

**Findings of Fact  
Town of Boothbay Planning Board  
Wharves & Weirs Application**

Barters Island Bivouac 2, LLC  
Andrew Stein  
123 Mayhew Drive  
South Orange, NJ 07079

February 17, 2021

RE: Property 240 West Side Road (Tax Map/Lot R01/054/A)

Dear Mr. Stein,

On February 17, 2021, the Planning Board acted on your application for a Wharf & Weir, and made the following findings and conclusions:

**Findings of Fact:**

1. The owner of the property is Barters Island Bivouac 2, LLC / Andrew Stein. The property owner has provided authorization for Atlantic Environmental to represent him.
2. The property is located at 240 West Side Road. It is in the Coastal Residential District & Shoreland Overlay. The property is further identified as Assessor's Tax Map R01-054/A. The property contains 0.55 acres.
3. The applicant is Barters Island Bivouac 2, LLC / Andrew Stein, who has demonstrated a legal interest in the property by providing a copy of his deed. The deed for the proposed extension of Use can be seen at the Lincoln County Registry of Deeds in Book #2564 on Page #185.
4. The Town has received copies of the NRPA and the Army Corp. of Engineers permit applications. The Harbormaster has inspected the site and given his approval.
5. Applicant seeks approval to construct a dock consisting of a 6' x 50' pier, a 3' x 32' seasonal ramp, and a 10' x 16' seasonal float.

**Conclusions**

Based on the above stated facts, the Planning Board makes the following conclusions:

**Right, Title or Interest in the Property**

The applicant has demonstrated Right, Title or Interest in the property in question.

Motion made by Rob Ham, seconded by William Wright

Vote 4-0  In Favor  Against

**5.3 General Review Procedures Applicable to All Applications**

**5.3.1 Optional Preapplication Planning Board Meeting** If the proposal will involve review by the Planning Board, the property owner or potential applicant may request to be placed on the agenda for a Planning Board meeting for an informal discussion of the proposed activities, how those activities are treated by this Ordinance, review of the applicable review requirements and the material that must be submitted, and the timing of the review process. This meeting is to informally discuss the proposal and applicable requirements and does not constitute a substantive review for the purposes of State law. No decisions about the proposal or binding commitments shall be made at this meeting.

**5.3.2 Mandatory Preapplication Activities** Land use activities that involve Site Plan Review, Minor Development Review, Subdivision Review or Mobile Home Park Review by the Planning Board may be subject to preapplication requirements in addition to the required meeting with the Code Enforcement Officer that must be fulfilled prior to the submission of a formal application. The required preapplication activities are set forth in the following sections.

**5.3.3 Application Submission** All applications for development review and permits shall be submitted to the Code Enforcement Officer. The application shall be in writing on forms provided by the Town and shall include the information required by the review procedures for the type of review being requested.

**5.3.3.1** The application shall be signed by the owner(s) of the property or their authorized representative certifying that the information contained in the application is complete and correct. If the person signing the application is not the owner of the property, the application must contain a form authorizing the person filing the application to act on the owner's behalf.

**5.3.3.2** The application shall include the appropriate application fee in such amount as the Board of Selectmen has established.

**5.3.4 Taxes** the Code Enforcement Officer shall accept an application only if s/he determines that all taxes and accounts payable to the Town are current:

**5.3.4.1** The applicant's real and personal property taxes, plus any and all other accounts of the applicant payable to the Town, have been paid in full.

**5.3.4.2** Real and personal property taxes for the property to be developed or used have been paid in full.

**5.3.5 Outstanding Violations** The Code Enforcement Officer shall accept an application only if s/he finds that there is no outstanding notice of violation duly applicable to the applicant or to the property:

**5.3.5.1** This limitation shall not apply to a notice of violation issued by the Code Enforcement Officer if:

**5.3.5.1.1** The notice of violation has been appealed to the Board of Appeals within the required time period;

**5.3.5.1.2** The appeal is pending before the Board of Appeals or a reviewing court; or

**5.3.5.1.3** The application is making a good faith effort to comply with the decision of the Board of Appeals or a reviewing court.

**5.3.5.2** This limitation shall not apply to a notice of violation duly issued by any State or federal environmental agency relating to the property that is the subject of the application if:

**5.3.5.2.1** There is an appeal of the notice of violation pending before the State or federal environmental agency or a reviewing court; or

**5.3.5.2.2** The decision of the State or federal environmental agency or a reviewing court has not been fully complied with, but no further action will be taken by the issuing agency.

The applicant  *has* /  *has not* demonstrated that this proposal meets the criteria set forth in Sections 5.3 – 5.3.5.2.2 of the Town of Boothbay Zoning Ordinance.

Motion made by Rob Ham, seconded by William Wright

Vote 4-0  In Favor  Against

**5.3.6.2 Applications that Require Review by the Planning Board**

**5.3.6.2.1** Within fourteen (14) days of receiving an application for Site Plan Review, Minor Development Review, Subdivision Review or Mobile Home Park Review, the Code Enforcement Officer shall review the application and tentatively determine if the application is complete. If the Code Enforcement Officer determines that the application is incomplete, s/he shall notify the applicant that the application is not complete and identify the specified additional material needed to make the application complete. The applicant shall be responsible for submitting any additional information to the Code Enforcement Officer. The Code Enforcement Officer shall repeat this process until s/he tentatively determines that the application is complete or that written waivers have been requested for any missing information.

**5.3.6.2.2** After determining that the application is complete, the Code Enforcement Officer shall place the application on the agenda of the next scheduled Planning

Board meeting, subject to meeting all the public hearing notice and application submittal requirements.

**5.3.6.2.3** At the first meeting that the Planning Board considers the application, the Planning Board shall review the application for completeness and shall act on any requests for waivers of the submission requirements. If the Planning Board finds that the information is incomplete or if the Planning Board denies any waivers, the Planning Board shall identify the additional information that the applicant must provide for the application to be considered complete. The Planning Board shall not consider the merits of an application until it determines that the application is complete.

The applicant  *has* /  *has not* demonstrated that this proposal meets the criteria set forth in Sections 5.3.6.2 of the Town of Boothbay Zoning Ordinance.

Motion made by Rob Ham, seconded by William Wright

Vote 4-0  In Favor  Against

**5.3.6.4 Information Required for All Applications** All applications for development review or permits must contain all of the following information:

**5.3.6.4.1** The name, mailing address, email address, and phone number of the owner of the property.

**5.3.6.4.2** The name, mailing address, email address, and phone number of the applicant if different than the owner of the property.

**5.3.6.4.3** The name, mailing address, email address, and phone number of all professionals involved in the preparation of the application and related plans and documents.

**5.3.6.4.4** The location of the property, including the street address and Tax Map and Lot number(s).

**5.3.6.4.5** The land use district(s) within which the proposed activity is located. If the lot is located within more than one district, an accurate scaled map showing the location of the zoning district boundaries.

**5.3.6.4.6** Verification of the owner or applicant's right, title and interest in the property. If the person submitting the application is not the owner of the property, the application must contain a form authorizing the person filing the application to act on the owner's behalf.

**5.3.6.4.7** A written description of the proposed development or construction activities for which approval is being sought. The description should set out the proposed use of the property, the size of proposed buildings and improvements, and the nature of all construction and development activities.

The applicant  *has* /  *has not* demonstrated that this proposal meets the criteria set forth in Sections 5.3.6.4 of the Town of Boothbay Zoning Ordinance.

Motion made by Rob Ham, seconded by William Wright

Vote 4-0  In Favor  Against

### 7.5.17 Shoreland Overlay District (SO)

#### 7.5.17.1 PURPOSE (SO)

The Shoreland Overlay District is intended to assure that land use activities and development in close proximity to water bodies and wetlands, including the entire areas within the WRP-27 and WRP Districts and areas within seventy-five (75) feet of watershed tributary streams are carried out in a manner that protects the quality of those resources. To this end, the standards of the district apply an additional set of performance standards to these activities and development.

#### 7.5.17.2 ALLOWED USES (SO)

The uses, review requirements and size and intensity limitations for the underlying zoning districts shall apply unless the use is specifically prohibited by the following provisions.

#### 7.5.17.3 SPACE AND BULK STANDARDS (SO)

The space and bulk standards of the underlying zoning district shall apply to land use activities and development within that district.

#### 7.5.17.4 ZONE SPECIFIC DEVELOPMENT STANDARDS (SO)

Land use activities and development within the Shoreland Overlay (SO) District shall conform to the following additional standards unless the standards of the underlying zoning district and/or the performance standards of Sections 8, 9, 10, and 11 are more restrictive:

##### **7.5.17.4.1 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization**

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

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

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

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

**7.5.17.4.1.5** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.

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

**7.5.17.4.1.7** New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.

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

**7.5.17.4.1.9** Except for structures that are part of Maritime Activities, Marinas, or functionally water-dependent uses, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

**7.5.17.4.1.10** Vegetation may be removed in excess of the standards in **7.5.17.4.6** of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

**7.5.17.4.1.10.1** When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

The applicant  has/  *has not* demonstrated that this proposal meets the criteria set forth in Sections 7.5.17 – 7.5.17.4.1.10.1 of the Town of Boothbay Zoning Ordinance.

Motion made by Rob Ham, seconded by William Wright

Vote 4-0  In Favor  Against

**9.4 Erosion and Sediment Management Requirements**

**9.4.1** All activities that involve filling, grading, excavation or other similar activities that result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval. The plan shall demonstrate conformance with the standards of the most recent edition of Maine Erosion and Sediment Control Best Management Practices (BMPs) published by the Maine Department of Environmental Protection.

**9.4.2** 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.

**9.4.3** 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.

**9.4.4** 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:

**9.4.4.1** 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.

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

**9.4.4.3** 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.

**9.4.5** 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.

The applicant  has/\_\_\_\_\_ *has not* demonstrated that this proposal meets the criteria set forth in Sections 9.4 of the Town of Boothbay Zoning Ordinance.

Motion made by Rob Ham, seconded by William Wright

Vote 4-0

In Favor \_\_\_\_\_ Against

**Decision**

Based on the above findings of fact and conclusions, the plans and supporting information submitted, testimony and evidence submitted at the Planning Board meetings on the application, on motion made by Rob Ham and seconded by William Wright the Planning Board  **approved**/  **denied** the Use Permit application subject to the conditions of approval set forth below, all for the reasons set forth in the findings and conclusions.

Vote 4-0  **In Favor**  **Against**

**Conditions of Approval:**

The applicant shall provide an updated exhibit 14 and 15 of the wharf and Weir application to reflect the new zoning Ordinance for the Town of Boothbay. In addition, the updated exhibit shall be submitted to the code office.

**None.** This application was approved as presented.

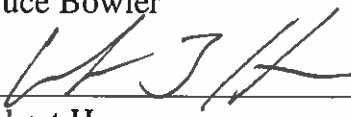


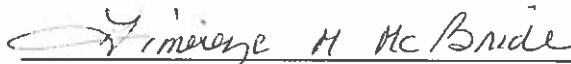
**Appeal**


Any appeal from this decision must be made to the Board of Appeals within 30 days after the date of the decision of the Planning Board, in accordance with the Section 12 of the Zoning Ordinance.

Date: February 17, 2021 By:

  
\_\_\_\_\_  
William Wright

Bruce Bowler  
  
\_\_\_\_\_  
Robert Ham

  
\_\_\_\_\_  
Dimsie McBride

  
\_\_\_\_\_  
Peggy Kotin

\_\_\_\_\_  
Michael Leighton

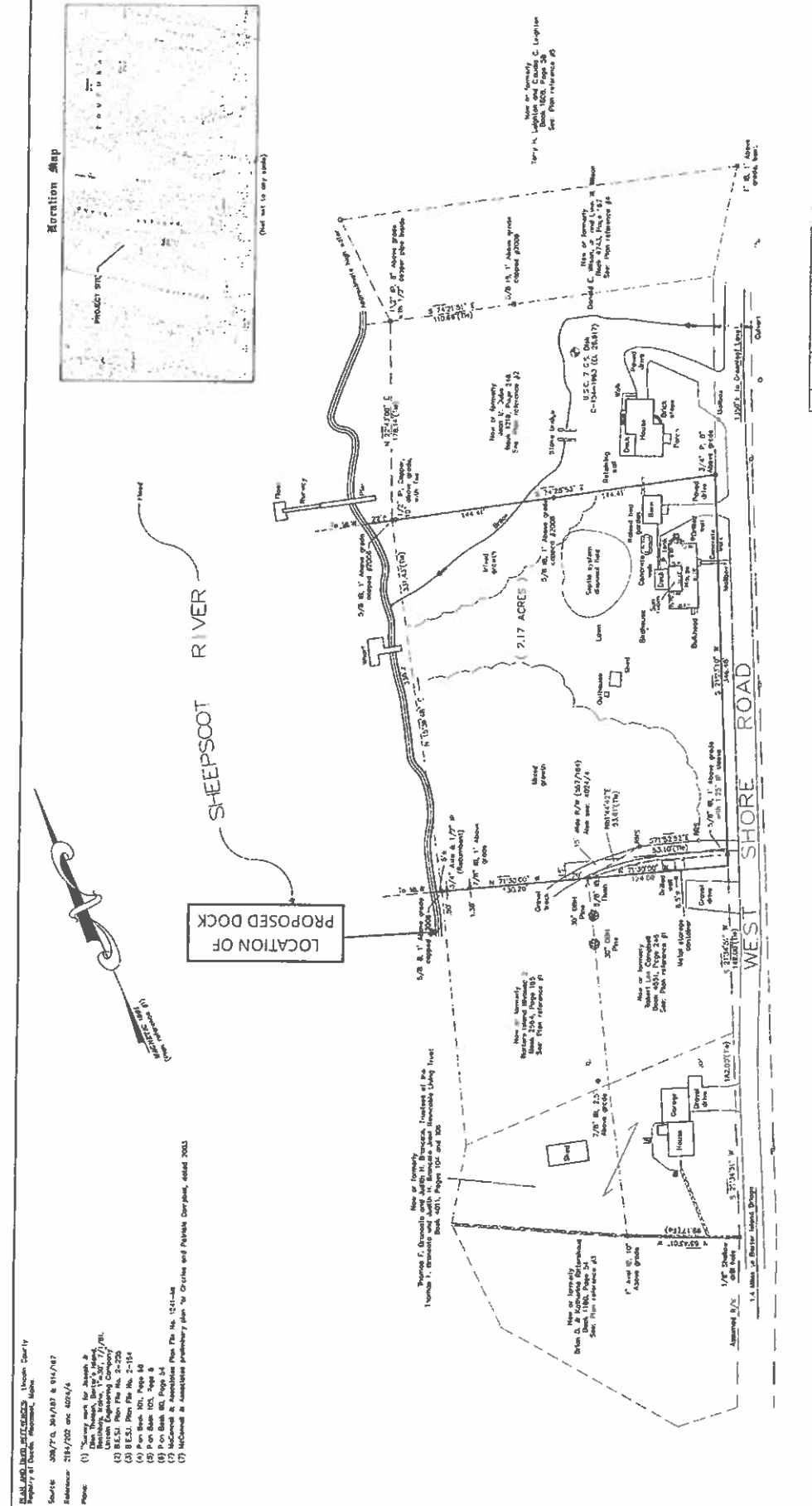
cc: Board of Selectmen  
Code Enforcement Officer

*The property shown on this plan may be developed and used only as depicted on this approved plan. All elements and features of the plan and all representations made by the applicant in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.*



State of Maine  
 Registry of Deeds  
 100 State Street  
 Augusta, Maine 04330  
 Telephone: 603-622-2222  
 Fax: 603-622-2222

Source: 2014/01, 2014/02 & 2014/07  
 Reference: 2014/02 and 2014/04  
 Plan: (1) Survey work for Joseph & Elizabeth M. Osborn, 10/27/14  
 (2) Survey work for Joseph & Elizabeth M. Osborn, 11/20/14  
 (3) B.E.S.A. Plan 2014-001, 2-114  
 (4) Plan Book 101, Page 50  
 (5) Plan Book 103, Page 8  
 (6) P.O. Book 85, Page 34  
 (7) Michael & Associates preliminary plan of Gracie and Patrick Campbell, dated 2005



**Revisions**

No.	Description	Date
1	Initial	10/27/14
2	As shown	11/20/14

To the best of my knowledge and belief, the survey was made by me or under my direct supervision and I am a duly Licensed Professional Land Surveyor in the State of Maine.

Terry A. Lapham  
 Professional Land Surveyor #2888

**BOUNDARY RETRACEMENT SURVEY**  
**2.17 ACRE CONVEYANCE PARCEL**  
**ELIZABETH M. OSBORN**  
 to  
**JAMES V. CATANO and MICHELLE A. MASSE**  
**WEST SHORE ROAD**  
**BARTER ISLAND**  
**BOOTHBAY, MAINE**

State of Maine  
 Registry of Deeds  
 100 State Street  
 Augusta, Maine 04330  
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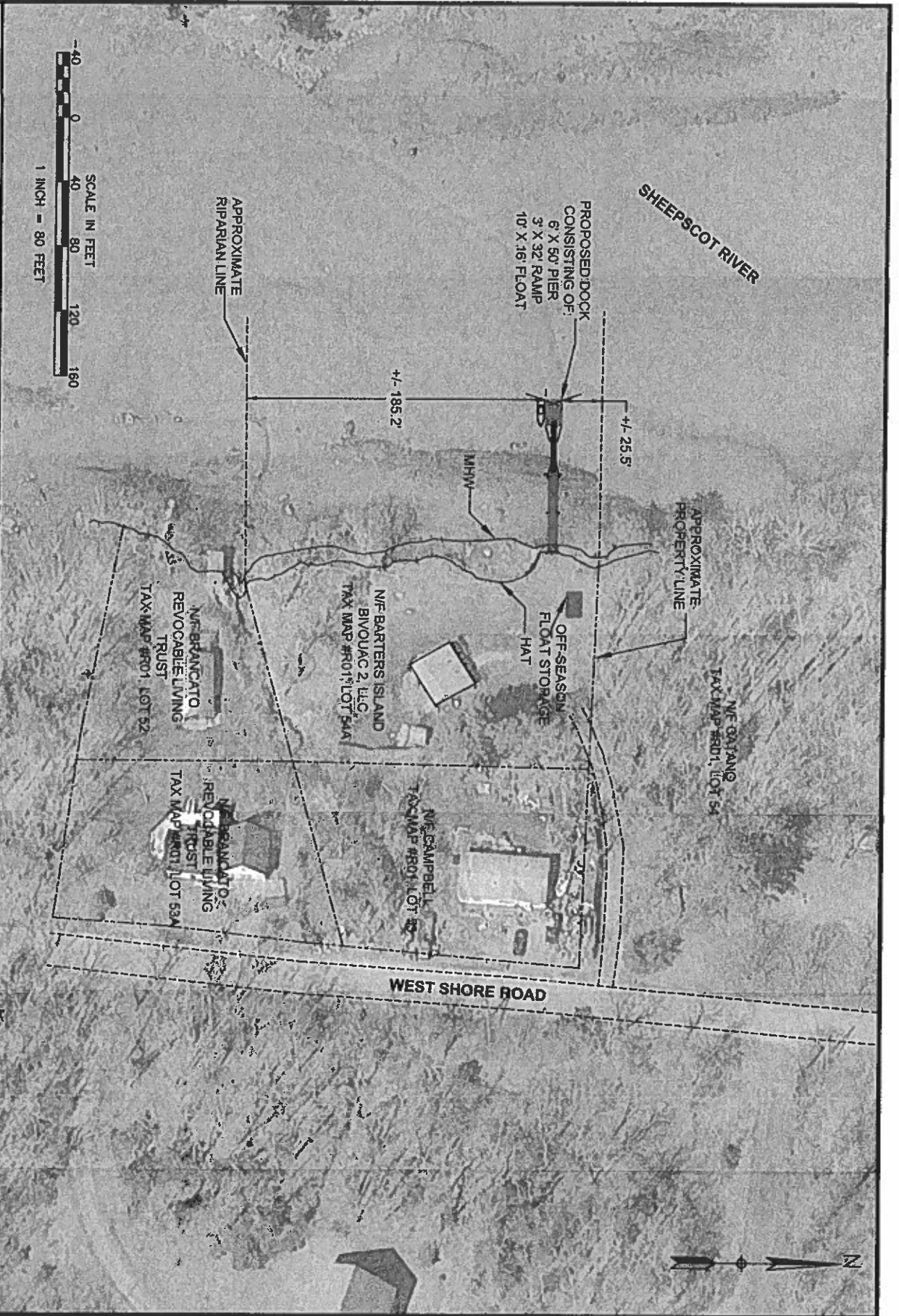
Scale of 1/4" = 100'  
 1" = 400'  
 1/8" = 100'  
 1/16" = 50'  
 1/32" = 25'  
 1/64" = 12.5'  
 1/128" = 6.25'  
 1/256" = 3.125'  
 1/512" = 1.5625'  
 1/1024" = 0.78125'  
 1/2048" = 0.390625'  
 1/4096" = 0.1953125'  
 1/8192" = 0.09765625'  
 1/16384" = 0.048828125'  
 1/32768" = 0.0244140625'  
 1/65536" = 0.01220703125'  
 1/131072" = 0.006103515625'  
 1/262144" = 0.0030517578125'  
 1/524288" = 0.00152587890625'  
 1/1048576" = 0.000762939453125'  
 1/2097152" = 0.0003814697265625'  
 1/4194304" = 0.00019073486328125'  
 1/8388608" = 9.536743193125e-05

LEGEND  
 - - - - - Boundary line  
 - - - - - Easement line  
 - - - - - Right of Way line  
 - - - - - Survey line  
 - - - - - Proposed line  
 - - - - - Other

GRAPHIC SCALE  
 1" = 400'  
 1/8" = 50'  
 1/16" = 25'  
 1/32" = 12.5'  
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 Fax: 603-622-2222





**A**  
**E**

ATLANTIC ENVIRONMENTAL LLC.  
Environmental Consultants  
135 River Road, Woolwich, ME 04579  
(207) 837-2199  
tim@atlanticeviromaine.com

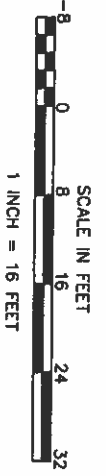
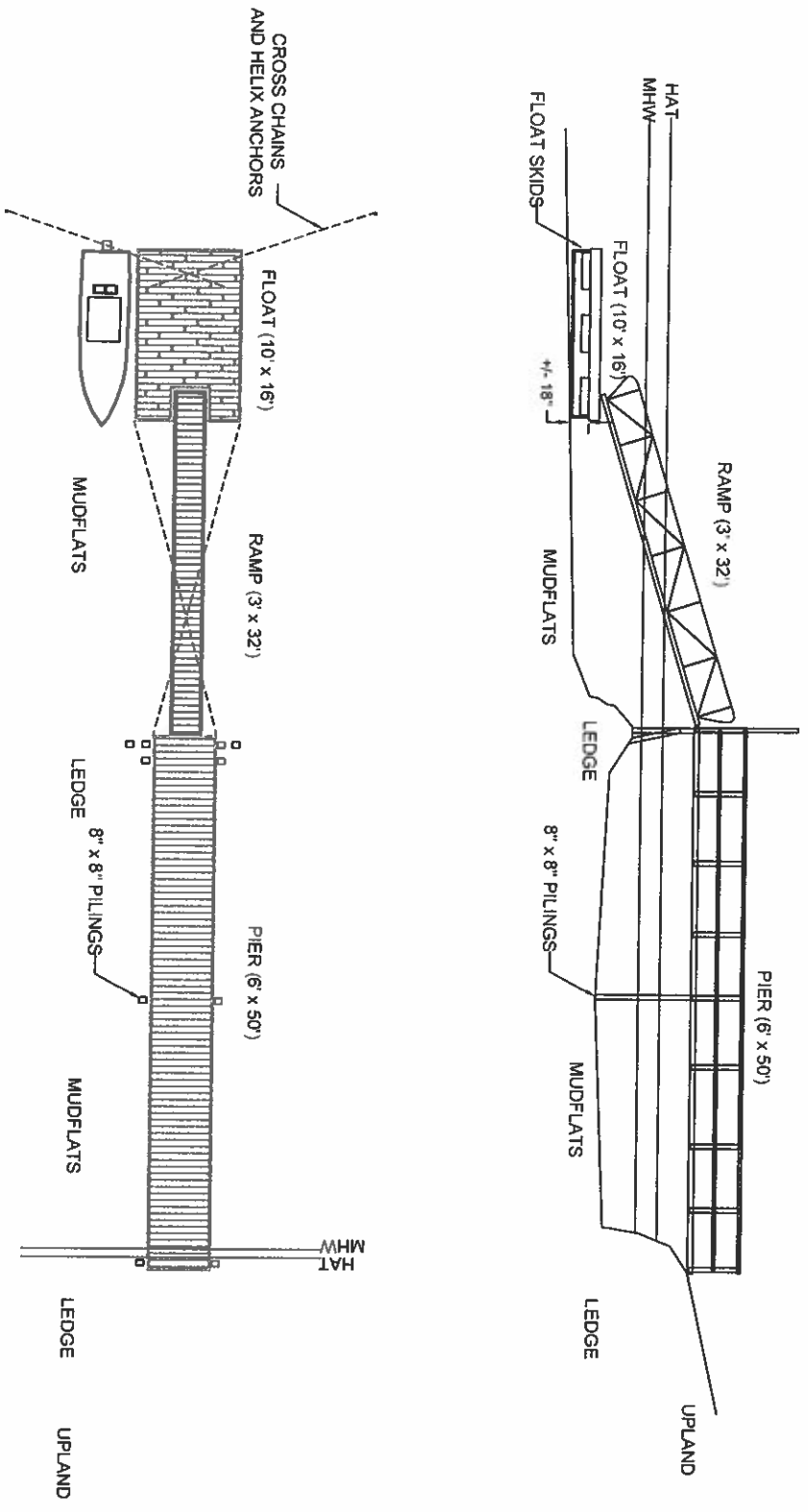
Date: 9/28/2020  
Revised:  
Project: Stein, Boothbay  
Drafted By: TAF/ILCV

Plan View of the Proposed Dock for Barters Island Bivouac 2, LLC located at 240 West Side Road in Boothbay, Maine.

Sheet  
1  
of  
3



- NOTES:
- 1) ALL PT LUMBER WILL BE CURED IN THE UPLAND FOR 21 DAYS PRIOR TO INSTALL.
  - 2) DURING THE OFF-SEASON, THE RAMP WILL BE STORED ON THE PIER AND THE FLOAT WILL BE STORED IN THE UPLAND.
  - 3) FLOAT WILL BE SECURED IN PLACE WITH CHAINS AND HELIX ANCHORS.



**ATLANTIC ENVIRONMENTAL LLC.**  
 Environmental Consultants  
 135 River Road, Woolwich, ME 04579  
 (207) 837-2199  
 tim@atlanticevromaine.com

Date: 9/28/2020  
 Revised:  
 Project: Stein, Boothbay  
 Drafted By: TAF/LCV

Plan View and Cross Section View of the Proposed Dock for Barters Island Bivouac 2, LLC located at 240 West Side Road in Boothbay, Maine.

Sheet 3 of 3

EXHIBIT 8.0: PLAN VIEW AND CROSS SECTION VIEW

