



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

74



March 3, 2025

Her Excellency, Governor Kelly A. Ayotte
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Approve Kimberley S. and Thomas P. Lyng's request to amend NH Department of Environmental Services (NHDES) Wetland Bureau permit #2024-00792, to reflect corrected structural dimensions related to the following work on Piscataqua River in Portsmouth, in accordance with RSA 482-A:3. This project was previously approved by the Governor and Executive Council on May 15, 2024, Item #124. Comments submitted by the Portsmouth Conservation Commission on the project as proposed, are addressed in the Findings and are included in the enclosed documents.

Impact a total of 418 square feet of tidal resources to include 370 square feet of tidal waters and 48 square feet of previously-developed 100 foot tidal buffer zone to construct a new 4 foot x 12 foot accessway, a 4 foot x 20 foot piling supported pier, a 3 foot x 30 foot gangway, and a 10 foot x 20 foot float with an overall structure length seaward of the highest observable tide line of 82 feet along 195 linear feet of frontage on the Piscataqua River in Portsmouth.

NHDES imposed the following conditions as part of this approval:

1. All work shall be done in accordance with the approved plans by Ambit Engineering, Inc. dated January 18, 2024, and received by the NH Department of Environmental Services (NHDES) on March 26, 2024, in accordance with Env-Wt 307.16.
2. This permit shall not be effective until the permittee records this permit at the Rockingham County Registry of Deeds. Any limitations or conditions in the permit so recorded shall run with the land beyond the expiration of the permit. The permittee shall provide the NHDES with a copy of the permit stamped by the registry with the book and page and date of receipt, in accordance with RSA 482-A:3, II and Env-Wt 314.02(b) and (c).
3. Pile installation shall occur between November 15 and March 15, in order to protect anadromous fish, in accordance with Env-Wt 307.10(i) and Env-Wt 311.06(g).
4. The ramp and float portions of residential tidal docks shall be seasonal and removed from the water during the non-boating season, in accordance with Env-Wt 606.06(b).
5. Tidal docking installation shall be done by equipment located on a barge or in uplands to prevent the driving of construction equipment in or through tidal waters/wetlands or on the bottom of the inter-tidal zone, in accordance with Env-Wt 606.05(b).
6. Heavy equipment shall not be operated in any jurisdictional area unless specifically authorized by this permit, in accordance with Env-Wt 307.15(a).

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

7. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas and in accordance with Env-Wt 307.15.
8. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
9. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.
10. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.

EXPLANATION

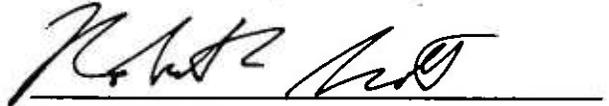
NHDES approved this project on January 21, 2025. NHDES supported its decision with the following findings:

1. This project is classified as a major project per Rule Env-Wt 606.17(a)(1), for all new overwater structure construction in tidal waters/wetlands.
2. The approval has been conditioned that the work be performed during the federal dredge window between November 15 - March 15 in accordance with NHF&G recommendations relayed in correspondence dated April 22, 2024 and the requirements of RSA 212-A.
3. The Department finds that this permit for work to dredge or fill will not 'infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners' and would not be prohibited by RSA 482-A:11, II.
4. Comments received by NHDES from the Portsmouth Conservation Commission about this application were determined to be related to issues outside of the jurisdiction of RSA 482-A.
5. The Department finds the location, design, and method of construction for this proposed residential tidal dock has been based on the results of the coastal functional assessment, is the least environmentally-impacting practicable alternative, has been certified by a professional engineer as having sufficient structural integrity based on the results of the vulnerability assessment, and will not impede the passage of non-motorized watercraft to a degree that a reasonable person would find objectionable, therefore, the requirements of Rule Env-Wt 606.06(e) have been met.
6. The applicant obtained a statement from the Pease Development Authority, Division of Ports and Harbors regarding the projects impact on navigation and passage stating, "[w]e examined the proposed site and found that the structure will have no negative effect on safe navigation in the channel."
7. NHDES finds that the requirements for a public hearing, as established in RSA 482-A, do not apply as the project will not have a significant environmental impact, as defined in New Hampshire Administrative Rule Env-Wt 104.19, on the resources protected by RSA 482-A, and is not of substantial public interest, as defined in New Hampshire Administrative Rule Env-Wt 104.32.

Her Excellency, Governor Kelly A. Ayotte
and The Honorable Council
Page 3 of 3

NHDES Wetlands Bureau permit #2024-00792 application documents are enclosed for review by the Governor and the Executive Council in consideration of this request and in accordance with RSA 482-A:3, II(a), as it is a major project located in New Hampshire public waters.

We respectfully request your approval of this item.

A handwritten signature in black ink, appearing to read "Robert R. Scott", is written over a solid horizontal line.

Robert R. Scott
Commissioner



**STANDARD DREDGE AND FILL
WETLANDS PERMIT APPLICATION**
Water Division / Land Resources Management
Check the Status of your Application



RSA/Rule: RSA 482-A/Env-Wt 100-900

APPLICANT'S NAME: Thomas P. & Kimberley S. | TOWN NAME: Portsmouth

		Administrative Use Only	File No.: 2024-00792
			Check No.: 10249
			Amount: 1492.00
			Initials: BA

A person may request a waiver of the requirements in Rules Env-Wt 100-900 to accommodate situations where strict adherence to the requirements would not be in the best interest of the public or the environment but is still in compliance with RSA 482-A. A person may also request a waiver of the standards for existing dwellings over water pursuant to RSA 482-A:26, III(b). For more information, please consult the Waiver Request Form.

SECTION 1 - REQUIRED PLANNING FOR ALL PROJECTS (Env-Wt 306.05; RSA 482-A:3, I(d)(2)) Please use the <u>Wetland Permit Planning Tool (WPPT)</u> , the Natural Heritage Bureau (NHB) <u>DataCheck Tool</u> , the <u>Aquatic Restoration Mapper</u> , or other sources to assist in identifying key features such as: <u>Priority Resource Areas (PRAs)</u> , <u>protected species or habitats</u> , coastal areas, designated rivers, or designated prime wetlands.	
Has the required planning been completed?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Does the property contain a PRA? If yes, provide the following information:	<input checked="" type="radio"/> Yes <input type="radio"/> No
<ul style="list-style-type: none"> Does the project qualify for an Impact Classification Adjustment (e.g. NH Fish and Game Department (NHFG) and NHB agreement for a classification downgrade) or a Project-Type Exception (e.g. Maintenance or Statutory Permit-by-Notification (SPN) project)? See Env-Wt 407.02 and Env-Wt 407.04. 	<input type="radio"/> Yes <input checked="" type="radio"/> No
<ul style="list-style-type: none"> Protected species or habitat? <ul style="list-style-type: none"> If yes, species or habitat name(s): NHB Project ID #: 24-0615 	<input type="radio"/> Yes <input type="radio"/> No
<ul style="list-style-type: none"> Bog? 	<input type="radio"/> Yes <input checked="" type="radio"/> No
<ul style="list-style-type: none"> Floodplain wetland contiguous to a tier 3 or higher watercourse? 	<input checked="" type="radio"/> Yes <input type="radio"/> No
<ul style="list-style-type: none"> Designated prime wetland or duly-established 100-foot buffer? 	<input type="radio"/> Yes <input checked="" type="radio"/> No
<ul style="list-style-type: none"> Sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone? 	<input checked="" type="radio"/> Yes <input type="radio"/> No
Is the property within a Designated River corridor? If yes, provide the following information:	<input type="radio"/> Yes <input checked="" type="radio"/> No
<ul style="list-style-type: none"> Name of Local River Management Advisory Committee (LAC): A copy of the application was sent to the LAC on Month: Day: Year: 	

For dredging projects, is the subject property contaminated? • If yes, list contaminant:	<input type="radio"/> Yes <input checked="" type="radio"/> No
Is there potential to impact impaired waters, class A waters, or outstanding resource waters?	<input type="radio"/> Yes <input checked="" type="radio"/> No
For stream crossing projects, provide watershed size (see <u>WPPT</u> or Stream Stats): N/A	
SECTION 2 - PROJECT DESCRIPTION (Env-Wt 311.04(I))	
Provide a description of the project and the purpose of the project, the need for the proposed impacts to jurisdictional areas, an outline of the scope of work to be performed, and whether impacts are temporary or permanent.	
<p>The project proposes 370 sq. ft. of permanent impact to tidal wetland and 48 sq. ft. of permanent impact to the previously developed 100' Tidal Buffer Zone for the removal of an existing tidal docking structure and the construction of a new tidal docking structure including a 4' x 12' accessway, a 4' by 20' fixed wood pier, a 3' x 30' gangway, and a 10' x 20' float (overall structure length 82') on 195+/- feet of frontage along the Piscataqua River.</p>	
SECTION 3 - PROJECT LOCATION	
Separate wetland permit applications must be submitted for each municipality within which wetland impacts occur.	
ADDRESS: 333 New Castle Avenue	
TOWN/CITY: Portsmouth	
TAX MAP/BLOCK/LOT/UNIT: Map 207, Lot 2	
US GEOLOGICAL SURVEY (USGS) TOPO MAP WATERBODY NAME: <input type="checkbox"/> N/A Piscataqua River	
(Optional) LATITUDE/LONGITUDE in decimal degrees (to five decimal places): X: 1,230,314.0948 Y: 209,424.8104	

SECTION 4 - APPLICANT (DESIRED PERMIT HOLDER) INFORMATION (Env-Wt 311.04(a))		
If the applicant is a trust or a company, then complete with the trust or company information.		
NAME: Thomas P. & Kimberley S. Lyng		
MAILING ADDRESS: [REDACTED]		
TOWN/CITY: [REDACTED]	STATE: [REDACTED]	ZIP CODE: [REDACTED]
EMAIL ADDRESS: trlyng@comcast.net		
FAX:	PHONE: 603-978-5175	
ELECTRONIC COMMUNICATION: By initialing here, I hereby authorize NHDES to communicate all matters relative to this application electronically.		
SECTION 5 - AUTHORIZED AGENT INFORMATION (Env-Wt 311.04(c))		
<input type="checkbox"/> N/A		
LAST NAME, FIRST NAME, M.I.: Boudreau, Jacqueline		
COMPANY NAME: Haley Ward, Inc.		
MAILING ADDRESS: 200 Griffin Road, Unit 14		
TOWN/CITY: Portsmouth	STATE: NH	ZIP CODE: 03801
EMAIL ADDRESS: jboudreau@haleyward.com		
FAX:	PHONE: 603-430-9282	
ELECTRONIC COMMUNICATION: By initialing here, I hereby authorize NHDES to communicate all matters relative to this application electronically. <i>JB</i>		
SECTION 6 - PROPERTY OWNER INFORMATION (IF DIFFERENT THAN APPLICANT) (Env-Wt 311.04(b))		
If the owner is a trust or a company, then complete with the trust or company information.		
<input type="checkbox"/> Same as applicant		
NAME:		
MAILING ADDRESS:		
TOWN/CITY:	STATE:	ZIP CODE:
EMAIL ADDRESS:		
FAX:	PHONE:	
ELECTRONIC COMMUNICATION: By initialing here, I hereby authorize NHDES to communicate all matters relative to this application electronically.		

<p>SECTION 7 - RESOURCE-SPECIFIC CRITERIA ESTABLISHED IN Env-Wt 400, Env-Wt 500, Env-Wt 600, Env-Wt 700, OR Env-Wt 900 HAVE BEEN MET (Env-Wt 313.01(a)(3))</p> <p>Describe how the resource-specific criteria have been met for each chapter listed above (please attach information about stream crossings, coastal resources, prime wetlands, or non-tidal wetlands and surface waters): Please see attached narrative.</p>
<p>SECTION 8 - AVOIDANCE AND MINIMIZATION</p> <p>Impacts within wetland jurisdiction must be avoided to the maximum extent practicable (Env-Wt 313.03(a)).* Any project with unavoidable jurisdictional impacts must then be minimized as described in the <u>Wetlands Best Management Practice Techniques For Avoidance and Minimization</u> and the <u>Wetlands Permitting: Avoidance, Minimization and Mitigation fact sheet</u>. For minor or major projects, a functional assessment of all wetlands on the project site is required (Env-Wt 311.03(b)(10)).*</p> <p>Please refer to the application checklist to ensure you have attached all documents related to avoidance and minimization, as well as functional assessment (where applicable). Use the <u>Avoidance and Minimization Checklist</u>, the <u>Avoidance and Minimization Narrative</u>, or your own avoidance and minimization narrative.</p> <p><i>*See Env-Wt 311.03(b)(6) and Env-Wt 311.03(b)(10) for shoreline structure exemptions.</i></p>
<p>SECTION 9 - MITIGATION REQUIREMENT (Env-Wt 311.02)</p> <p>If unavoidable jurisdictional impacts require mitigation, a mitigation <u>pre-application meeting</u> must occur at least 30 days but not more than 90 days prior to submitting this Standard Dredge and Fill Permit Application.</p> <p>Mitigation Pre-Application Meeting Date: Month: Day: Year:</p> <p><input checked="" type="checkbox"/> N/A - Mitigation is not required</p>
<p>SECTION 10 - THE PROJECT MEETS COMPENSATORY MITIGATION REQUIREMENTS (Env-Wt 313.01(a)(1)c)</p> <p>Confirm that you have submitted a compensatory mitigation proposal that meets the requirements of Env-Wt 800 for all permanent unavoidable impacts that will remain after avoidance and minimization techniques have been exercised to the maximum extent practicable: <input type="checkbox"/> I confirm submittal.</p> <p><input checked="" type="checkbox"/> N/A – Compensatory mitigation is not required</p>
<p>SECTION 11 - IMPACT AREA (Env-Wt 311.04(g))</p> <p>For each jurisdictional area that will be/has been impacted, provide square feet (SF) and, if applicable, linear feet (LF) of impact, and note whether the impact is after-the-fact (ATF; i.e., work was started or completed without a permit).</p>

For intermittent and ephemeral streams, the linear footage of impact is measured along the thread of the channel. Please note, installation of a stream crossing in an ephemeral stream may be undertaken without a permit per Rule Env-Wt 309.02(d), however other dredge or fill impacts should be included below.

For perennial streams/ivers, the linear footage of impact is calculated by summing the lengths of disturbances to the channel and banks.

Permanent (PERM.) impacts are impacts that will remain after the project is complete (e.g., changes in grade or surface materials).

Temporary (TEMP.) impacts are impacts not intended to remain (and will be restored to pre-construction conditions) after the project is completed.

JURISDICTIONAL AREA		PERM. SF	PERM. LF	PERM. ATF	TEMP. SF	TEMP. LF	TEMP. ATF
Wetlands	Forested Wetland			<input type="checkbox"/>			<input type="checkbox"/>
	Scrub-shrub Wetland			<input type="checkbox"/>			<input type="checkbox"/>
	Emergent Wetland			<input type="checkbox"/>			<input type="checkbox"/>
	Wet Meadow			<input type="checkbox"/>			<input type="checkbox"/>
	Vernal Pool			<input type="checkbox"/>			<input type="checkbox"/>
	Designated Prime Wetland			<input type="checkbox"/>			<input type="checkbox"/>
	Duly-established 100-foot Prime Wetland Buffer			<input type="checkbox"/>			<input type="checkbox"/>
Surface	Intermittent / Ephemeral Stream			<input type="checkbox"/>			<input type="checkbox"/>
	Perennial Stream or River			<input type="checkbox"/>			<input type="checkbox"/>
	Lake / Pond			<input type="checkbox"/>			<input type="checkbox"/>
	Docking - Lake / Pond			<input type="checkbox"/>			<input type="checkbox"/>
	Docking - River			<input type="checkbox"/>			<input type="checkbox"/>
Banks	Bank - Intermittent Stream			<input type="checkbox"/>			<input type="checkbox"/>
	Bank - Perennial Stream / River			<input type="checkbox"/>			<input type="checkbox"/>
	Bank / Shoreline - Lake / Pond			<input type="checkbox"/>			<input type="checkbox"/>
Tidal	Tidal Waters			<input type="checkbox"/>			<input type="checkbox"/>
	Tidal Marsh			<input type="checkbox"/>			<input type="checkbox"/>
	Sand Dune			<input type="checkbox"/>			<input type="checkbox"/>
	Undeveloped Tidal Buffer Zone (TBZ)			<input type="checkbox"/>			<input type="checkbox"/>
	Previously-developed TBZ	48		<input type="checkbox"/>			<input type="checkbox"/>
	Docking - Tidal Water	370		<input type="checkbox"/>			<input type="checkbox"/>
TOTAL		418					

SECTION 12 - APPLICATION FEE (RSA 482-A:3, I)

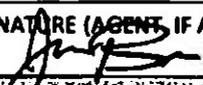
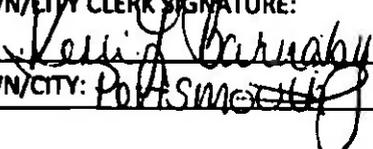
MINIMUM IMPACT FEE: Flat fee of \$400.

NON-ENFORCEMENT RELATED, PUBLICLY-FUNDED AND SUPERVISED RESTORATION PROJECTS, REGARDLESS OF IMPACT CLASSIFICATION: Flat fee of \$400 (refer to RSA 482-A:3, 1(c) for restrictions).

MINOR OR MAJOR IMPACT FEE: Calculate using the table below:

Permanent and temporary (non-docking):	SF	× \$0.40 = \$
Seasonal docking structure: 290	SF	× \$2.00 = \$ 580
Permanent docking structure: 128	SF	× \$4.00 = \$ 512
Projects proposing shoreline structures (including docks) add \$400 =		\$ 400
Total =		\$ 1492

The application fee for minor or major impact is the above calculated total or \$400, whichever is greater = \$

SECTION 13 - PROJECT CLASSIFICATION (Env-Wt 306.05)		
Indicate the project classification.		
<input type="checkbox"/> Minimum Impact Project	<input type="checkbox"/> Minor Project	<input checked="" type="checkbox"/> Major Project
SECTION 14 - REQUIRED CERTIFICATIONS (Env-Wt 311.11)		
Initial each box below to certify:		
Initials: JB	To the best of the signer's knowledge and belief, all required notifications have been provided.	
Initials: JB	The information submitted on or with the application is true, complete, and not misleading to the best of the signer's knowledge and belief.	
Initials: B JB	The signer understands that: <ul style="list-style-type: none"> • The submission of false, incomplete, or misleading information constitutes grounds for NHDES to: <ol style="list-style-type: none"> 1. Deny the application. 2. Revoke any approval that is granted based on the information. 3. If the signer is a certified wetland scientist, licensed surveyor, or professional engineer licensed to practice in New Hampshire, refer the matter to the joint board of licensure and certification established by RSA 310-A:1. 	
Initials: JB	If the applicant is not the owner of the property, each property owner signature shall constitute certification by the signer that he or she is aware of the application being filed and does not object to the filing.	
SECTION 15 - REQUIRED SIGNATURES (Env-Wt 311.04(d); Env-Wt 311.11)		
SIGNATURE (OWNER):	PRINT NAME LEGIBLY:	DATE:
SIGNATURE (APPLICANT, IF DIFFERENT FROM OWNER):	PRINT NAME LEGIBLY:	DATE:
SIGNATURE (AGENT, IF APPLICABLE): 	PRINT NAME LEGIBLY: Jacqueline Boudreau	DATE: 2/29/24
SECTION 16 - TOWN / CITY CLERK SIGNATURE (Env-Wt 311.04(f))		
As required by RSA 482-A:3, I(a)(1), I hereby certify that the applicant has filed four application forms, four detailed plans, and four USGS location maps with the town/city indicated below.		
TOWN/CITY CLERK SIGNATURE: 	PRINT NAME LEGIBLY: Kelli L. Barnaby	
TOWN/CITY: Portsmouth	DATE: March 21, 2024	

NHDES-W-06-012

DIRECTIONS FOR TOWN/CITY CLERK:

Per RSA 482-A:3, I(a)(1)

1. IMMEDIATELY sign the original application form and four copies in the signature space provided above.
2. Return the signed original application form and attachments to the applicant so that the applicant may submit the application form and attachments to NHDES by mail or hand delivery.
3. IMMEDIATELY distribute a copy of the application with one complete set of attachments to each of the following bodies: the municipal Conservation Commission, the local governing body (Board of Selectmen or Town/City Council), and the Planning Board.
4. Retain one copy of the application form and one complete set of attachments and make them reasonably accessible for public review.

DIRECTIONS FOR APPLICANT:

Submit the original permit application form bearing the signature of the Town/City Clerk, additional materials, and the application fee to NHDES by mail or hand delivery at the address at the bottom of this page. Make check or money order payable to "Treasurer – State of NH".

irm@des.nh.gov or (603) 271-2147
29 Hazen Drive, PO Box 95, Concord, NH 03302-0095
des.nh.gov

8 March, 2024

To Whom It May Concern:

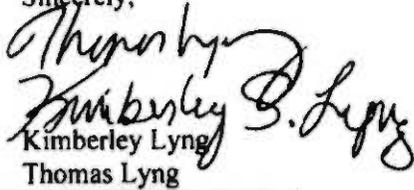
RE: State of New Hampshire DES Wetlands Bureau Standard Dredge and Fill Application for proposed tidal docking structure within the previously developed 100' Tidal Buffer Zone and jurisdictional wetlands for Kimberley & Thomas Lyng of 333 New Castle Ave Portsmouth, NH 03801

This letter is to inform the City of Portsmouth in accordance with State Law that the following entities:

Riverside Marine Construction, Inc.
Haley Ward

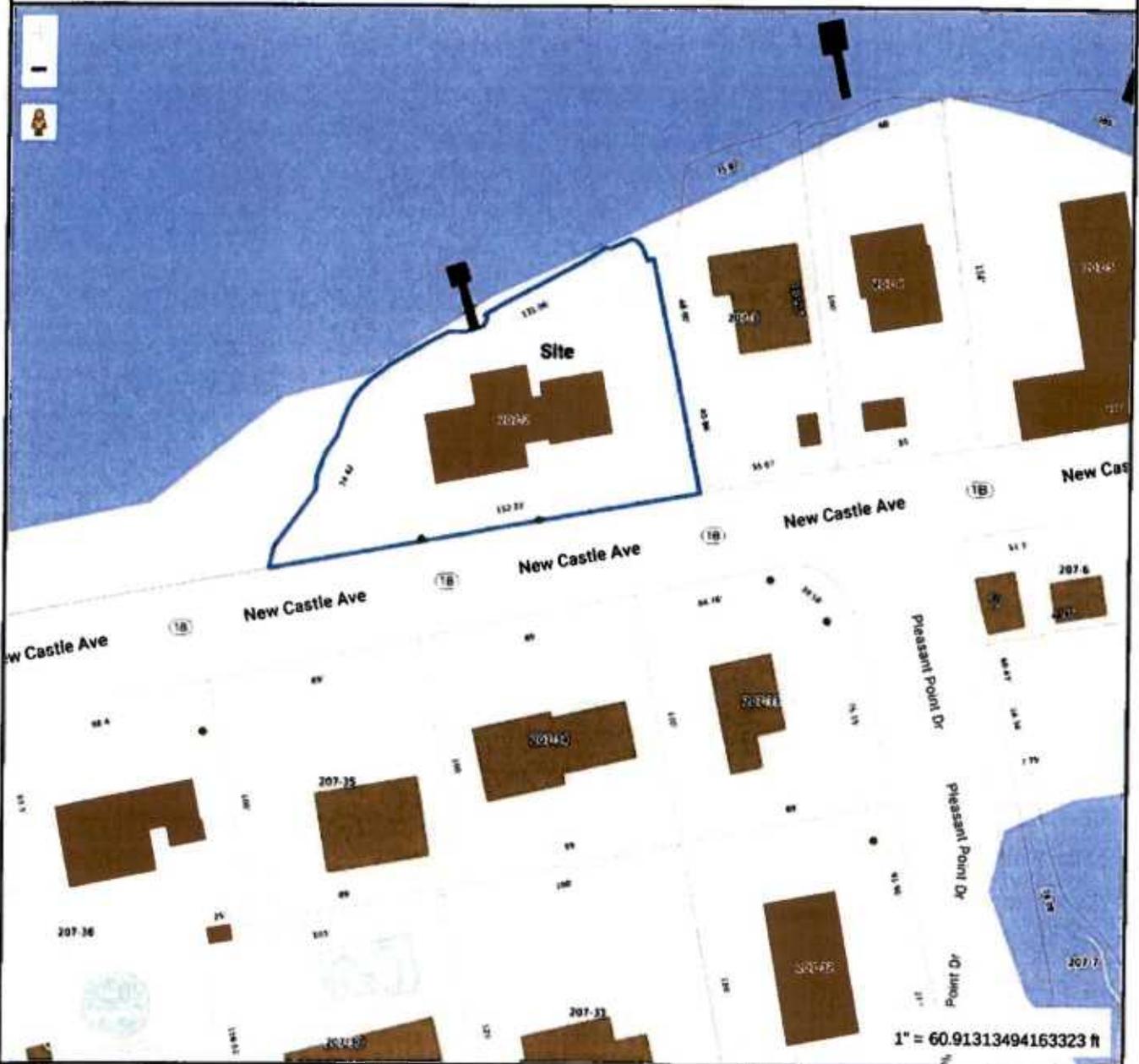
Are authorized to represent me as my agent in the approval process.
Please feel free to call me if there are any questions regarding this authorization.

Sincerely,


Kimberley Lyng
Thomas Lyng



Tax Map Lyng



Property Information
 Property ID 0207-0002-0000
 Location 333 NEW CASTLE AVE
 Owner LYNG THOMAS P



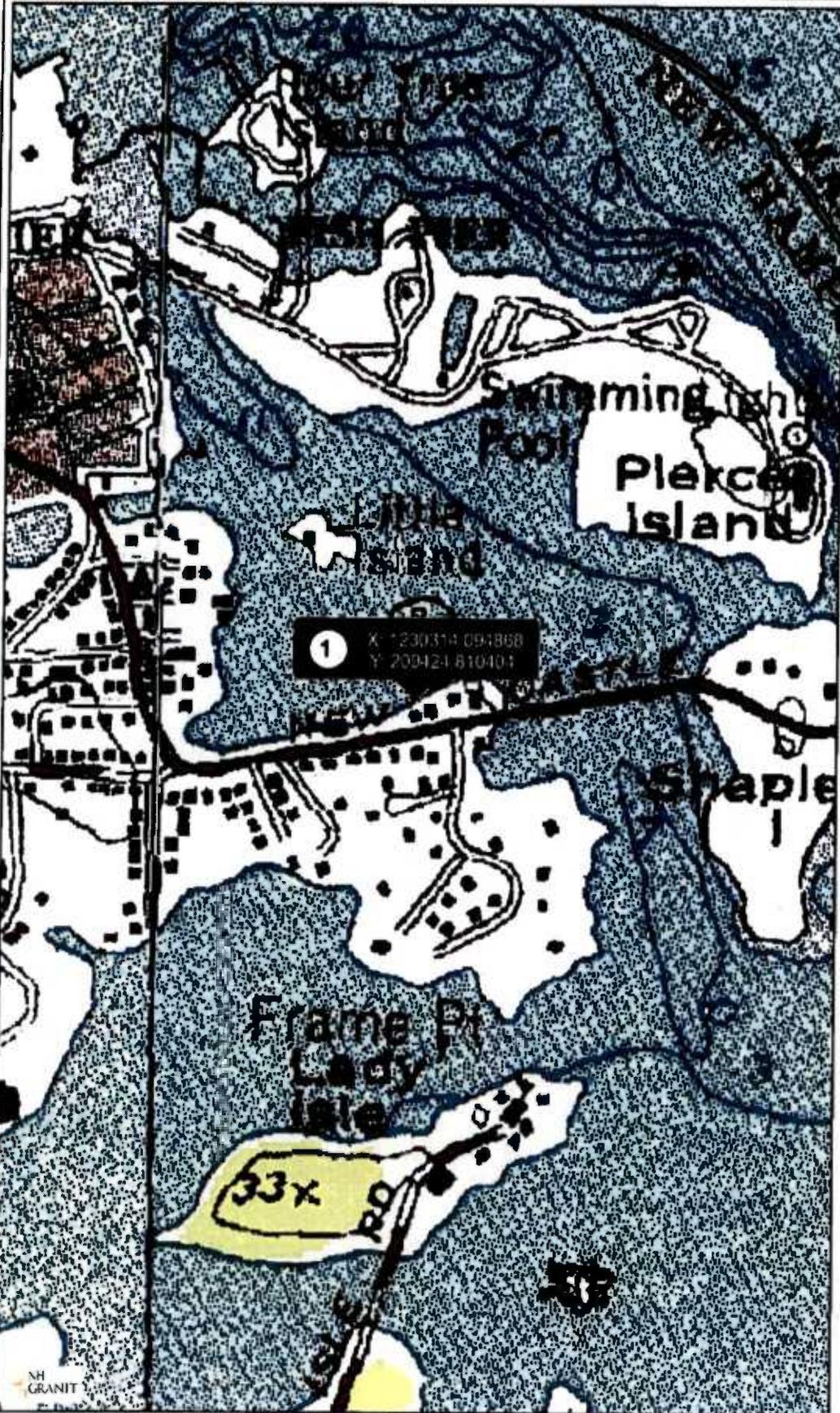
**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.
 Geometry updated 08/24/2023
 Data updated 3/9/2022

Print map scale is approximate.
 Critical layout or measurement activities should not be done using this resource.



Map by NH GRANIT



Legend

- State
- County
- City/Town



Map Scale

1: 6,494



© NH GRANIT, www.granit.unh.edu

Map Generated: 2/29/2024

Notes

USGS Topo Map





The State of New Hampshire
**Department of Environmental
Services**



Robert R. Scott, Commissioner

This application contains confidential information from the NH Natural Heritage Bureau (NHNB) Datacheck tool provided by the NH Department of Natural and Cultural Resources. This information is being withheld from disclosure to the public.

Please direct all questions regarding the confidential information to Courtney Lockwood, Land Resources Management Program Attorney, NH Department of Environmental Services, at: courtney.l.lockwood@des.nh.gov, or (603) 271-8614.



555 Market Street, Suite 1, Portsmouth, NH, 03801

March 11, 2024

NH Department of Environmental Service
Coastal Division
Pease Field Office
222 International Drive, Suite 175
Portsmouth, NH 03801

Attn: Eben Lewis

Re: 333 Newcastle Ave, Map 207 Lot 2

Dear Eben,

We reviewed plans for the construction of a pier and float system on the Piscataqua River back channel in Portsmouth at property belonging to

Thomas and Kimberly Lyng
333 Newcastle Ave
Portsmouth, NH

We examined the proposed site and found that the structure will have no negative effect on navigation in the channel.

Sincerely,


Tracy R. Shattuck
Chief Harbor Master

Cc: Stephen Riker
Ambit Engineering
200 Griffin Road Unit 3
Portsmouth, NH 03801

○○○○ TAKING YOU THERE

ph: 603-436-8500 fax: 603-436-2780 www.peasedev.org

CONSERVATION COMMISSION

April 12, 2024

TO: DES Wetlands – Coastal Region
222 International Drive, Suite 175
Portsmouth, NH 03801

Attn: Permit Coordinator

RE: Standard Dredge and Fill Application

RECEIVED

APR 15 2024

ENVIRONMENTAL SERVICES
"BY NH DES WETLANDS BUREAU"

MEETING DATE: April 10, 2024

CONSTRUCTION SITE: 333 New Castle Avenue

This Commission recommends approval of the cited project.

This Commission requests the statutory 40-day delay in order to allow for further investigation of the project. (See below)

This Commission recommends denial of the cited project for the reasons.

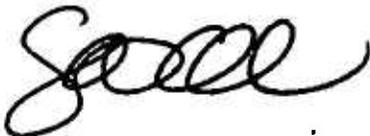
Other

After due deliberation, the Commission voted to recommend approval of the State Wetlands Bureau Application as presented with the following stipulations:

- 1. Applicant consider adding native plantings to the shoreline area for bank stabilization purposes.*
- 2. The proposed dock shall not be lit.*

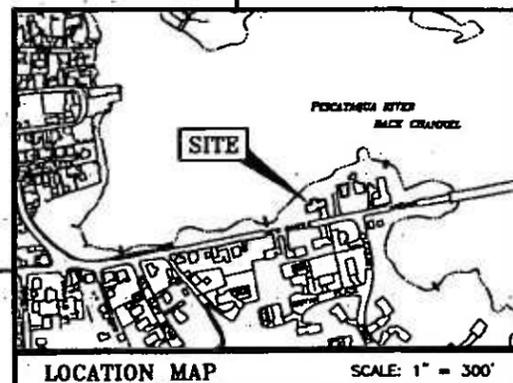
FOR THE COMMISSION:

Sincerely,



**Samantha Collins, Chair
Conservation Commission**

**cc: Peter Britz, Planning and Sustainability Director
Jacqueline Boudreau, Applicant
Kimberly & Thomas Lyng, Owners**



LEGEND:

N/F	NEW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY
	REGISTRY OF DEEDS
	MAP 11 / LOT 21
⊙	IRON SPIKE FOUND
○	IRON ROD FOUND
⊖	IRON ROD SET
⊙	IRON PIPE FOUND
⊙	DRILL HOLE FOUND
⊙	BOUND w/ DRILL HOLE
⊙	STONE BOUND w/ DRILL HOLE
⊙	OVERHEAD ELECTRIC WIRES
---	MEAN HIGH WATER LINE
---	FEMA FLOOD HAZARD ZONE
---	PROPERTY LINE
---	PROPERTY LINE EXTENDED
---	HIGHEST OBSERVABLE TIDE LINE
---	EDGE OF PAVEMENT

ABUTTERS

⊙	N/F	WILLIAM A. MICHON LIVING TRUST
⊙	N/F	PAUL E. HENRY JR.
⊙	N/F	ROBERT W. BRYANT
⊙	N/F	PAMELA S. HALL REVOCABLE TRUST
⊙	N/F	PAMELA S. HALL TRUSTEE

WETLAND NOTES:

- HIGHEST OBSERVABLE TIDE LINE DELINEATED BY STEVEN D. RIVER, CDS ON 10/19/23 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
 - U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, REGIONAL REPORT Y-87-1 (JUNE 1987), AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, NORTH-CENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
 - FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.2, USGS-ARCS, 2018 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4, NEMPPC WETLANDS WORK GROUP (2019).
 - NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1), USFWS (MAY 1986).
 - CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES, USFWS MANUAL FWS/OBS-78/31 (1987).
 - "IDENTIFICATION AND DOCUMENTATION OF VORNA POOLS IN NEW HAMPSHIRE" (1997), NEW HAMPSHIRE FISH AND GAME DEPARTMENT.
- HIGHEST OBSERVABLE TIDE LINE FIELD LOCATED BY AMBIT ENGINEERING, INC.



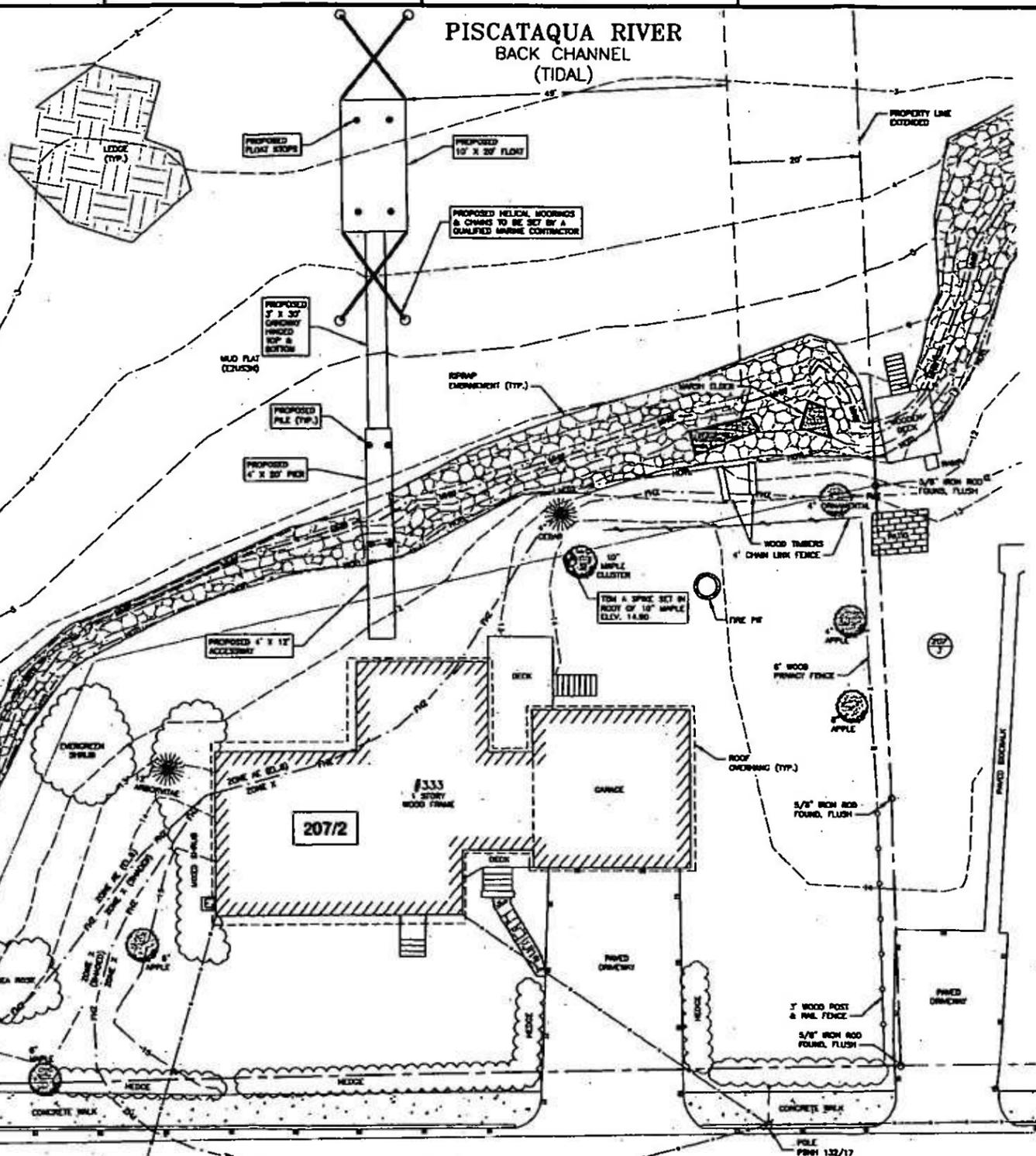
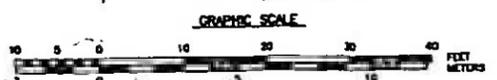
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

John R. Chagnon
 JOHN R. CHAGNON, LLS
 DATE 1-18-24



NEW CASTLE AVENUE

N.H. ROUTE 1B



NOTES:

- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 207 AS LOT 2.
- OWNERS OF RECORD:
 THOMAS P. LYNG
 KIMBERLEY S. LYNG
 333 NEW CASTLE AVENUE
 PORTSMOUTH, NH 03801
 5498/2709
 D-37558
- A PORTION OF THE PARCEL IS IN A SPECIAL FLOOD HAZARD AREA (ZONE AE EL. 8--NAVD83) AS SHOWN ON FIRM PANEL 3301500278F. EFFECTIVE DATE JANUARY 29, 2021.
- EXISTING LOT AREA:
 13,084 S.F. ± (TO MHW)
 0.3004 ACRES ± (TO MHW)
- PARCEL IS LOCATED IN SINGLE RESIDENCE B' AND HISTORIC OVERLAY DISTRICT.
- DIMENSIONAL REQUIREMENTS:
 MIN. LOT AREA: 15,000 S.F.
 FRONTAGE: 100 FEET
 SETBACKS: FRONT 30 FEET
 SIDE 10 FEET
 REAR 30 FEET
 MAXIMUM STRUCTURE HEIGHT: 35 FEET
 MAXIMUM BUILDING COVERAGE: 20%
 MINIMUM OPEN SPACE: 40%
- THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DOCKING STRUCTURE ON A PORTION OF ASSESSOR'S MAP 207 LOT 2 IN THE CITY OF PORTSMOUTH.
- VERTICAL DATUM IS MEAN LOWER LOW WATER (MLLW), MLLW REFERENCED TO NOAA STATION 8419870, SEAVEY ISLAND, PORTSMOUTH HARBOR, ME., WHERE MLLW IS 4.62' BELOW NAVD83 ELEVATION 0.00.

6	2024.01.18	ISSUED FOR COMMENT	CMS	JRC
NO.	DATE	DESCRIPTION	BY	CHK.

PERMIT PLANS

AMBIT ENGINEERING, INC.
 A DIVISION OF HALCYON, INC.

WWW.HALCYON.COM
 330 OGDEN ROAD, SUITE 3
 PORTSMOUTH, NH 03804
 603.432.9587

LYNG RESIDENCE
 333 NEW CASTLE AVENUE, PORTSMOUTH, NH

NHDES PERMIT PLAN

DATE	DECEMBER 2023	SCALE	1" = 8'
DESIGNED BY	CMS	CHECKED BY	JRC
PROJECT NO.	180.3402.01	FIG.	472 PG 1
SHEET NO.	SHEET 2 C2		

SEQUENCE OF CONSTRUCTION

- 1) MOBILIZATION OF A CRANE BARGE, PUSH BOAT, WORK SKIFF, MATERIALS AND PREFABRICATED COMPONENTS SUCH AS THE GANGWAY AND FLOAT TO THE SITE VIA APPROVED ACCESS.
- 2) MOBILIZATION OF EQUIPMENT TRUCKS TO THE SITE.
- 3) THE BARGE WILL BE POSITIONED ALONGSIDE THE PROPOSED LOCATION OF THE NEW DOCK AND WATERWARD OF ANY EMERGENT VEGETATION TO MINIMIZE IMPACTS.
- 4) INSTALLATION OF THE SUB STRUCTURE WILL BE PERFORMED FROM A CRANE BARGE OR SKIFF TO REDUCE THE AMOUNT OF FOOT TRAFFIC IN THE INTERTIDAL AREA.
- 5) ALL WORK WILL BE PERFORMED AT LOW TIDE TO MINIMIZE SEDIMENTATION.
- 6) PILING WILL BE MECHANICALLY DRIVEN BY A CRANE ELIMINATING ANY EXCAVATION FOR INSTALLATION OF THE PILING. PILING ARE DRIVEN TO REFUSAL.
- 7) PILING ARE CUT AND BEAM CAPS ARE INSTALLED AND THE SUPER STRUCTURE OF THE PIER IS BUILT. MATERIALS ARE LIFTED FROM THE BARGE AND SET INTO POSITION BY THE CRANE.
- 8) ONCE THE PIER IS COMPLETE, THE GANGWAY AND FLOAT ARE BROUGHT INTO POSITION AND INSTALLED.

DISCHARGES, AVOIDANCE, MINIMIZATION AND MITIGATION

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE U.S. AND ANY SECONDARY IMPACTS SHALL BE AVOIDED AND MINIMIZED TO THE MAXIMUM EXTENT PRACTICABLE. PERMITTEES MAY ONLY FILL THOSE JURISDICTIONAL WETLANDS AND WATERWAYS THAT THE CORP AND NHDES AUTHORIZES TO BE FILLED AND IMPACT THOSE AREAS THAT THE CORP AND NHDES AUTHORIZES AS SECONDARY IMPACTS. IF NOT SPECIFICALLY AUTHORIZED BY USACE AND NHDES, ANY UNAUTHORIZED FILL OR SECONDARY IMPACT TO WETLANDS MAY BE CONSIDERED AS A VIOLATION OF THE CWA.

UNLESS SPECIFICALLY AUTHORIZED USACE AND NHDES, NO WORK SHALL DRAIN A WATER OF THE U.S. BY PROVIDING A CONDUIT FOR WATER ON OR BELOW THE SURFACE.

HEAVY EQUIPMENT IN FRESH WATER WETLANDS

HEAVY EQUIPMENT OTHER THAN FIXED EQUIPMENT (DRILL RIGS, FIXED CRANES, ETC.) WORKING IN WETLANDS SHALL NOT BE STORED, MAINTAINED OR REPAIRED IN WETLANDS, UNLESS IT IS LESS ENVIRONMENTALLY DAMAGING OTHERWISE, AND AS MUCH AS POSSIBLE SHALL NOT BE OPERATED WITHIN THE INTERTIDAL ZONE. WHERE CONSTRUCTION REQUIRES HEAVY EQUIPMENT OPERATION IN WETLANDS, THE EQUIPMENT SHALL EITHER HAVE LOW GROUND PRESSURE (<3 PSI), OR SHALL NOT BE LOCATED DIRECTLY ON WETLAND SOILS AND VEGETATION; IT SHALL BE PLACED ON SWAMP MATS THAT ARE ADEQUATE TO SUPPORT THE EQUIPMENT IN SUCH A WAY AS TO MINIMIZE DISTURBANCE OF WETLAND SOIL AND VEGETATION. SWAMP MATS ARE TO BE PLACED IN THE WETLAND FROM THE UPLAND OR FROM EQUIPMENT POSITIONED ON SWAMP MATS IF WORKING WITHIN A WETLAND. DRAGGING SWAMP MATS INTO POSITION IS PROHIBITED. OTHER SUPPORT STRUCTURES THAT ARE LESS IMPACTING AND ARE CAPABLE OF SAFELY SUPPORTING EQUIPMENT MAY BE USED WITH WRITTEN CORP AND NHDES AUTHORIZATION. SIMILARLY, NOT USING MATS DURING FROZEN, DRY OR OTHER CONDITIONS MAY BE ALLOWED WITH WRITTEN CORP AND NHDES AUTHORIZATION. AN ADEQUATE SUPPLY OF SPILL CONTAINMENT EQUIPMENT SHALL BE MAINTAINED ON SITE. GORGEWAY ROADS AND SWAMP/CONSTRUCTION MATS ARE CONSIDERED AS FILL WHETHER THEY'RE INSTALLED TEMPORARILY OR PERMANENTLY.

TIME OF YEAR WORK WINDOW AND NOISE RESTRICTIONS

1. PILES INSTALLED IN-THE-DRY DURING LOW WATER OR IN-WATER BETWEEN NOV. 15TH - MARCH 15TH, OR
2. MUST BE DRILLED AND PRIMED TO LEAVE, OR
3. VIBRATORY HAMMERS USED TO INSTALL ANY SIZE AND QUANTITY OF WOOD, CONCRETE OR STEEL PILES, OR
4. IMPACT HAMMERS LIMITED TO ONE HAMMER AND <30 PILES INSTALLED/DAY WITH THE FOLLOWING: WOOD PILES OF ANY SIZE, CONCRETE PILES <18-INCHES DIAMETER, STEEL PILES 12-INCHES DIAMETER IF THE HAMMER IS <3000 LBS. AND A WOOD CUSHION IS USED BETWEEN THE HAMMER AND STEEL PILE.

FOR 8-HR ABOVE:

1. IN-WATER NOISE LEVELS SHALL NOT >107dB SEL RE WPA OR 206dB PEAK RE WPA AT A DISTANCE >10M FROM THE PILE BEING INSTALLED, AND
2. IN-WATER NOISE LEVELS >105dB PEAK RE WPA SHALL NOT EXCEED 12 CONSECUTIVE HOURS ON ANY GIVEN DAY AND A 12 HOUR RECOVERY PERIOD (I.E. IN-WATER NOISE BELOW 105dB PEAK RE WPA) MUST BE PROVIDED BETWEEN WORK DAYS.

WORK SITE RESTORATION

1. UPON COMPLETION OF CONSTRUCTION, ALL DISTURBED WETLAND AREAS SHALL BE PROPERLY STABILIZED. ANY SEED MIX SHALL CONTAIN ONLY PLANT SPECIES NATIVE TO NEW ENGLAND.
2. THE INTRODUCTION OR SPREAD OF INVASIVE PLANT SPECIES IN DISTURBED AREAS IS PROHIBITED.
3. IN AREAS OF AUTHORIZED TEMPORARY DISTURBANCE, IF TREES ARE CUT THEY SHALL BE CUT AT GROUND LEVEL AND NOT UPROOTED IN ORDER TO PREVENT DISRUPTION TO THE WETLAND SOIL STRUCTURE AND TO ALLOW STUMP SPROUTS TO REVEGETATE THE WORK AREA, UNLESS OTHERWISE AUTHORIZED.
4. WETLAND AREAS WHERE PERMANENT DISTURBANCE IS NOT AUTHORIZED SHALL BE RESTORED TO THEIR ORIGINAL CONDITION AND ELEVATION, WHICH UNDER NO CIRCUMSTANCES SHALL BE HIGHER THAN THE PRE-CONSTRUCTION ELEVATION. ORIGINAL CONDITION MEANS CAREFUL PROTECTION AND/OR REMOVAL OF EXISTING SOIL AND VEGETATION, AND REPLACEMENT BACK TO THE ORIGINAL LOCATION SUCH THAT THE ORIGINAL SOIL LAYERING AND VEGETATION SCHEMES ARE APPROXIMATELY THE SAME, UNLESS AUTHORIZED.

SEDIMENTATION AND EROSION CONTROL

ADEQUATE SEDIMENTATION AND EROSION CONTROL MEASURES, PRACTICES AND DEVICES, SUCH AS PHASED CONSTRUCTION, VEGETATED FILTER STRIPS, GEOTEXTILE SILT FENCES, STORMWATER DETENTION AND INFILTRATION SYSTEMS, SEDIMENT DETENTION BASINS, OR OTHER DEVICES SHALL BE INSTALLED AND PROPERLY MAINTAINED TO REDUCE EROSION AND RETAIN SEDIMENT ON-SITE DURING AND AFTER CONSTRUCTION. THEY SHALL BE CAPABLE OF PREVENTING EROSION, OF COLLECTING SEDIMENT, SUSPENDED AND FLOATING MATERIALS, AND OF FILTERING FINE SEDIMENT. THE DISTURBED AREAS SHALL BE STABILIZED AND THESE DEVICES SHALL BE REMOVED UPON COMPLETION OF WORK. THE SEDIMENT COLLECTED BY THESE DEVICES SHALL BE REMOVED AND PLACED AT AN UPLAND LOCATION, IN A MANNER THAT WILL PREVENT ITS LATER CROSSING INTO A WATERWAY OR WETLAND. ALL EXPOSED SOIL AND OTHER FILLS SHALL BE PERMANENTLY STABILIZED AT THE EARLIEST PRACTICABLE DATE.

SPAWNING AREAS

DISCHARGES OF DREDGED OR FILL MATERIAL, AND/OR SUSPENDED SEDIMENT PRODUCING ACTIVITIES IN FISH AND SHELLFISH SPAWNING OR NURSERY AREAS, OR AMPHIBIAN AND MIGRATORY BIRD BREEDING AREAS, DURING SPAWNING OR BREEDING SEASONS SHALL BE AVOIDED. IMPACTS TO THESE AREAS SHALL BE MINIMIZED TO THE MAXIMUM EXTENT PRACTICABLE DURING ALL TIMES OF THE YEAR. INFORMATION ON SPAWNING HABITAT FOR SPECIES MANAGED UNDER THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT (I.E. EFH FOR SPAWNING ADULTS) CAN BE OBTAINED FROM THE NAWF WEBSITE AT: WWW.NEHO.NHAGOV/HACD.

STORAGE OF SEASONAL STRUCTURES

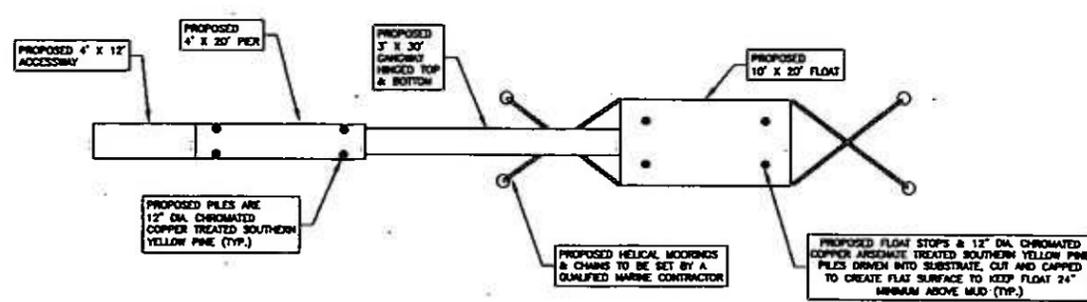
COASTAL STRUCTURES SUCH AS PIER SECTIONS, FLOATS, ETC. THAT ARE REMOVED FROM THE WATERWAY FOR A PORTION OF THE YEAR (OFTEN REFERRED TO AS SEASONAL STRUCTURES) SHALL BE STORED IN AN UPLAND LOCATION, LOCATED ABOVE HIGHEST OBSERVABLE TIDE LINE (HOTL) AND NOT IN TIDAL WETLANDS. THESE SEASONAL STRUCTURES MAY BE STORED ON THE FIXED, PILE-SUPPORTED PORTION OF THE STRUCTURE THAT IS SEAWARD OF HOTL. THIS IS INTENDED TO PREVENT STRUCTURES FROM BEING STORED ON THE MARSH SUBSTRATE AND THE SUBSTRATE SEAWARD OF MHW.

ENVIRONMENTAL FUNCTIONS AND VALUES

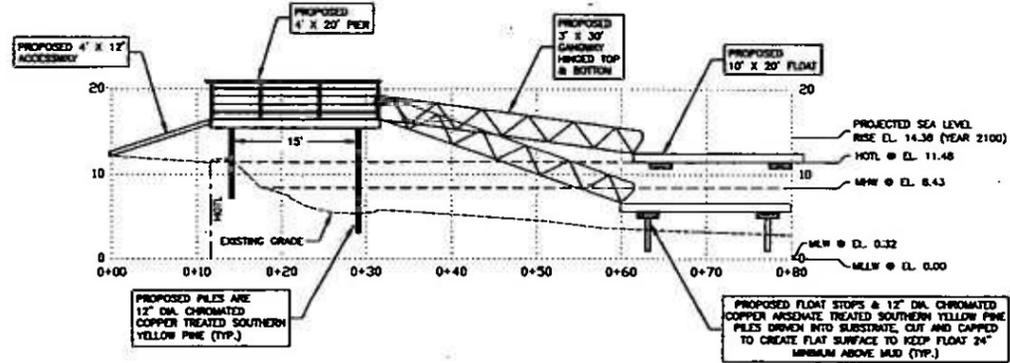
THE PERMITTEE SHALL MAKE EVERY REASONABLE EFFORT TO 1) CARRY OUT THE CONSTRUCTION OR OPERATION OF THE WORK AUTHORIZED BY USACE AND NHDES HEREIN IN A MANNER THAT MINIMIZES ADVERSE IMPACTS ON FISH, WILDLIFE AND NATURAL ENVIRONMENTAL VALUES, AND 2) PROHIBIT THE ESTABLISHMENT OR SPREAD OF PLANT SPECIES IDENTIFIED AS NON-NATIVE INVASIVE SPECIES BY ANY FEDERAL OR STATE AGENCY. SEE THE SECTION ON INVASIVE SPECIES AT HTTP://WWW.NHUSACE.LAWYER.MIL/REGULATORY/ FOR CONTROL METHODS.

INSPECTIONS

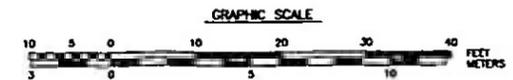
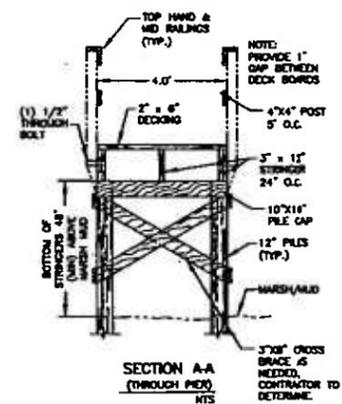
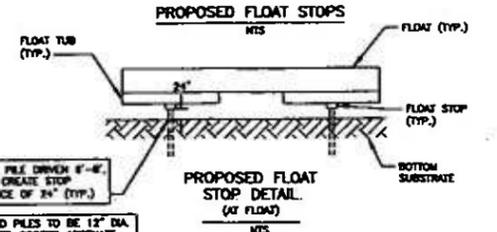
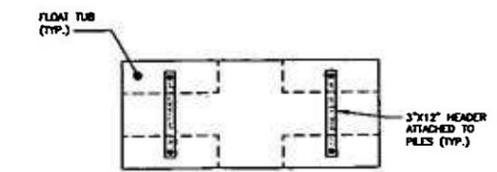
THE PERMITTEE SHALL ALLOW THE CORP AND NHDES TO MAKE PERIODIC INSPECTIONS AT ANY TIME DEEMED NECESSARY IN ORDER TO ENSURE THAT THE WORK IS BEING OR HAS BEEN PERFORMED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS PERMIT. THE CORP AND NHDES MAY ALSO REQUIRE POST-CONSTRUCTION ENGINEERING DRAWINGS FOR COMPLETED WORK AND POST-DREDGING SURVEY DRAWINGS FOR ANY DREDGING WORK.



PROPOSED DOCK PLAN
SCALE: 1" = 10'



PROPOSED DOCK ELEVATION
SCALE: HORIZONTAL/VERTICAL-1" = 10'
PROPOSED PIER, GANGWAY & FLOAT w/ PILES



- NOTES:**
- 1) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY.
 - 2) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.
 - 3) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE 'NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION.' (NHDES DECEMBER 2008).
 - 4) NUMBER OF PILES TO BE DRIVEN FOR DOCKING STRUCTURE NOT TO EXCEED 8 AS DEPICTED ON PROPOSED DOCK ELEVATION. ALSO NOTE TIME OF YEAR AND NOISE RESTRICTIONS FOR DRIVING OF PILES.

0	2024.01.18	ISSUED FOR COMMENT	OMS	JRC
NO.	DATE	DESCRIPTION	BY	CHK
PERMIT PLANS				
 A DIVISION OF HALEY WARD, INC.				
303 Geth Road, Unit 3 Portsmouth, NH 03801 603.432.7822				
WWW.HALEYWARD.COM				
PROJECT:				
LYNG RESIDENCE 333 NEW CASTLE AVENUE, PORTSMOUTH, NH				
TALK:				
DOCK DETAILS				
		DATE: DECEMBER 2023 SCALE: AS SHOWN		
DRAWN BY: OMS	DESIGNED BY: —	CHECKED BY: JRC		
PROJECT NO: 180.3402.01 FB 472 PG 1				
SHEET 3				D1