

# Special Permit: SP 2021-02 Crow Island



# Special Permit: SP 2021-02

## Crow Island

- **Applicant:** Albert Santos/New Bedford, Inc.,
- **Project Location:** Crow Island, a 2.3-acre island in New Bedford/Fairhaven Harbor, in Fairhaven (Map 44 Lot 1 - 2.29 acres)
- **Proposal:** To create a destination for events such as weddings, corporate outings, parties and other special events on Crow Island. The applicant is also looking to open the island for daily visitors via pleasure craft and launch riders to enjoy the island with a food truck and eventually a seasonal liquor license.
- **Zoning:** Property was rezoned last year from a Single Residence (RA) zoned district to the Mixed-Use District (MU)
- **Local Permits:** Special Permit through Planning Board; Conservation Commission; Fire Department, Building.
- **Surrounding Land Uses:** Fairhaven side of New Bedford/Fairhaven Harbor includes a working waterfront with ship building and repairing but also has a Hotel and residential neighborhood nearby.

# Project History and Summary:

- There was a radio tower on the island at one point possibly erected by Henry Huttleston Rogers. The house is listed as being built in 1920. In recent years the former owner used the island as his private residence.
- The island was rezoned from a Single Residence (RA) to Mixed-Use District (MU) specifically for activities such as weddings, corporate outings and family reunions.
- The house is a residence and will be rented as a Short Term Rental.
- The small building north of the house will be the bar with a seasonal liquor license.
- The patio will be open and special events can put up a tent for the event.
- The utility building will have a food truck behind to serve limited food and refreshments to daily **visitors in season**.
- After dredging they may expand the pier to eventually be open for pleasure craft and launch riders to access the island.
- The applicant **owns a boat and will also be serviced by** the launch that operates out of Pier 3 in New Bedford with proposed parking at Pier 3, Candleworks and Whale's Tooth parking lot.
- On occasions with bands, they would be located in front of the existing utility building with a new stockade fence built on the Fairhaven side to mitigate the sound.
- Hours of Operation: Seasonally May 1 to October 31 from 8 am to 12 pm for events and 11 pm otherwise. Alcohol service will cease one hour before close.
- The Applicant has prepared to connect to the Town of Fairhaven Sewer but is not connected yet. They will have temporary seasonal bathrooms connected.

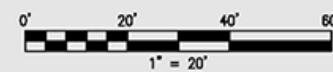
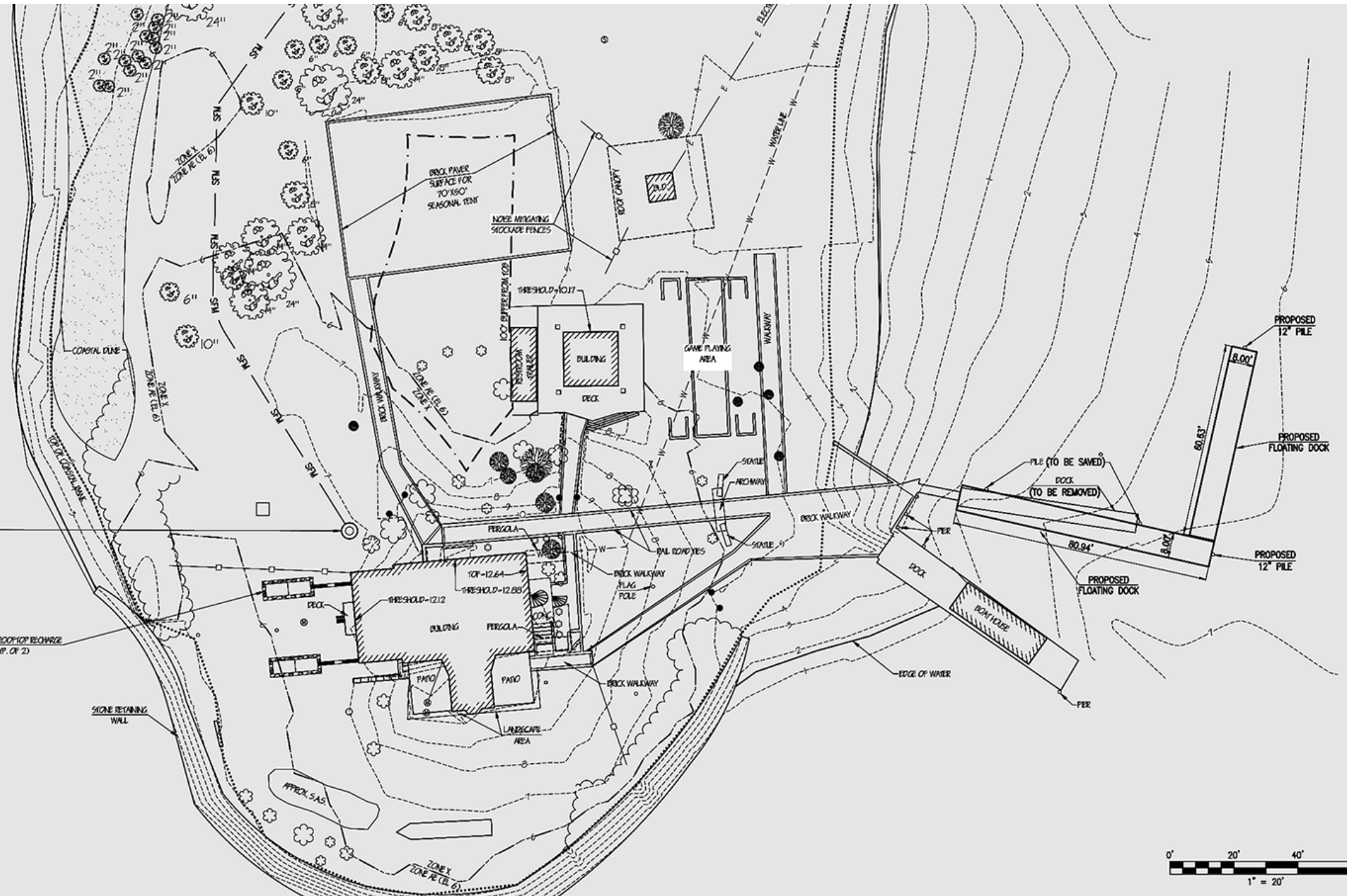
# ADMINISTRATIVE SUMMARY

- **Complete Filing Received:** May 4, 2021
- **Advertisement:** Fairhaven Neighborhood News May 6 and May 13.
- **Routing Sent:** May 14, 2021
- **Public Hearing:** May 25, 2021 (**PH 1**); Continued to June 22, 2021 (**PH 2**); Continued to July 13, 2021, July 13 Continued without taking testimony to August 10, 2021; August 10 Continued without taking testimony to September 14, 2021; September 14 Continued without taking testimony to October 13, 2023 (**PH 3** heard 10/13) and continued to November 23. November 23 continued without taking testimony to December 14, 2021. **December 14, 2021 continued without taking testimony to January 11, 2022**
- **PB Eligibility:** May 25 all present; June 22 all present except GH; October 13 (JF {Chair} & GH absent;



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| I=4.36 (OUT)     |

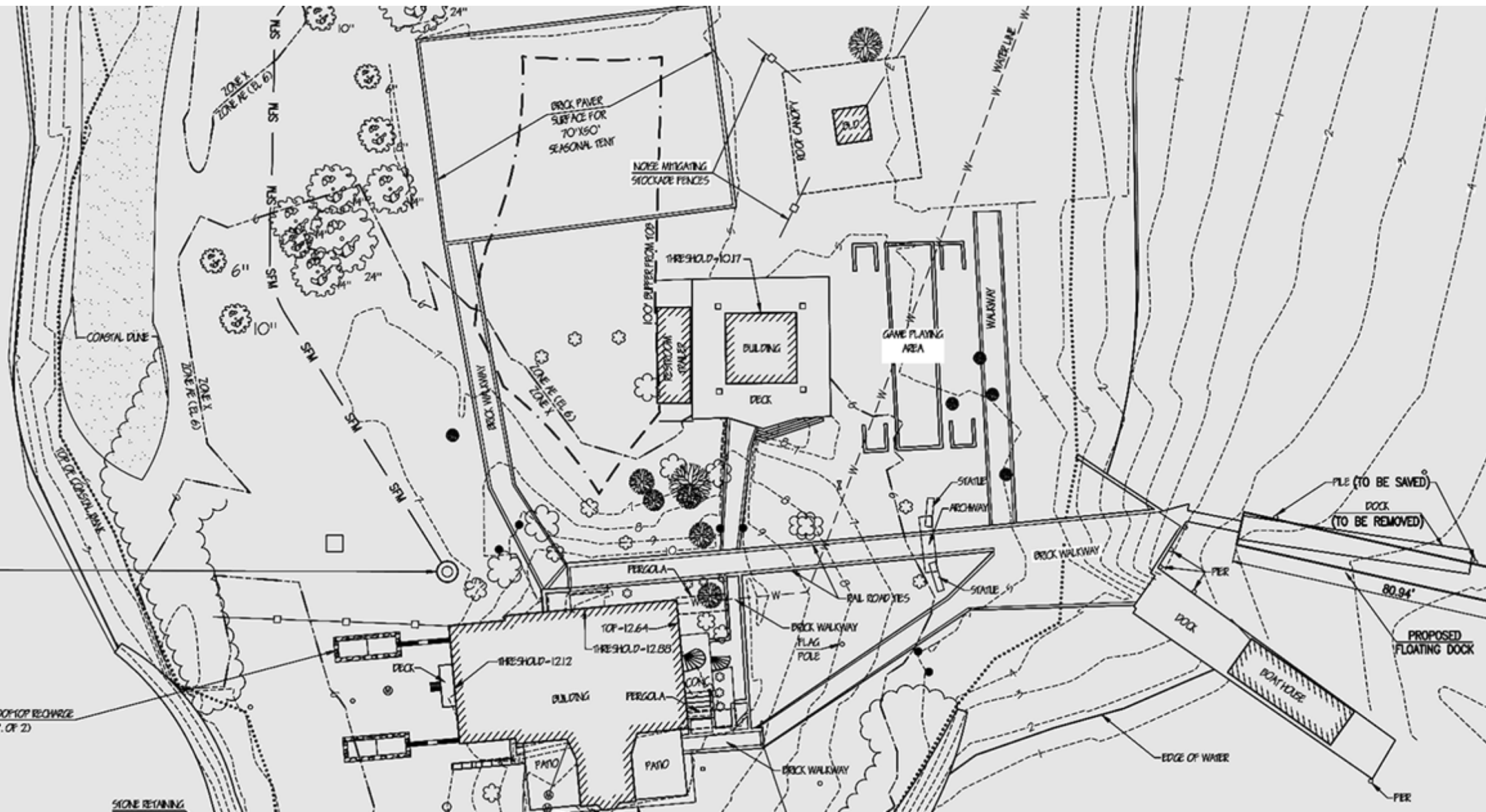
CLUBHOUSE SUBSURFACE ROOF TOP REPAIRS  
SYSTEM (TOP OF 2)



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| I=3.92 (IN)      |
| I=4.36 (OUT)     |

CLL REC SUBSURFACE ROOFTOP RECHARGE SYSTEM (TP. OF 2)

STONE RETAINING



# Comments from other Town Departments:

- Fire Department: Has reviewed the plan and have at least one concern and there will be inspections and permits that will be required by the Fire Department.
  - Any tents permitted by the building department will need to be inspected by the fire department as well. - NO additional permit is needed.
  - Cooking: Any cooking on the island will most like requires a propane tank. If that is the case a propane permit will need to be obtained. Then we will need to discuss if they are making that tank temporary (in and out for each event) or a long-term permit for the season. Seasonal permits will require that the tank is anchored down and the manner in which it is anchored may trigger conservation if a cement pad is poured.
  - The police chief and I are concerned about emergencies and what will be the emergency plan. How quickly can we get FD, PD, and medics to the island?
  - Open Fires: Is he planning on open fires, propane, or wood, and how often? This may also require another permit.
  - Fire will send additional as needed.



# Comments from other Town Departments:

- Police Department ():
  - The Police Department would be requiring the business to follow the Town's third party permitting process. This would require them to notify us in advance of any functions scheduled and allow us time to review and require any additional police needed for the event. If we would like to have this predetermined by the special permit we can discuss.
  - During these events and all other normal operating hours we have concern with Public Safeties ability to access the island. The Police Department does not have a marine unit operator on duty at all times. Although through the three Town departments we could get an operator fairly quickly we may still want to discuss requiring the Islands shuttle boat to prioritize Public Safety transportation during an incident.

# Comments from other Town Departments

- Building: The Building Department's concerns for Crow Island are as follows:
  - The tent is a temporary structure, it would need to come down prior to 180 days. The tent will need to comply with Flood and Wind zone requirements and have a flame spread rating for the fabric
  - Concerns over the noise levels and complaints as sound travels better over water.
  - If this is a public venue they will need to comply with accessibility issues for transferring there guests and for access to venue areas.
  - The occupant load of this venue will be calculated by this department, a plumbing fixture count will need to be satisfied for this occupant load
  - Parking will need to be verified.

# Planning Concerns – Cont'd PH 6/22 w/ revised plan

- There are some concerns that if the project needs safeguards in place to keep the activities from becoming a nuisance with loud music, late hours and access to the island.
- **Noise**: Although the Applicant states in their narrative that music and noise are not expected to be an issue due to their location and distance to residential neighborhoods the site is fairly close to downtown residential neighborhoods and music carries over water. They plan to contain the music within the courtyard. A 6' tall stockade fence has been added to either side of the "electrical" building where bands would set up to direct sound away from Fairhaven. Need to establish ambient night time level.
- **Access**: The applicant owns a boat that will service the island and will utilize the launch that operates out of Pier 3 in New Bedford. There is some concern that events at night or too many people could be difficult to control independent attempts to get to the island.
- **Emergency Access**: Police, Fire and the Harbormaster have reviewed and approved the draft emergency response plan for how to address emergencies and getting to the island quickly in the case of an emergency.

# Special Permit Issues

- **§ 198-2. Purpose of Zoning:** *How does the proposal adhere to the following purposes of § 198:*
- ***A. Does design promote the health, safety, convenience and general welfare of FH?***
  - With safeguards in place for health, safety and noise it could provide a new venue.
- ***B. Does design lessen danger from fire, flood, panic and other natural or manmade disasters?***
  - The Island would be used for events. The Short Term Rental needs to have a plan in place to evacuate guests in an emergency.
- ***C. Does design improve and beautify the town?***
  - The island has been abandoned for a few years. It could be an attractive setting for special events and gatherings.
- ***D. Does design prevent overcrowding of land?***
  - *Yes, this is a Mixed-Use zoned area of Town and no permanent living.*

# Special Permit Issues

- ***E. Does design avoid undue concentration of population?***
  - Yes. The capacity of the island and annual emergency response plan need to be followed.
- ***F. Does design facilitate the adequate needs of water, water supply, drainage, sewerage, schools, parks, open space and other public requirements?***
  - *The location is appropriate for Mixed-Use.*
  - *The sewer has not been connected yet.*
- ***G. Does the design conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment?***
  - *Yes, with sewer and conditions.*
- ***H. Does the design encourage the most appropriate use of land throughout the town?***
  - Appropriate at this location.

# Special Permit Issues

- ***§198-29(1): How does the proposal show Harmony with the general purpose and intent of the Special Permit chapter, and are the standards of Section 198-29(1) met by the use as designed:***
- ***§198-29(1)(a): Assure safety with respect to internal circulation and egress of traffic.***
  - *The parking is currently planned in another town. Conditions require the applicant return for Special Permit review if traffic is shifted to Town.*
- ***§198-29(1)(b): Does design provide adequate access for fire and service equipment.***
  - *The Fire Department has approved the draft emergency response plan.*
- ***§198-29(1)(c): Does design provide adequate utility services and drainage facilities ...***
  - *The site has utilities. It is an island in a harbor designated a Super Fund Site.*
- ***§198-29(1)(d): Does Landscape design conform to § 198-27C of this chapter.***
- ***§198-27C(1): No off-street parking area for five or more cars shall be located within the required front, side or rear yard setback. If no setback is required minimum parking setback shall be 6'.***
  - *No parking on site*



# PROPOSED PARKING LOCATIONS & TRANSPORTATION TO CROW ISLAND





# Revised Plan June 22, 2021





PROPOSED TENT SITE  
100' X 50'

(3) 6'x8' sections of wood Stockade Fencing Panels and posts installed at 30 degree angles as shown on each side of the stage.

Install new Arborvitae Green Giants spacing 3' on center per the length of wood fencing

ELECTRIC ROOM TO REMAIN

FLAG POLE

PORTABLE KITCHEN

PICNIC TABLE AREA

BAR BUILDING

HORSESHOE

CORNHOLE

NEW RESTROOM TRAILER

DECK

PING PONG

BRICK WALKWAY

RAIL ROAD TIES

ARCHWAY

8' PROPOSED DOCK

EXISTING DOCK

FLAG POLE

EXISTING DWELLING

FLAG POLE

DOCK

PIER

PIER

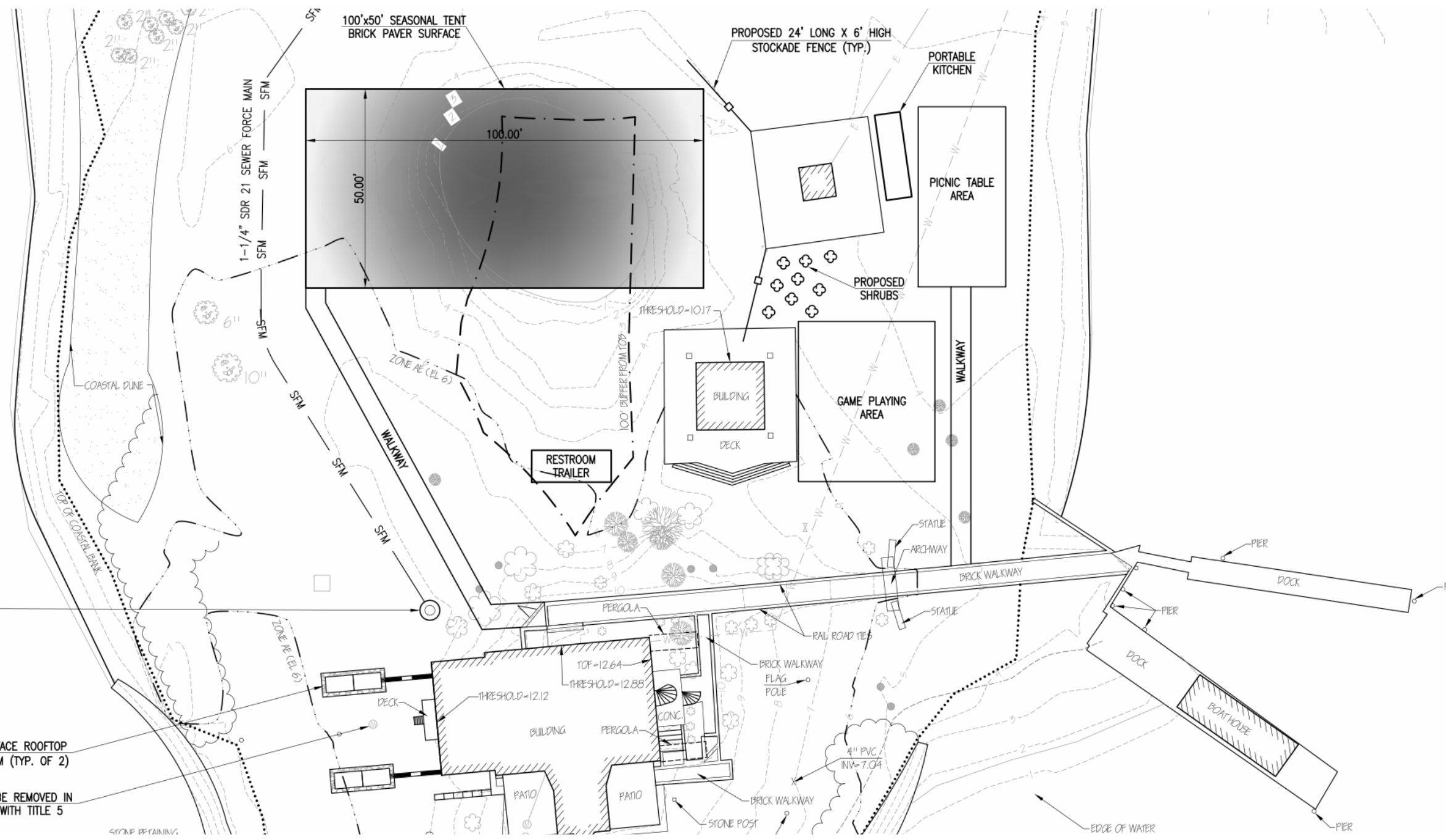
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BOAT HOUSE

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| <b>EONE PUMP</b> |
| RIM=9.00         |
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| I=4.36 (OUT)     |

CULTEC SUBSURFACE ROOFTOP RECHARGE SYSTEM (TYP. OF 2)

CESSPOOL TO BE REMOVED IN ACCORDANCE WITH TITLE 5



STONE RETAINING

EDGE OF WATER

# Proposal: Crow Island will have three commercial uses:

- Year round, the existing house will continue to be available for rent as a short term rental (STR);
  - The house shall be registered with the Town and the State as a Short Term Rental.
- Seasonally, the grounds will available to rent for special events;
- Seasonally, the grounds will available to host visitors for snacks and potentially drinks from 10:00 am to 9:00 pm or one hour after sunset whichever is later Wednesday through Sunday from approximately March 15 through November 15 on days the Island has not been rented out for a special event.

# Possible Conditions for Consideration:

## Unique Conditions for Crow Island Proposal: Permits

- The owner shall secure all necessary local, state and federal permits required for any work or activity that occurs on the Island. This shall include, but not be limited to, licenses or permits from the DEP Chapter 91 program, Army Corps of Engineers, the Massachusetts Natural Heritage and Endangered Species Program, Fairhaven Conservation Commission, Department of Public Works and Board of Health.
- The Occupant Load for the Island shall be determined by the Building Commission but in any event the maximum capacity of the Island shall be no more than 300 people. Any event involving more than 150 visitors to the Island shall require an appropriate public safety detail collaboratively assigned by the Police, Fire and Harbormaster before and the Island is used for such a special event.
- Any expansion of uses or increase in intensity of uses shall be reviewed and approved under the Special Permit and conditioned by the Planning Board before said expansion.

# Possible Conditions for Consideration:

## Unique Conditions for Crow Island Proposal: Access

- The current proposal does not include dedicated parking spots in Fairhaven. If the parking is modified to involve dedicated parking in Fairhaven or if parking in Fairhaven for the Island becomes a problem in the reasonable determination of the Public Safety Officials (Police Chief, Fire Chief or Harbormaster), commercial operation of the island shall cease and be reviewed under the Special Permit where additional reasonable conditions may be added by the Planning Board to address the parking and access concerns.
- The Applicant shall provide a map identifying the proposed public parking locations in New Bedford before a Certificate of Occupancy is issued for public use of the grounds and special events.
- Pleasure craft shall access the Island via the approved dock on the east side of the Island. The docking of boats may be reasonably regulated by the Harbormaster. An attendant shall be available to facilitate docking. Except with the explicit permission of the Harbormaster, no beaching of boats is allowed except for emergency purposes.
- The launch and any private vessels operated by or for Crow Island shall be identified and the owner or manager shall share the names of the captains and type of boat and Vehicle Identification Number with the Police Department and the Harbormaster.
- New green and red buoys, as reviewed and approved by the Harbormaster, shall be installed in the waters around Crow Island. The sandbar shall be marked to avoid any groundings.

# Possible Conditions for Consideration:

## Unique Conditions for Crow Island Proposal: Special Events

- Special Events on the Island may be held during the season from March 15 to November 15.
- Special Events for over 100 guests shall follow the Town's third party permitting process issued through the Select Board. This will require notification of public safety in advance of any functions scheduled and allow sufficient time to review and require any additional safety precautions needed for the event.
- The owners of the Island shall ensure that the operators of events on the Island have secured a third party permitting license from the Select Board for any event with 100 or more people until such time as they secure a seasonal or full time liquor license.
- If and when a seasonal or full time liquor license is secured, it shall be accompanied by an entertainment license from the Select Board outlining any further conditions on hours and capacity.
- For special events, such as corporate outings and weddings, the lessee for the event shall rent the grounds and a catering business if desired by the renter. The manager of the Island's operations shall communicate all such events to Fairhaven Police, Fire and Harbormaster.
- The manager of the Island's operations shall coordinate all events and will communicate with the Town Police, Fire and Harbormaster regarding events, operations and vendors on the Island.
- On the night of events with 150 people or more, the Applicant shall hire a police detail and fire department (EMT certified) detail. The Island's manager will discuss details with the Fairhaven Police, Fire and Harbormaster Departments. For smaller events details may be required when it is reasonably deemed necessary.
- Alcohol service will cease one hour before close.

# Possible Conditions for Consideration:

## Unique Conditions for Crow Island Proposal: Daily Visitors During Season

- Patrons may visit the island via public launch or private boat during the season from March 15 to November 15 with hours between 10:00 am – 9:00 pm or one hour after sunset whichever is later
- When no special event is occurring on the Island, the capacity for patrons on the Island shall be 150. If the number of patrons exceed 100 at any given time, the Manager shall notify the Harbormaster or the Police Department.
- If and when a seasonal or full-time liquor license is secured, it shall be accompanied by an entertainment license from the Select Board outlining any further conditions on hours and capacity. Alcohol service shall conclude one hour before closing.
- The manager of the Island's operations shall be responsible for ensuring that patrons behave in an appropriate manner and will be available to communicate with the Town Police, Fire and Harbormaster regarding any issues arising on the Island.
- If the daily visitation to the island becomes a problem in the reasonable determination of Public Safety Officials (Police Chief, Fire Chief or Harbormaster), the commercial operation of the island shall cease until it has been reviewed and approved under the Special Permit where additional reasonable conditions may be added by the Planning Board to address any concerns with noise, access, safety or other nuisance issues that may arise.



## Possible Conditions for Consideration:

### Unique Conditions for Crow Island Proposal: Noise

- For live music, the musician or band shall be located on the west side of the electric building in a spot designated on the final approved plan facing away from Fairhaven to mitigate the noise.
- A solid 6 foot fence shall be installed per the approved plans between the electric building and the bar building and from the electric building north, to direct noise away from Fairhaven.
- There shall be no amplification of music before 12 noon or after (**10:00**) pm.
- If noise or music emanating from Crow Island becomes a nuisance, the Planning Board reserves the right to instruct the Building Commissioner to issue a cease and desist and reconsider the conditions in this Special Permit if the situation is contributing to a nuisance situation, after a Finding of Fact by the Building Commissioner and after a Hearing (with notice) before the Planning Board that a nuisance condition exists.

# Possible Conditions for Consideration:

## Unique Conditions for Crow Island Proposal: Emergencies

- In the event of an emergency where evacuation is needed, the Island manager shall make any boats at their disposal available to public safety. During events, at least one boat controlled by the Island will be located at the dock on the Island. One dock space shall be dedicated to Launch Service Use and/or Emergency Response Use. During Special Events, the Island's manager and the launch or other boat Captains will be available over radio to the Town's Police and Fire and will use the launch vessel to transport police and fire personnel to the Island in the case of an emergency.
- The Island manager will coordinate with the Police, Fire and Harbormaster on an ongoing basis and designate a working marine VHF channel to communicate with the launch and other boats. Pease Park will be designed as an emergency pickup and drop off of public safety, unless otherwise agreed upon, when using the launch as a resource or medical drop off area.
- The Crow Island Safety, Communication and Emergency Response Plan shall be submitted annually before the start of season and reviewed and approved by the Fairhaven Police, Fire and Harbormaster Department. The island shall not operate for business without an approved Safety, Communication and Emergency Response Plan. This plan shall include channel and sandbar markings and current emergency contact information.

# Possible Conditions for Consideration:

## Unique Conditions for Crow Island Proposal: Food Preparation

- Any expansion of food service beyond the proposed single food truck / food container must be reviewed and approved by the Board of Health and the Planning Board under a Special Permit and any other required permits.
- The propane and the hood vent in the food truck / food container shall be inspected annually by the Fire Department per Town and State law.
- The proposed food truck / food truck shall be inspected by the Board of Health annually.
- Proper permits shall be obtained for propane storage.
- Open fires shall be confined to commercial wood-burning devices.
- The Island Manager shall contact the Fire Department to conduct an inspection when a tent or canopy for an event is placed on the Island per Town and State law each time a tent is erected.
- The food truck / food container will be subject to an annual commercial inspection including hoods to be white tagged, the suppression system properly inspected and tagged, and propane tanks secured to the trailer.
- Once all legally required local, state and federal permits are granted, the Applicant shall connect to the Town of Fairhaven sewer.

## Possible Conditions for Consideration:

### Unique Conditions: Licenses and Permits & Environment:

- The applicant shall comply with all other applicable laws and apply and acquire any and all licenses, including, but not limited to a seasonal liquor license, music/entertainment license, and a license for Public Entertainment on Sunday at the Select Board office.
- The Island manager shall be responsible for ensuring that trash is removed from the premises within 24 hours of an event or once per week, whichever is more frequent.
- Any new lighting shall be shown on a lighting plan to be reviewed and approved by the Planning Board prior to opening for visitation and events and shall follow dark sky principles such as being downward shielded and be on timers and with cut-off fixtures and no glare shall be emitted beyond the property.























PROPOSED  
TENT SITE  
100' X 50'

FLAG  
POLE

PORTABLE  
KITCHEN

PICNIC TABLE  
AREA

ELECTRIC  
ROOM TO  
REMAIN

HORSESHOE

CORNHOLE

BAR  
BUILDING

DECK

PING  
PONG

NEW RESTROOM  
TRAILER

BRICK WALKWAY

ARCHWAY

RAIL ROAD  
TIES

FLAG  
POLE

EXISTING  
DWELLING

8' PROPOSED DOCK

PIER

EXISTING DOCK

PIER

DOCK

BOAT HOUSE

PIER

EDGE OF WATER

FLAG  
POLE

BENCH