

Board of Selectmen

Charles R. Cunningham, Chairman
Steven C. Lewis, Vice Chairman
Dale C. Harmon
Kristina Ford
Michael Tomacelli

Town Manager

Daniel Bryer



**Town of Boothbay
Board of Selectmen Meeting
Wednesday, May 9th, 2018
7:00 PM
Agenda**

1. Pledge of Allegiance

- 2. Public Hearing-** 1. PGC2, LLC, dba Boothbay Harbor Country Club Wellness Center, Map R07, Lot 002-B, located at 40 White Birch Lane, Boothbay, Maine for a new (first-time) Liquor License for the Fitness Center on the Golf Course Property.
2. Edwin & Lori Mitchell, dba Boothbay Resort, Map R-04, Lot 165, located at 301 Adams Pond Rd, Boothbay, Maine for renewal of an Innkeeper's License.
3. Boothbay Craft Brewery, Inc., applicants Edwin Jr. & Lori Mitchell, Map R06, Lot 009, located at 301 Adams Pond Rd, Boothbay, Maine for renewal of a Restaurant Liquor license (Class I, II, III, IV).
4. Coastal Maine Botanical Gardens, Map R04, Lot 109, located at 132 Botanical Gardens Drive, Boothbay, Maine for renewal of a seasonal Special Amusement Permit.
5. AM Firpo Enterprises, LLC, (dba Smuggler's Cove Inn/1820 House) Map U06, Lot 11, located at 727 Ocean Point Rd, East Boothbay, Maine for renewal of a Restaurant Liquor (Class I, II, III, IV) license, an Innkeepers License and a Special Amusement permit.

3. Public Comment**4. Approve Minutes- April 25th, 2018****5. Reports-** 1. The Town will be posting a construction schedule for the Rte. 27 corridor project and it will be posted to the website upon completion.

2. The Federal court has approved the consent decree between the Town of Boothbay and Coastal Maine Botanical Gardens, however we are still awaiting dismissal at the State level.

3. The Landscape Committee is working to try to get a schedule for the upcoming work along Rte. 27.

4. I met with the Lincoln County Sheriff's representative and we have come up with a tentative plan for placement and access to the office.

5. The Umaine Aqua Ventus project (wind turbine) **awaiting update**

6. I've met with MDOT regarding the park and ride grant and we are formulating a plan and a tentative time line while working with public works and the Water District.

7. The sidewalk project from the BBH YMCA to Clifford Park is slated for Spring of 2019.

6. Old Business-

- 7. New Business-** 1. Authorizing the CEO to execute a consent agreement on behalf of the Town with Peter and Kathryn Wagner relating to the land use violation on Sawyers Island Road Tax Map R4, Lot 78), and authorizing any further action necessary and appropriate related to resolving the violation.

Board of Selectmen

Charles R. Cunningham, Chairman
Steven C. Lewis, Vice Chairman
Dale C. Harmon
Kristina Ford
Michael Tomacelli

Town Manager

Daniel Bryer



**Town of Boothbay
Board of Selectmen Meeting
Wednesday, May 9th, 2018
7:00 PM
Agenda**

- 8. Public Comment**
- 9. Review Warrants and sign**
- 10. Adjourn Meeting**

TOWN OF BOOTHBAY

PUBLIC HEARING NOTICE

The Boothbay Board of Selectmen will hold a public hearing at their regular Board of Selectmen's meeting on May 9, 2018 at 7:00 p.m. at the Boothbay town offices located at 1011 Wiscasset Rd, Boothbay, Maine for the following:

PGC2, LLC, dba Boothbay Harbor Country Club Wellness Center, Map R07, Lot 002-B, located at 40 White Birch Lane, Boothbay, Maine for a new (first-time) Liquor License for the Fitness Center on the Golf Course Property.

To Register 4/13 to run 4/26 & 5/3

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

| DIVISION USE ONLY | |
|-------------------|-----|
| License No: | |
| Class: | By: |
| Deposit Date: | |
| Amt. Deposited: | |
| Cash Ck Mo: | |

NEW application: ☒ Yes ☐ No

PRESENT LICENSE EXPIRES n/a

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|---|---|--|
| <input type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI) | <input type="checkbox"/> CLASS A LOUNGE (Class X) |
| <input type="checkbox"/> HOTEL (Class I,II,III,IV) | <input type="checkbox"/> HOTEL, FOOD OPTIONAL (Class I-A) | <input type="checkbox"/> BED & BREAKFAST (Class V) |
| <input type="checkbox"/> CLUB w/o Catering (Class V) | <input type="checkbox"/> CLUB with CATERING (Class I) | <input type="checkbox"/> GOLF COURSE (Class I,II,III,IV) |
| <input type="checkbox"/> TAVERN (Class IV) | <input type="checkbox"/> QUALIFIED CATERING | <input checked="" type="checkbox"/> OTHER: <u>Fitness Center on Golf Course Prop</u> |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

| | | | | | |
|---|-----------------------|--------------------------|--|--|--------------------------|
| Corporation Name: PGC2, LLC | | | Business Name (D/B/A) Boothbay Harbor Country Club Wellness Center | | |
| APPLICANT(S) –(Sole Proprietor) | | | DOB: | | |
| | | | Physical Location: 40 White Maple Lane | | |
| DOB: | | | City/Town Boothbay | State Maine | Zip Code 04537 |
| Address PO Box 757 | | | Mailing Address PO Box 757 | | |
| City/Town Boothbay | State Maine | Zip Code 04537 | City/Town Boothbay | State Maine | Zip Code 04537 |
| Telephone Number 207-633-3676 | | Fax Number | | Business Telephone Number 207-633-3673 ext 3 | |
| Federal I.D. # 46-1943831 | | | Seller Certificate #: or Sales Tax #: | | |
| Email Address: Please Print office@boothbayharborcc.com | | | Website: | | |

If business is NEW or under new ownership, indicate starting date: 05/15/2018

Requested inspection date: _____ Business hours: 11 AM - 9PM

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____

2. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No

If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

CAR-2013-7595 PGC2,LLC/Boothbay Harbor Country Club (Use an additional sheet(s) if necessary.)

License # _____ Name of Business
50 Sugar Maple Lane, Boothbay, Maine 04537

Physical Location _____ City / Town

5. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
6. If manager is to be employed, give name: _____
7. Business records are located at: _____
8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐
9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
10. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

| Name in Full (Print Clearly) | DOB | Place of Birth |
|---|------------|----------------|
| Paul G. Coulombe | 03/07/1953 | Lewiston, ME |
| Melissa Neal | 03/07/1970 | Jackson, MS |
| | | |
| Residence address on all of the above for previous 5 years (Limit answer to city & state) | | |
| Cape Elizabeth, ME/Southport. ME/Bonita Springs, FL/Naples, FL | | |
| Southport | | |
| | | |
| | | |

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒
- Name: _____ Date of Conviction: _____
- Offense: _____ Location: _____
- Disposition: _____ (use additional sheet(s) if necessary)
12. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☐ If Yes, give name: _____
13. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐
14. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____
15. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____
Fitness center, tennis/pickle courts, spa facility and pool
16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____
17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1.4 miles
Which of the above is nearest? School
18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒
- If YES, give details: _____

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: _____ on _____, 20____
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Paul G Coulombe

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I Spirituous, Vinous and Malt \$ 900.00

CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00

CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00

CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00

CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00

CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00

CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt – Class A Lounge \$2,200.00

CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt – Restaurant Lounge \$1,500.00

CLASS XI: Restaurant/Lounge; and OTB.

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. **All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

This application must be completed and signed by the Town or City and mailed to:

Bureau of Alcoholic Beverages and Lottery Operations

Division of Liquor Licensing and Enforcement

8 State House Station, Augusta, ME 04333-0008.

Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

*Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov*

| DIVISION USE ONLY | |
|--------------------------|--------------|
| <input type="checkbox"/> | Approved |
| <input type="checkbox"/> | Not Approved |
| BY: | |

ON PREMISE DIAGRAM

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.

See Attached

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

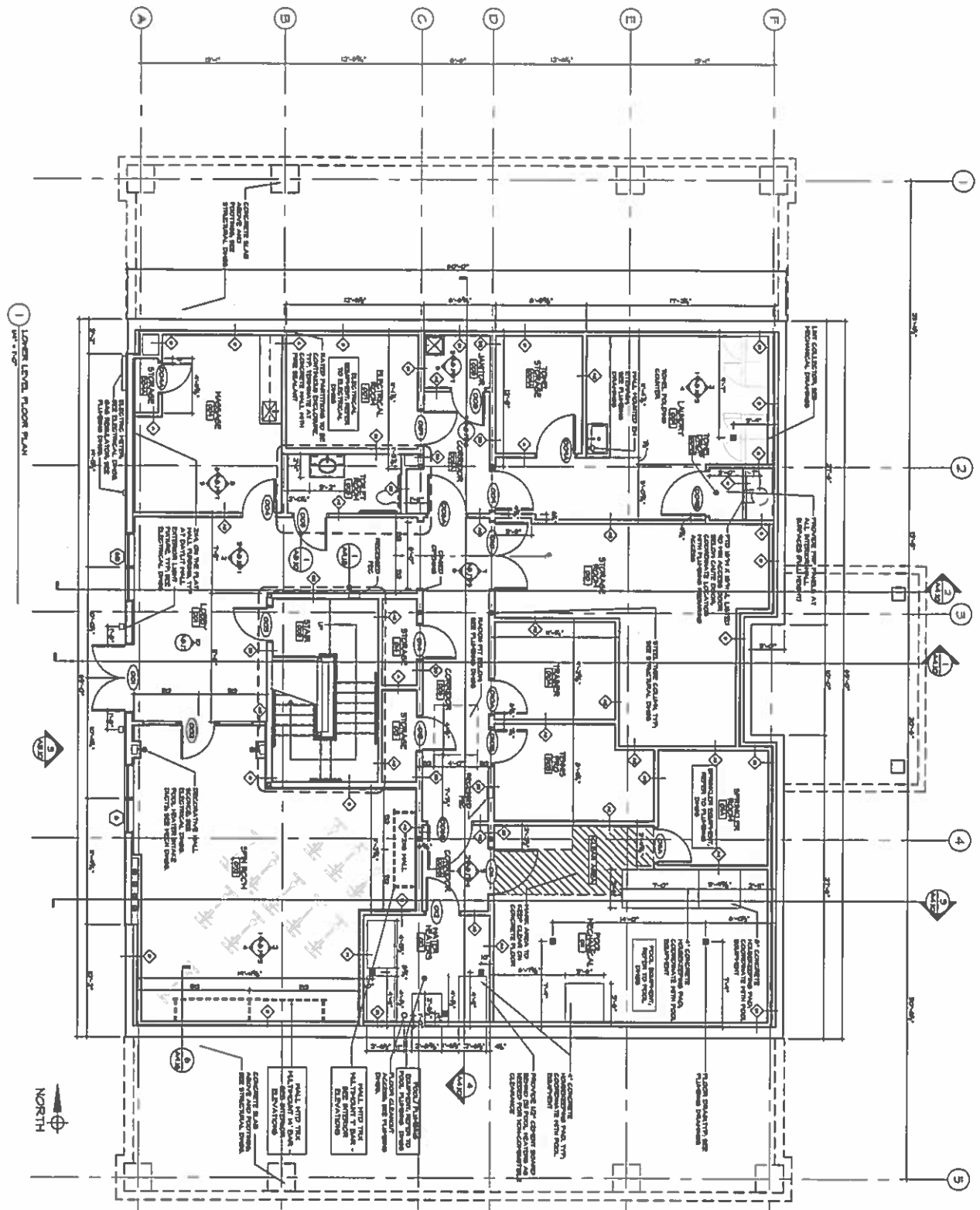
 _____
Signature of Duly Authorized Person Date

 _____
Print Name of Duly Authorized Person

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov





- EXPLANATION OF SYMBOLS:**
1. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 2. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 3. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 4. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 5. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 6. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 7. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 8. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 9. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.
 10. CONCRETE SLAB, 12" THICK, WITH REINFORCING BARS. ALL REINFORCING BARS TO BE 1/2" DIA. STEEL. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER. ALL REINFORCING BARS TO BE 18" ON CENTER.

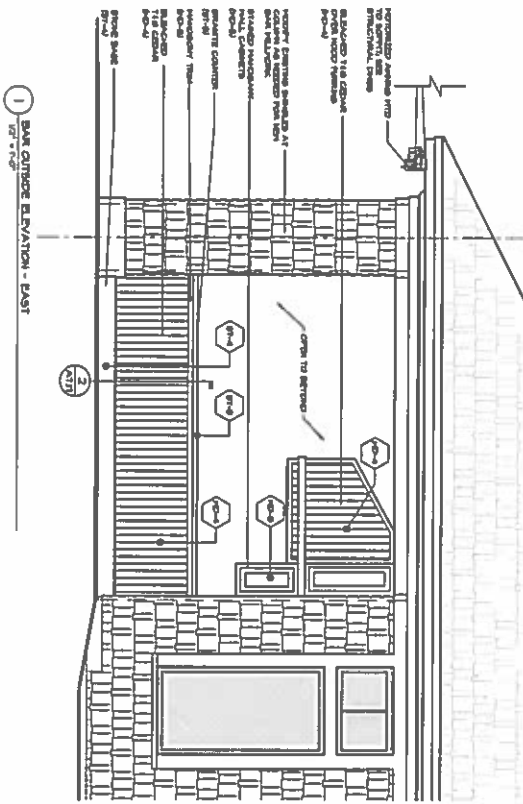
BOOTHBAY HARBOR COUNTRY CLUB
FITNESS PAVILION
BOOTHBAY HARBOR
LOWER LEVEL FLOOR PLAN

KNICKERBOCKER GROUP

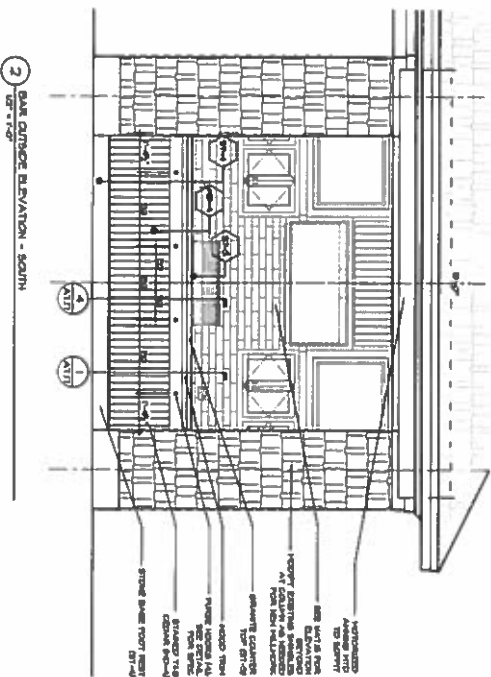
PO BOX 10000 Boothbay Harbor, ME 04515
207.633.1000 www.knickerbockergroup.com

A1.10

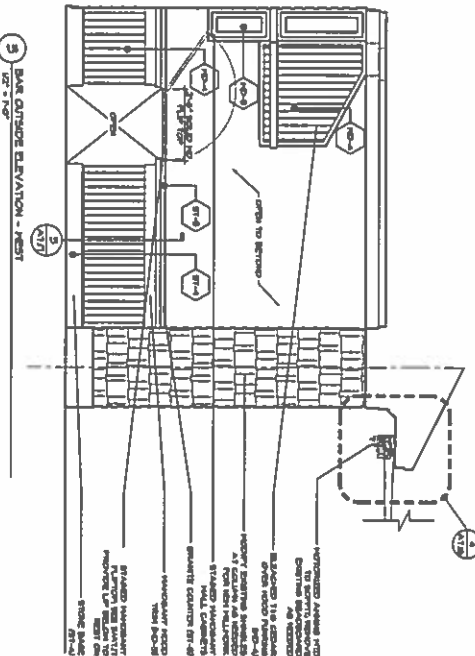
DATE: 03/12/2018
DRAWN BY: JLD
CHECKED BY: JLD
SCALE: 1/8" = 1'-0"



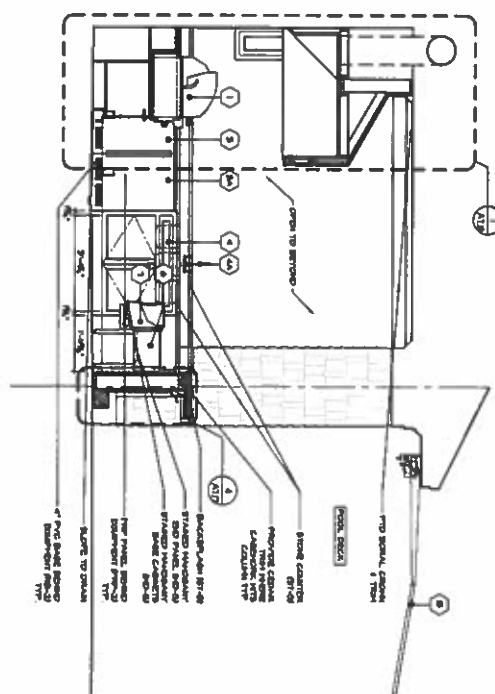
1 BAR OUTSIDE ELEVATION - EAST



2 BAR OUTSIDE ELEVATION - SOUTH

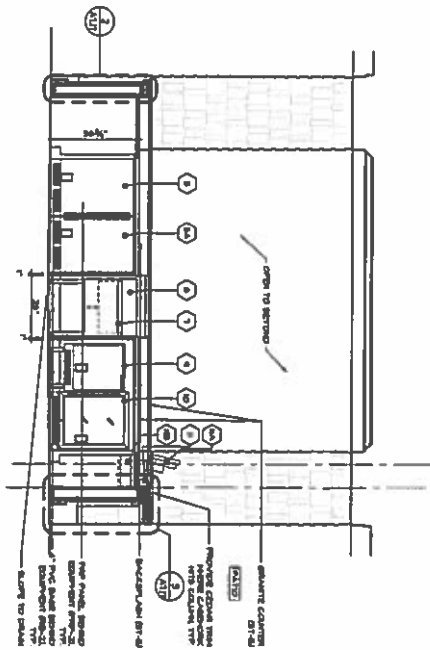


3 BAR OUTSIDE ELEVATION - WEST



1 ENLARGED HOPE BAR ELEVATION
1/2" = 1'-0"

2 CHARGED NEURON ELEVATION
UT + NG



5 ENLARGED HOOD BAR ELEVATION
1/2" = 1'-0"

4 CHARGED INSIDE BAR ELEVATION
07.0.10

4. Continued

4. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☐ No

If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License - # HOT-2017-10095

Name – PGC8, LLC – DBA – Boothbay Harbor Oceanside Golf Resort

Address – 35 Atlantic Avenue, Boothbay Harbor, Maine

TOWN OF BOOTHBAY

PUBLIC HEARING NOTICE

The Boothbay Board of Selectmen will hold a public hearing at their regular Board of Selectmen's meeting on May 9, 2018 at 7:00 p.m. at the Boothbay town offices located at 1011 Wiscasset Rd, Boothbay, Maine for the following:

Edwin & Lori Mitchell, dba Boothbay Resort, Map R-04, Lot 165, located at 301 Adams Pond Rd, Boothbay, Maine for renewal of an Innkeeper's License.

To Register 4/26/20418 Run 5/03/18

Fee 50.00 license fee
60.00 ~~45.00~~ advertising

Map R-04 Lot 165

110 ck# 1011

TOWN OF BOOTHBAY

LICENSE APPLICATION FOR INNKEEPERS AND LODGING HOUSES

APPLICANT'S NAME & POSITION: Edwin & Lori Mitchell, Owners

NAME OF BUSINESS: Boothbay Resort TELEPHONE 207-633-3411

BUSINESS ADDRESS: 301 ADAMS POND RD email: stay@boothbayresort.com

MAILING ADDRESS: same ZIP 04537

INNKEEPER:

☒ (Hotel/Motel) 4 No. of Rooms

LODGING HOUSE:

☐ (Bed & Breakfast) _____ No. of Rooms

Length of Season Mid-May to Mid-October
Month Starting Month Ending

KNOW ALL MEN THAT I/WE Edwin & Lori Mitchell of Boothbay, ME
AS PRINCIPAL OWNER AND I/WE _____ and _____

As surety has been duly licensed as a(an) INNKEEPER OR LODGING HOUSE, under the authority granted the Municipal Officers at 30-A M.R.S.A., Section 3801, within said Town of Boothbay, until the first Monday of May Next and that said principal and surety shall in all respects conform to the provisions of law relating to the business For which this license is issued, lest this obligation shall be voided.

Principal

Surety

Surety

We hereby approve / deny this application as presented.

Board of Selectmen

4/25/18
(date)

Public Hearing date: 5/9/18 Receipt #: _____ Date: 4/25/18

TOWN OF BOOTHBAY

PUBLIC HEARING NOTICE

The Boothbay Board of Selectmen will hold a public hearing at their regular Board of Selectmen's meeting on May 9, 2018 at 7:00 p.m. at the Boothbay town offices located at 1011 Wiscasset Rd, Boothbay, Maine for the following:

Coastal Maine Botanical Gardens, Map R04, Lot 109, located at 132 Botanical Gardens Drive, Boothbay, Maine for renewal of a seasonal Special Amusement Permit.

To Register 4/27/18 Run 5/3/18

TOWN OF BOOTHBAY

SPECIAL AMUSEMENT PERMIT APPLICATION

Corporation or Business Names: Coastal Maine Botanical Gardens

Address of establishment: 132 Botanical Gardens Drive, Boothbay Me 04537

Mailing address: P.O. Box 234, Boothbay me 04537

Name of Application/Owner: Coastal Maine Botanical Gardens

Other owners of Business: _____

Is Application: New: _____ Renewal: X Telephone #: _____

CLASS OF LICENSE APPLIED FOR:

- ☐ Class A - Unamplified vocal or instrumental music
☐ Class B - Entertainment other than music
☒ Class C - Amplified vocal or instrumental music
☐ Class D - Dancing

Will admission fee be charged: Yes _____ No X

Specifically described area to be used for entertainment purposes: various
Small events throughout the year

Schedule of Planned Entertainment: (days of the week, hours): _____

I certify that I am familiar with the SPECIAL AMUSEMENT ORDINANCE of the Town of Boothbay as adopted on August 29, 1979, and I agree to abide with all of the conditions and regulations contained therein.

Date of application # _____ Receipt Applicant's signature

Board of Selectment - Licensing Board

Conditions or Restrictions:

Date of Hearing: 5-9-18

TOWN OF BOOTHBAY

PUBLIC HEARING NOTICE

The Boothbay Board of Selectmen will hold public hearings at their regular Board of Selectmen's meeting on May 9, 2018 at 7:00 p.m. at the Boothbay town offices located at 1011 Wiscasset Rd, Boothbay, Maine for the following:

1820 House Restaurant, Inc., (formerly Smuggler's Cove Inn), Map U06, Lot 11, located at 727 Ocean Point Rd, East Boothbay, Maine for renewal of: A Restaurant Liquor (Class I, II, III, IV) license and Special Amusement permit. Also, an Innkeepers License at Smuggler's Cove Inn at the same location.

To Register 4/19/18 Run 5/3/18

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

| DIVISION USE ONLY | |
|-------------------|-----|
| License No: | |
| Class: | By: |
| Deposit Date: | |
| Amt. Deposited: | |
| Cash Ck Mo: | |

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES 6/19/18

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI) | <input type="checkbox"/> CLASS A LOUNGE (Class X) |
| <input type="checkbox"/> HOTEL (Class I,II,III,IV) | <input type="checkbox"/> HOTEL, FOOD OPTIONAL (Class I-A) | <input type="checkbox"/> BED & BREAKFAST (Class V) |
| <input type="checkbox"/> CLUB w/o Catering (Class V) | <input type="checkbox"/> CLUB with CATERING (Class I) | <input type="checkbox"/> GOLF COURSE (Class I,II,III,IV) |
| <input type="checkbox"/> TAVERN (Class IV) | <input type="checkbox"/> QUALIFIED CATERING | <input type="checkbox"/> OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

| | |
|---|---|
| Corporation Name: <u>1820 HOUSE RESTAURANT, INC</u> | Business Name (D/B/A) <u>1820 HOUSE RESTAURANT</u> |
| APPLICANT(S) - (Sole Proprietor) _____ DOB: _____ | Physical Location: <u>727 OCEAN POINT ROAD</u> |
| DOB: _____ | City/Town _____ State _____ Zip Code _____ |
| Address <u>727 OCEAN POINT ROAD</u> | Mailing Address <u>727 OCEAN POINT ROAD</u> |
| City/Town _____ State _____ Zip Code _____ | City/Town _____ State _____ Zip Code _____ |
| Telephone Number _____ Fax Number _____ | Business Telephone Number _____ Fax Number _____ |
| <u>(561) 317-125</u> <u>(888) 779-2848</u> | <u>888 779 2848</u> |
| Federal I.D. # <u>82-2292037</u> | |
| Email Address: Please Print <u>RES@SMUGG/KRSCLUEINNMAINE.COM</u> | <u>VEINNMAINE.COM</u> |

ADV. FOR
5/9

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: _____ Bu _____

GE CORPORATION

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
2. State amount of gross income from period of last license: ROOMS \$ 326K FOOD \$ 38K LIQUOR \$ JK
3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
If Yes, please complete the Corporate Information required for Business Entities who are licensees.
4. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License # _____ Name of Business _____ (Use an additional sheet(s) if necessary.)
Physical Location _____ City / Town _____

5. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

6. If manager is to be employed, give name: _____

7. Business records are located at: 727 OCEAN POINT ROAD, EAST BOOTHBAY, ME

8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐ 04544

9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

| Name in Full (Print Clearly) | DOB | Place of Birth |
|---|---------|-------------------|
| MARJORIE D FIRPO CO-OWNER/MGR | 8/1/56 | WEST PALM Bch, FL |
| ALAN R FIRPO CO-OWNER/MGR | 5/28/55 | PUERTO RICO |
| Residence address on all of the above for previous 5 years (Limit answer to city & state) | | |
| 721 S BEACH ST, A 307 DAYTONA BEACH, FL 32114 | | |
| 120 COCOPLUM CIR, ROYAL PALM BEACH, FL 33411 | | |
| | | |
| | | |

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

13. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: KIMBERLY SWAN

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) 80 SEAT RESTAURANT, FULL SERVICE KITCHEN, SMALL BAR, WAITING ROOM

16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? CHURCH, School

Which of the above is nearest? CHURCH 1 mile

18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: EAST BOSTHAM, ME on APR 14, 20 18
Town/City, State Date

Marjorie Firpo
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

MARJORIE FIRPO
Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I Spirituous, Vinous and Malt \$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00
CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt – Class A Lounge \$2,200.00
CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt – Restaurant Lounge \$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

This application must be completed and signed by the Town or City and mailed to:

Bureau of Alcoholic Beverages and Lottery Operations

Division of Liquor Licensing and Enforcement

8 State House Station, Augusta, ME 04333-0008.

Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: _____, Maine _____

On: 5/9/18 City/Town _____ (County)

Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. **Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises li-

cense that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).] [2003, c. 213, §1 (AMD).]

2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD).]

[1995, c. 140, §6 (AMD).]

4. **No license to person who moved to obtain a license.** [1987, c. 342, §32 (RP).]

5. **Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

Please be sure to include the following with your application:

Completed the application and sign the form.

Signed check with correct license fee and filing fee.

Your local City or Towns signature(s) are on the forms.

Be sure to include your ROOM, FOOD and LIQUOR gross income for the year (if applicable).

Enclose diagram for all businesses, auxiliary locations, extended decks and storage areas.

Complete the Corporate Information sheet for all ownerships except sole proprietorships.

If you have any questions regarding your application, please contact us at (207) 624-7220.



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: 1820 HOUSE RESTAURANT, INC
2. Doing Business As, if any: _____
3. Date of filing with Secretary of State: 8/15/2017 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

| NAME | ADDRESS (5 YEARS) | Date of Birth | TITLE | Ownership % |
|----------------|---|---------------|-------|-------------|
| MARJORIE FIRPO | 727 OCEAN POINT RD EAST BOOTHBAY, ME 2 MOS | 8/1/56 | Pres | 50 |
| " | 721 S BEACH ST A307 DAVTONA BEACH, FL 32114 2 YRS | " | " | |
| " | 120 COCOPLUM CIR ROYAL PALM BEACH, FL 33411 | " | " | |
| ALAN FIRPO | SAME AS ALL 3 ABOVE | 5/28/55 | VP | 50 |

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

Marjorie Firpo 4/19/18
Signature of Duly Authorized Person Date

MARJORIE FIRPO
Print Name of Duly Authorized Person

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Map U6Lot 11

License fee \$50

TOWN OF BOOTHBAY

Advertising \$60

LICENSE APPLICATION FOR INNKEEPERS AND LODGING HOUSESAPPLICANT'S NAME & POSITION: MARJORIE FIRPO OWNER/MGRNAME OF BUSINESS: Smugglers Cove Inn TELEPHONE 207-633-2800BUSINESS ADDRESS: 727 Ocean Point Rd., EAST BOOTHBAY, MAINEMAILING ADDRESS: SAME ZIP 04544INNKEEPER:

LODGING HOUSE:

(Hotel/Motel)

No. of Rooms

54

(Bed & Breakfast)

No. of Rooms

Length of Season

MAY 24

to

OCT. 15

Month Starting

Month Ending

KNOW ALL MEN THAT I/WE MARJORIE FIRPO of EAST BOOTHBAYAS PRINCIPAL OWNER AND I/WE MGR and _____

As surety has been duly licensed as a(an) INNKEEPER OR LODGING HOUSE, under the authority granted the Municipal Officers at 30-A M.R.S.A., Section 3801, within said Town of Boothbay, until the first Monday of May Next and that said principal and surety shall in all respects conform to the provisions of law relating to the business

For which this license is issued, lest this obligation shall be voided.

Principal_____
Surety_____
Surety

We hereby approve / deny this application as presented.

Board of Selectmen

Public Hearing date: 5-19-18

TOWN OF BOOTHBAY

SPECIAL AMUSEMENT PERMIT APPLICATION

Corporation or Business Names: 1820 HOUSE RESTAURANT, INC

Address of establishment: 727 OCEAN FRONT ROAD, E BOOTHBAY, ME

Mailing address: same email: MARJORIE FIRPO ^{OP 544} STUCCO@GMAIL.COM
WWW.MAINE.COM

Name of Application/Owner: MARJORIE FIRPO

Other owners of Business: ALAN FIRPO

Is Application: New: Renewal: ✓ Telephone #: 207-
6332800

CLASS OF LICENSE APPLIED FOR:

- ☒ Class A - Unamplified vocal or instrumental music
☐ Class B - Entertainment other than music
☐ Class C - Amplified vocal or instrumental music
☐ Class D - Dancing

Will admission fee be charged: Yes No ✓

Specifically described area to be used for entertainment purposes: RESTAURANT

Schedule of Planned Entertainment: (days of the week, hours): 7 days 5-9 PM

I certify that I am familiar with the SPECIAL AMUSEMENT ORDINANCE of the Town of Boothbay as adopted on August 29, 1979, and I agree to abide with all of the conditions and regulations contained therein.

4/19/2018
Date of application

Receipt

Marjorie Firpo
Applicant's signature

Board of Selectment - Licensing Board

Conditions or Restrictions:

Date of Hearing: 5-19-18

TOWN OF BOOTHBAY

PUBLIC HEARING NOTICE

The Boothbay Board of Selectmen will hold public hearings at their regular Board of Selectmen's meeting on May 9, 2018 at 7:00 p.m. at the Boothbay town offices located at 1011 Wiscasset Rd, Boothbay, Maine for the following:

Boothbay Craft Brewery, Inc., applicants Edwin Jr. & Lori Mitchell, Map R06, Lot 009, located at 301 Adams Pond Rd, Boothbay, Maine for renewal of a Restaurant Liquor license (Class I, II, III, IV).

To Register 4/25/18 Run 5/3/18

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

| DIVISION USE ONLY | |
|-------------------|-----|
| License No: | |
| Class: | By: |
| Deposit Date: | |
| Amt. Deposited: | |
| Cash Ck Mo: | |

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES 05/15/2018

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI) | <input type="checkbox"/> CLASS A LOUNGE (Class X) |
| <input type="checkbox"/> HOTEL (Class I,II,III,IV) | <input type="checkbox"/> HOTEL, FOOD OPTIONAL (Class I-A) | <input type="checkbox"/> BED & BREAKFAST (Class V) |
| <input type="checkbox"/> CLUB w/o Catering (Class V) | <input type="checkbox"/> CLUB with CATERING (Class I) | <input type="checkbox"/> GOLF COURSE (Class I,II,III,IV) |
| <input type="checkbox"/> TAVERN (Class IV) | <input type="checkbox"/> QUALIFIED CATERING | <input type="checkbox"/> OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

| | | | | | |
|--|--------------------|--------------------------|---|--------------------|--------------------------|
| Corporation Name: Boothbay Craft Brewery, Inc | | | Business Name (D/B/A) Boothbay Craft Brewery | | |
| APPLICANT(S) –(Sole Proprietor) Edwin Mitchell Jr | | | DOB: 06/10/1966 | | |
| Lori Mitchell | | | DOB: 09/18/1966 | | |
| Address 301 Adams Pond Road | | | Physical Location: 301 Adams Pond Road | | |
| City/Town Boothbay | State Me | Zip Code 04537 | City/Town Boothbay | State Me | Zip Code 04537 |
| Mailing Address 301 Adams Pond Road | | | Mailing Address 301 Adams Pond Road | | |
| City/Town Boothbay | State Me | Zip Code 04537 | City/Town Boothbay | State Me | Zip Code 04537 |
| Telephone Number 207-633-3411 | | Fax Number | Business Telephone Number 207-633-3411 | | Fax Number |
| Federal I.D. # 26-1769472 | | | Seller Certificate #: or Sales Tax #: 1156793 | | |
| Email Address: Please Print win@boothbaycraftbrewery.com | | | Website: www.boothbaycraftbrewery.com | | |

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: T-Sat Business hours: 9-5

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
2. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ 420K LIQUOR \$ 110K

3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

 License # Name of Business (Use an additional sheet(s) if necessary.)

 Physical Location City / Town

5. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
6. If manager is to be employed, give name: _____
7. Business records are located at: _____
8. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐
9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
10. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

| Name in Full (Print Clearly) | DOB | Place of Birth |
|---|------------|-----------------|
| Edwin Mitchell Jr | 06/10/1966 | Boothbay Harbor |
| Lori Ann Lewis (maiden name) | 09/18/1966 | Danvers MA |
| | | |
| Residence address on all of the above for previous 5 years (Limit answer to city & state) | | |
| 301 Adams Pond Road Boothbay , Maine for all applicants | | |
| | | |
| | | |
| | | |

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

13. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

14. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 2000 _____



Which of the above is nearest? church _____

18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Boothbay, Maine on 04/25, 2018
Town/City, State Date
 Please sign in blue ink 
Signature of Applicant or Corporate Officer(s) Signature of Applicant or Corporate Officer(s)
Edwin Mitchell Jr Lori Mitchell
Print Name Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I Spirituous, Vinous and Malt \$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00 ★
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00 ★
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00
CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt – Class A Lounge \$2,200.00
CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt – Restaurant Lounge \$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

This application must be completed and signed by the Town or City and mailed to:

Bureau of Alcoholic Beverages and Lottery Operations

Division of Liquor Licensing and Enforcement

8 State House Station, Augusta, ME 04333-0008.

Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).][2003, c. 213, §1 (AMD) .]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD) .]

[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license. [1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

Please be sure to include the following with your application:

Completed the application and sign the form.

Signed check with correct license fee and filing fee.

Your local City or Towns signature(s) are on the forms.

Be sure to include your ROOM, FOOD and LIQUOR gross income for the year (if applicable).

Enclose diagram for all businesses, auxiliary locations, extended decks and storage areas.

Complete the Corporate Information sheet for all ownerships except sole proprietorships.

If you have any questions regarding your application, please contact us at (207) 624-7220.

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

DIVISION USE ONLY

☐ Approved

☐ Not Approved

BY:

ON PREMISE DIAGRAM

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.

See attached diagram

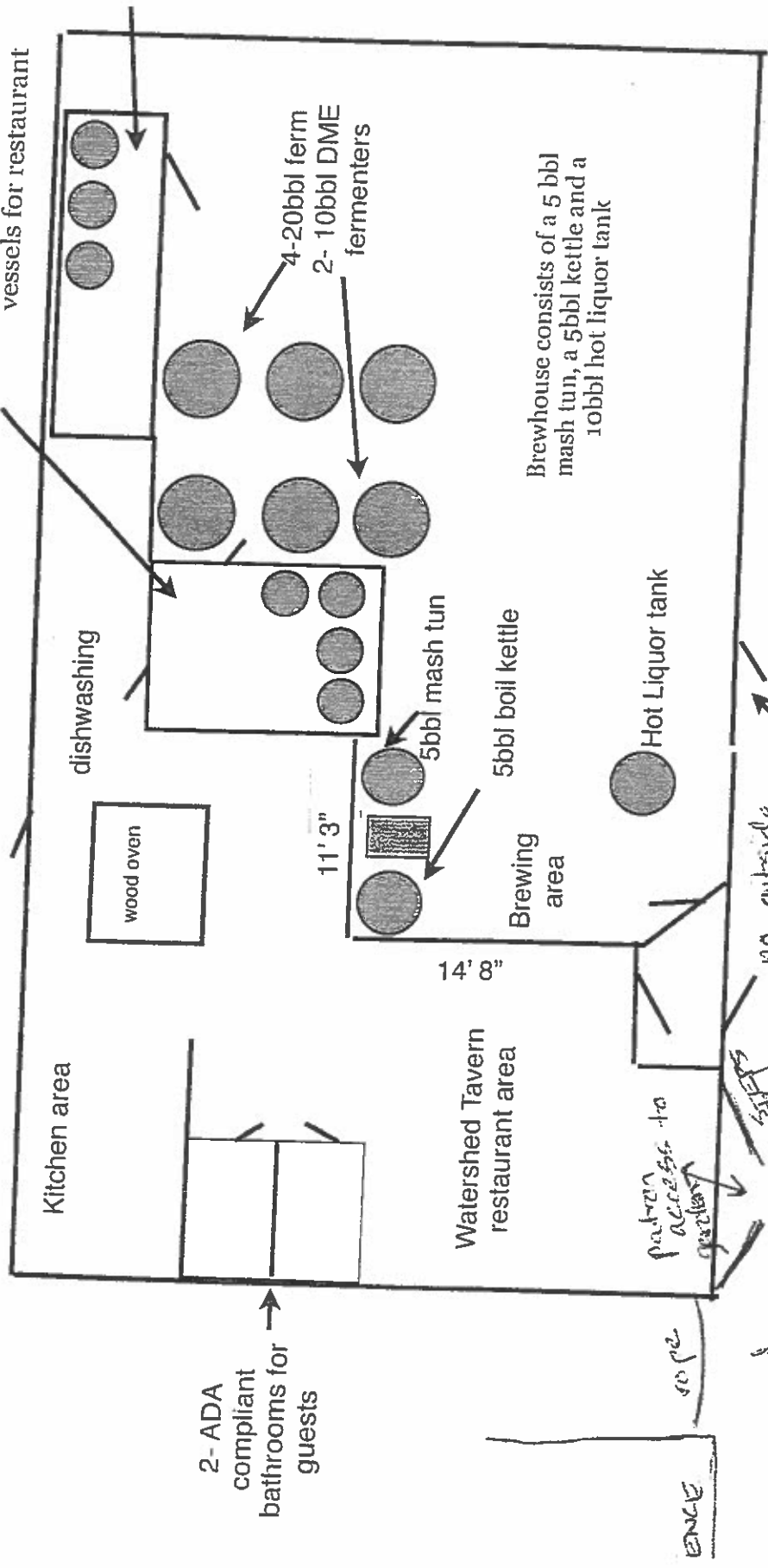
NO CHANGES FROM
PREVIOUS YEAR

Brewery layout sketch and description

36' x 60' timber framed building
secured with two locked entry door front
and back.

12 x 20 walkin cooler containing
4 - 7bbl DME stocklin totes serving
vessels for restaurant

separate cool
for brewery
wholesale be



Brewhouse consists of a 5 bbl
mash tun, a 5bbl kettle and a
10bbl hot liquor tank

4-20bbl ferm
2- 10bbl DME
fermenters

dishwashing

wood oven

11' 3"

5bbl mash tun

5bbl boil kettle

Hot Liquor tank

Brewing
area

14' 8"

Kitchen area

Watershed Tavern
restaurant area

2- ADA
compliant
bathrooms for
guests

patron
access to
guest area

no pet

ENCE

no outside
alcohol signage
Completely separated
entrance to Brewery

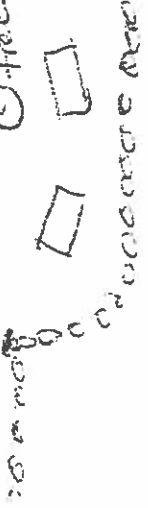
one alcohol brand
signage



heavy chain
device's control area

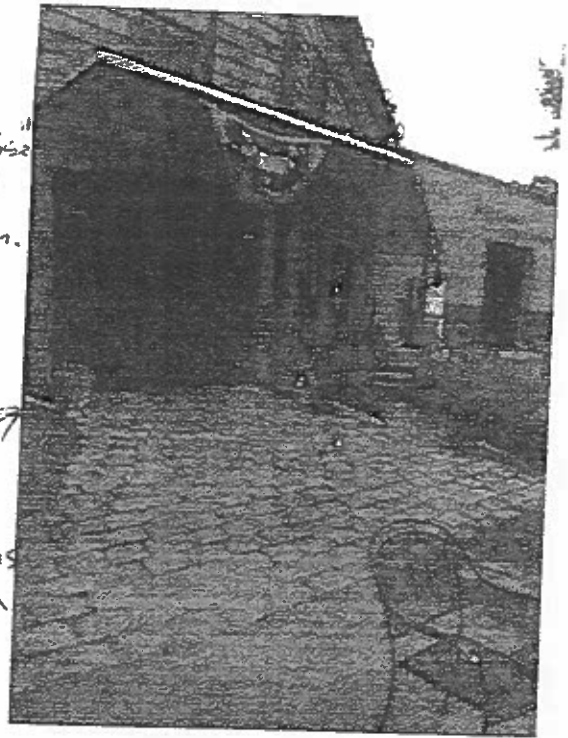
SEE PICTURES ATTACHED OF
OUTSIDE SEATING & CONTROL
AREA FOR RESTAURANT.

no alcohol brand
no chain signage





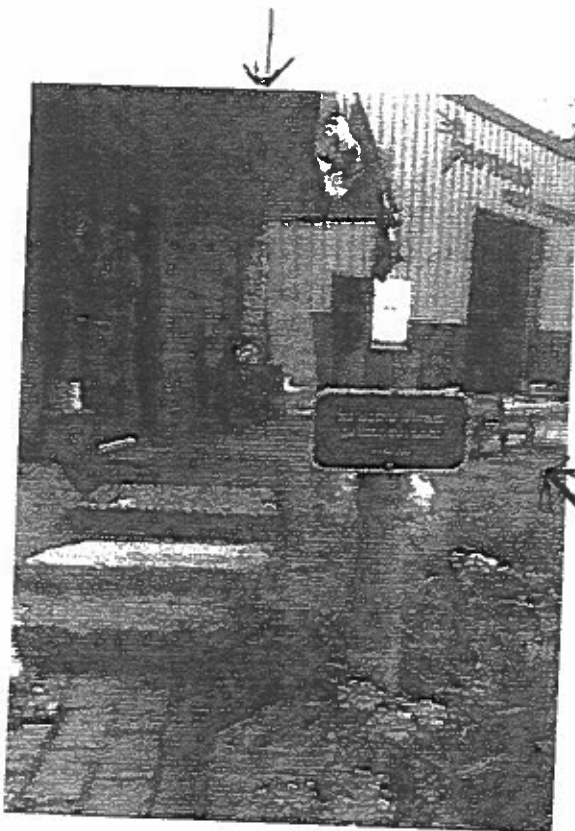
No "off-premise"
alcohol allowed
in this area.



access
for patrons
to garden
through swing
doors.

↑
Clear signage about where
alcohol is allowed/not allowed

"No alcohol allowed beyond
this point"



Chain of
signage to
denote control
area.





Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: BOOTHBAY CRAFT BREWERY, INC.

2. Doing Business As, if any: _____

3. Date of filing with Secretary of State: 2009 State in which you are formed: MAINE

4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

| NAME | ADDRESS (5 YEARS) | Date of Birth | TITLE | Ownership % |
|-------------------|-------------------|---------------|------------|-------------|
| ERWIN MITCHELL JR | 301 ADAMS RD | 06/10/66 | owner PRES | 50 |
| LORI A MITCHELL | " " " | 09/18/66 | owner | 50 |
| | | | | |
| | | | | |

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: 1 (list primary officers in the above boxes)

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



4/25/18
Date

Signature of Duly Authorized Person

EDWIN M. MITCHELL JR

Print Name of Duly Authorized Person

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0008
TELEPHONE: (207) 624-7220
FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

NOTICE

To avoid any delay in the processing of your application and issuance of your liquor license, please make sure that:

1. You completed the application in full. (Please allow us 30 days to process)
2. Application is signed by the owner(s), corporate officer(s).
3. The application is signed by the Town or City Municipal Officers or County Commissioners.
4. The license fee is correct, you have included the \$10.00 filing fee and the check is made out to Treasurer, State of Maine.
5. Your room, food and liquor gross income for the year is filled in (if applicable).
6. A diagram of the premises to be licensed accompanies the application.
7. If business is located in an unorganized township, the application must be approved by the County Commissioners and the \$10.00 filing fee must be paid to them. Please be sure to include a copy of the receipt of payment with your application.
8. Corporations, limited liability companies, partnerships must complete and submit the Corporate Information Required for Business Entities who are Licensees.
9. If not a publicly traded entity, ownership must add up to 100%.

Board of Selectmen

Charles R. Cunningham -
Chairman
Steven Lewis – Vice Chairman
Dale Harmon
Kristina Ford
Michael Tomacelli

Town Manager

Daniel Bryer Jr.



**Town of Boothbay
Board of Selectmen Meeting
Wednesday, April 25, 2018
7:00 PM
MINUTES**

Present: Steven Lewis, Dale Harmon, Michael Tomacelli, Chuck Cunningham, Kristina Ford, Town Manager Dan Bryer and Secretary Sherry Tibbetts

Pledge of Allegiance:

Public Hearings: (1) PGC2, LLC, dba Boothbay Harbor Country Club, Map R07, Lot 002-B, located at 50 Sugar Maple Lane, Boothbay, Maine for renewal of a Restaurant Liquor (Class I, II, III, IV) license. Dan Bryer said this was a standard renewal, the taxes on the property have been paid in full and there are no outstanding NOV's. Steve Lewis made a motion to approve this application as presented and Dale Harmon seconded the motion. Vote: 5-0 in favor.

(2) Steve & Susan Plaustainer, dba Five Gables Inn, Map R-15 lot 30, located at 107 Murray Hill Road, East Boothbay, ME for renewal of an Innkeeper's License. Dan Bryer said this was a standard renewal, the taxes on the property have been paid in full and there are no outstanding NOV's. Kristina Ford made a motion to approve this application as presented and Dale Harmon seconded the motion. Vote: 5-0 in favor.

(3) Ocean Point Inn, owner Anthony E. Krason, Map U3 lot 23, located at 191 Shore Road, East Boothbay renewal of Innkeeper's license. Dan Bryer said this was a standard renewal, the taxes on the property have been paid in full and there are no outstanding NOV's. Dale Harmon made a motion to approve this application as presented and Kristina Ford seconded the motion. Vote: 5-0 in favor.

(4) Ocean Point Inn, owner Anthony E. Krason, Map U3 lot 23, located at 191 Shore Road, East Boothbay, for a Class B and Class C Special Amusement permit. Dan Bryer said this was a standard renewal, the taxes on the property have been paid in full and there are no outstanding NOV's. Kristina Ford made a motion to approve this application as presented and Steve Lewis seconded the motion. Vote: 5-0 in favor.

(5) Ocean Point Inn, owner Anthony E. Krason, Map U3 lot 23, located at 191 Shore Road, East Boothbay, for a Restaurant/Lounge (Class XI license) and a Hotel, Food Optional (Class I-A license). Dan Bryer said this was a standard renewal, the taxes on the property have been paid in full and there are no outstanding NOV's. Kristina Ford made a motion to approve this application as presented and Dale Harmon seconded the motion. Vote: 5-0 in favor.

Public Comment: Jean Reese-Gibson talked about the playground equipment at the Clifford Playground. She said it needs to be replaced and asked if that was scheduled or in the budget. Dan Bryer said it was on his radar but not in the budget for this fiscal year. He has looked into fixing it with TIF money and is still exploring that possibility but if not it can be put into next year's budget. Jean showed pictures of rusty chain and cracked swing seats and asked if just that could be fixed or taken down as they are dangerous. Chuck Cunningham suggested Dan Bryer look into pricing for that and have the Public Works take down any dangerous equipment for now while the Town looks into this.

Approve Minutes: Steve Lewis made a motion to approve the minutes of 04/11/2018 with one amendment, (on page two, #11 under reports will be changed to say "Kristina Ford said that she and Chairman Cunningham had developed a list of items for the Town Manager to include in the Reports section of the agendas. The list is composed of important matters that've been discussed at prior meetings of the Board of Selectmen. A similar list of reports will be a part of all future agendas, thus providing citizens a sense of continuity and progress on important matters that come before the Board throughout the year") and Dale Harmon seconded the motion. Chuck Cunningham abstained from voting as he was not at that meeting. Vote: 4-0 in favor.

Reports: Dan Bryer reported the following:

Front Office – busy with day to day operations, the number of unpaid taxes is going down as car and boat registrations is going up.

Public Works – the crew is still busy with spring clean-up, the Holiday lights are down on the Common and hopefully if weather cooperates the floats at Knickerbocker will go in the water on Friday. The posted roads signs should be coming down soon.

Code Enforcement Office – there are a number of various permits pending, more than in previous months, there are two permits for the Planning Board and on application for the Board of Appeals.

1 Absentee Ballots and Town Reports are now available.

2 Reminder the Annual Town Meeting is on May 7th and the polls open at 8AM and run until 6PM. Dan reviewed the warrant and said anyone can call the Town Office if they want clarification on anything or more details.

3 We received notice that the judge has signed the consent decree in regard to the suit brought against the Town of Boothbay by the Coastal Maine Botanical gardens, however the State suit is awaiting dismissal which is procedurally slower.

4 Construction for the Rt. 27 corridor will commence April 30th barring inclement weather and end June 30th or before. Dan said a lot of the work will be done out of the roadway and this will minimize traffic delays. There is a new foreman this year but the town will still be able to get a schedule of work to alert the public.

6 The Umaine Aqua Ventus project (wind turbine) team went through a bid process involving five separate firms and eventually awarded Stantec Global with the core sample study,, they are now awaiting Army Corps of Engineering approval.

7 We received an update from the Department of Transportation stating that the sidewalk project from the YMCA to Clifford Park is on track for 2019.

8 We have been awarded a grant from MDOT for the park and ride at the Boothbay fire station that may go up to \$75,000.

9 We are in a holding pattern for the agreed satellite station for the Lincoln County Sheriff's request for placement in the Town office, however I may be meeting with them in the next couple of days.

Mike Tomacelli asked about the Reevaluation and where it was at. Dan said it is half way or more done, a lot of the outside work has been done and now some inside work needs to get done and they need to capture the seasonal people while they are here. Kristina Ford asked if the amount of money the Town receives from the State for roads was based on the total evaluation of the Town and Dan Bryer said no and explained what that amount of money was based on. Chuck Cunningham said the amount the town

is reimbursed for schools is based on the total evaluation as well as the amount of County tax the town has to pay.

10 The consent agreement with Mary Lou Teel is close to a full year since replanting and looks to be successful which allowed for trimming and pruning pursuant to the View Easement.

11 The Boothbay Harbor BOS would like to have a joint meeting at 6PM before the regular scheduled Boothbay BOS meeting to discuss the Camoin report and the JEDC. The Selectmen agreed to hold this meeting on May 23rd.

Old Business:

New Business: Transfer Station – re: purchase of Giles Rubbish

Steve Lewis recused himself from the BOS for this topic as he was the representative from the Transfer Station to present this topic.

The Transfer Station has agreed to purchase Giles Rubbish for \$1.363 million. They will take a loan to make the down payment and then make monthly payments to Dan Giles as he has agreed to hold the loan himself. Steve Lewis said there were multiple considerations for this purchase, one was to keep the business local, and also BRRDD depends on Giles for recycling. Until the business is paid for it will not show a profit but should breakeven. After the debt is paid, there should be a profit which will lower the amount of money the towns have to pay annually to the Station.

Public Comment:

Review Warrants and sign: Kristina Ford made a motion to review the warrants and sign them and Dale Harmon seconded the motion. Vote: 5-0 in favor.

Adjourn meeting: At 8:10PM Kristina Ford made a motion to adjourn the meeting and Dale Harmon seconded the motion. Vote: 5-0 in favor.



MEMORANDUM

TO: Boothbay Board of Selectmen
Daniel Bryer, Jr., Town Manager

FROM: Sally J. Daggett, Town Attorney

RE: Wagner-Molinelli Shoreland Zoning Violation/Barter's Island Road

DATE: May 4, 2018

Approval of the proposed consent agreement between the Town and Peter and Kathryn Wagner is on Wednesday night's meeting agenda.

By way of brief background, the Code Enforcement Officer (CEO) issued a Notice of Violation dated December 21, 2017 (copy attached) to the Wagners and Judith and Eugene Molinelli related to clearing of vegetation in the shoreland zone. The CEO and I were given authority to negotiate the terms of a consent agreement on behalf of the Town on everything except the amount of the fine, which fine amount is to be determined by the Board of Selectmen. The Wagners have negotiated a proposed consent agreement that will resolve the outstanding land use violation at the Wagners' property on Sawyers Island Road (copy attached). The actual clearing of vegetation on the Wagners' property was done by the abutting property owners, Judith and Eugene Molinelli, who allege they have a view easement over the Wagners' property. The clearing of vegetation was done sometime in November of 2017 without any permit issued by the CEO and without notice to the Wagners. The Molinellis dispute the Notice of Violation and have filed an administrative appeal with the Board of Appeals, but the Wagners have said they want to work with the Town to resolve the Notice of Violation since the date of its issuance. The Wagners understand that they will need to deal with the Molinellis in the future relating to the existence/scope of any view easement (see ¶ 7 of consent agreement), which is not a Town of Boothbay issue.

The Wagners have agreed to a replanting plan that must be implemented no later than June 15, 2018. This plan was developed by Wagners' landscape architect and has been reviewed and approved by the CEO, in consultation with the Town's own landscape

architect. It is a 5 year replanting plan and includes annual inspection and future replanting requirements if a certain success rate is not achieved.

As part of the agreement, the Wagners agree to reimburse the Town for its landscape architect consultant and attorney's fees and costs in the amount of \$2,500.

The main policy decision to be made by the Board is the appropriate fine (see ¶ 4 of consent agreement). (Once determined, the same dollar figure should appear throughout ¶ 4.) Note that due to the cost of the work to be done in the field, the CEO are I are recommending a suspended fine in order to incentivize the Wagners to complete the initial replanting requirements of the consent agreement on time. In other words, if the consent agreement is complied with through November 1, 2018, there will be no fine actually paid to the Town. Courts will often order suspended fines for the same reason: to incentivize a party to comply with a court order so that time and money are not spent on future enforcement of the order.

I will be present at the meeting on Wednesday night in order to answer any questions, provide more background on the negotiations with Wagners and Molinellis to date, and provide a recommendation to the Board on a fine amount.

Thank you.

Code Enforcement Office
Town of Boothbay, Maine
1011 Wiscasset Road
P.O. Box 106
Boothbay, Maine 04537-0106



Jason Lorrain
Code Enforcement Officer
Tel: (207) 633-2051 Ext: 19
FAX: (207) 633-6620
E-mail: jlorrain@townofboothbay.org

December 21, 2017

VIA FIRST CLASS & CERTIFIED MAIL

Eugene & Judith Molinelli
9215 Prescott Avenue
Manassas, VA 20110

Peter & Kathryn Wagner
335 Clay Hill Road
Cape Neddick, ME 03902

RE: *Notice of Violation Relating to Property Located at 65 Sawyers Island Road, Boothbay, ME
(Tax Map R04, Lot 78)*

Dear Molinellis and Wagners:

I am writing to formally notify you of the land use violations on property owned by Peter & Kathryn Wagner and located at 65 Sawyers Island Road in Boothbay (Tax Map R04, Lot 78) (the "Property"). Clearing of vegetation was conducted on the Property in violation of the Town's Zoning Ordinance by Eugene and Judith Molinelli (owners of the lot across the road at 66 Sawyers Island Road, Tax Map R04, Lot 77) and/or their agents. (The Property is owned by the Wagners, but the Molinellis assert a view easement over the Property.) These violations were first observed by me as the Code Enforcement Officer (CEO) on November 13, 2017 and have been in existence since that date.

Note that I am suspending the effective date of this Notice of Violation to January 26, 2018 in order to allow the Wagners and the Molinellis (collectively, "the Parties") an opportunity to work cooperatively with one another and with the Town of Boothbay to cure these violations.

The Property is located in the Special Residential zoning district, and the portion of the Property that runs from the high water line of the Sheepscot River easterly two hundred and fifty feet (250') is also within the Shoreland Overlay zoning district. I have visited the Property on at least two occasions since November 13, 2017, including a site visit with Colin Clark of the Maine DEP Shoreland Zoning Unit on November 30, 2017.

Please be advised that whether the Molinellis do (or do not) have a view easement over the Property is irrelevant to the Town of Boothbay as far as responsibility for compliance with the Boothbay Zoning Ordinance goes. Any clearing of vegetation on the Property must be done in compliance with the Town's Zoning Ordinance. Please be reminded of CEO Dunlap's April 11, 2016 letter to the Molinellis' attorney, in which it was determined that some of the area that the Molinellis purport to have a view easement has reverted to its natural state, such that regrowth of vegetation must be allowed to continue consistent with Sections 3.11.3.2.4 and 3.11.3.2.5 of the Boothbay Zoning Ordinance.

On my site visits, I observed numerous small trees and saplings cut on the Property, all within 75 feet of the Sheepscot River:

► In an approximately 200' by 50' area along the river shore, I observed approximately 200 saplings from ½" to 1.5" in diameter that had been cut, varying from 6" to 2' off the ground, as well as approximately 10-15 small trees about 3" in diameter that had been topped. The saplings were in the 4' to 5' in height range, and the small trees were in the 8' to 10' height range.

► In that approximately 200' by 50' area along the river shore, most of the debris was left in place on top of other saplings, but I did observe 8-10 branches that had been discarded below the high water mark, which is considered to be the filling a natural resource.

► In another 20' by 20' area upland of the approximately 200' by 50' area along the river shore, but still within 75 feet of the river, approximately 20 saplings had been cut.

None of the trees or saplings cut were safety hazards identified or marked by a Maine licensed forester nor damaged, dead or diseased. Photographs of some of the cutting observed are attached as Attachment 1.

Section 3.11.3 of the Town's Zoning Ordinance regarding clearing or removal of vegetation for activities other than timber harvesting provides, in part, as follows:

3.11.3.2.4 Legally existing nonconforming cleared openings on March 24, 1990 may be maintained, but shall not be enlarged, except as allowed by Section 3.11.3.2.

3.11.3.2.5 Fields and other cleared openings that have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 3.11.3.2.

See Attachment 2 (Zoning Ordinance Section 3.11.1-3.11.11). (A full copy of the Zoning Ordinance is available on the Town's website,

http://www.townofboothbay.org/sites/boothbayme/files/file/zoning_ordinance_5-02-2016.pdf.

Assuming, without deciding, that there was a legally existing nonconforming cleared opening on March 24, 1990 on some portion of the Property, Section 3.11.8 the Zoning Ordinance provides that any nonconforming cleared opening that is not maintained at least once every 2 years is regulated under Section 3.11.3. However, the exemption under Section 3.11.8 only applies to maintenance, and it does not allow for the enlargement of any legally existing nonconforming cleared opening. On my recent site visits, I observed trimming trees above the bottom one-third of the tree (some trees were trimmed to around one-half of the height of the tree), topping of trees, and removal of trees that result in the minimum point system not being maintained on the Property. What has occurred on the Property is clearing in violation of the Zoning Ordinance ("ZO"), more specifically as follows:

1. Violation of Section 3.11.3.2.1 of the ZO: A licensed forester was not used to determine what vegetation could be removed.
2. Violation of Section 3.11.3.2.1.1 of the ZO: Cleared openings in the forest canopy exceed two hundred fifty square feet (250 sq. ft.).
3. Violation of Section 3.11.3.2.1.2 of the ZO: Selective cutting was not followed and a "well-distributed stand of trees" was not maintained.
4. Violation of Section 3.11.3.2.1.2.1 of the ZO: Cutting did not follow the required point system for trees to remain within seventy-five feet (75') of the high water line of Sheepscot River.
5. Violation of Section 3.11.3.2.1.2.2 of the ZO: "Other natural vegetation" was not maintained.
6. Violation of Section 3.11.3.2.1.3 of the ZO: Undergrowth and ground cover less than three feet (3') in height was not maintained.
7. Violation of Section 3.11.3.2.1.4 of the ZO: Trees were pruned by more than the lower ½ of the trees' height.

8. Violation of Section 3.11.3.2.1.5 of the ZO: None of the trees removed were determined to be storm damaged, diseased, or dead.
9. Violation of Section 3.11.3.2.2.2 of the ZO: Clearing exceeds 10,000 square feet.
10. Violation of Section 3.11.3.2.5 and Section 3.11.8.1 of the ZO: Any former cleared opening had reverted to primarily shrubs, trees, or other woody vegetation and must now be allowed to continue its regrowth and meet the requirements of Section 3.11.3.
11. Violation of Section 3.9.7.1.3.2 of the ZO: The Land Use Table requires a permit from the CEO to clear vegetation in the Shoreland Overlay portion of the Special Residential Zoning District and such clearing must comply with Section 3.11.3.

On the basis of the above violations, the Parties are hereby ORDERED to:

- (1) Immediately cease all clearing of vegetation activity on the Property except for the removal of three mature pine trees pursuant to Shoreland Zoning Permit for Vegetation Removal #17-00199.
- (2) On or before January 26, 2018, the Parties shall select a Maine licensed forester or landscape architect with experience in shoreland zoning requirements from the attached list (Attachment 3), notify the CEO of the selection, and authorize him/her to begin preparation of a replanting plan consistent with the Zoning Ordinance and this letter at the Parties' sole cost and expense. (How the Parties allocate the cost and expense of responding to this Notice of Violation is solely up to the Parties.)
- (3) On or before February 9, 2018, the Town-approved Maine licensed forester or landscape architect shall visit the Property with the CEO.
- (4) On or before March 16, 2018, the Town-approved Maine licensed forester or landscape architect shall submit a proposed replanting plan to the CEO, the Town's outside consultant, Tom Farmer of Portland, Maine (e-mail: tsffarmer@gmail.com), and the CEO's attorney for review and approval. Said replanting plan must meet the minimum requirements set forth under Item (6) below.
- (5) On or before April 13, 2018, the Parties shall agree on the terms of an administrative consent agreement with the Town pursuant to which the Parties agree to abate the violations pursuant to a specific plan and timetable acceptable to the Town and to pay the Town a fine and its reasonable attorney's fees and costs (including consultant's fees and costs) in resolving this matter. Factors that I will take into consideration in recommending any fine amount to the Board of Selectmen will include, without limitation, the timeliness and extent of cooperation of the Parties with the Town, the cost of the replanting plan (materials and installation), and the degree of environmental damage that cannot be corrected.
- (6) The minimum requirements of the replanting plan are as follows:
 - (a) A Town-approved Maine licensed forester or landscape architect shall be hired to perform and/or oversee the corrective actions required.
 - (b) Permits shall be sought and obtained and paid for prior to the start of any work.
 - (c) Replanting shall occur from May 1, 2018 to June 15, 2018.
 - (d) The replanting plan shall comply with the requirements of Section 3.11.9 of the Zoning Ordinance; if those requirements conflict with the requirements set forth herein, the stricter requirements shall control.
 - (e) Within seventy five feet (75') of the high water line of the Sheepscot River, saplings shall be planted at the rate of one for every eighty square feet (80 sq. ft.) of area for the entire width of the cleared opening.
 - Saplings shall be a minimum of two inches (2") in diameter measured at four and one half feet (4½') above ground.

- Saplings shall have a minimum mixture of six (6) different varieties that are indigenous to the area.
 - Sixty-five percent (65%) of the saplings shall be coniferous trees.
- (f) Shrubs and woody bushes shall be interspersed between the saplings at a minimum rate of three (3) shrubs and bushes per sapling within seventy five feet (75') of the high water line of the Sheepscot River.
 - (g) Erosion control measures shall be in place while soils are disturbed during the planting of all the vegetation required.
 - (h) Replanting shall be completed by June 15, 2018. Plantings shall be attended to at least every two weeks thereafter throughout the 2018 growing season and a report sent to the CEO by the Town-approved Maine licensed forester or landscape architect detailing any actions taken to nurture the plantings' growth after each inspection.
 - (i) The owner of the Property shall cause an on-site inspection to determine the effectiveness of the replanting plan and to determine what, if any, additional plantings need to be done to meet the applicable success rate to be conducted, at the Parties' sole expense, by a Maine licensed professional forester or landscape architect, approved in advance by the Town, in years 2019, 2020, 2021, 2022 and 2023, with a written report submitted to the CEO on or before December 31 of each inspection year. There shall be 100% replacement of all dead or dying plantings between January 1, 2019 and December 31, 2019. There shall be successful retention of 80% of all plantings required between January 1, 2020 and December 31, 2023. Any replanting needed to ensure the applicable success rate shall be completed within two (2) months after written notice by the Town to the then owner of the Property of the replanting required following the Town's receipt of the written inspection report, provided that if said two month period falls outside of the April 1 – November 1 planting season, planting may be delayed until the first two months of the following planting season.
 - (j) No cutting or removal of any living vegetation shall be allowed for the next ten (10) years on this strip of land that was cut (the Property). Only a licensed forester thereafter may review and suggest thinning of the vegetation. His/her recommendations shall be dependent in the ordinances and statutes in effect at the time of the proposed thinning. Any actual removal of vegetation shall be done by a licensed forester or arborist.

If you fail to comply with this Notice of Violation, I will refer this matter to the Board of Selectmen for possible commencement of legal action in the Maine District Court or the Maine Superior Court. If the Town is the prevailing party in any enforcement litigation, you may be liable for the Town's attorney's fees and costs, plus civil penalties. Civil penalties/fines of up to \$2,500 per violation per day may be imposed under State and local law.

If you wish to dispute this Notice of Violation, you may appeal my decision to the Board of Appeals pursuant to Section 5.4 of the Zoning Ordinance. Such appeal must be filed in the office of the Code Enforcement Officer at the Boothbay Town Office on forms provided by the Town, together with the appropriate filing fee, within thirty (30) days of the effective date of this Notice of Violation (*i.e.*, 30 days from January 26, 2018). Failure to do so may deprive you of your ability to contest this Notice of Violation in any subsequent proceedings. However, filing an appeal with the Board of Appeals does not relieve you of your responsibility to correct the violations or of any liability for civil penalties. Please be advised that the mandatory fines imposed by State and local law will continue to run from the original date of violation, November 13, 2017, as long as the violations remain.

We look forward to your voluntary cooperation in this matter. Please direct any specific questions you may have about your obligations in responding to this Notice of Violation to my attorney, Sally J. Daggett of Jensen Baird Gardner & Henry in Portland. She can be reached at (207) 775-7271.

Sincerely,



Jason Lorrain
Code Enforcement Officer

Attachments:

- 1 - Site Photographs
- 2 - Sections 3.11.1-3.11.11 of the Zoning Ordinance
- 3 - List of Town Approved Foresters/Landscape Architects

cc: Colin Clark, Maine DEP
Jonathan Pottle, Esq.
Sally J. Daggett, Esq.

ATTACHMENT 1



09-12-2017 11:39:51





ATTACHMENT 1



11-10-2017 14:36:23





3.11 Development and Performance Standards

3.11.1 Buffers, Visual The required setback area from any public way shall be maintained as a visual buffer when required for a specific use in a Land Use Table of Section 3.9.

3.11.1.1 This visual buffer strip shall be maintained as a vegetated area and shall not be used for parking, storage, display of materials, and placement of dumpsters or similar items. A visual barrier shall be established within the buffer strip by landscaping or fencing.

3.11.1.2 The Planning Board may waive the requirement for a visual buffer if the applicant can demonstrate that the proposed development or the circumstances of the lot satisfy the intent of this standard.

3.11.2 Buffers, Water Supply Protection A water supply protection buffer shall be designed and maintained in accordance with the standards of Section 3.11.2 when required for a specific use in a Land Use Table of Section 3.9. [Watershed Overlay Zone]

3.11.2.1 Water supply protection buffers for new structures on existing lots that are not part of a subdivision already incorporating appropriate phosphorous controls shall, to the greatest practical extent given lot limitations, be on the down slope from developed areas and located so that as much as feasible of any runoff from any developed area drains to the buffer in overland, unchannelized flow.

3.11.2.1.1 Driveways and parking areas shall be designed and constructed so that disruption of natural drainage patterns is minimized. Runoff shall be directed to an unscarified buffer strip at least 50 feet, plus two times the average slope, in width between the outflow point of any ditch or culvert and a shoreline. {DEP § 15 H(7)}

3.11.2.1.1.1 As an example, if the average slope between the shoreline and the proposed road, driveway or parking area is 30%, then the road setback at that location would be 50 feet plus 2 times 30 feet or 110 feet. {Rich Baker e-mail 2/21/2007}

3.11.2.1.1.2 Best Management Practices including swales, ditch turnouts, water bars and broad based drainage dips shall be used. Gravel driveways shall be graded to prevent runoff from concentrating in the driveway.

3.11.2.1.2 Runoff from roofs shall be distributed over stable, well-vegetated areas or be infiltrated into the soil using dry wells or other infiltration systems

3.11.2.2 Wooded buffers shall be 75 feet in width. Non-wooded buffers shall be 125 feet in width.

3.11.2.2.1 The width of the buffer may be reduced if not doing so would restrict the Developable Area to less than the 20% of the Buildable Area. [Shoreland Overlay Zone]

3.11.2.2.2 In determining whether a property that has exceeded the Maximum Developable Area, the Developed Area shall be divided by the Buildable Area as the terms are defined in Section 3.8.

3.11.2.2.3 The Maximum Developable Area shall be calculated separately for each District if a lot is in more than one District with different standards.

3.11.2.3 Buffer areas are not required if the per acre phosphorus load limit for the impacted great pond or stream can be met by other means approved by the Planning Board.

3.11.2.4 The latest Department of Environmental Protection approved methods shall be used for water supply protection buffers for development not included in Sections 3.11.2.1 or 3.11.2.3.

3.11.2.5 On approval of an application, the Planning Board shall sign the original and 4 copies of the site plan showing the buffer area. The Code Enforcement Officer and applicant shall each retain one signed copy and the applicant shall:

- A. File the original and one signed paper copy with the Lincoln County Registry of Deeds.
- B. File one copy with the Town of Boothbay Assessor. This copy shall include the Registry's Book and Page reference. {30-A § 4406(1)(B)}

3.11.2.6 A footpath not to exceed 6 feet in width as measured between tree trunks or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

{DEP § 15 P(2)(a)}

3.11.3 Clearing or Removal of Vegetation for Activities other than Timber Harvesting {DEP § 15 P}

3.11.3.1 General All clearing of trees shall be in accordance with the Best Management Practices. Ground water runoff buffers as required in Section 3.11.2 shall be maintained.

3.11.3.2 Shoreland Overlay Zone and Watershed Overlay Zone

3.11.3.2.1 Except to allow for the development of permitted uses and the removing of safety hazards specifically identified and marked by a Maine licensed forester, a buffer strip of vegetation shall be preserved within a strip of land extending 100 feet from the shoreline of a great pond and 75 feet from any other shoreline, as follows: {38 § 439-A(6) and DEP §§ 15 O((1)(a)(5) & P(2))}

3.11.3.2.1.1 There shall be no cleared opening or openings greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown.

3.11.3.2.1.1.1 A footpath not to exceed 6 feet in width as measured between tree trunks or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

3.11.3.2.1.2 Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained.

3.11.3.2.1.2.1 A "well-distributed stand of trees" adjacent to a great pond or a stream flowing to a great pond shall be defined as maintaining a rating score of 24 or more in each 25 foot by 50 foot rectangular 1,250 square feet) area as determined by the following rating system:

| Diameter of tree at 4½ feet above ground level (inches) | Points |
|---|--------|
| 2 – <4 inches | 1 |
| 4 – <8 inches | 2 |
| 8 – <12 inches | 4 |
| 12 in. or greater | 8 |

3.11.3.2.1.2.1.1 Adjacent to other streams, outlet streams, tributary streams, and wetlands a "well-distributed strand of trees" is defined as maintaining a minimum rating score of 16 per 25 foot by 50 foot rectangular area.

3.11.3.2.1.2.1.2 As an example, adjacent to a great pond and associated wetlands, if a 25 foot by 50 foot plot contains 4 trees between 2 and 4 inches in diameter, 2 trees between 4 and 8 inches in diameter, 3 trees between 8 and 12 inches in diameter, and 2 trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

3.11.3.2.1.2.1.2.1 Thus, the 25 foot by 50 foot plot contains trees worth 36 points. Trees totaling 12 points (36-24=12) may be removed from the plot provided than no clear openings are created.

3.11.3.2.1.2.1.3 The following shall govern in applying this point system:

- A. The 25 foot by 50 foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer.
- B. Each successive plot must be adjacent to, but not overlap a previous plot.
- C. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance.
- D. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance.
- E. Where conditions permit, no more than 50% of the points on any 25 foot by 50 foot rectangular area may consist of trees greater than 12 inches in diameter.

3.11.3.2.1.2.2 Maintaining "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5

Zoning Ordinance of the Town of Boothbay

saplings less than 2 inches in diameter at 4 ½ feet above ground level for each 25 foot by 50 foot rectangle area. If 5 saplings do not exist, no woody stems less than 2 inches in diameter can be removed until 5 saplings have been recruited into the plot.

3.11.3.2.1.2.2.3 Notwithstanding the above provisions, no more than 40% of the total volume of trees 4 inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any 10 year period.

3.11.3.2.1.3 In order to protect water quality and wildlife habitat existing vegetation under 3 feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Sections 3.11.3.2.1 and 3.11.3.2.1.1.1.

3.11.3.2.1.4 Pruning of tree branches on the bottom one-third of the tree is allowed.

3.11.3.2.1.5 In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

3.11.3.2.1.6 There shall be no cutting or removal of vegetation within the strip of land extending 75 feet inland from the high-water line of a great pond and associated wetlands, except to remove safety hazards specifically identified and marked by a Maine licensed forester. {38 § 439-A(6)(B) and DEP §§ 15 O((1)(a)(5) & P(1)) [Resource Protection Area]}

3.11.3.2.2 At distances greater than 100 feet from the shoreline of a great pond and 75 feet from any other shoreline, there shall be allowed on any lot, in any 10 year period, selective cutting of not more than 40% of the volume of trees 4 inches or more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. {DEP § 15 P(3)} [Shoreland Overlay Zone]

3.11.3.2.2.1 The cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized and the removal of safety hazards specifically identified and marked by a Maine licensed forester. {DEP §§ 15 O((1)(a)(5) & P(1)) [Resource Protection Area]}

3.11.3.2.2.2 In no event shall cleared openings in the portion of a lot within the Shoreland Overlay Zone for any purpose, including but not limited to, principal and accessory structures, driveways and wastewater disposal areas, exceed in the aggregate, 25% of the lot area within the Shoreland Overlay Zone, or 10,000 square feet, whichever is greater, including land previously cleared. {DEP §15 P(3)}

3.11.3.2.3 Clearing or removal of woody vegetation necessary for a new subsurface wastewater disposal system and any associated fill extensions shall not extend closer than 75 feet from the high-water line of a great pond, stream, outlet stream or the upland edge of a wetland. {DEP § 15 K}

3.11.3.2.4 Legally existing nonconforming cleared openings on March 24, 1990 may be maintained, but shall not be enlarged, except as allowed by Section 3.11.3.2. {DEP §15 P(4)}

3.11.3.2.5 Fields and other cleared openings that have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 3.11.3.2. {DEP §15 P(5)}

3.11.4 Construction Standards It is particularly important that new structures meet the following minimum design criteria.

3.11.4.1 The exterior walls shall be finished with a covering of wood, plastic, or metal clapboards; wood siding; or wood, asphalt, plastic, or metal shingles; masonry, brick or stone or other nationally advertised siding materials. Tarred paper or tarred felt or similar substances shall not be used unless completely hidden from view by previously prescribed finished exterior wall covering.

3.11.4.2 Every chimney shall be constructed of solid masonry units or materials prefabricated or otherwise approved by the National Board of Fire Underwriters.

3.11.4.3 All newly erected structures that are to be wired shall have an adequate and safe electrical

service of at least 100 amperes and shall be wired in accordance with acceptable industry standards.

3.11.4.4 All buildings shall be set on masonry foundations in the form of masonry walls at least 6 inches thick, or masonry posts at least 6 inches in diameter which in turn rest on ledge or which extend into solid earth for 3½ feet, or a concrete slab at least 6 inches thick. Mobile home foundations need not be set to below the frost line if not on ledge. Buildings that do not exceed 400 square feet are exempt from this requirement.

3.11.4.5 New commercial construction should be compatible with surrounding properties in terms of formal characteristics such as height, massing, roof shapes and window proportions. Where existing historic buildings surround new construction, building height and exterior materials shall be harmonious with those of adjacent properties.

3.11.5 Cuts and Fills The top of a cut or bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise approved by the Planning Board.

3.11.5.1 Except in a ledge cut, cuts and fills shall be no steeper than a slope of 2 1/2 feet horizontal to 1 foot vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 3.11.7. Where a cut results in exposed ledge, side slopes no steeper than 4 feet vertical to 1 foot horizontal are permitted. {DEP §15 H(5)}

3.11.5.2 There shall be no filling, dredging, or grading within 100 feet of the high-water line.
[Resource Protection Area]

3.11.6 Emissions The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on plans submitted with an application, with a description of the source materials.

3.11.6.1 Section 3.11.6 does not apply to one and two family dwellings.

3.11.7. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

3.11.7.1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

3.11.7.1.1. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

3.11.7.1.2. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

3.11.7.1.3. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

3.11.7.1.4 The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

Zoning Ordinance of the Town of Boothbay

3.11.7.1.5. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

3.11.7.2 Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

3.11.7.2.1. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

- (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- (ii) Stumps from the storm-damaged trees may not be removed;
- (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

3.11.7.2.2. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

3.11.8. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 3.11.3 provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

3.11.8.1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 3.11.3 apply;

3.11.8.2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 3.9 are not applicable;

3.11.8.3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

3.11.8.4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;

3.11.8.5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:

3.11.8.5.1. A coastal wetland; or

3.11.8.5.2. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

3.11.8.6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

- 3.11.8.6.1. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
- 3.11.8.6.2. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- 3.11.8.6.3. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:

<http://www.maine.gov/dacf/mnap/features/invasiveplants/invasives.htm>

3.11.8.7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

3.11.9 Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 3.11.7, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- 3.11.9.1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- 3.11.9.2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- 3.11.9.3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- 3.11.9.4. Revegetation activities must meet the following requirements for trees and saplings:
 - (a) All trees and saplings removed must be replaced with native noninvasive species;
 - (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- 3.11.9.5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
- (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
- (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
- (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

3.11.9.6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

3.11.10 Erosion and Sedimentation Controls {38 § 420-C}

3.11.10.1 All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and revegetation of disturbed soil.
- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- (c) Permanent stabilization structures such as retaining walls or rip-rap.

{DEP § 15 Q(3)}

3.11.10.2 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

{DEP § 15 Q(2)}

3.11.10.3 Any proposal to fill, displace or expose soil or other earthen material shall require a site specific Erosion and Sedimentation Control Plan developed in accordance with the then – current as of the date of the application edition of the *Maine Erosion And Sediment Control BMPS* of the Bureau of Land and Water Quality, Maine Department of Environmental Protection. {Bureau of Land and Water Quality, Maine Department of Environmental Protection, DEP § 15 Q(1)} Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion

3.11.10.4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

Zoning Ordinance of the Town of Boothbay

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

3.11.10.5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

3.11.11 Lighting Lights shall be shielded so that the source of illumination is not visible beyond the property boundary. Where there is a mix of residential and commercial uses, exterior lights associated with commercial uses are restricted to a maximum of 20 feet in height. In addition, all lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m. Lighting between 11 p.m. and 6 a.m. will be allowed for the period a business is operating with Planning Board approval.

3.11.11.1 Section 3.11.11 does not apply to one and two family dwellings.

3.11.12 Lots

3.11.12.1 General

3.11.12.1.1 Lots with multiple frontages are to be avoided whenever feasible. When lots have frontage on two or more right-of-ways, the plan and deed restrictions shall indicate that vehicular access shall be located only on the less-traveled way.

3.11.9.1.1.1 The Planning Board may approve variations from this requirement.

3.11.12.1.2 Any side of a lot abutting a public or private way shall have the lot line in common with the right-of-way of the public or private way.

3.11.12.1.3 Lot configuration and structure location shall provide for adequate off-street parking and service facilities.

3.11.9.2 Non-conforming Lots Development may occur without the need for a variance on a non-conforming lot of record that existed:

- A. in the Shoreland Overlay Zone before a Shoreland Zoning Ordinance was first adopted on March 4, 1974,
- B. elsewhere before a Zoning Ordinance for the Town of Boothbay was first adopted on August 20, 1979, or
- C. before subsequent amendments of the Zoning Ordinance that made the lot non-conforming, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. {DEP § 12 E(1)}

3.11.12.2.1 The Board of Appeals may grant variances. {DEP § 12 E(1)}

3.11.9.2.2 Variances shall not be granted for lot area, lot width or shore frontage. {DEP § 12 E(1)} [Shoreland Overlay Zone]

3.11.12.3 Size

3.11.12.3.1 Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971. {30-A § 4401(6) and DEP § 15 A(3)}

3.11.12.3.2 Land beneath roads serving more than two lots shall not be included towards calculating minimum lot area. {DEP § 15 A(2)}

3.11.12.3.3 Land below the high-water line of great ponds and associated wetlands, streams, outlet streams or the upland edge of other wetlands shall not be included towards calculating minimum lot area. {DEP § 15 A(2)} [Shoreland Overlay Zone]

3.11.12.3.4 Lodging Houses, multifamily dwellings, retirement facilities and accessory apartment for other than one family residential dwellings shall have a minimum of 30,000 square feet per dwelling unit adjacent to tidal areas and 40,000 square feet per dwelling unit adjacent to non-tidal areas. {DEP § 15(A)(1)} [Shoreland Overlay Zone]

ATTACHMENT 3

List of Town-approved foresters and landscape architects:

Matt Phillips
Pat Carroll Associates
Portland, ME
mphillips@carroll-assoc.com

Keith Smith
Terrence J. DeWan & Associates
Yarmouth, ME
smith@tjda.net

Sarah Witte, Landscape Architect
16 Cumberland Street
Yarmouth, ME 04096
sarahwitteLA@gmail.com

Steven Pelletier
Stantec Associates
Topsham, ME
steve.pelletier@stantec.com

Stephen Mohr or Tanya Seredin
Mohr & Seredin Landscape Architects, Inc.
Portland, ME
207-871-0003

CONSENT AGREEMENT

THIS AGREEMENT is entered into this _____ day of May, 2018, between PETER WAGNER and KATHRYN WAGNER, individuals with a mailing address of 335 Clay Hill Road, Cape Neddick, ME 03902 (hereinafter the “Wagners”), and the INHABITANTS OF THE TOWN OF BOOTHBAY, a municipal corporation located in the County of Lincoln, State of Maine (hereinafter the “Town”).

WHEREAS, the Town is a municipal corporation organized under the laws of the State of Maine;

WHEREAS, Jason Lorrain is the duly appointed Code Enforcement Officer and Local Plumbing Inspector (collectively “CEO”) of the Town of Boothbay authorized under law to administer and enforce the provisions of the Zoning Ordinance of the Town of Boothbay (“Zoning Ordinance”);

WHEREAS, the Wagners are owners of certain real property located at 65 Sawyers Island Road, Boothbay, Lincoln County, Maine and described in a deed recorded in the Lincoln County Registry of Deeds in Book 4523, Page 1 and currently shown on Assessor’s Tax Map R4 as Lot 78 as of the April 1, 2017 assessment date (the “Property”);

WHEREAS, sometime in early November of 2017, the abutting property owners, Eugene and Judith Molinelli, and/or their agent(s), cleared vegetation on the Property within 250 feet of the upland edge of the coastal wetland of Back River in the Shoreland Overlay zoning district in a manner that the Town alleges was in violation of the Zoning Ordinance;

WHEREAS, the CEO formally notified the Wagners and the Molinellis of the alleged land use violations by written Notice of Violation dated December 21, 2017;

WHEREAS, violations of the Zoning Ordinance may carry civil penalties of between \$100 and \$2,500 per day under State and local law; and

WHEREAS, the Town, its CEO, and the Wagners have subsequently been cooperating with one other in an attempt to reach an out-of-court settlement of this matter;

NOW, THEREFORE, the Town, its CEO, and the Wagners agree as follows:

1. The Wagners shall replant the Property at their expense and in accordance with a plan entitled “Shoreland Zone Buffer Vegetation Plan, prepared for 65 Sawyer Island Road, Boothbay, Maine” prepared by Sara Witte, Landscape Architect dated March 13, 2018 and on file at the Code Enforcement Office of the Town (the “Replanting Plan”). Planting, and replanting should it become necessary, shall occur between April 15 and November 1. All initial planting activities are to be fully completed on or before **June 15, 2018**. Whenever any provision of this Agreement conflicts with or is inconsistent with the Replanting Plan, the provisions of this Agreement shall control.

2. The Wagners shall cause an on-site inspection to determine the effectiveness of the Replanting Plan and to determine what, if any, additional plantings need to be done to meet the applicable success rate to be conducted, at the Wagners’ expense, by a Maine licensed landscape architect, professional forester, or other qualified professional approved in advance by the Town, in years 2019, 2020, 2021, 2022 and 2023, with a written report submitted to the CEO on or before December 31 of each inspection year. There shall be 100% replacement of all dead plantings between January 1, 2019 and December 31, 2019. There shall be successful retention of 80% of all plantings required between January 1, 2020 and December 31, 2023. Any replanting needed to ensure the applicable success rate shall be completed within two (2) months after written notice by the Town to the Wagners of the replanting required following the Town’s receipt of the written inspection report, provided that if said two month period falls outside of the April 15 – November 1 planting season, planting may be delayed until the first two months of the following planting season. Thereafter, any pruning or removal of trees on the Property shall be in strict compliance with all applicable laws. Prior to

engaging in any vegetation maintenance activity on the Property, the Wagners shall seek and obtain all necessary permits and approvals from the Town related to such activity.

3. Simultaneously upon execution of this Agreement by the parties, the Wagners shall pay the Town's outside landscape architect consultant and attorney's fees and costs in the amount of \$2,500. Such payment shall be made by bank or cashier check made payable to the Town of Boothbay. All payments shall be made to the Town c/o Town Manager, Boothbay Town Offices, 1011 Wiscasset Road, P.O. Box 106, Boothbay, ME 04537-0106.

4. The Wagners shall pay a civil penalty to the Town in the amount of \$ _____ by bank or cashier's check made payable to the Town of Boothbay on or before **November 1, 2018**; provided, however, that if the Wagners otherwise comply with the terms of Paragraphs 1, 2 and 3 of this Consent Agreement, said \$ _____ fine shall be and remain suspended until November 1, 2018. As of November 1, 2018, said \$ _____ fine shall be permanently suspended if the Wagners have complied with the terms of Paragraphs 1, 2 and 3 of this Consent Agreement. Any determination by the CEO regarding the Wagners' compliance with the terms of Paragraphs 1, 2 and 3 of this Consent Agreement and any permanent suspension of said \$ _____ fine shall be in writing addressed to the Wagners with the reasons stated therein.

5. The Town and its agents may enter the Property at reasonable hours to inspect for compliance with this Agreement, and shall provide at least 24 hours advance notice to the Wagners so their representatives shall have an opportunity to be present.

6. In the event that the Wagners (or their respective heirs or assigns), due to their own action or inaction, fail or refuse to comply with any of the terms of this Agreement, they shall be deemed to be in violation of this Agreement and shall be liable to the Town for a civil penalty of one hundred dollars (\$100) per day for each day the violation continues and such further relief as a court may deem appropriate, including,

without limitation, injunctive relief and payment of reasonable attorney's fees and costs incurred by the Town to bring an action to enforce this Agreement.

7. Nothing herein shall be deemed a limitation on any recourse and/or claims the Wagners may have now or in the future against the Molinellis and/or their agents.

8. This Consent Agreement shall be binding on the Wagners, their heirs and assigns, and it shall be duly recorded by the Town at said Lincoln County Registry of Deeds within 30 days of the date of this Agreement.

9. At the meeting of the Boothbay Board of Selectmen on May 9, 2018, the Board of Selectmen approved the resolution of the above-described land use violations and those matters described in the Notice of Violation dated December 21, 2017 as relates to the Wagners (and not to the Molinellis) based on the terms and conditions set forth herein and authorized the CEO to sign this Agreement on behalf of the Town.

PETER WAGNER

Dated: _____, 2018

Peter Wagner

KATHRYN WAGNER

Dated: _____, 2018

Kathryn Wagner

**INHABITANTS OF THE
TOWN OF BOOTHBAY**

Dated: _____, 2018

By: Jason Lorrain
Its Code Enforcement Officer, duly authorized

STATE OF MAINE
LINCOLN, ss.

_____, 2018

Personally appeared before me the above-named Jason Lorrain and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Inhabitants of the Town of Boothbay.

Before me,

Notary Public/Attorney at Law

Print Name

Proposed Buffer Revegetation Plan

- Shrub planting - see list
- Tree Planting - see list

Trees: 4-5'ht or 5 gallon

- 1 Yellow Birch (*Betula allegheniensis*)
- 3 White Spruce (*Picea glauca*)
- 1 Red Oak (*Quercus rubra*)
- 3 Coastal White Cedar (*Chamaecyparis thyoides*) (3' o.c.)

Shrubs: 18" or #1 cont.

- 3 Bar Harbor Juniper (*Juniperus horizontalis*)
- 6 Gro-Lo Sumac (*Rhus aromatica*)
- 3 Highbush Blueberry (*Vaccinium corymbosum*)

Notes:

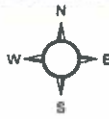
- Colored flags (blue = hardwood; orange = softwood) were used to identify planting locations and specifically positioned to minimize viewshed conflicts.
- Exact locations to be adjusted as necessary in the field in accordance with sun, soil, and drainage patterns and to minimize disturbances to existing roots and soil.
- Excessive slash and brush piles will be removed, to promote healthy regrowth. Naturally fallen material may remain.
- Suckers from regrowth of cut trees and shrubs must be allowed to regrow without cutting or topping, as they had protected status, except that thinning which is allowed within State and Local regulations, described below.

Summary of Proposed Activities:

- Plantings installed as listed above
- Native remaining trees and shrubs allowed to regrow 12 months
- Stems shall be selected which must be allowed to grow to maturity, restoring required points for 'well-distributed stand'.
- Understory growth (shrub layer e.g. bayberry, huckleberry, bayberry, blueberry) may be maintained at 3' ht.
- Lower 1/3 of branches of trees may be limbed.

Shoreland Zone Buffer Vegetation Plan, prepared for
65 Sawyer Island Road
Boothbay, Maine

March 13, 2018



Sarah Witte, Reg. Landscape Architect
Steve Pelletier, Lic. Forester

Gridded Map of 25'x 50' cells:

Cells without proposed plantings are either in grandfathered non-conforming 'Meadow' or have sufficient trees or re-growth potential to provide requisite 16 points within one growing season.

