years old - \$1.40 per sq. ft. minus first 1,000 sf. for original structure

Renovations/Solar Arrays: Minimum fee of \$50.00 or \$14.00 per \$1,000 of renovation cost

New Construction/Additions Residential: Minimum fee of \$50.00 **OR** Finished areas at \$.40 per sf. **AND** Unfinished areas AT \$.20 / per sf. whichever is greater.

COMMERCIAL New Construction/Additions: Minimum fee of \$100.00 **OR** finished areas at \$.50 per sf. **AND** unfinished areas at \$.20 per sf.

- **Floor plans** showing existing structure and proposed changes
- **Framing cross sections** (including sizes of structural members)
- **Plot Plan;** lot size and accurate locations of all existing and proposed structures with set-backs (PER SCALE ON PLOT PLAN), and drainage.
- **BUILDING PERMIT APPLICATION and FEE**

COMMERCIAL Renovations/Solar Arrays: \$14.00 per \$1,000.00 of renovation cost

Demolition Permits: \$50.00 (10-day waiting period)

Shoreland Permits: The Shoreland Overlay District (SOD) is generally 250 feet from rivers, streams or saltwater bodies and their associated wetlands where shown on the official Zoning Map, also 75 feet from certain streams - See Zoning Ordinance. All requests for Building Permits in the SOD require a Shoreland Zoning Permit (Fee \$150.00) prior to or with issuance of the Building Permit.

Maine Construction General Permit: Effective 2-17-03 a "NOTICE OF INTENT" may be required if your construction will result in disturbance of greater than or equal to one acre. (To be filed with the DEP)

Project Description

The Applicant owns property identified by the Town of Cumberland as Lot #18 of Tax Map #U6A which is developed with a residential structure and associated development. The lot is +/- 1.53 acres in size and includes approximately three hundred and twelve (312) feet of shoreline adjacent to Broad Cove. Based on aerial imagery, the lower portion of the shoreline has been developed with a twenty-four (24) feet wide by forty-six (46) feet long wharf that contained a twelve (12) feet wide by eighteen (18) feet long building and a dock consisting of a six (6) feet wide by twenty (20) feet long pier, a three (3) feet wide by forty-four (44) feet long seasonal ramp, and a twelve (12) feet wide by twelve (12) feet long seasonal float since at least 1987. There is also an existing set of access stairs that consists of two (2), four (4) feet wide by six (6) feet long landings with a four (4) feet wide by eighteen (18) feet long run of stairs in between the first and second landing and a twenty-four (24) feet long run of stairs from the second landing that extended to the wharf. Earlier this year, the shoreline recently experienced a substantial rotational failure from heavy storm events and the access stairs and landings, wharf, and pier were destroyed while the building suffered some damage. Evidence of this is included in the attached photographs.

Given the unsafe conditions, the Applicant relocated the building to the intertidal area by lifting the building and setting it on four (4) temporary steel pilings that were installed at low tide with a vibratory hammer. This is a temporary situation that will be in place for less than seven (7) months and will allow the Applicant to remove the damaged wharf and pier and replace these structures in the same location and with the same dimensions. The pier is supported with an eight (8) feet wide by eight (8) feet long rock filled crib that is currently in place and will be utilized for the new pier. Once the pier is rebuilt, the Applicant intends to install a new ramp and float in the same dimensions as the previously existing structures. The building will be repaired as necessary and set in place on the wharf as it previously existed.

Land Use Standards

Town of Cumberland Ordinances, Article IV: Land Use Standards

Section 226-25: Piers, wharves, docks, bridges, floats, and other structures

1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in § 226-23 a second structure may be allowed and may remain as long as the lot is not further divided.

The Applicant is proposing to construct one pier on their property.

2. Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

The Applicant has an existing set of stairs that will provide access to the intertidal area. The stairs will be reconstructed as part of the proposed development. The proposed pier will be supported with pilings that will be pinned to ledge or driven to refusal.

3. The location shall not interfere with existing developed or natural beach areas.

No beach areas exist within the site.

4. The facility shall be located so as to minimize adverse effects on fisheries.

The proposed dock will be elevated of the sediments and the float will be constructed with float skids to elevate the float over the intertidal substrates during periods of low tide. The project was reviewed by the US Fish and Wildlife Service (USFWS) as part of the ACOE review and they did not identify any concerns regarding fisheries or other habitats as a result of the proposed project. Additionally, the ramp and float will be installed on a seasonal basis and stored outside of the coastal wetland in the off-season.

5. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in nontidal waters shall not be wider than six feet for noncommercial uses.

The proposed project is to replace “in kind” the existing wharf. The new wharf will not be any larger than what originally existed. Dock structures are common along the shore of Broad Cove.

6. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

The Applicant is not changing the existing building that existed on the old wharf. That building will be put back to the original location once the shoreline is stabilized and the wharf is rebuilt.

7. New permanent piers and docks on nontidal waters shall not be permitted unless it is clearly demonstrated to the Code Enforcement Officer that a temporary pier or dock is not feasible and a permit has been obtained from the Department of Environmental Protection pursuant to the Natural Resources Protection Act.

As the previous dock was destroyed in a storm, it was determined that installing the access stairs, landings, and pier on a permanent basis would be the safest and most effective way to ensure the long term use of the dock. A Permit by Rule Application has been submitted to the MDEP and their approval is attached below.

8. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

No changes are proposed to the existing structure.

9. Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

The applicant does not propose any structures on, over, or abutting the proposed dock that would exceed twenty (20) feet in height. The existing building is less than twenty (20) feet tall.

10. Vegetation may be removed in excess of the standards in § 226-39 of this chapter in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Coastal Waters Commission.

The Applicant proposes to stabilize the shoreline from the water via a barge. Vegetation will be removed and replanted in accordance with Shoreland Zoning Standards.

- A. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete, the construction equipment accessway must be restored.
Construction access will occur from a barge. An access way is not required to stabilize the shoreline.

- B. Revegetation must occur in accordance with § 226-42.

Note: a permit pursuant to the Natural Resources Protection Act is required from the Department of Environmental Protection for Shoreline Stabilization Activities.

The Applicant intends to stabilize any areas of disturbed soil in accordance with section 226-42 of this chapter and in accordance with the MDEPs soil disturbance BMPs.

11. A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:

N/A

- A. The total deck area attached to the structure does not exceed 700 square feet;
- B. The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
- C. The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
- D. The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in § 226-24; and

E. The construction of the deck complies with all other state and federal laws.

12. Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling, and navigation. This may require accommodations such as steps or pier elevation to allow passage over or beneath a structure.

The Applicant has designed the dock to allow for passage beneath the pier for fishing, fowling, and navigating within the intertidal area on a partial-tide basis. Stairs are included in the wharf to permit passage over the wharf during high tide.

13. Where the applicant has applied for "group dock" and the waterfront structure proposed will serve more than one property, the property owners shall submit to the Town a proposed easement deed demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town.

The proposed dock will provide access for one residence.

14. Storage of floats, ramps, and pier accessories is prohibited within the intertidal zone.

The Applicant intends to store the ramp and float in the upland at an off-site location.

15. Storage of floats, ramps, and pier accessories must comply with all federal, state, and local shoreland zoning rules and regulations.

The Applicant proposes to store the float in an upland location off-site to comply with federal, state, and local rules and regulations.

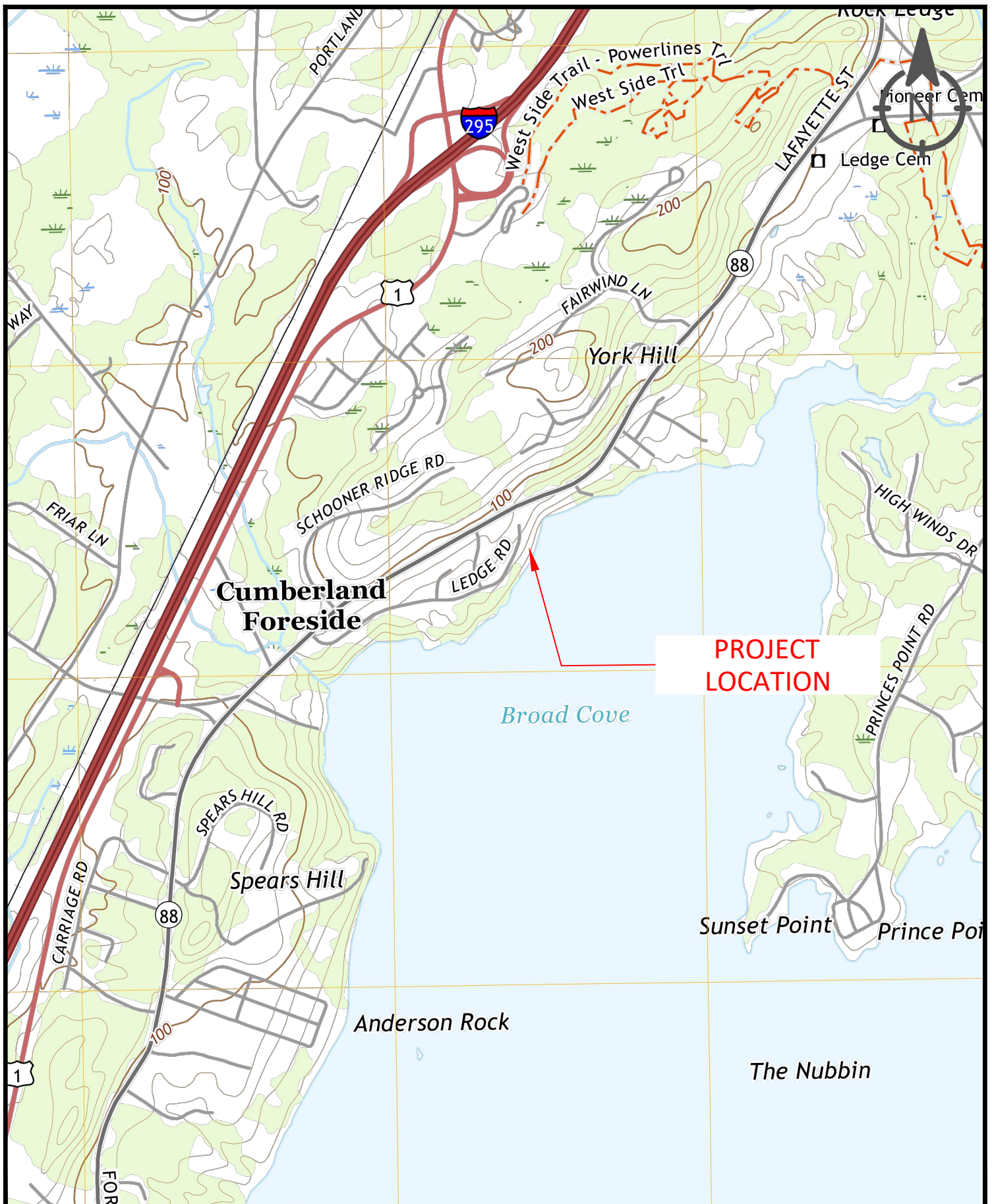
16. Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and to promote safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

The Applicant does not propose lighting on the proposed dock.

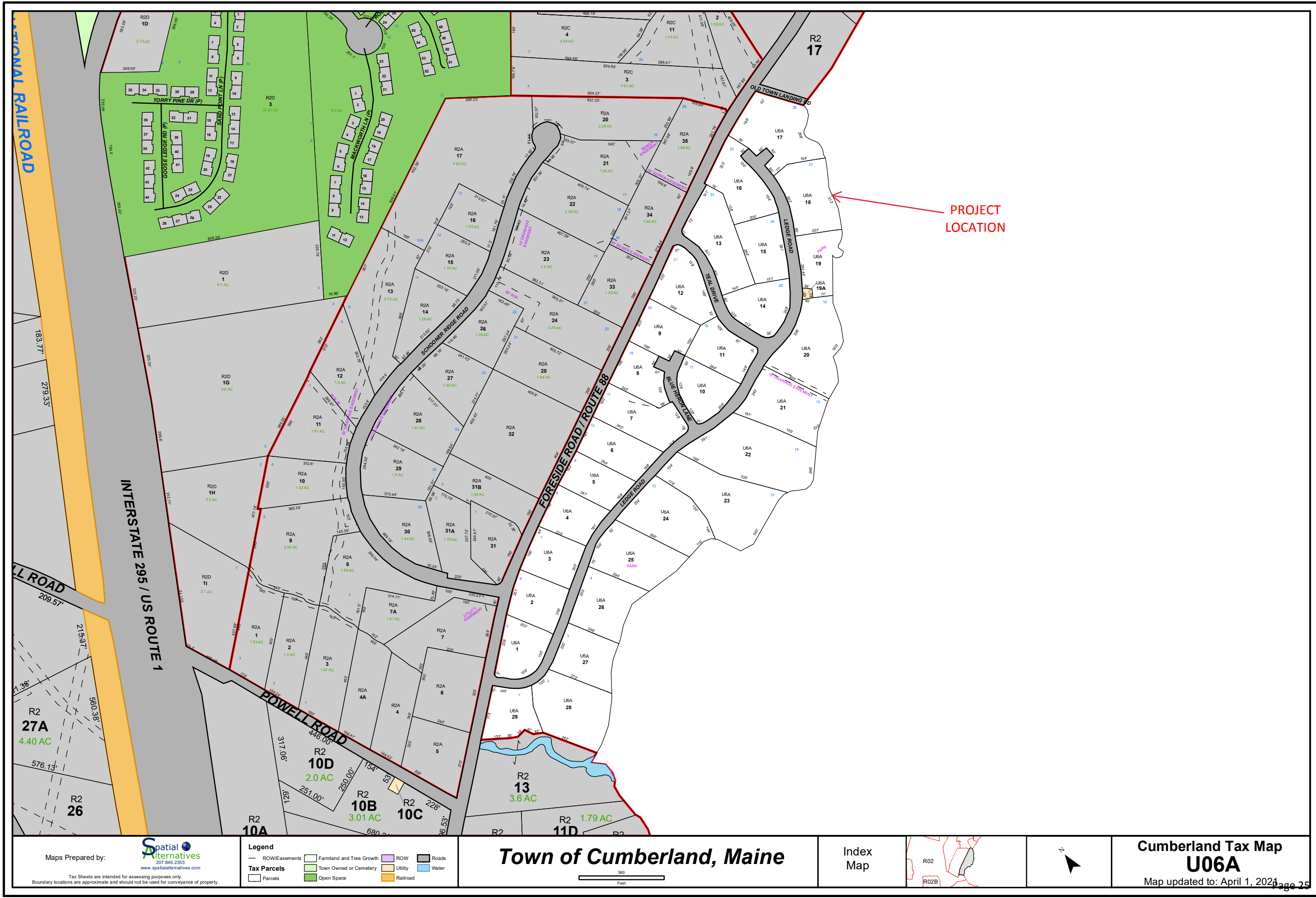
Note: New permanent structures and expansions thereof, projecting into or over water bodies shall require a permit from the DEP pursuant to the Natural Resources Protection Act, 38 M.R.S.A Section 480-C. Permits may also be required from ACOE if located in navigable waters.

The Applicant has included the permit received from the DEP.

Location Map



**PROJECT
LOCATION**



PROJECT
LOCATION

Maps Prepared by:

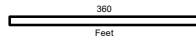


Tax Sheets are intended for assessing purposes only.
Boundary locations are approximate and should not be used for conveyance of property.

Legend

- ROW/Easements
- Farmland and Tree Growth
- Town Owned or Cemetery
- Open Space
- ROW
- Utility
- Railroad
- Roads
- Water

Town of Cumberland, Maine



Index
Map



Cumberland Tax Map
U06A

Map updated to: April 1, 2024

Photographs

The following photographs are taken from the site of the project and represent the existing conditions of the site at 25 Ledge Road in the Town of Cumberland. All photographs were taken by Tim Forrester, Flycatcher, LLC on February 9, 2023, and unless otherwise noted.



Photograph One. Historic Aerial View of Project Site. The red arrow indicates the existing dock location. Source: Historicaerials.com. Date: 1987.



Photograph Two. Aerial view of Project Site. Red arrow shows access structures with seasonal ramp and float removed. Source: Google Earth. Date: May 4, 2018.



Photograph Three. View of wharf, wharf building, and pier after shoreline failure.



Photograph Four. Additional view of existing conditions of wharf. The building has been relocated to allow for structures to be removed due to safety concerns.



Photograph Five. View of stairs and landing that are proposed to be replaced. Note erosion along shoreline.



Photograph Six. Overview of lower stairs, wharf, and wharf building that have since been removed due to safety concerns.

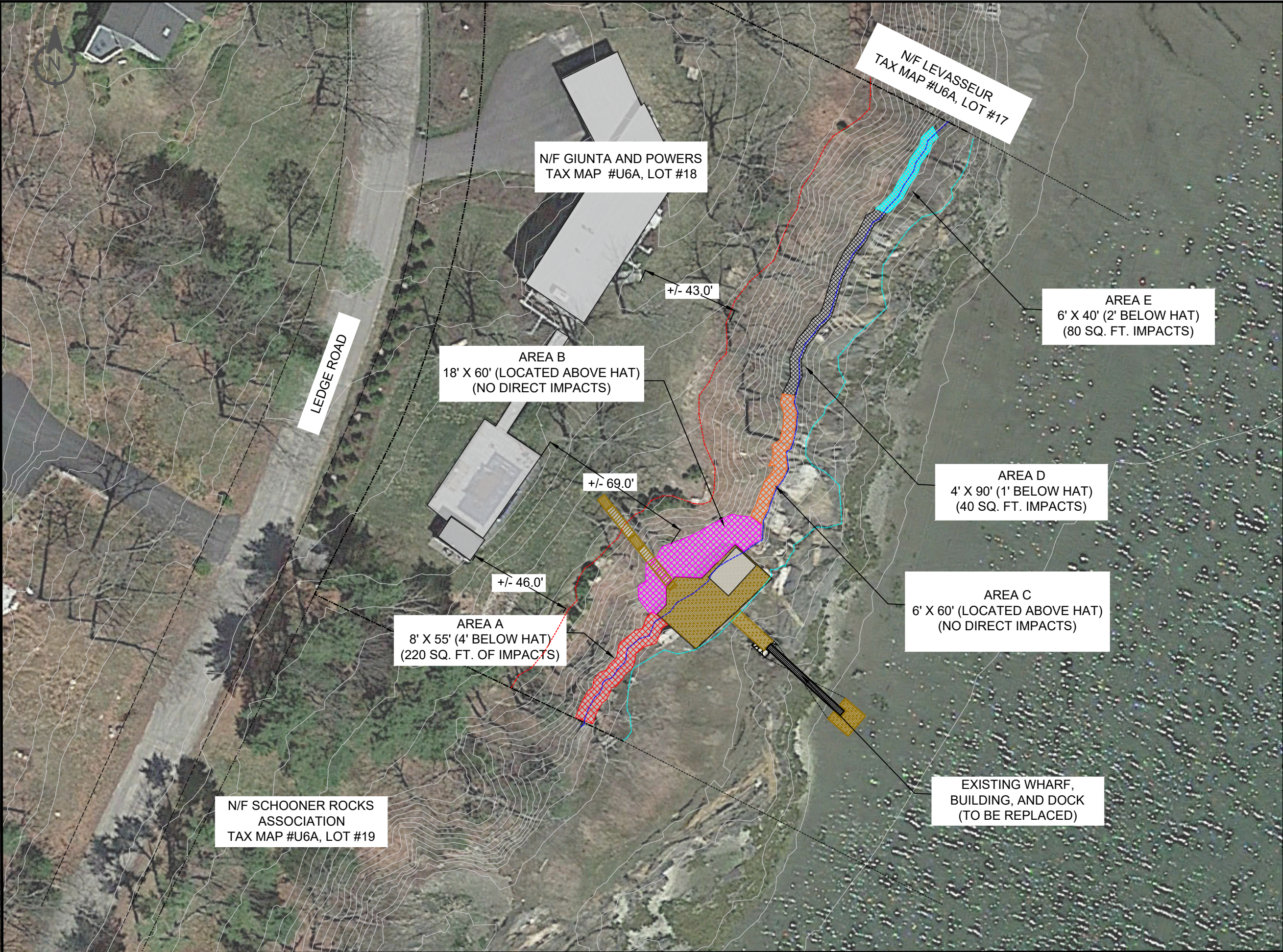


Photograph Seven. View of temporary location for building. Location will allow marine contractor to stabilize the shoreline, rebuild stairs, landings, and wharf and reinstall building. Photographer: Shawn Toohey, Prock Marine. Date: May 4, 2023.



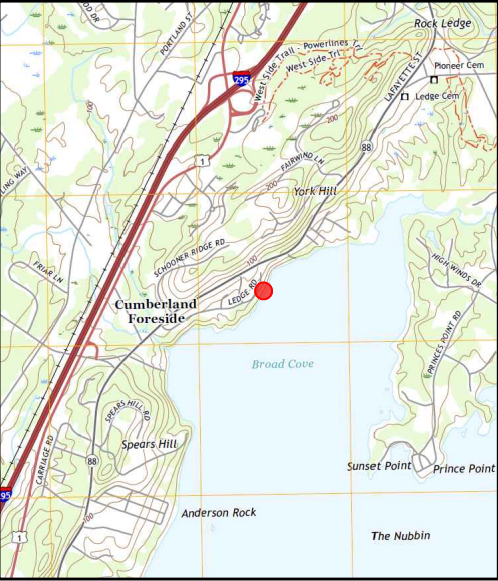
Photograph Eight. View of additional area that failed in Summer 2023. Photographer: Lisa Vickers. Date: July 14, 2023.

Project Plans

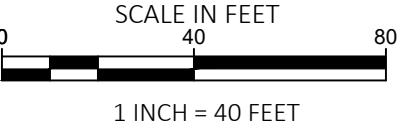


LEGEND

- PROPERTY LINE
- RIPARIAN LINE
- HIGHEST ANNUAL TIDE (HAT)
- MEAN HIGH WATER (MHW)
- TOP OF BANK



- NOTES:
- 1) BASE MAP IMAGERY BASED ON GOOGLE EARTH IMAGERY DATED 5/4/2018.
 - 2) 2 FT CONTOUR DATA BASED ON MAINE OFFICE OF GIS TILE 19TDJ04.
 - 3) PROPERTY LINE DATA BASED ON PLAN TITLED, "PLAT OF SCHOONER ROCKS CUMBERLAND, MAINE EXTENSION I," PREPARED BY OWEN HASKELL AND DATED 4/29/64.
 - 4) PLAN IS FOR PERMITTING PURPOSES.



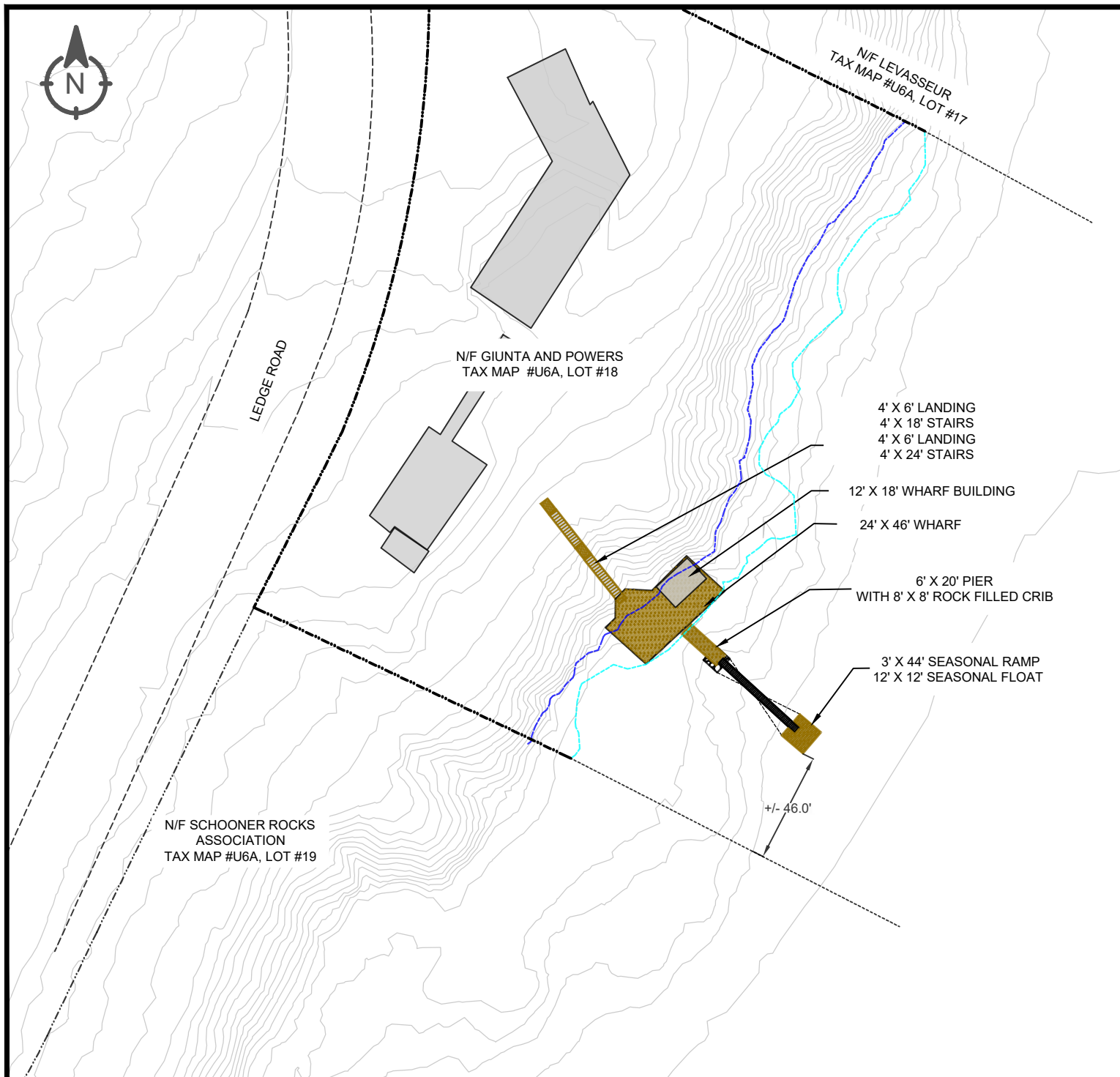
PROJECT:
**PROPOSED STABILIZATION FOR
GIUNTA AND POWERS , 25 LEDGE
ROAD, CUMBERLAND, MAINE.**

TITLE:
**OVERVIEW OF EXISTING AND
PROPOSED CONDITIONS**

DRAWN BY:	LCV	SHEET:	1 OF 7
CHECKED BY:	TAF		
DATE:	7/21/2023	REV DATE:	

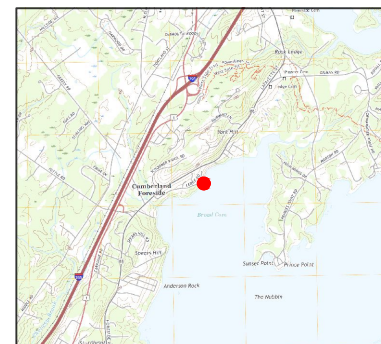


Lower Falls Landing
106 Lafayette Street,
Suite 2A
Yarmouth, ME 04096



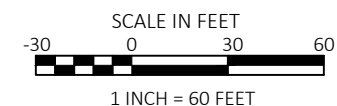
LEGEND

- PROPERTY LINE
- HIGHEST ANNUAL TIDE (HAT)
- MEAN HIGH WATER (MHW)
- APPROXIMATE RIPARIAN LINE



NOTES:

- 1) BASE MAP IMAGERY BASED ON GOOGLE EARTH IMAGERY DATED 5/4/2018.
- 2) PROPERTY LINE DATA BASED ON PLAN TITLED, "PLAT OF SCHOONER ROCKS CUMBERLAND, MAINE EXTENSION I," PREPARED BY OWEN HASKELL AND DATED 4/29/64.
- 3) PLAN IS FOR PERMITTING PURPOSES.



PROJECT:

**GIUNTA AND POWERS SHORELINE
STRUCTURE REBUILD**

TITLE:

**PLAN AND CROSS SECTION VIEWS
OF REBUILT STRUCTURES**

DRAWN BY:
LCV

SHEET:
2 OF 3

CHECKED BY:
TAF

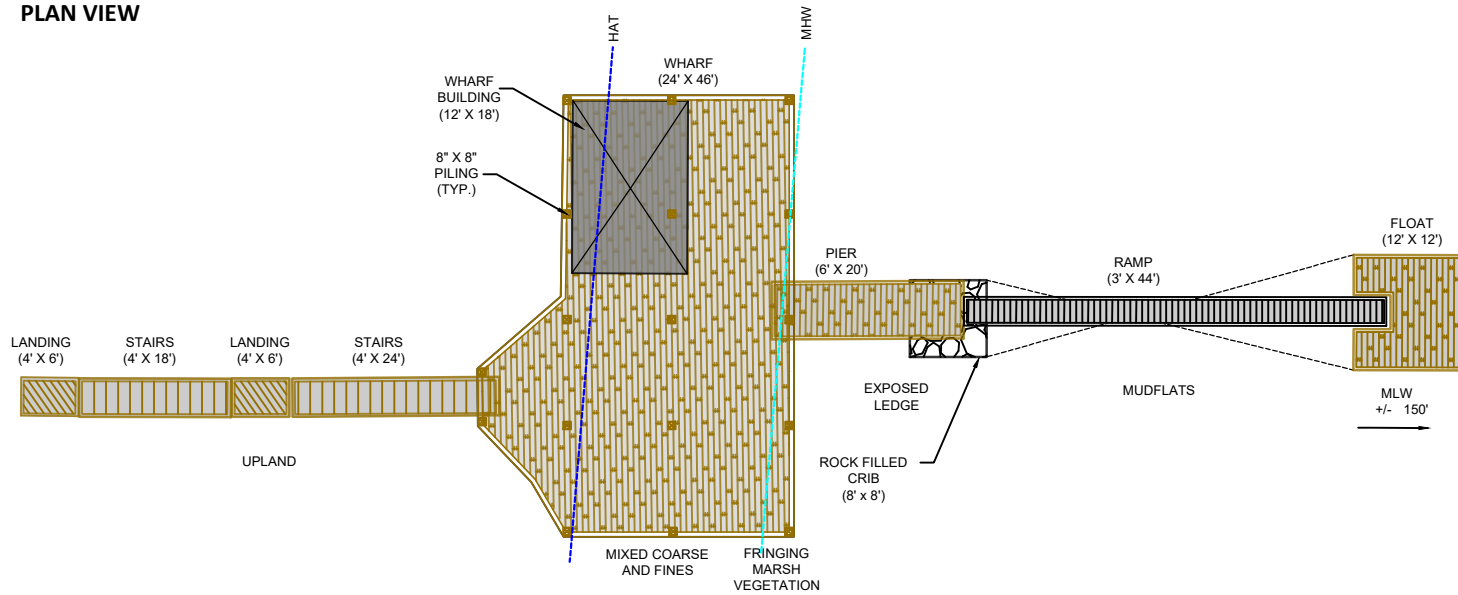
DATE:
5/23/2023

REV DATE:



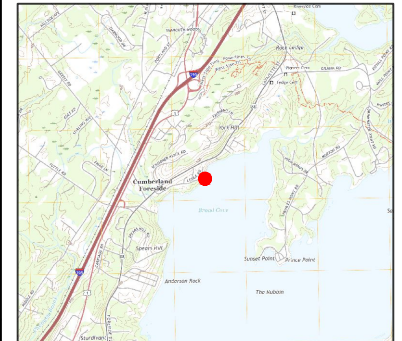
Lower Falls Landing
106 Lafayette Street,
Suite 2A
Yarmouth, ME 04096

PLAN VIEW

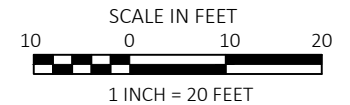
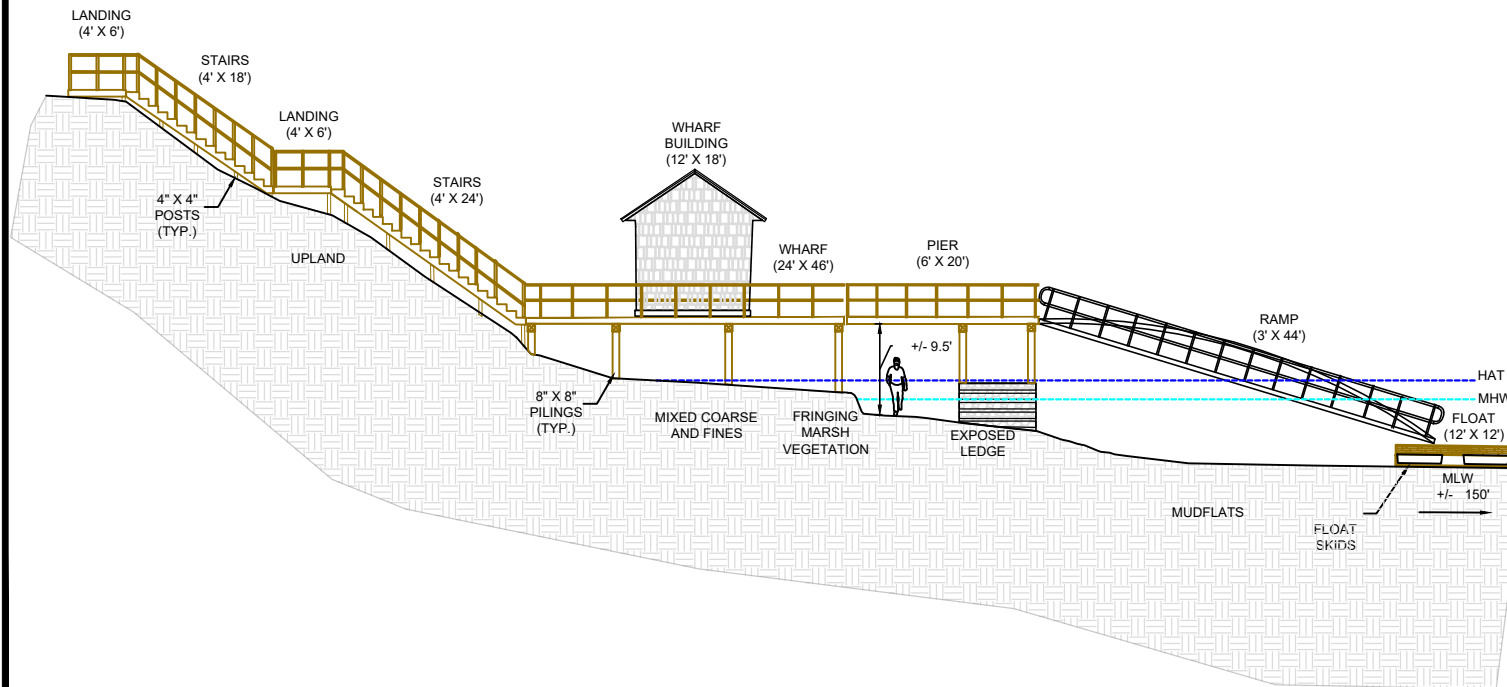


NOTES:

- 1) ALL CCA TREATED PT LUMBER WILL BE CURED IN THE UPLAND FOR 21 DAYS PRIOR TO INSTALL.
- 2) STAIRS AND LANDINGS ARE SUPPORTED WITH 4" X 4" POSTS SET IN PLACE IN THE UPLAND WITH HAND TOOLS.
- 3) WHARF IS SUPPORTED WITH (17), 8" X 8" PILINGS PINNED TO LEDGE.
- 4) PIER IS SUPPORTED WITH AN 8' X 8' ROCK FILLED CRIB.
- 5) FLOAT WILL BE SECURED IN PLACE WITH TIEBACKS PINNED TO LEDGE ON THE INBOARD SIDE.
- 6) RAMP AND FLOAT ARE IN PLACE SEASONALLY AND STORED OUTSIDE THE COASTAL WETLAND DURING THE OFF-SEASON.
- 7) ALL STRUCTURES WILL BE REPLACED IN THE SAME LOCATION AND WITH THE SAME DIMENSIONS, INCLUDING HEIGHT.
- 8) PLAN IS FOR PERMITTING PURPOSES ONLY.



SECTION VIEW



PROJECT:

**GIUNTA AND POWERS SHORELINE
STRUCTURE REBUILD**

TITLE:

**PLAN AND CROSS SECTION VIEWS
OF REBUILT STRUCTURES**

DRAWN BY:

LCV

SHEET:

3 OF 3

CHECKED BY:

TAF

DATE:

5/24/2023

REV DATE:

12/22/2023



Lower Falls Landing
106 Lafayette Street,
Suite 2A
Yarmouth, ME 04096

Construction Plan

The site will be accessed via Ledge Road and all materials and equipment for construction of the dock will be delivered from the upland. Any chromated copper arsenate (CCA) lumber used for the construction of the dock will be cured on dry land for 21 days prior to the start of construction. The project does not require the use of heavy equipment and all pilings will be driven with hand tools. The anchors are held in place and a power head winds the helix into the ground, resulting in minimal soil disturbance. The ramp and float will be installed during next boating season. The construction of the dock should take approximately two (2) to three (3) weeks and all work will be conducted at low tide or in the dry. It is not anticipated that measurable soil disturbance will occur as a result of the construction of the dock given the construction methods.

Any disturbed areas within the Shoreland Zone will be restored to meet the standards set forth in Section 226-42 of the Town of Cumberland's Shoreland Zoning Ordinance.

Erosion Control Plan

The Applicant will install erosion and sediment controls prior to the start of construction. The shoreline will be graded as necessary and filter fabric and 6" minus stone will be installed as previously described. At the completion of construction, any areas of soil disturbance will be stabilized with vegetation and mulch in accordance with the Department's permanent soil stabilization BMPs published in the most recent version of the Maine Erosion and Sediment Control BMPs manual.

TRUSTEE'S DEED

(Maine Statutory Short Form)

DLN: 1001840021159

Peter R. Bouchard, Trustee of the Peter R. Bouchard Revocable Trust u/a dated November 10, 2017, of Cumberland, County of Cumberland and State of Maine, grants to Richard F. Giunta and Ann K. Powers, whose mailing address is 4 Barron Court, Andover, MA 01810, as joint tenants, the land with any buildings thereon situated at 25 Ledge Road, Cumberland, County of Cumberland and State of Maine, described as follows:

See Attached Exhibit A

Meaning and intending to convey the same premises conveyed to Peter R. Bouchard, Trustee of the Peter R. Bouchard Revocable Trust u/a dated November 10, 2017, by virtue of a deed from Peter R. Bouchard dated November 16, 2017 and recorded in the Cumberland County Registry of Deeds in Book 34466, Page 218.

The Trustee hereby certifies that the trust instrument referenced above is in full force and effect and the trustee is currently authorized to transfer the real property described above.

Witness my hand and seal this 12th day of February, 2018.



Witness

Peter R. Bouchard Revocable Trust

By:

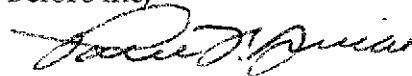
Peter R. Bouchard, Trustee

STATE OF MAINE
COUNTY OF CUMBERLAND

February 12, 2018

Then personally appeared before me the above named Peter R. Bouchard, Trustee of the Peter R. Bouchard Revocable Trust, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said trust.

Before me,



Notary Public/ Attorney at Law

Printed Name: PAUL F. DRISCOLL

My Comm. Exp:

EXHIBIT A

A certain lot or parcel of land with the buildings thereon situated on the southeasterly side of Ledge Road in the Town of Cumberland, County of Cumberland and State of Maine, being Lot No. 27 as shown on Plat of Schooner Rocks, Extension 1, made by Owen Haskell, Civil Engineer, dated April 29, 1964 and recorded in the Cumberland County Registry of Deeds in Plan Book 69, Page 26, to which plan reference is hereby made for a more particular description.

The foregoing premises are conveyed subject to all encumbrances of record.

A handwritten signature or mark, possibly the letter 'P', enclosed within a hand-drawn circle.

APPROVED BY CUMBERLAND PLANNING BOARD

James H. Felt Chairman

Wm. J. Carlson

John Parks

May 6, 1965

N

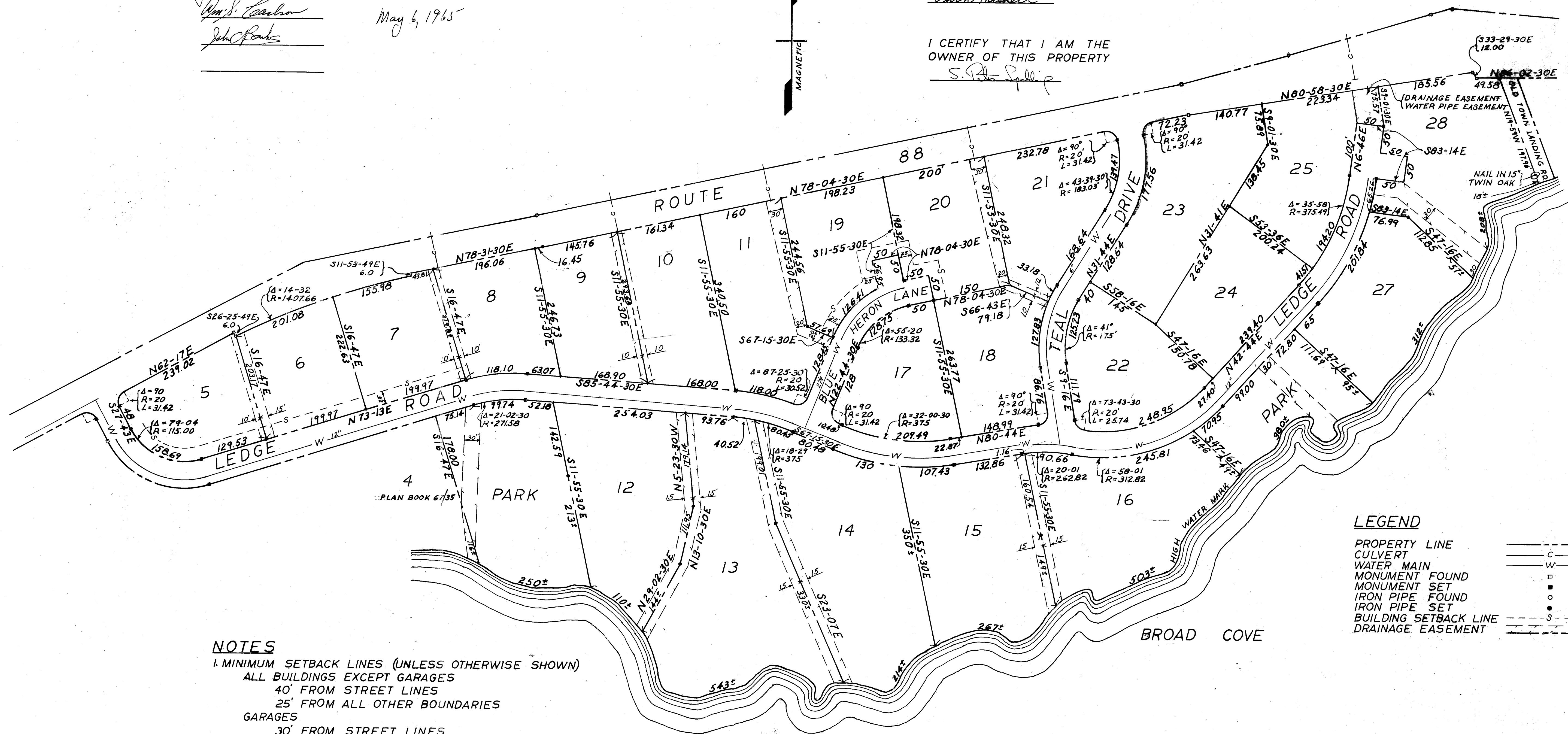
MAGNETIC

I CERTIFY THAT ALL BEARINGS AND DISTANCES SHOWN ON THIS PLAT ARE CORRECT TO THE BEST OF MY KNOWLEDGE

Owen Haskell

I CERTIFY THAT I AM THE OWNER OF THIS PROPERTY

S. Peter Spalding



NOTES

1. MINIMUM SETBACK LINES (UNLESS OTHERWISE SHOWN)
ALL BUILDINGS EXCEPT GARAGES
40' FROM STREET LINES
25' FROM ALL OTHER BOUNDARIES
GARAGES
30' FROM STREET LINES
15' FROM ALL OTHER BOUNDARIES
2. NO DRIVEWAY SHALL ENTER ROUTE 88
3. CURVE LENGTHS ARE MEASURED ALONG ARC
4. LOTS 5, 6, AND 7 ARE REVISED FROM PLAT
RECORDED IN PLAN BOOK 67 PAGE 35

LEGEND

PROPERTY LINE	---
CULVERT	-C-
WATER MAIN	-W-
MONUMENT FOUND	□
MONUMENT SET	○
IRON PIPE FOUND	●
IRON PIPE SET	•
BUILDING SETBACK LINE	-S-
DRAINAGE EASEMENT	-D-

CASCO BAY

See
Book 2898
Page 99

State of Maine
Cumberland ss
Registry of Deeds
Received May 7, 1965
at 11h 46m A.M.
And recorded in
Plan Book 69 Page 26
Attest: *Edward R. H. [Signature]*
Register

PLAT OF SCHOONER ROCKS CUMBERLAND, MAINE EXTENSION 1 FOR S. PETER SPALDING		
OWEN HASKELL CIVIL ENGINEER CAPE ELIZABETH, MAINE		
DRWN BY OH	BK. NO. 5, 9	JOB N°
SCALE 1"=100'	DATE 4/29/64	DRWG

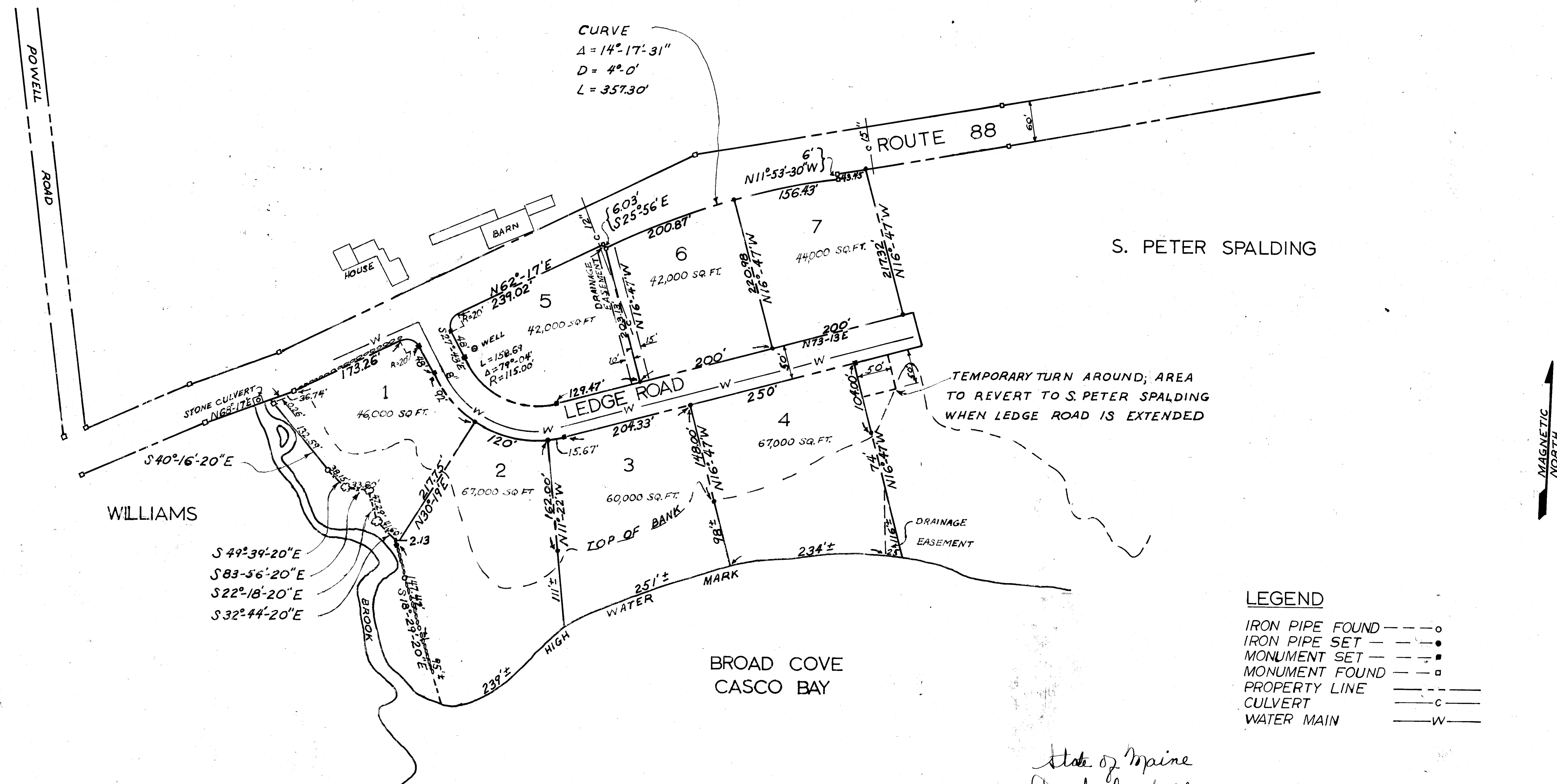
James H. Baker - Chairman

Gilbert S. Marks

Queen Farwell

July 23, 1964 DATE

Owen Haskell



1. MINIMUM SETBACK LINES
ALL BUILDINGS EXCEPT GARAGES:
40' FROM STREET LINES
25' FROM ALL OTHER BOUNDARIES
GARAGES:

- FROM ALL OTHER BOUNDARIES
GARAGES:
30' FROM STREET LINES
15' FROM ALL OTHER BOUNDARIES
2. NO DRIVEWAY SHALL ENTER ROUTE 88
 3. FOR BOUNDARIES OF ENTIRE PARCEL SEE PLAT BY WRIGHT AND PIERCE DATED JAN. 4, 1963 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS PLAN BOOK 67 PAGE 33

State of Maine
Cumberland ss
Registry of Deeds
Received Aug 3 1964
at 12 h 20 m P.M.
And recorded in
Plan Book 6, Page 35
Attest: *Lawrence R. Thompson*
Register

PLAT OF SCHOONER ROCKS CUMBERLAND, MAINE FOR S. PETER SPALDING		
OWEN HASKELL CIVIL ENGINEER CAPE ELIZABETH, MAINE		
DRAWN BY: OH	BOOK NO. 2/22	JOB NO. 6424
SCALE: 1" = 100'	DATE 7/22/64	DRWG. NO. 4



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

RICHARD GIUNTA, ANN POWERS) NATURAL RESOURCES PROTECTION ACT
Cumberland, Cumberland County) COASTAL WETLAND ALTERATION
SHORELINE STABILIZATION) WATER QUALITY CERTIFICATION
L-30441-4D-A-N (approval))
L-30441-TW-B-N (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. §§ 480-A–480-JJ, Section 401 of the Clean Water Act (33 U.S.C. § 1341), and Chapters 310, 315, and 335 of the Department’s rules, the Department of Environmental Protection (Department) has considered the application of RICHARD GIUNTA AND ANN POWERS (applicants) with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: The project site has existing access to the resource by a set of stairs and landings that lead to a residential pier system that existed prior to 1988 and the Natural Resources Protection Act. The stairs consist of a four-foot wide by 18-foot section of stairs and a four-foot wide by 24-foot long section of stairs with two four-foot wide by six-foot long landings. The pier system consists of an approximately 24-foot long by 46-foot wide permanent pier structure with a 12-foot long by 18-foot wide wharf building supported by 15 eight-inch by eight-inch pilings with a six-foot wide by 20-foot long pier extension supported by eight-foot long by eight-foot wide rock-filled crib, a three-foot wide by 44-foot long seasonal ramp, and a 12-foot long by 12-foot wide seasonal float. The applicants submitted a Permit by Rule Notification Form (PBR #77406) pursuant to Chapter 305 Permit by Rule Standards Section 2 & 4 (06-096 Ch. 305, § 2 & 4 last amended June 8, 2012) for adjacent activities and maintenance and repair of an existing access stair and residential pier system for storm damage which was accepted by the Department on July 21, 2023. The existing pier system results in approximately 69 square feet of direct impacts and approximately 1,500 square feet of indirect impacts. Construction to replace the damaged pier system has not yet begun.

B. Summary: The applicants propose to stabilize approximately 305 linear feet of eroding shoreline with riprap and plantings in five areas, Areas A, B, C, D, and E, that will extend from the southern property line to the northern property line.

The riprap in Area A will be approximately 55 feet long by six feet tall, one foot of which will be below the Highest Annual Tide (HAT), and will result in approximately 220 square feet of direct impacts; Area B will be approximately 60 feet long by 12.5 feet tall, entirely above the HAT; Area C will be approximately 60 feet long by six feet tall, entirely above the HAT; Area D will be approximately 90 feet long by eight feet tall, and

will result in approximately 90 square feet of direct impacts; in Area D the applicants also propose to install fill in an approximately 10-foot tall area above the riprap where the existing slope was undercut, to support the existing grade above the riprap and support revegetation on the slope; and Area E will be approximately 40 feet long by five feet tall, one foot of which will be below HAT, and will result in approximately 80 square feet of direct impacts.

All riprap areas will be built at a 1H:1V slope. Vegetation will be planted above the riprap. The project will result in approximately 390 square feet of fill within the coastal wetland. The project is shown on a set of plans the first of which is titled "Proposed Stabilization for Giunta and Powers," prepared by Atlantic Environmental, LLC, and dated July 21, 2023. The project is located on Ledge Road in the town of Cumberland.

C. Current Use of the Site: The applicants' property is currently developed with a residential dwelling, pool, pool house, and the water-dependent structures discussed in Finding 1(A). The parcel is identified as Lot 18 on Map U6A of the Town of Cumberland's tax maps.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

The Natural Resources Protection Act (NRPA), in 38 M.R.S. § 480-D(1), requires the applicants to demonstrate that the proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses.

In accordance with Chapter 315, *Assessing and Mitigating Impacts to Scenic and Aesthetic Uses* (06-096 C.M.R. ch. 315, effective June 29, 2003), the applicants submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicants also submitted several photographs of the proposed project site and surroundings including an aerial photograph of the project site. Department staff visited the project site on July 19, 2023.

The proposed project is located in the Atlantic Ocean, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The shoreline adjacent to the applicants' property is heavily developed with other residential dwellings and accessory structures, and there are numerous pier systems within one mile of the proposed project. The applicants have limited the project scope to include only the portions of the bluff that are currently exposed.

The applicants propose to limit the height of the riprap to the extent practicable given the height of the exposed portion of the bluff. The applicants also propose to maintain existing native vegetation to the greatest extent practicable and proposes to use rock to match the characteristics of the rock and ledge along the shoreline. The applicants will use native vegetation including Northern bayberry (*Myrica pensylvanica*), creeping juniper (*Juniperus horizontalis*), beach plum (*Prunus maritima*), and Virginia rose (*Rosa*

virginiana) to create a 10-foot vegetated buffer above the riprap to stabilize the soil in all areas and to reduce the visibility of the riprap from the scenic resource. The applicants must monitor the plantings and the plantings must be replaced or maintained as necessary to achieve 85% survival after one full growing season.

Prior to the start of construction, the applicants must take photographs to document the pre-construction condition of vegetation along the entire length of the shoreline where the riprap is proposed. The photographs must include at least three vantage points. Upon project completion, the applicants must take photographs of the shoreline from the same vantage points and must submit these before and after photographs to the Department for review.

The Department staff utilized the Department's Visual Impact Assessment Matrix in its evaluation of the proposed project and the Matrix showed an acceptable potential visual impact rating for the proposed project. Based on the information submitted in the application and the visual impact rating and the site visit, the Department determined that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

The Department of Marine Resources (DMR) reviewed the project and stated that the proposed project should not cause any significant adverse impact to navigation or recreation based on the nature of the project and its location.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the coastal wetland provided that the applicants monitor and maintains the plantings and before and after photos are submitted to the Department as described above.

3. SOIL EROSION:

The NRPA, in 38 M.R.S. § 480-D(2), requires the applicant to demonstrate that the proposed project will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

The applicants submitted a construction plan and erosion control plan that outlines specific construction sequencing guidelines and measures for construction and equipment access. The applicants propose to access the site via barge at high tide. Construction equipment will operate on timber mats at the bottom of the slope to protect areas of mudflat and fringing marsh vegetation during low tide. Construction will be completed in sections so that large areas of soil are not exposed at any one time. The applicants will also ensure that the contractor has an individual certified by the Department in Erosion and Sediment Control on site during all construction activity. The applicants propose to construct the riprap first by installing geotextile filter fabric, then adding a layer of six-

inch stone, before installing large irregular boulders up to six feet in diameter by pinning them directly to ledge or digging them into a trench.

The Maine Geological Survey (MGS) reviewed the proposal and offered comments in a memorandum dated August 29, 2023. MGS recommended that a wider vegetative buffer of native species be established along the upland fringe of the bluff, and recommended that upland land water management, including bluff dewatering, be considered as part of the design. MGS also recommended that the applicants consider regrading all slopes to 2H:1V to increase stability. The applicants responded to MGS comments by stating that the vegetative buffer at the top of the bluff will be widened by 10 feet to improve stability and reduce sheet flow of water before it reaches the bluff. The applicants stated they could not determine a practicable method of intercepting groundwater that was observed at the toe of the slope. Changing slope by cutting into the bank and increasing impacts to coastal wetland are described in the alternatives analysis further discussed in Section 6. MGS also recommended that the applicants incorporate the placement of excess sediment into the adjacent Area A when regrading Area B to provide sediment to the coastal wetland. The applicants responded by stating that provisions will be made to maintain the sediment from Area B within the resource to supplement Area A by placing excess excavated material on the slope above and behind the riprap in that location. The excess fill will be placed above the HAT but will allow soil transport to the wetland resource slowly over time.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

4. HABITAT CONSIDERATIONS:

The NRPA, in 38 M.R.S. § 480-D(3), requires the applicants to demonstrate that the proposed project will not unreasonably harm significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

The project site is a lawn with a narrow buffer of mature trees and shrub vegetation in the upland that ends at an unstable coastal bluff that is between 24 feet to 45 feet tall. In the immediate area of the project, the intertidal area is a mix of ledge, fringing salt marsh, and mudflat.

According to the Department's Geographic Information System (GIS) database the project is within a mapped high value Tidal Wading Bird and Waterfowl Habitat (TWWH) which is considered a Significant Wildlife Habitat.

The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project and recommended that construction not occur between July 15 and October 1 of any given year, and that native shrubs and trees be planted above and within pockets of the riprap when practicable. The applicants responded to MDIFW's

comments agreeing to the timing window and indicated that a planting plan will be implemented (as discussed in Finding 2).

In its review, the Department of Marine Resources (DMR) identified several marine resources that occur in the general area, including sandworms, softshell clams, hard clams, razor clams, and eelgrass, but stated that bloodworms are the only resource mapped directly in the project footprint, and determined that no impact on traditional fishing, recreation, navigation, or riparian access is expected. DMR recommended that construction material and equipment in the intertidal area and salt marsh vegetation area must operate on timber mats, instead of using rubber tracked equipment directly on the substrate. The applicants agreed to construct the project in sections and limit disturbance to only one section at a time. The applicants also agreed to use timber mats over all areas of salt marsh and mudflat. The applicants propose to use 16-foot long by four-foot wide timber mats along an approximately 250 linear-foot stretch of shoreline. The timber mats will result in temporary direct impacts of approximately 4,000 square feet to the coastal wetland.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life provided no construction occurs between July 15 and October 1 of any given year.

5. WATER QUALITY CONSIDERATIONS:

As discussed in Finding 3, the applicants propose to use erosion and sediment control measures during construction to minimize impacts to water quality from siltation.

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicants propose to directly alter approximately 390 square feet of coastal wetland to stabilize the eroding shoreline, approximately 4,000 square feet temporarily for the timber mats to be used during construction, and 1,791 square feet adjacent to the coastal wetland from the placement of riprap. Coastal wetlands are wetlands of special significance as defined in the Department's Wetlands and Waterbodies Protection Rules, 06-096 C.M.R. ch. 310 (last amended November 11, 2018) § 4(A).

The *Wetlands and Waterbodies Protection Rules*, 06-096 C.M.R. ch. 310 (last amended November 11, 2018), interpret and elaborate on the Natural Resources Protection Act (NRPA) criteria for obtaining a permit. The rules guide the Department in its determination of whether a project's impacts would be unreasonable. A proposed project would generally be found to be unreasonable if it would cause a loss in wetland area, functions and values and there is a practicable alternative to the project that would be less

damaging to the environment. Each application for a NRPA permit that involves a coastal wetland alteration must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

A. Avoidance. An applicant must submit an analysis of whether there is a practicable alternative to the project that would be less damaging to the environment and this analysis is considered by the Department in its assessment of the reasonableness of any impacts. Additionally, for activities proposed in, on, or over wetlands of special significance the activity must be among the types listed in Chapter 310, § 5(A) or a practicable alternative less damaging to the environment is considered to exist and the impact is unreasonable. Stabilizing eroding shoreline is among the activities specifically provided for in Chapter 310, § 5(A)(1)(h).

The applicants submitted an alternatives analysis for the proposed project completed by Flycatcher, LLC and dated July 26, 2023. The applicants' property is currently developed with a residential dwelling located approximately 43 feet from the top of the bluff and residential pier system as described in Finding 1(A). The bluff on the applicants' property has been subject to substantial failures in the recent past, exposing large areas of unvegetated soil that has impacted the existing pier system. The purpose of the project is to stabilize the areas of exposed bluff to protect the structures on the applicants' property and to prevent further erosion. The applicants considered not stabilizing the shoreline but determined that not acting would allow the erosion to continue and exacerbate the unsafe conditions at the site. The applicants considered an alternative design that used only vegetation or other techniques such as coir logs but determined that those techniques would not adequately stabilize the site given the size, height, soil types, slope orientation of the bluff, and the additional upland runoff from increasing intensity and frequency of storm events. The applicants considered constructing shallower slopes than the proposed 1H:1V grade but determined that decreasing the slope of the bluff was not practicable because further intrusion into the coastal wetland would not avoid and minimize impacts, and both salt marsh and mudflat habitats are considered high value habitat types. The applicants considered cutting back into the slope but determined that it would require the removal of a substantial amount of soil and vegetation further destabilizing the bluff and would be too cost prohibitive. Based on the existing site conditions, there is no other practicable alternative to the proposed project that would accomplish the project purpose and avoid impacts to the coastal wetland.

B. Minimal Alteration. In support of an application and to address the analysis of the reasonableness of any impacts of a proposed project, an applicant must demonstrate that the amount of coastal wetland to be altered will be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicants have minimized impacts by increasing the slope to avoid additional impacts to the coastal wetland. The applicants also limited the height of the riprap to match that of the existing erosion at the site. The applicants minimized the project impacts by addressing only the areas where active erosion is occurring and customizing the size and scope of the riprap based on the exposed soil. The applicants will incorporate native vegetation plantings and will

maintain soil on site to maintain the salt marsh and mudflat budget on site. The proposed project minimizes coastal wetland impacts to the greatest extent practicable.

C. Compensation. In accordance with Chapter 310, § 5(C)(6)(b), compensation may be required to achieve the goal of no net loss of coastal wetland functions and values. This project will result in approximately 4,390 square feet of fill in the resource, which is over the 500 square foot threshold over which compensation is generally required. However, approximately 4,000 square feet of impacts will be temporary, caused by the use of temporary timber mats as recommended by DMR for use during construction to protect the substrate from compaction. Further, the proposed project will not have an adverse impact on marine resources or wildlife habitat as determined by DMR and MDIFW. Therefore, the Department waives compensation in accordance with Chapter 310, § 5(C)(7).

The Department finds that the applicants have avoided and minimized coastal wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

7. OTHER CONSIDERATIONS:

The Department finds, based on the design, proposed construction methods, and location, the proposed project will not inhibit the natural transfer of soil from the terrestrial to the marine environment, will not interfere with the natural flow of any surface or subsurface waters, and will not cause or increase flooding. The proposed project is not located in a coastal sand dune system, is not a crossing of an outstanding river segment, and does not involve dredge spoils disposal or the transport of dredge spoils by water.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Clean Water Act (33 U.S.C. § 1341):

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses provided that the applicants monitor and maintain vegetation and provides before and after photos as described in Finding 2.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided no construction takes place between July 15 and October 1 of any given year.

- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters (provided that CCA (or other type of treatment) treated lumber is cured as described in Finding 5).
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the above noted application of RICHARD GIUNTA AND ANN POWERS to stabilize the shoreline with riprap as described in Finding 1, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicants shall take all necessary measures to ensure that their activities or those of their agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. Prior to the start of construction, the applicants shall take photographs to document the pre-construction condition of vegetation along the entire length of the shoreline where riprap is proposed. The photographs shall include at least three vantage points. Upon project completion, the applicants shall take photographs of the shoreline from the same vantage points and shall submit the before and after photographs to the Department for review.
5. The applicants shall monitor the new plantings and replace or maintain these plantings as necessary to achieve 85% survival after one full growing season.
6. No construction shall take place between July 15 and October 1 of any given year.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

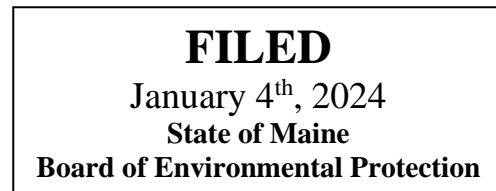
DONE AND DATED IN AUGUSTA, MAINE, THIS 4th DAY OF JANUARY, 2023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
For: Melanie Loyzim, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

SLS/L30441ANBN/ATS #91300/#91752





Natural Resources Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCES PROTECTION ACT, 38 M.R.S. §§ 480-A ET SEQ., UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- F. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- G. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- H. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

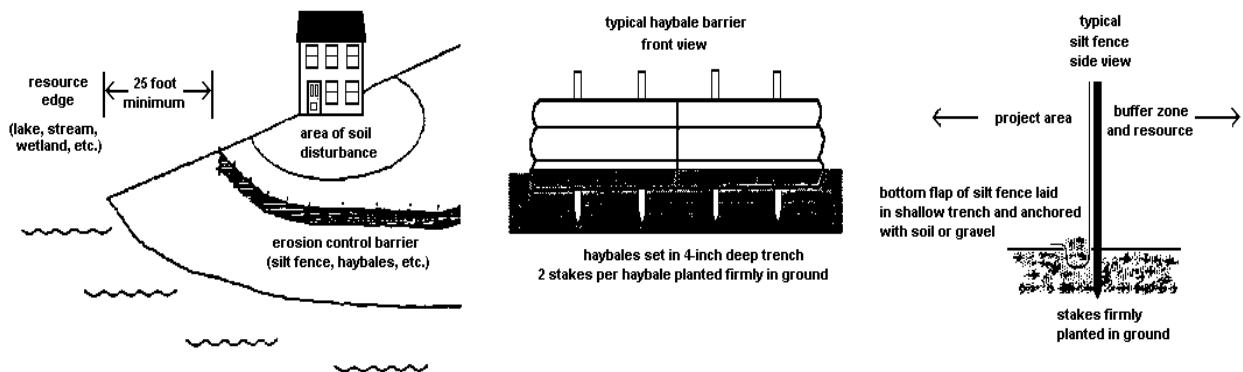


STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
 17 STATE HOUSE STATION, AUGUSTA, MAINE 04333

Erosion Control for Homeowners

Before Construction

1. If you have hired a contractor, make sure you discuss your permit with them. Talk about what measures they plan to take to control erosion. Everybody involved should understand what the resource is, and where it is located. Most people can identify the edge of a lake or river. However, the edges of wetlands are often not so obvious. Your contractor may be the person actually pushing dirt around, but you are both responsible for complying with the permit.
2. Call around to find where erosion control materials are available. Chances are your contractor has these materials already on hand. You probably will need silt fence, hay bales, wooden stakes, grass seed (or conservation mix), and perhaps filter fabric. Places to check for these items include farm & feed supply stores, garden & lawn suppliers, and landscaping companies. It is not always easy to find hay or straw during late winter and early spring. It also may be more expensive during those times of year. Plan ahead – buy a supply early and keep it under a tarp.
3. Before any soil is disturbed, make sure an erosion control barrier has been installed. The barrier can be either a silt fence, a row of staked hay bales, or both. Use the drawings below as a guide for correct installation and placement. The barrier should be placed as close as possible to the soil-disturbance activity.
4. If a contractor is installing the erosion control barrier, double check it as a precaution. Erosion control barriers should be installed “on the contour,” meaning at the same level or elevation across the land slope, whenever possible. This keeps stormwater from flowing to the lowest point along the barrier where it can build up and overflow or destroy the barrier.



During Construction

1. Use lots of hay or straw mulch on disturbed soil. The idea behind mulch is to prevent rain from striking the soil directly. It is the force of raindrops hitting the bare ground that makes the soil begin to move downslope with the runoff water, and cause erosion. More than 90% of erosion is prevented by keeping the soil covered.
2. Inspect your erosion control barriers frequently. This is especially important after a rainfall. If there is muddy water leaving the project site, then your erosion controls are not working as intended. You or your contractor then need to figure out what can be done to prevent more soil from getting past the barrier.
3. Keep your erosion control barrier up and maintained until you get a good and healthy growth of grass and the area is permanently stabilized.

After Construction

1. After your project is finished, seed the area. Note that all ground covers are not equal. For example, a mix of creeping red fescue and Kentucky bluegrass is a good choice for lawns and other high-maintenance areas. But this same seed mix is a poor selection for stabilizing a road shoulder or a cut bank that you don't intend to mow. Your contractor may have experience with different seed mixes, or you might contact a seed supplier for advice.
2. Do not spread grass seed after September 15. There is the likelihood that germinating seedlings could be killed by a frost before they have a chance to become established. Instead, mulch the area with a thick layer of hay or straw. In the spring, rake off the mulch and then seed the area. Don't forget to mulch again to hold in moisture and prevent the seed from washing away or being eaten by birds or other animals.
3. Keep your erosion control barrier up and maintained until you get a good and healthy growth of grass and the area is permanently stabilized.

Why Control Erosion?**To Protect Water Quality**

When soil erodes into protected resources such as streams, rivers, wetlands, and lakes, it has many bad effects. Eroding soil particles carry phosphorus to the water. An excess of phosphorus can lead to explosions of algae growth in lakes and ponds called blooms. The water will look green and can have green slime in it. If you are near a lake or pond, this is not pleasant for swimming, and when the soil settles out on the bottom, it smothers fish eggs and small animals eaten by fish. There are many other effects as well, which are all bad.

To Protect the Soil

It has taken thousands of years for our soil to develop. Its usefulness is evident all around us, from sustaining forests and growing our garden vegetables, to even treating our septic wastewater! We cannot afford to waste this valuable resource.

To Save Money (\$\$)

Replacing topsoil or gravel washed off your property can be expensive. You end up paying twice because State and local governments wind up spending your tax dollars to dig out ditches and storm drains that have become choked with sediment from soil erosion.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: August 2021

Contact: (207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#); and the DEP's [Rule Concerning the Processing of Applications and Other Administrative Matters \(Chapter 2\)](#), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

December 22, 2023

Regulatory Division
File Number: NAE-2023-01281

Richard Giunta & Ann Powers
4 Barron Court
Andover, MA 01810
Sent by email: Rich.giunta@wolfgreenfield.com

Dear Mr. Giunta & Ms. Powers:

The U.S. Army Corps of Engineers (USACE) has reviewed your application to place fill below the high tide line of Broad Cove, Casco Bay in associated with the installation of a bank stabilization project off 25 Ledge Road, Map U6A, Lot#34 at Cumberland, Maine as described on the State of Maine DEP NRPA application titled "Richard Giunta and Ann Powers" and as shown on plans on 7 sheets dated "07/21/2023". Approximately 390SF (0.009acres) of intertidal area will be permanently impacted as a result.

In addition, the Corps has reviewed your application to repair and replace an existing series of landings and platforms above the mean high-water line leading to a 24' x 46' pile and 8' x 8' rock filled crib supported pier section with a 12' x 18' building on the deck surface leading to a 6' x 20' pile supported pier section with a 3' x 44' ramp leading to a 12' x 12' float below the mean high water line of Casco Bay off 25 Ledge Road, Map U6A, Lot#18 at Cumberland, Maine as described on the State of Maine DEP PBR titled "Richard Guinta and Ann Powers" and as shown on plans on 3 sheets dated "5-23-23".

Based on the information that you have provided, we verify that the activity is authorized under General Permit # 3 and #7 of the enclosed October 14, 2020, federal permits known as the Maine General Permits (GPs). The GPs are also available at <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit>. Please review the enclosed GPs carefully, in particular the general conditions beginning on page 5, and ensure that you and all personnel performing work authorized by the GPs are fully aware of and comply with its terms and conditions. A copy of the GPs and this verification letter shall be available at the work site as required by General Condition 33. You must perform this work in accordance with the following special condition(s):

1. All work associated with the installation of the riprap bank stabilization shall be conducted during times of low tide when the work area is above the tide.

2. All work associated with the installation of bank stabilization and pier replacement shall be completed between October 1 and March 31st to avoid adverse affects to the federally listed Roseate tern and federally listed fish species.
3. Any equipment that must traverse vegetated wetland, shall be supported by mats or low ground pressure equipment. Any side casting of excavated material from the trench shall be placed on geotextile fabric to avoid direct impacts to the marsh vegetation.
4. Any pier or ramp that extends across tidal marsh shall be elevated above the marsh by 1' in height for each foot in width. Example: A 3' wide ramp shall be elevated 3' above the marsh. Note that the height shall be measured from the marsh substrate to the bottom of the longitudinal support beam of the pier or ramp (e.g. the bottom of the stringer) and not to the top of the deck.
5. Any float(s) that do not extend beyond mean low water shall be constructed in such a way as to keep them elevated above the tidal bottom. Techniques include but are not limited to float stops, skids, blocks, or other practicable means.
6. Seasonal coastal structures such as ramps and floats that are removed from the waterway for a portion of the year shall be stored in an upland location above mean high water and not on tidal marsh.

You must complete and return the enclosed Work Start Notification Form to this office at least two weeks before the anticipated starting date. You must complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work.

This authorization expires on October 14, 2025. You must commence or have under contract to commence the work authorized herein by October 14, 2025, and complete the work by October 14, 2026. If not, you must contact this office to determine the need for further authorization and we recommend you contact us *before* the work authorized herein expires. Please contact us immediately if you change the plans or construction methods for work within our jurisdiction as we must approve any changes before you undertake them. Performing work within our jurisdiction that is not specifically authorized by this determination or failing to comply with the special condition(s) provided above or all of the terms and conditions of the GPs may subject you to the enforcement provisions of our regulations.

This authorization does not obviate the need to obtain other federal, state, or local authorizations required by law. Applicants are responsible for applying for and obtaining any other approvals.

We continually strive to improve our customer service. To better serve you, we would appreciate your completing our Customer Service Survey located at <https://regulatory.ops.usace.army.mil/customer-service-survey/>

Please contact LeeAnn B. Neal of my staff, at our Augusta, Maine Project Office at (207) 623-8367 or leeann.b.neal@usace.army.mil if you have any questions.

Sincerely,

For: Peter D. Olmstead
Chief, Maine Section
Regulatory Division

Enclosures

cc. Tim Forrester, Flycatcher, LLC
Via email: time@flycatcherllc.com



**US Army Corps
of Engineers®**
New England District

WORK-START NOTIFICATION FORM
(Minimum Notice: Two weeks before work begins)

EMAIL TO: leeann.b.neal@usace.army.mil and cenae-r@usace.army.mil; or

MAIL TO: LeeAnn B. Neal
U.S. Army Corps of Engineers, New England District
Maine Project Office
442 Civic Center Drive, Suite 350
Augusta, Maine 04330

Corps of Engineers Permit No. NAE-2023-01281 was issued to Richard Giunta & Ann Powers. The permit authorized the permittee to place fill below the high tide line of Broad Cove, Casco Bay in conjunction with the installation of riprap bank stabilization off 25 Ledge Road, Map U6A, Lot#34 at Cumberland, Maine. Approximately 390SF (0.009acres) of intertidal area will be permanently impacted as a result. In addition, to to repair and replace an existing series of landings and platforms above the mean high water line leading to a 24 x 46 pile and 8 x 8 rock filled crib supported pier with a 12 x 18 building on the deck surface leading to a 6 x 20 pile supported pier section with a 3 x 44 ramp with a 12 x 12 float below the mean high water line at the same location.

The people (e.g., contractor) listed below will do the work, and they understand the permit's conditions and limitations.

PLEASE PRINT OR TYPE

Name of Person/Firm: _____

Business Address: _____

Phone & email: () () _____

Proposed Work Dates: **Start:** _____ **Finish:** _____

Permittee/Agent Signature: _____ **Date:** _____

Printed Name: _____ **Title:** _____

Date Permit Issued: _____ **Date Permit Expires:** _____

FOR USE BY THE CORPS OF ENGINEERS

PM: NEAL **Submittals Required:** WORK START, COMP CERT

Inspection Recommendation: Random Compliance



**US Army Corps
of Engineers®**
New England District

COMPLIANCE CERTIFICATION FORM

(Minimum Notice: Permittee must sign and return notification
within one month of the completion of work.)

Permit Number: NAE-2023-01281

Project Manager: LeeAnn B. Neal

Name of Permittee: Richard Giunta & Ann Powers

Permit Issuance Date: _____

Please sign this certification and return it to our office upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

* E-MAIL TO: leeann.b.neal@usace.army.mil and cenae-r@usace.army.mil; or *
* *
* MAIL TO: Permits and Enforcement Branch, Maine Section *
* U.S. Army Corps of Engineers, New England District *
* Regulatory Division *
* 696 Virginia Road *
* Concord, Massachusetts 01742-2751 *

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Printed Name

Date of Work Completion

() _____
Telephone Number

() _____
Telephone Number