

October 20, 2015
7:00 PM

ITEM 1 - ROLL CALL

Present: Steve Beckert – Chairman, Jeff Duncan, Larry Bouchard, Greg Whalen, Dennis Lentz, Melissa Horner – Alternate, and Christine Bennett – Alternate.

Also present: Kate Pelletier, Planning Assistant.

Absent: All members present.

Voting members: Jeff Duncan, Greg Whalen, Dennis Lentz, and Greg Whalen.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED

Mr. Duncan moved, second by Mr. Lentz, to approve the minutes of September 1, 2015, as written.

VOTE
4-0
Chair concurs

ITEM 5 – REVIEW “NOTICE OF DECISION” LETTERS, AS NEEDED

Valentine Shoreland Zoning Permit (PB15-10)

This is accepted as written.

Khanjani – Home Business (PB15-11)

This is accepted as written.

ITEM 6 – PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED

A. Public Hearing and continued review of an application for Subdivision/Site Plan Review to construct a 21-unit elderly housing development off State Road. Applicant is Joseph Falzone. Owner is Barbara Libbey (mailing address: 1372 State Rd., Eliot, ME 03903). Property can be identified as Map 20/Lot 13 and is located in the Village and Suburban zoning districts. (PB15-03)

Mr. Beckert described the public hearing process and let the public know that Officer Delaney was present.

Mr. (Matt) Randall (representative from Attar Engineers) gave a brief overview of the project that was being developed on a 78-acre parcel currently owned by the Libbeys and directly across the street; that it encompasses land from State Road directly back to the power line. Using the plan, he said that you can see that the blue line kind of delineates where the neighboring property lines are and the proposed property lines are for this 20-acre project. He added that one clarification from the Site Walk was that an additional fourth abutter was delineated that wasn't clarified previously. He said that this would be a 21-lot elderly subdivision, over 55, two-bedroom units that would be served by public water and private septic systems; that we have Joe Noel here, septic designer, who also did the test pits, if anyone has any technical questions. He said that this will require a permit from DEP, an NRPA permit and a stormwater permit; that there are some stormwater facilities located around the property; that there are three bio-retention cells (pointed to on plan), a fourth soil filtration cell and, then, a wet pond that will be dealing with all the stormwater we get from the site. He added that the cul-de-sac, itself, is 1,000 linear feet to the back of the cul-de-sac right 'here' and that is per the ordinance; that there is also a five-foot sidewalk, with a three-foot shoulder shown on either side. He said that the utilities are shown in the grading plan and the profiles you see. With the houses, he said that the front yards pretty much all drain towards the street and there is a closed storm sewer system, which leads to the back. He added that the property is flanked on two sides by different wetlands; that we have Mr. Jim Gove here, whose company delineated the wetlands; that they are approximately 2-3 acres on either side within the property. He said that the area we will be developing, in total, is approximately 20 acres; that we are splitting up the boundaries; that there will be a boundary line at the Libbey parcel, which separates the existing Libbey house from the rest of the field in the back. He added that 'this' small lane is the old Libbey Lane and serves the driveway for this house, currently; that they will be drawing another property line 'here' and dedicating that to a neighbor; that we will also be cutting the back of the property so there will be 53 acres towards the rear of the property; that the remaining portion for the elderly housing is going to be about 20 acres. He said that it is split up into 9.9 acres on one side and 10.42 acres on the other side; that the zoning is the Village District in the front of the property and the Suburban District in the rear; that there will be two lots and, again, twenty-one, 2-bedroom, restricted, 55-and-over, elderly units. He said that that is a rough overview and, if there are any questions, he would be happy to respond.

Mr. Bouchard said that Mr. Randall said 21 lots.

Mr. Randall clarified it was 21 units.

7:10 PM Public Hearing opened.

Direct abutters

Mr. (Orland) McPherson, 1328 State Road, said that he is probably the largest property owner next to, or near, this proposed subdivision; that he has lived next to it most of his life. He added that, as a teenager in the 1940's, he worked the hay on this land and, since then, he has helped to maintain it by mowing it; that it's always been wet. He said that he

has observed all sorts of wildlife – deer, moose, turkeys, fox; wild flowers of all kinds, monarch butterflies. He said that it was said at a prior meeting that Fish & Game had said that there were no monarch butterflies that they could see and, the very next day, he was in his garden and one landed within his sight; that the milkweed they like to feed on is in that field over ‘there’; that it’s loaded with them. He said that the PB, over the years, has proposed ordinances to the Townspeople; that he doesn’t believe they have ever been defeated, with usually a very good vote to pass; that what bothers him when he goes to other meetings, or circulate some around the county, people who have worked on regional planning, and whatnot, will make the comment that Eliot has good ordinances but they give them variances all the time, or waivers.; that they never seem to stand up with the ordinances. He added that this is what the Townspeople wanted, there’s the ordinance that you give them when they approved them, and there’s just been waivers given. He said that, if you look at the Comprehensive Plan, and this project got him to read it, it is very clear in there that the Town should protect farmland; that this was a piece of farmland that was a good hay field at one time; that it has been mentioned before the Conservation Commission in discussion that it would be good land for a community garden if it wasn’t still used as hay land. He added that the Comp Plan also mentioned that we should protect things such as Old Libbey Lane, which is one of the earliest roads in Town that ran from the river to what they call Marsh Hill; that in the original grant of land there were the Tobeys, Libbeys, and Fogg and Libbey Lane went right through that; that that should be protected. He said that they (Comp Plan) had a survey and Question 1 on the survey 82% of the respondents said that the Town should use tax dollars to buy open space land or take steps to protect it. He added that this a land of many, many uses; that hikers snowshoe, skiing in the winter, hunting, even the elementary school has different nature studies, and whatnot. He added that the school has a trail of their own that crosses over his property, which he has always encouraged, and over onto this Libbey land, and who knows where they go from there. He said that the ordinance says that it should be on Town sewer and Town water; that there is Town water but there is no sewer; that his biggest concern is what they will do with the stormwater or the sewer when it backs up or something goes wrong with it; that the Town has had problems with these large sewer systems in the past, whether it’s up to the trailer park or just where it’s been; that that water goes down right across his land into a brook and a pond that he has down there; that he built a conservation pond; that there are at least eight people down in that area that are on drilled wells and, if you contaminate that water, what do they do, asking if the Town will put municipal water in for them. He said that he will leave it at that and thanked the Board for their time.

Mr. (CJ) Cogswell, 1336 State Road, said that he lives right across the street and is the smallest abutter with one acre. He said that he was against this project and, with a heavy heart, because he thinks that Al (Mr. Libbey) is a stand-up guy and he hates to stand against him; that he was sorry about that. He added that his main thing, he thinks, is the water and the sewer. He said that when he bought the house three years ago there was a problem with water in the basement, there, and he had to invest quite a bit of money to dry that out. He added that we tested the pits in the fall but if you go out there April, May, June it’s very damp; that we could not have walked that in the spring like we walked it today because it’s so wet down there. Discussing the wildlife in this area, just

today an hour before the PB did their site walk there were 26 turkeys just where the road is going to be; that he's seen deer and moose, turkeys and turtles, bigger than I've ever seen right behind the house; that with the amount of wildlife there it would be a shame to wreck this environment. He added that he always knew that this land would be developed; that he bought a house not the view, but he always assumed there would be a house every two acres and he would be in a neighborhood; that he never assumed he would be living in the midst of such a massive development as this. He said that he thought the process was just going too quickly; that we haven't had enough time or enough information out there for the community and the Town to know what is being proposed right in the center of Eliot; that this is right here – our downtown – and we're talking about a major development.

Ms. (Judith) Hilt said that she was the direct abutter to the west with 18 acres; that her biggest concern is that she doesn't believe you (PB) are taking the wetlands seriously enough and she also agrees with Mr. Cogswell that this is just moving like a rocket; that it just seems like, all of a sudden, we've got this massive project started. She added that you (Mr. Randall) mentioned today, when we were over where the three houses are going to go over the tree line, you are bringing in 8 or 9 thousand yards, tons, what, of fill.

Mr. Beckert said that he would have Mr. Randall address concerns once everyone had spoken but he was at the site walk and heard Mr. Randall say 8,000 to 9,000 yards of fill.

Ms. Hilt said that back when Carol Heiss won a gold medal in the Olympics she spent hours on that marsh in her grandfather's hay field because she wanted to win a gold medal, too, and she was practicing figure-eight's; that it was frozen every winter and she could skate there. She said that this marsh goes across her entire property, it goes over to the Great Works Walking Trail and, especially after listening to the developer talk about all this fill he's going to bring in, she was wondering what was going to happen to the natural contours of this land that...she doesn't know how much 8,000 or 9,000 yards is but it sounds like a lot to her and cutting down the rise in the land back there by the woods; that she knows what that land does in the spring; that her grandfather had 14,000 White Pine trees planted, after he gave up his cows in 1959, so she has a pine forest but there are no pine trees growing in that marsh because it's just too damp. She added that she can get from one end of her property to the other because, back in the day when her parents built the house, her father put in a culvert and filled in so that she can drive a tractor across that; that otherwise, she would only be able to get down to the edge of it because it's just too wet; that, even now, it's too wet and this hasn't been a particularly wet year. She said that she was dating a pilot in 1996 and he flew me to Littlebrook Airpark; that she took pictures and it's got a really good picture of the marsh in June on the Libbey land (gave pictures to the PB); that you can't really see the marsh on her property because of the pine trees but you can see the break in the trees; that it's big and she is just so concerned about this marsh. She added that the way that the houses are going to be built, she might be able to see those two that are on the property directly next to hers, but not very well, so it's not necessarily that; that it's that marsh and we've already heard people mentioning about the wildlife; that we also have fisher cats that she actually saw in her yard one January; that they make a tremendous noise and the circle of

life happened right in her backyard between the fisher cats and a doe. She said that this open space right here in the center of Town is just perfect; that she was raised here, graduated from Eliot High; that change is a good thing but she thinks this one is not conducive because of the wetlands. She said that, for years, she has been doing home care so she has been in lots of homes with elderly people and, at the last meeting we had, we talked about the square footage of the house; that it doesn't have anything to do with the square footage of a house but everything to do with the way it's designed. She added that, within the last 2 ½ years, she has been in a wheelchair, crutches, and a walker and her hallway, in her 1,700-square-foot house, is really narrow and it is because of that narrow hallway that the wheelchair was a real issue, not the size of the house. She said that she went out to Worster Road, as she understands that the same developer did that, and her question to him would be, with all that 8,000 or 9,000 yards of dirt, is it going to look like 'these' pictures with a big hump of dirt at a house that you drive into the basement and you have to climb upstairs to get into the house. She said that some of those orange flags that were out there in the fields are so close to that marsh there's no way those basements are going to stay dry, if it's just a regular house; that she doesn't believe we've been shown any drawings of what the houses are going to look like; that if they are going to be elderly houses, two floors is not going to cut it; that seniors can't do stairs very well. She reiterated that the marsh situation is just so much more, and she doesn't care how many people come down here and test it, all the soil people, and everybody; that until you live it and you see it and she has lived it and seen it all her life because she spent a tremendous amount of time at her grandparents when she was growing up and, then, built the house in 1962; that she knows what it does and it does a lot more than you are giving it credit for; that she thinks the PB really needs to take a look at that. She thanked the PB.

Mr. (Jamie) McPherson, 47 Birch Lane, said that he thought that the ordinance in the Town of Eliot states that elderly housing is supposed to have Town water and Town sewer; that he would suggest the people of Eliot have already expressed their will as to what the requirement for this development should be; that we voted on that code years ago and it should be Town sewer and Town sewer doesn't run up there. He added that he just thinks it's an inappropriate place and suggests that the people of Eliot also agree that it's an inappropriate place for this sort of development.

Mr. Beckert asked Ms. Pelletier to explain that part of the ordinance for clarification.

Ms. Pelletier said that one of the requirements is that they connect with Town water and sewer but the same ordinance also authorized the PB to waiver those requirements in certain situations; that lack of connectivity is one of those reasons; that it is in the same language and is meant to give them some leeway in certain situations.

Mr. (Robert) McPherson, 1335 State Road, said that he believed this is phase one of this project; that future phases are obviously... the land has been bought and ready to go, he believes, at some point. He added that we have three main drags between Rt. 103 and Rt. 236, which is Bolt Hill Road, Beech Road, and Depot Road; that if this project goes through, and all phases go through, we are creating a fourth main drag between Rt. 103 and Julie Lane, which exits onto Rt. 236. He reiterated that this is phase one but he

doesn't believe this is the end-all of this project; that the outlook is to extend this all the way to Rt. 236, reiterating that we would be creating a fourth major road between Rt. 103 and Rt. 236. He said that he has several other reasons why he opposes it...growing up on it, skating on it, snowmobiling on it. He added that, being 31 years in the Fire Department, he can tell you that the majority of the accidents that he's been to are Depot Road, Beech Road, Bolt Hill Road, and Rt. 103 and Rt. 236. He said that those are some of his concerns. He said that, on the greedy side, he lives right across the street and it's going to be right in my front yard. He said that he opposes it.

Ms. (Lynn) McPherson, 47 Birch Lane, said that she agrees with everything that everybody has said; that along with the wildlife, not just the land animals, but what about the birds; that there are pileated woodpeckers, owls, and all kinds of birds and wildlife in that 80 acres and where are they going to go when you start cutting it up. She asked, talking about accidents, where are those deer going to go; that there will be a lot more accidents, a lot more wildlife in people's backyards; bears, even; that we are uprooting their ecosystem and ours. She added that she had the same question regarding what the houses would look like and agrees with the Worster Road area. She said that her other concern was about sharing septics; that that is closer to her land and asked what happens when something goes wrong with that; that again that drains right down into the wetlands that are by our house. She said that her fifteen-year-old son is beside himself over this because that's his playground; that that is their playground and he wanted to be here tonight to say, "That's my future." She asked if there was a need for elderly housing and she guessed the other piece of that is two stories; that if it's elderly housing are the bedrooms upstairs. She added that all these thoughts are in her mind on that project and she does think it's moving way too fast; that it's huge and this is just phase one and she doesn't think that many of our Townspeople even know that this project is happening; that she thinks we need to get the word out.

Ms. (Carol) Gagne, 60 Debbie Lane, said that she is in a neighborhood with eight other homes and we would be getting all that stormwater in our property; that we already have moisture, even at our highest point of our property, which abuts the McPherson property. She added that she has a big concern; that her children love being able to enjoy that woodland; that the owls and the woodpeckers were her concern; that the land animals are one thing but there's also a tremendous amount of birds and fowl and an ecosystem that we can't even describe everything. She said that she has a huge concern about the well; that her basement, her septic system, all those things that will be impacted and she knows that every single one of her neighbors have those same concerns because we all line up to that same part of the property line.

Abutters by ordinance within 500 feet but not direct abutters

Mr. (Richard) Peele, 39 Birch Lane, said that the first thing he would like the Town to consider is that, on the application, there's a part about historical sites and the application states that there are no known historical sites located on the parcel within the limits of development. He added that the parcel has been owned by the Libbey Family for a substantial period and he was asking the PB to possibly research that before moving

forward with this project; that there were a couple of things mentioned earlier. He said that the second thing has to do with the community services impact statement; that it says that "it is not anticipated that the development will include any school-age children due to the nature of elderly housing so there is no impact on the SAD 35 District"; that he asked the PB to consider that because he thinks that people over 55 can have school-aged children. He said that the last thing has to do with the road (§16 of application), which says, "Entrances onto an existing or proposed arterial street do not exceed the frequency of one per 1,000 square feet of street frontage.", and it's circled 'yes'; that that is not the case; that the proposed entrance is well within 1,000 feet of Dixon Road, Old Libbey Lane, as well as the entrance to this property - Town Hall, Fire Station, Police Station and, he believes, the first entrance to the elementary school. He said that, on those grounds, he would ask that the PB not accept this proposal.

Not abutters; concerned Eliot citizens.

Ms. (Jennifer) Fox, 34 Drake Lane, said that she has a number of concerns. She said that, most importantly, in addition to what Ms. Pelletier said about the PB having the right to waive requirements and in particular for septic systems, she read §41-218 (b), "*Where connection to a public sewer system is not practical, the planning board may permit a subdivider to install a private central system or provide for individual treatment systems. In no instance shall the planning board approve a septic disposal system in soils rated poor or very poor for such purpose by the state plumbing code.*" She said that she has tried to understand that; that she finds it very interesting that, this evening, many people are talking about wet basements; that she would encourage the PB to review the hi-intensity soils survey; that there is a lot of information in it that she doesn't quite understand and she doesn't think the PB claimed to understand it at the last meeting and you have the option to hire an outside consultant to make sure that we do understand that plan, both honoring the code and honoring the request of people here, this evening, that we understand the information being given to us before we answer the questions so quickly of will you waive x, y, z. She said that, for example, in the hi-intensity soils survey one of the soils, the lamoine soils, where the roads will be going through, houses will be placed on them; perhaps septic systems will be placed on them; that she's not really sure. As a point of clarification, she asked if the septic systems have been indicated where they will be placed on the maps.

Mr. Randall said that the location of them is very close to where it should be; that we've got test pits to make sure that we were able to; that they are shown on the plan.

Ms. Fox said that she overlooked where the septic systems would go but her point was that some of the houses are on lamoine soil, which is considered to be somewhat poorly drained, so she doesn't think it would meet that requirement.

Mr. Beckert said that he would ask Ms. Fox to indulge the PB; that the soils scientist was with us on the site walk and the sites were pointed out to us but he would ask the soil scientist to address her concern of whether the soils are adequate, or not, and remember he is a certified soil scientist by the State of Maine.

Ms. Fox said that her comment on that is that it is also noted that those soils are hydric soils right in his report; that, in the plan, it is required to say that the soil scientist presents a positive outlook for the ability for houses, septic, and roads to be built on this site; that the soils survey has lots of information in it but nowhere in the survey did she hear them say that they actually have...

Mr. Beckert asked if she would like to hear from the soil scientist.

Ms. Fox said that she would like to see it written in a signed document. She asked if it is in the plan that it states that this project has sufficient soils for houses, roads, and septic, and it is signed and certified.

Mr. (Joe) Noel said that of course it is. He added that he is a Maine Certified Soils Scientist and a Maine Licensed Site Evaluator; that we did 38 test pits, he believes, so far to-date and we found a number of suitable soils that meet the plumbing code; that they're not rated poor or very poor in the plumbing code; that they meet the minimum conditions and many of them exceed the minimum conditions. He added that no systems are planned on the lamoine; that they are somewhat poorly drained soils; that they are not hydric soils.

Ms. Fox said that, in your chart, you have lamoine soils and, under the column that says hydric soils, you note 'yes'.

Mr. Noel said that that's an error she picked up...

Ms. Fox said one of a few errors we may be seeing in the plan that has been presented.

Mr. Noel said that he would review that chart; that actually...

Ms. Fox said that she would encourage the PB to review it as well as...

Mr. Beckert asked Ms. Fox to let Mr. Noel to finish.

Mr. Noel said that he actually has the soils survey labelled in the soil legend that corresponds to the soil types that are mapped on the property; that he did highlight what soils are hydric soils – the scantic, whately, breakey; that these are the hydric soils on the property. He added that lamoine is adjacent to wetlands, typically right near the wetland line but it is a non-hydric soil; that he doesn't think any of the septic areas are shown on lamoine soils; that most of them are in the moderately well-drained soil mappings.

Ms. Fox said that Mr. Noel notes that the scantic soils are hydric and the lamoine soils, you say in your report, are made up of 10% of scantic soils, asking how you differentiate that if something is being placed on a lamoine soil it's not actually hitting the scantic, or hydric, or very poorly drained soils.

Mr. Noel said that, when you do a soils map, there is kind of an implied precision where you see the soil lines on the soil map; however, we capture soils that are similar drainage classes, similar parent materials like silts and clays, and bedrock; that we capture different mapping units and, in those mapping units, there are oftentimes inclusions of soils – small inclusions – that you can't really map separately; that there are different types of inclusions that are found within our soil maps that we generate. He said that they are not large enough to cut out individual map units that separate individual soil types.

Ms. Fox asked if you are estimating that it makes up 10% of this mapping unit; that while we are working on a very small, dense area, again, she would ask the PB to really understand this report and take these things into consideration; as well as the soil limitations for each of the soils is listed in the hi-intensity soils survey; for example, the nickelbil, a soil that has limitations for road and building construction; that the road, she believes, is planned to go right through that soil so she is not sure how the developer plans to deal with those limitations of the soil. She added that our Public Works person who reviewed the report asked if there are any soil limitations for this project and she's not sure the response was returned to him. She asked if this plan was truly complete. She said that there have been questions this evening about how quickly this project is moving forward and where is the public input, will the public have a say. She said that her question was if this was a preliminary public hearing because she doesn't feel as if this plan is complete; for example, there is a requirement for a traffic study and she isn't sure that a traffic study was actually completed; that there is actual language in the ordinance for a model that used to be used and she believes there was just a couple-sentence statement about a traffic study so she would suggest that the plan is not complete; that a public hearing is supposed to be conducted after a plan is complete. She said that she would propose that the PB take in all of the information they are receiving and consider this a preliminary public hearing and make sure that the plan is complete. She said that somebody mentioned that there will be no impact to schools and the applicant addressed that it was 55-or-older housing and that a 55-year-old could have children; that she is on that category as she will have a high schooler when she is 55; that, in addition, the requirement is that only one person in the house be 55. She added that, as far as she knows, if you are following the HUD requirements, if that is where our definitions came from, there is only a requirement that 80% of the people be 55 or older so you have 20% of your population could actually purchase these units and be much less than 55 years of age. She said that she thought that saying that there was no impact on the schools or Town services was a really disingenuous statement. She said that another reason she feels this is incomplete is that they mentioned they will be seeking DEP permits, as well as some other State permits. She added that she would suggest, again, that the PB require permits in place before moving forward on this.

Ms. (Kimberly) Richards, 17 Pine Avenue, said that she is the Chair of the Conservation Commission and she has a few things she would like to bring up. She said that she thinks it was at the last meeting that Ms. Bennett had a question about the location of several units within the setback requirements of wetlands to which the response was "we have to be careful how we define wetlands because the Town of Eliot does not define those areas as wetlands." She added that she thinks that, if there is any question or any hint of a

discrepancy, we ought to really take that seriously; that she believed there was another discussion about the entrance needing to be farther away than 1,000 feet from other roads, or something to that affect, and the discussion that followed that was that the State would look at it to make their determination; that we have to decide if we are going to go with State definitions and requirements, or the Town's; that we can't have it both ways.

Mr. Beckert said that, just to clarify that, Route 103, or State Road, is a State road and the State has final authority over where the curb-cut goes; that they trump the Town.

Ms. Richards said that, even further, it seems that pretty much any meeting she's been to – Town Meeting – when there's been any discrepancy or question of what the State says and what the Town says, "It has always been what does the State say, we're going with that." Discussing the sewer issue and the waiver, she said that Ms. Pelletier verified that waivers can be made in issues where there's no connectivity but it does not say that waivers have to be made. She added that in this situation it seems like, with all the tests that are being done, hi-intensity soils survey, the site walk, what is being reported is that this site meets the minimum standards, or it's good enough and, frankly she doesn't think that minimum standards are good enough for our elderly; that we don't want a minimum-standard subdivision in Town for the elderly.

Ms. (Rosanne) Adams, 657 Goodwin Road, asked for some clarification on the project, itself; that this development has three phases and this is the first phase, and this is the only phase that is being discussed.

Mr. Beckert said that this is the phase that the PB has before it, whether it be one, two, three, or half a hundred.

Ms. Adams asked if this was a non-profit endeavor; will this be non-profit housing or is this just residential housing.

Mr. Falzone said that he was not Santa Claus.

Mr. Beckert said that it was for-profit.

Ms. Adams said okay; that she need to clarify if this was being taken out of our tax rolls. She added that her comment would be is, this is the first phase and the PB granting a waiver for the first phase; that when it gets to the second phase and there's another problem, is the PB then going to possibly look at this and say, "Oh my gosh, we don't want to stop them from doing it so we have to grant a waiver for this and, yes we can, so let's do it."; that that's a concern for her; that these things that are done in phases may present problems down the road and the PB may not want to stop it because it was part of a complete plan. She said that when she thinks of elderly housing, she isn't thinking double story; that she doesn't think that's elderly housing and she is not sure that this is actually real elderly housing from what she's heard; that she thinks it can add to our taxes with children and school and other things happening and that concerns her because she just can't see it as elderly housing. She added that she is concerned with any historical

aspect, not just Libbey Lane; that that's a known road that went through all the way to Marsh Hill. She said that she is very concerned with the wetlands; that she understands that people are very attached to the open places in our Town and she realizes that we can't hold on forever but, if there is a problem with the wetlands and the building on those wetlands and the causing run-off to other people's wells, then she thinks that really needs to be addressed; that if things aren't in order, then she doesn't think it should be approved until all things are laid out and the public is well-aware of this; that she doesn't think the people of Eliot are really aware of this project except for the people, here, who have come, or abutters, or heard from abutters. She added that she thinks the whole Town should know, especially when you are granting waivers, because the people said what they wanted in their ordinances and, now, you're going to grant a waiver because you can, if you find that you can; that she understands that but, it's a very serious thing to grant waivers and she doesn't think it should be done hurriedly nor without adequate input from the public.

Ms. (Connie) Weeks, 34 Odiorne Lane, said that she had a concern for the wetlands; that she thought that if there were going to be problems, and people have indicated that there probably will be, they can't be fixed after-the-fact. She added that, as an elderly person, she can tell you that one-floor dwellings are what they need, and not two-story. She said that she has a deep concern about what, apparently, is a flippant way that the PB appears to have in granting waivers. She added that the people of this Town vote on every single proposed ordinance and, when they vote for them it means that they support them and they don't want the PB just letting people walk right through them; that she thinks it's a real downer that you folks have granted as many waivers as you have in this project.

Mr. Beckert asked Ms. Pelletier how many waivers we've granted, to-date.

Ms. Pelletier said one.

Mr. (Scott) Gove (Realtor for the project) said that he would like to address everyone's concern about the school-aged children. He said that there will be a restriction in the condominium documents that no one under the age of eighteen is allowed to be there for longer than 30 days; that that's typical of what we do. He added that we fully intend to have at least one bedroom on the first floor; that some of the designs will have a second bedroom on the second floor for when they have friends over, guests like that; that we also intend to have one- and two-car attached garages. He said that he wanted to remind everyone that these are the people who volunteer in your schools, your libraries, these are important people in the community; that what we've found is that at least the initial purchasers are the very same people who live in this Town; that these people aren't going to be impacting the wetlands the way a normal family would; swing sets, kids running around, and things like that. He said that he thought there was a lot to consider, here.

Mr. (Mike) Wells, 15 Birch Lane, said that he abuts into Orland McPherson's properties and he's also drinking the water that they are drinking that's about four feet underneath his soil (his well). He added that he hasn't been real savvy on this and just starting to take some concerns with it; that the PB is 'wagging the dog' with waivers. He added that you

have a huge property, there, and talking about just the first phase, tonight; that you have two more phases coming; that there's a big difference between a septic system and a sewerage treatment system. He said that septic is purely biological; that treatment is technical and biological and chemical; that you have pharmaceuticals, debris, and other water-soluble metals in a treatment plant that will take care of that and this just tells him that that's being overlooked, and he doesn't want to be drinking that. He added that he thinks there isn't enough planning gone into this, yet, that you could go forward with a community like that, and two more behind it, and just wag-the-dog with waivers because you don't have a pipe that goes to it. He suggested putting the pipes in and, then, start thinking about these things; that that doesn't even come in with a concern of the wildlife and the recreational use that that land could be, if it went into, even with whatever the new fund is that we are doing the survey on, buying that parcel. He added that he understands it is important for the seller and, of course, the developer, but he really sees those two are the only ones benefitting from this; that as far as the Town goes, he doesn't see it.

Mr. (Bud) Moynahan, 1471 State Road, said that, regarding the waiver the PB granted last meeting, his understanding working in municipalities, was that a waiver is a hardship.

Mr. Beckert said no; that that's a variance.

Mr. Moynahan said okay. He added that the PB granted a waiver for 1,500 square feet and whatever the other one was; that these are elderly housing and asked who the elderly were; that he is only 80 years old and he isn't elderly. He asked what the price range was.

Mr. Gove said that we anticipate in the high \$200,000 to the mid-\$300,000 range.

Mr. Moynahan said that there aren't a whole lot of people in this Town that can afford to go into that; that just like when they put the hi-level bridge in, they said that Boston was going to move here, and they did. He recommended to the PB that the developer pay for the PB to pick an independent soils person and do the testing, and that's nothing against that young man over there, but you are taking his word for it and he doesn't think that, as taxpayers, you should do that; that he sees ice down there every day he goes by and he's been going by there since 1960; that there's ice all winter long; that there's something that doesn't percolate.

Ms. (Valerie) Nardone, 13 Pine Crest Drive, said that she would like to see the PB ask for a scientific study as far as what type of issues could come up if the septic system were to fail; that even if you were to say, right now in one of the driest years we've had, these are the wetlands that we have and these soils meet the minimum requirements, what would a soil scientist say, if we had a year that we were 10% higher in water, would be the impact to the elderly residents, as well as all of the abutters; that if we are saying that these people's basements are practically flooded now and, after you put this development in and you have excess water, what's going to happen to them; that the PB should consider that scientific proof before granting the waiver, not just that it meets the minimum

requirements right now. She asked what would the outcome be and who would pay for all that remediation.

Mr. (Joe) McPherson, 21 Wiltshire Drive, said that the driveway that takes him out onto Rt. 103, comes up onto Rt. 103 almost directly across from where this road would come out, asked if there was any other place that this road could come out onto, or come out of this development, besides 'there'; is that the only alternative for access and egress, in and out.

Mr. Beckert said that that's a question that the developer would have to answer; that the current land that is before the PB is based on that design with the road coming out where it was staked out today, if the State gives the permit.

Mr. McPherson asked, not understanding Town politics, if the PB asked questions, such as are there better places for the road to come out; do they involve themselves in that way.

Mr. Beckert said that we can ask that, yes.

Mr. McPherson said that he would request that the PB does. He asked what was the minimum distance a that a housing unit can be to a wetland.

Ms. Pelletier clarified that not every wetland was a protected, or regulated, wetland; that the State cuts a minimum definition of what becomes a protected wetland and the Town of Eliot has always gone along with the minimum requirements that the State has laid out; so, it depends on the type of wetland but, specifically in Eliot, about 75 feet from a regulated wetland.

Mr. McPherson asked if this was, or could it be, a protected wetland.

Ms. Pelletier said that, at present, this does not meet the minimum requirements to be defined as a wetland.

Mr. McPherson said okay; that he guessed that was all he had for now.

Mr. Moynahan said that, to go back to that variance that the PB granted for 1,500 square feet, Ms. Horner said 'a wheelchair', so he presumed that, being housing for the elderly, all doors and aisles and corridors in these houses are going to be 3 feet wide, asking if that was correct and all handicap-accessible.

Mr. Beckert said that he is seeing the architect nod his head yes.

The architect said that we do make them wheelchair-friendly; that because we are New England, we don't have ramps up to the front doors, and things like that, but we do make them handicap-friendly, yes, so you can age in place.

Mr. Moynahan said that the other part of his question was that the gentleman beside him said that an 18-year-old could only stay there for a certain time, asking if we have to hire another assistant for the building inspector, or is the Police Department going to have to enforce that. He added that this development is going to raise our taxes, just like it has every development that has gone into Eliot; that he has paid them since 1960, so he knows.

Ms. Gagne said that she has already spoken, but she has sat here listening to comments and lives in a house that is pretty darn close to this project, and, in terms of elderly housing, it doesn't matter that there's a bedroom on the first floor; that these people are buying individual homes and they're looking for an easier situation in their living arrangements, downsizing because they are getting older. She added that the maintenance on these houses in this wet area is extreme; moss growing, slippery when you walk, snow, ice, dew, dampness; that her yard has a lot of frozen, slippery areas in it; that she has snow-shoed and cross-country skied that property; that even in this dry summer it is wet and she can't even imagine, even with all that fill you are bringing in there, how it will prevent that natural habitat from taking over and giving these people, who are looking for an ease of life...to her it's just a lot of maintenance; that she feels we are doing a disservice calling this elderly housing because, again, "we don't have a wheelchair ramp because we live in New England." She said that she knows what her steps are like with ice; that she knows the Town tries to do the best; that there are comments from where she works that Eliot has the best roads ever because we salt and sand the roads and the trucks are always out. She added that she has enough with the road in front of her never mind thinking about that much road behind her draining down into our property and our well. She asked if the builder could please to take that into consideration that we are trying to have a better quality of life for elderly, calling this elderly housing, but she will attest to getting up there in her age that it is not easy to maintain a home in these conditions.

Mr. Cogswell said that Mr. Randall mentioned that the beginning of the road is going to drain towards Rt. 103 and, where it hits Rt. 103, it comes directly down his driveway and across the street to these people's driveways, too; that he can imagine the rain hitting Rt. 103 and heading down this road to his driveway. He added that, discussing wet basement, etc., before he moved in his house he had to call TC Hafford (wet basement specialists); that he is the closest to where everyone is talking about and he couldn't even move in until he had that taken care of. Regarding the 75-foot setback from wetlands, he asked who decided they weren't in that category.

Ms. Pelletier said that it is the State of Maine DEP; that they tell us which wetlands are regulated in Town and, just two weeks ago, they approved our map changes that we made to those wetland areas. She asked if Mr. Randall had somebody on-site come down, too.

Mr. Randall said not yet; that per the stormwater, etc., we are meeting with DEP for a pre-app next week.

Ms. Pelletier said that they are required to get some State permits.

Mr. Cogswell reiterated what other people have said and that is how can we approve these things if we don't have all the answers, yet, from the State; that he thinks that's an important thing.

Ms. Fox said that, back to Mr. Gove's statement about the condo requirements that would require somebody under 18 years old would have to leave the property, she was confused; that it is her understanding that this is elderly housing, and not a condo development, and elderly housing has a HUD financing requirement for part of it. She added that she doesn't understand all the details of it but she would hope the Board does before approving this as elderly housing. She said that when you have HUD financing and HUD requirements she thinks there's an anti-discrimination section to the HUD housing requirements and she doesn't think they could actually discriminate beyond the requirement that one person is 55; that she doesn't think you can have the extra requirement; that if there's one person, 55, owner of the property, and they have a family, her understanding is they can live in the house. She said that she didn't know if someone would like to clarify that tonight or at a future date.

Mr. (Bob) Fisher, 74 Frost Hill Road, said that back about 30-40 years ago we had a survey by the State and they told us that that part of the property from 'here' right back onto the swamp behind us is one of the best aquifers in southern York County; that he would be concerned about that. He added that the old rule used to be, and it might have changed, that we had to have a pharmacy close to new elderly housing so they could walk to it.

Mr. Beckert said that was not the case anymore.

Ms. (Helen) Goransson, 255 Depot Road, asked when the PB decides on approving any of the waivers that are being requested, do they have to take into consideration the fact that it seems like every abutter is against it with good, valid reasons or can they just say that that doesn't matter. She added that she hopes the PB will take seriously the wishes and desires of the abutters because they are the ones who have been here and have been paying their taxes and whose opinions should count a lot more than the ones who are petitioning to get all these waivers.

Ms. (Cindy) Lentz, 44 Creek Crossing, said that she would like to take the other side of the argument for a moment; that the Comprehensive Plan for Eliot calls for more of the Village Plan with public access, green spaces, walking and bike parks, and cross-country ski trails. She asked, if this project goes forward, would the developer be willing to provide this type of setting to benefit the Town in the Libbey proposal.

Ms. Richards said that she wanted clarification on the pricing of these units; that it was said "upper 2's" and that means \$200,000.

Mr. Beckert said that he would say so.

Ms. Richards said that we are talking upper \$200,000 to lower \$300,000 with a possible two stories where younger folks are not allowed to stay and care for the elderly; that we'll have revolving-door care in these live-in situations, possible 2-story buildings, minimum standards as far as all these tests, and everything. She reiterated that that's not good enough for our elderly.

Mr. (Robert) McPherson asked if the sidewalks were one side or both sides.

Mr. Beckert said that Mr. Falzone just indicated one side.

Mr. McPherson asked why it would only be one side with elderly housing.

Mr. Randall said that that's what the ordinance calls for and to reduce any impervious area.

Mr. (Orland) McPherson said that, if you take his parcel of 80 acres that he calls "the woodlot", the Libbey parcel, which is somewhere near 80 acres, and the Douglas parcel, which is already in a conservation trust, together they are over three hundred acres. He added that he made a comment at the Conservation Commission meeting that, for some reason this land is not developed, that there are some of us working on raising some money and getting a conservation easement on Mr. Libbey's (property); that he is making plans with his family to put his property under a conservation easement, also; that he would make that statement in public. He said that Mr. Fisher spoke about the aquifer and he is absolutely right; that in his years of doing foundation work, he did quite a bit of work on Bradstreet Lane and we were there when the wells were drilled; that every well-driller that came in there said that it was just an unlimited supply of water underneath and that's 'this' area; that if we can do it we would like to tie up 300 acres.

Mr. Cogswell asked, regarding the road, what the setback was from where the road would abut his property; can the road go right up to the property line.

Mr. Beckert said that it can go right to it.

Mr. Cogswell said that that shouldn't be.

Mr. Beckert said that, unfortunately, that is part of the ordinances that the Town voted for.

Ms. Fox said that there are concerns about run-off off of the development coming onto the street and that makes her think that the Public Works Director put a note in on his review saying that he had concerns about that run-off and potential icing. She asked if that note went to all the PB members.

Mr. Beckert said yes.

Ms. Pelletier said that she and Mr. Moulton had a conference call with Mr. Randall a couple of days ago and Mr. Moulton was fine at the end of it; that his concerns were resolved.

Ms. Fox said that that is documented and signed off by him; that she is concerned about conversations and decisions being made, that that is why there are requirements that there are signed-off documents.

Ms. Pelletier said that there are no decisions being made; that Mr. Moulton is just giving an advisory opinion, which the PB asked for, and he is sure he would be more than willing to put that in writing.

Ms. Fox reiterated that there are decisions that are being discussed and need to be concluded before this PB goes ahead with making decisions on waivers, final plans, etc., in her opinion.

Mr. (Joe) McPherson asked when the public would find out if there will be another public hearing.

Mr. Beckert said that that's up to the PB; that the PB can have another public hearing but they don't have to. He added that there would be a 10-day notice ahead of time and it would be put out on any of the regular sites that put out the information. He asked Ms. Pelletier if we would notify direct abutters again.

Ms. Pelletier said yes.

Mr. McPherson clarified that the people of the Town would not have any say whatsoever as to whether there should be another public hearing or not.

Mr. Beckert said no, per the ordinance.

Mr. McPherson asked if the PB had to abide by that.

Mr. Beckert reiterated that it was up to the PB.

Mr. McPherson said that he heard there were waivers possible. He asked if there were waivers for pretty much anything.

Mr. Beckert said that the PB could decide to have 50 public hearings, or one; that it's up to this Board.

Mr. McPherson said that he is asking the PB to have another one.

Mr. Beckert said that the PB is listening.

Mr. McPherson asked if the PB would respond to the public or just make no noise whatsoever.

Mr. Beckert said that that is up to the PB; that the PB needs to decide that.

Ms. Fox said, for clarification, that what she read is that the PB will schedule a public hearing after the application is complete; that as a point of clarification she would assume that another public hearing would need to be arranged.

Mr. Wells said that there was no answer to that question that he heard; if, in fact, the application is completed, there would be another public hearing.

Mr. Beckert asked Ms. Pelletier to clarify that because there were a lot of sections of the ordinance that have been taken out of context tonight.

Ms. Pelletier said that the PB found the Preliminary Plan complete at the last meeting and are required to have a public hearing at that point. She added that a final plan will be submitted, which the PB will review and, at that time, they have the option of holding another public hearing, if they would like to.

Mr. Fisher said that the soils scientist says we have enough places to put a sewer system in but we don't want to run into the same problem we have up at the trailer park area, where all the septic systems are failing and the sewer system is running down the sides of the roads and into the field; that he was wondering if there was room enough for a second system, if we needed it.

Ms. Fox commented that the PB ruled the plan to be complete and she would ask the PB to dot their 'I's' and cross their 'T's' because she feels like there are multiple places in this process where they aren't listening to the public; that there have been errors in the application and she would caution the PB about approving more waivers and continuing down this path without listening to, and making sure they are following proper procedures.

Ms. Adams asked if the PB could please have it answered whether there is enough room, should the septic systems fail, for them to be put in another place. She asked if that was being built in to the plan because that is a concern; that if they start to fail and there is no public sewer and there's no other place to put them, then what happens.

Ms. Nardone asked, regarding the PB's powers, are they able to ask the developer for things that we, or you, would think would benefit our elderly, like ramps; that even if it meets all of the Town's ordinance we would like to see these other things.

Mr. Beckert said that the PB can certainly ask the developer for any concession or condition; however, if they aren't required by the ordinance, the developer in any case, this one or any other or any individual homeowner, is not obligated to do that.

Ms. Nardone asked, if the DEP has decided that these are not protected wetlands, and there is an entire room full of people saying that these are wetlands, is there anything that the PB can do to have our wetlands, even if not at the State level, but to have our Town protect our wetlands.

Mr. Beckert said that the DEP makes the determination; that there is an approved map, which Ms. Pelletier mentioned; that the DEP has the final say on what are protected wetlands. He added that the Town can go with how they protect those wetlands and that is part of the ordinance.

Ms. Pelletier said that the State sets the minimum standard for what gets picked up and, then, the Town always has the option of going above and beyond that; that, to-date, the Town has not been supportive of doing that; that the Town has always gone along with the State minimums. She said that, at any point, we can go back to the Town and define wetlands, add buffers to them, include smaller ones; that that's an option but would require a Town vote to change the ordinances.

Mr. Beckert said that the ordinances and the maps have all been approved by the Town, as you folks have so eloquently reminded us tonight that the ordinances were approved by the Town. He added that, to change those, the Town has to approve the changes and, as Ms. Pelletier said, the Town hasn't been willing to do anything different than what is already in the ordinance.

Ms. Nardone asked who puts those things out for a vote.

Mr. Beckert said the Board of Selectmen.

Ms. Horner said that that can be generated by the Conservation Commission.

Ms. Pelletier added any board, committee, or petition.

Ms. (Susan) McPherson, 39 Birch Lane, clarified that Mr. Beckert said that the PB can't mandate anything outside of the ordinance.

Mr. Beckert said that the PB can suggest and recommend and the applicant or the developer can agree, but if he or she vehemently disagrees and it is not a requirement of the ordinance, then the PB has no leg to stand on and he or she would take us to court.

Ms. Nardone said that, as the gentleman over there talked about the condo agreement and the stipulation in there about the age limitation or that the hallways would be wheelchair-accessible, those are not necessarily written in stone.

Mr. Beckert clarified that that is actually part of the homeowner's association rules and by-laws that they intend to stand up as part of this development.

Ms. Nardone asked if those could be changed at any time because those aren't part of an ordinance.

Mr. Beckert said that if they are deeded; that it was his belief that, if the requirements as the architect mentioned are in the deeds as presented to the Registry of Deeds in Alfred, then the only way to change them is to change the deeds; that once it's recorded in Alfred with the restrictions, then that's the law.

Ms. Nardone said that because they've said them here tonight is that part of the application.

Mr. Beckert said that it becomes part of the record.

Ms. Nardone said that it becomes part of the application so they couldn't change their minds about that.

Mr. Beckert said that they would have to tell us up-front; that the applicant said it tonight, and at the previous meeting, that these would be 55-and-older and there would be restrictions in the deeds and that becomes part of the record.

Ms. Nardone said that she would add her concerns; that as a physical therapist who works with the geriatric population on a daily basis, and she looks at this housing, she just is really, really concerned that this development is an opportunity to take a piece of land and make it profitable for a developer as opposed to it benefitting the elderly population of our Town; that she isn't sure that a lot of our Eliot elderly could afford housing at that cost so who is that really targeted to. She cautioned the PB to really think long and hard whether this is truly elderly housing that's going to benefit our Town and our elderly population.

Mr. Cogswell commented that the PB has heard from a great cross-section of the Town of Eliot tonight and there hasn't been one comment in favor of this development.

Ms. Hilt asked the PB, regarding the way the houses are developed on Worster, if they could have the developer address that when the time comes because, if there's going to be 8,000 to 9,000 yards of dirt brought in, in addition to what's going to be moved, she would like to know why so much is needed, where it's going to be used, and whether some of the houses are going to look like those in the photos.

Ms. Fox said, regarding the soils survey, that she would encourage the PB to read it; that most of the soils talk about the need...the soil limitations and what would need to be done to overcome those soil limitations; that it's things like mounding, raising the road bed and putting in drains to prevent flooding in basements, etc. She added that every soil, of the ten soils listed, had limitations on them such as that so she can only imagine that a lot of the soil is going in to accommodate those soil limitations, as listed in the soils survey.

Mr. Beckert said that he was going to close the Public Hearing, pull it back to the PB, and ask Mr. Randall to try to answer some of the questions raised.

8:05 PM Public Hearing closed.

Mr. Randall said that there is a Public Notice instrument that is in the ordinance; that Ms. Pelletier sent out public notices to all the abutters, as required in the ordinance so the Town has been notified according to your ordinance. He added that it has been said that this is a 3-phase project; that this is only a single-phase project; that there has been discussion about in the future but that has nothing to do with this project; that this is just one project along with the land behind it and it's just like anybody else who owns 80 acres and that's a potential project, he guessed. He said that we are at about 21 units per acre and that is very close to what the Village District already requires, which is right up front 'here'; that we're using approximately 20.5 acres for this parcel, so, 21 divided by 20.5 is just over one unit per acre, which is very similar to all of the houses in the other lots along the Village District; that the density kind of matches up with what you would want. He added that the MDIF&W has been out; that he knows a lot of you have grown up in this area and you've seen this but MDIF&W has done their site walk; that he did get an email earlier today outlining all their findings and they don't have an issue with this project; that he walked the entire site with them and they didn't have any findings for that so we aren't required to do anything with them. Regarding the wetlands, we have Jim Gove here if he wants to speak about the wetlands are like on site.

Mr. Gove said that his crew came out and flagged these wetlands; that the wetlands are primarily in the low regions, as has been noted on the site walk. He added that those low regions are the areas where you have essentially silts and clays that are basically holding the water up and that's why at certain times of the year you will, in fact, find ponding areas out in these wetlands. He said that, once you get out of the wetland areas, you get into upland conditions, which are dramatically different than the silts and clays down below; that he will have Mr. Noel talk about those upland conditions. He said that, from the standpoint of what we see out here these are essentially wet-meadow wetlands; that these are areas which, as has been alluded to in the past, have been agriculturally altered; that in fact, when we were doing the work out here and all through 'this', we came across deep, deep plow layers that indicated to us that this had been, in fact, been plowed in the past and, while it has certainly not been plowed in the near past, these areas showed very deep plow layers and apparently were intensive agriculture, at some point in the past, all the way across both wetland areas. He added that, in essence, we recognize that wildlife does come into this area, as it would be expected to, given the fact that you have the proximity of forest around it and these provide an eco-tone alongside for them to work a lot; that in terms of the actual wetlands, themselves, they have been agriculturally altered and they are essentially wet meadow conditions.

Ms. Bennett asked Mr. Gove if he had any estimate of the extent of these wetlands, as far as an acreage estimate.

Mr. Gove said that he believes that was actually measured out and that Mr. Randall mentioned that on the site walk, about three acres on one side and three acres on the other.

Mr. Randall said that it was approximately 2 ½ to 3, yes.

Ms. Bennett said that it would be great to put that on the plan.

Mr. Duncan said that it was his understanding that that acreage was sort of a carve-out on 'this' piece of property but these wetlands don't necessarily stop at a property line; that the way they're shown, at least on the maps, they should extend in either direction, depending on which side we are looking at. He asked if we knew, roughly, what the size of the wetland is in total.

Mr. Randall said, overall, no; that we haven't gone off the property to survey that; that per the Town ordinance, the wetlands are only what is non-forested and everything off the property starts to become forested; that we have not gone on neighboring properties, we don't have permission to do that; that we have delineated the wetlands that we can.

Mr. Duncan asked if, even from aerial review, or whatever, you don't know how far these extend as a contiguous wetland.

Mr. Noel said that we can certainly look at that to a certain extent but, once you start to go into the forested conditions, especially areas that have been altered by plantings, as we've heard in some cases, it's very difficult to be able to actually determine; that at best it would be a guess.

Mr. Randall said that, regarding the natural contours and what the houses would look like, the buildings, themselves, haven't been picked out by the developers quite yet but what we are showing here are the basic footprints of what we expect to be there; that we don't anticipate drive-in basements with garages underneath. He added that the houses will be raised up and that is why we have some of the yardage coming in; that, again, that's an estimate on the yardage, as we haven't done formal calculations on that yet. He said that all these houses are raised up and, then, flows toward the street, so that's where all that extra soil and everything else is coming. He added that, as we said on the site walk, the wet pond is pretty low, here, so they are going to be taking a lot of that and, again, raising up the houses so they flow toward the street; that that's how we dealt with the stormwater and he can go over the stormwater plan later. He said that 'this' is just an estimate of what the typical houses would look like; that, again, they haven't decided on a specific architectural style, yet; however, you can see they have a garage, front door, and he doesn't know if there's going to be a second-floor bedroom, or not, on every single house; that, again, typical footprints are included in the application. He said that there's been a lot of discussion about properties up- and down-stream; that the requirements for the Town of Eliot are that we don't increase the 50-year storm. He said that the property is broken up into four sections from pre-development to post-development; that, again, the Town requires that we not increase the flows going off-site;

that we have four different drainage points that exit the property, four different sub-catchments; that we are keeping all those flows below pre-development conditions' He said that the on-site drainage system, which takes all the stormwater from the houses and the cul-de-sac and goes to the wet pond. He added that the DEP has much more stringent requirements; that they require a 2-, 10-, and 25-year study to be done to make sure there are no excess flows during those storms off-site; that they also require treatment for that and since we are over an acre of impervious (just under 3 acres for the stormwater permit) we will be required to do treatment, which is the soil filter ponds and the two bioretention cells; that the stormwater gets treated and is also contained to make sure that it doesn't increase flows going across the property line at these four different points, which are the four points where it exits the property. He said that there was mention of Mr. Noel's comments that are in the front; that we talked a little bit on the site walk; that Mr. Noel had about 100; that he was little high on his estimate; that we go to Station 75, which is only about 50 feet onto the property line since the stationing starts at the center line of the roadway. He added that there is a catchbasin down the street and we anticipate that it goes in that catchbasin; that he doesn't have any reason to think it wouldn't; that for a 50-year storm, we were getting about half a cfs extra, which is very minimal for a 50-year event; that there's a 2% chance of that happening in any given year. He said that he does not believe there are any historical sites on there. He discussed Ms. Fox's comments about the soil. He pointed out the location of the lamoine soils, saying that they are adjacent to the wetlands and there are no planned septic systems in that area; that there is a test pit located close to where the soil filter is but the actual septic systems are going to be 'here' by Test Pit 37 and up 'here' by Test Pit 33.

Ms. Fox said that he's not pointing out where all the lamoine soils are but that's okay, she guessed.

Mr. Wood said that we gave her a chance to talk and asked if we could please respond without getting interrupted every five minutes.

Mr. Randall said that she is correct; that there is a sliver of lamoine right 'here'; that that was his fault as he didn't see that. He added that there are no test pits except for the one that's right next to the wetland that we all saw and Mr. Noel talked about when we were there; that that is located close to where the bioretention cell is but no septic areas are proposed there. He added that he didn't believe we are required to have a traffic study.

Mr. Wood said that, actually, the information that we provided to the PB, that he did himself, was a little erroneous; that he told the PB that there would be 10 trips/day, which is the ATE (Associated Transportation Engineers) average for a single-family dwelling; that he double-checked that figure with a traffic engineer we use and he actually has the information, which he pulled from the ATE site online, because he knew that elderly was somewhat less. He said that elderly was about 3.7 trips/day; that it's about a third of what a single family non-elderly house is; so, over 55, single family, detached, is about 3.7 trips/day; that the development generates about 77 trips/day. He said that the other benefit about it being a low-traffic generator, as compared to a regular subdivision, is that they happen to be off-peak hours; that they're later in the morning and earlier in the afternoon

than peak traffic because, typically, for some reason over 55, unlike him, aren't going to work every day. He added that he would be glad to substantiate that to the PB with the backup information. He also said that he doesn't believe we are required to have a traffic study; that he believes we're required to provide the PB with an estimate of traffic that the development will generate.

Mr. Beckert said that was correct.

Mr. Randall said that we have requested a driveway permit from the DOT, which we are waiting on at this point. He said that there was a lot of discussion on Town services; that, again, it's over 55, it's elderly, it's probably less than most other developments; that it doesn't have as much impact on the rest of the Town that a typical single-family home would.

Mr. Beckert asked for one conversation, please.

Mr. Randall said that, other than that, most of it is the septic systems and their proximity to the wetlands. He said that, for the septic systems, we are using Eljen In-drain, which is a step up from the conventional.

Mr. Noel said that the Eljen In-drain type of product has been around; that he has been designing with them for 15 or 18 years, now, and has had good success with them; that he hasn't had any failures that he can think of. He added that one advantage of the Eljen In-drain type of leach field is that it requires less space so it's a smaller type of field; that it's a little more efficient in terms of moving the effluent; that it's a plastic kind of a chamber-type of material that has walls and surface area in it and a 4-inch PVC pipe sits on top of this product; that it's a 7-inch high plastic product that has air spaces and does a good job of treating effluent. He added that it requires less sand; that a gravelly, coarse sand is a requirement when you build a leach field. He said that, typically, there's no good sand and gravel pits right in the Eliot area so it has to be hauled in usually from North Berwick or Sanford; that it helps in terms of cost with not having to have as large an amount of fill needed to build a field. He added that the Eljen system tends to be a little more costly, even though it's smaller, because the Eljen product is more expensive than just crushed stone and perforated pipe would be; that there are some trade-offs. He said that it's a conventional system; a typically-sized septic tank with a two-compartment tank; that usually that's not a requirement but typically on most of his systems.

Mr. Duncan said, just so we understand, there will be 21 units, asking if there would be 21 septic tanks.

Mr. Noel said yes.

Mr. Duncan added that there would be combined Eljen leach fields.

Mr. Noel said right.

Mr. Duncan said that that you have two or more tanks that are going to drain to a combined leach field.

Mr. Wood said that some would have individual waste water fields, one tank drains to one field.

Mr. Duncan said that there would be some single and some combined.

Mr. Wood said that was correct.

Mr. Randall said that the definition for an Eljen single is that if they are spaced out right we can have two different tanks leading to two separate ones; that he thinks it's a 12-inch separation between the Eljen rows; that that would define separate systems.

Ms. Bennett asked for clarification.

Mr. Randall said that because homeowners may have their own Eljen In-drain but you can put them close together; that they are separate but co-located; that they can be located in sequence.

Ms. Horner said that she had a question from the site walk; that one of the sites that you mentioned didn't do so well and asked if there will be a resubmitting of that.

Mr. Beckert said no; that they are not going to use that.

Ms. Horner said that she had that question because she thought there was a field very close to that.

Mr. Randall said no; that the only one that came up on the site walk was in the lamoine; that it was near the bioretention cell but not the septic field.

Mr. Wood clarified that we have Mr. Noel dig the test pits so we know where to put the systems; that that wasn't a passing test pit so we don't put the system in that area.

Mr. Duncan said that we are going to have a single, couple, with or without others living in this structure; you're going to have a septic tank, a leach field that may or may not be shared by one or more other units. He asked who was going to be responsible for these things – pumping the tanks, making sure the leach field doesn't fail, what happens if they do fail.

Mr. Wood said the homeowner's association; that that is part of the deeded documents. He said that, as far as wastewater goes, you have about one unit per acre so you have one dwelling unit per acre, roughly; pretty much the density of the Village even though we're in the Suburban Zone; however, we've also restricted those to two-bedroom units so the 21 units only generate 4,200 gallons per day (gpd) of wastewater. He said that, regarding a multi-family project, they are allowed in that zone and everyone knows there's a

density bonus for multi-family; that if he did a multi-family on that same footprint, that same acreage, and they were 3-bedroom units, which is what they would be, they would generate 5,700 gpd; that if all those lots happened to be in your one-acre Village District and they were 3-bedroom units, they would generate 6,000 gpd.

Mr. Duncan said that they are not in the Village District, they are in the Suburban District.

Mr. Wood said no but, as we discussed on the site walk, they could generate up to 5,700 gpd and we wouldn't be asking for a waiver. He added that §41-67 allows the PB to grant waivers, as it reads, and remember, the ordinance that we're asking for is §41-310 that states that elderly housing should be on public water and public sewer; that §41-67 reads, *"Where the planning board finds that due to special documented circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent in proximity to the proposed subdivision, it may waive such requirements."* He said that there is very little public sewer in Eliot; that there's some on State Road and some on Bolt Hill Road and the rest of it goes to Main Street; that the three elderly housing projects that you have on sewer right now – Baran Place, the new project this PB just approved at the Eliot Commons, and the one on Bolt Hill Road – happen to be on private sewer and connected to the public sewer extension. He added that the Town doesn't own that sewer and the Town, really, can't give anyone the authority to hook up to it because each one of those tenants had to reach an agreement with the owner. He said that we've talked about the Comprehensive Plan and there are some other provisions in the Comprehensive Plan that probably apply to this project because, when we started to design this project, we met with Mr. Noel and Mr. Libbey and we reviewed the Comprehensive Plan; that the Comprehensive plan states that "the aging of Maine's population has been a constant topic of conversation at both the State and regional level over the past few years. Based on the MEESHA? estimates, the number of Eliot residents over the age of 65 is projected to go from 20.2% of the Town's population to 22.7%. In the meantime, the school-age population, or at least those under 17, is projected to decrease from 22.5% to 20.3%. By comparison, the percentage of Eliot residents over the age of 65 in the 2000 Census was 12.1%." He added that we all know there's a decrease in school population because we are tuitioning kids in from Rollinsford. He said that the Comprehensive Plan also states that, "Eliot's increasing median age reflects a need for senior housing opportunities and possibly other senior-related services, such as transportation, emergency services, and cultural activities. It also reflects the growing age of the region, in general, which has raised alarm in the field of economic development." He said that the last thing he would read is, "Like many southern Maine towns, it appears as if development has started to veer away from the traditional development, i.e. the compact development around a village center. He said that he submits to the PB that you do have the authority to waive the sewer requirement of §41-310; that it's a pretty low generator of sewerage on a per acre basis and we'll have Mr. Noel talk in a minute, if the PB likes, about the specifics of the test pits that we talked about on the site walk and how the systems have been designed in accordance with the State Plumbing Code. He added that, to say Eliot needs

senior housing and that it has to be on public sewer, and we know that the public sewer is not going to be expanded because the TIF has been voted down three times. He said that he thinks you want your seniors looking for somewhere else to live, other than Eliot, because there are no parcels on Bolt Hill Road or lower Main Street that are going to support senior housing. He added that we feel this is a pretty good use for it; that the senior citizens can walk to the Town center, they can walk to the other natural areas in Town, they are pretty close to The Commons, and it's a beautiful piece of property; that he thinks that those small houses, which we have asked for a waiver and the PB has graciously granted it to 1,500 square feet, will be a complement to the parcel and, also, to the seniors who are looking for an alternative to something like Baran Place or the senior apartments we have at Eliot Commons, which are going to be rental units. He said that, if the PB has any other comments on wetlands or the specifics of test pits, Mr. Gove and Mr. Noel are here; that he would be glad to bring them back to another meeting but they are here tonight. He added that he knows we had some discussion on septic and our asking for the waiver at the last meeting; that he would encourage the PB to ask Mr. Gove or Mr. Noel specific questions that you have, while we have them here.

Mr. Beckert asked if the PB had questions; that this is the time to ask the experts; that a certified soil scientist is here, certified by the State of Maine and he is not going to put his stamp on something and jeopardize his career.

Ms. Horner asked if this would be the appropriate time to read the memo from Ms. Ross (CEO).

Mr. Beckert said yes.

Ms. Horner read the memo regarding subsurface wastewater disposal for the benefit of the attending public. (Copies are available at Town Hall.) She added that all this is through the CEO through the State of Maine through septic design experts.

Mr. Beckert asked if the PB had any questions for Mr. Gove on the wetland issues or Mr. Noel on septic.

Mr. Bouchard asked Mr. Noel what happens if you try to falsify a report to get a system to pass.

Mr. Noel said that he would lose his license; that he has never heard of an instance such as that.

Mr. Beckert said to Mr. Wood that we would reserve the right, if we need to, to ask you to bring them back.

Mr. Wood said of course; that we would be more than happy to do that.

Mr. Beckert asked what other questions the PB had of Mr. Randall, Mr. Wood, or Mr. Falzone.

Ms. Horner asked Ms. Pelletier to correct her if she was wrong but she wanted to address the citizens that took issue with the project moving too fast. She said that the first line of communication she has on public record is from February 2015 in a letter, she believes, from Mr. Falzone indicating that Mr. Wood would be his agent for this project; that she wanted to let everyone know that this has been around since February. She added that she, personally, doesn't feel that this is moving too fast; that she feels it's moving at the speed of government and we only have meetings twice a month; that she feels the public has been properly allowed to be here at the meetings or allowed to be here, based on our ordinances, for a public hearing. She said that, as far as dealing with educating citizens on this, she believes that's up to the citizens to educate, whether it be yourselves or your family members or your property owners or other Townsfolk; that there's a lot of ways for everyone to educate people in Town about this project. She added that she would say that you have had plenty of time to do that. She said that she is in full support of the Conservation Commission and any citizen to revisit the wetlands in this Town; that that is just something you can do on your own; that she would encourage the Conservation Commission to spearhead that; that this is not the first time members of the Conservation Commission have been to a meeting like this and had grave concerns. She said that she would encourage you to be pro-active about these issues that you have and look into ways that you can improve things you want to improve upon before things happen that you don't like. She added that she also wanted to address the historical site issue; that we, as the PB, have to trust the applicant's information that they give us so, if they say there is no historical value to that land, then we have to believe that; that it's not our responsibility, correct her if she is wrong, to research that, look into that. She said that if you believe, as a citizen, that there's historical value to this site, she believes it's up to the person who thinks there's historical value to prove that there is; that it's not up to the applicant that there isn't. She asked Ms. Pelletier if that was right.

Ms. Pelletier said that, if someone was to appeal based on that, then, yes, the burden of proof would be on the person appealing.

Ms. Horner said that the public has that option to anyone who feels there is historical value; that there are legal options that you can take. Addressing the Suburban Zone issue, she said that in our ordinance, §45-405(g), has the Suburban zoning versus the Village zoning and she believes in the Suburban Zone, for elderly housing, the first unit has to be on at least one acre and any unit after is on a ¼ acre; so, in her opinion, this housing project is actually exceeding and going above-and-beyond the ordinance because, as Mr. Wood said, the density versus acreage is about an acre, even though it's sort of cluster housing; that they are beating the ordinance right out of the water .

Mr. Falzone said that several people said that we were going too fast and brought up the sewer waiver issue. He added that when he came in for his first design review, here, we made it clear before we were going to go heavily into the project that we knew there wasn't public sewer available and we were using septic; that he wasn't hiding anything in the beginning.

Mr. Beckert asked Ms. Pelletier what was the next move.

Ms. Pelletier said that they would have to submit a final plan; that the PB would have to act on the waiver first; that the waiver request would be what you would have to do next.

Mr. Beckert said that that would be for private septic versus public sewer because the public sewer is not available; shame on the Town for not having public sewer, having voted it down several times; however, it is his understanding that the TIFF Alternatives Committee is looking at the possibility of projects that would, possibly, benefit from sewer up through the Village District, at some point. He added that the PB has to look at what's available, what systems are there, and we act upon waivers as they are given to us and how they relate to the particular application that we are currently dealing with. He said that, with that being said, he asked what the PB's pleasure was on the waiver request of private sewer systems.

Mr. Duncan said that he would make this comment at this point, and that is, the ordinance says we may, it doesn't say we will; that he believes, based on the input that he heard from the public this evening, he thinks there is a large portion of the public that was at least here this evening concerned about possible failure of these systems and whether the soils are really suitable for the systems. He added that he didn't know if he would go as far as saying we need to hire an expert to redo what has already been done; that he thinks that we, as a PB, should however hire an independent expert to review that survey to make sure that individual sewers are even a viable option for this site before we consider this waiver further.

Mr. Whalen said that he had a question for the soil scientist and wetlands folks. He added that the determination, to Mr. Duncan's point, of whether or not soils are suitable for the task at hand rests with what body.

Mr. Noel said the Division of Health and Engineering in Augusta, the State Plumbing Code Rules; that wetlands are Maine DEP; that wetlands and septic systems are two different agencies.

Mr. Whalen said that, for clarification purposes for the public benefit, it's not a matter that this PB has either the expertise or the knowledge to determine; that it is deferred for obvious reasons to the State to make that determination; so, it becomes a condition of the approval, subject to, obviously, the approval of the septic. He added that a lot of questions came up this evening about the applicability, or the practicability of the HUD reference and qualification; he asked Ms. Pelletier to correct him if he was wrong but prior to the issuance of a building permit for this project, it would be his understanding that certifications, or documentation, to the effect that this is, in fact, a HUD-qualified [project] under our definition, as well as, with some reference earlier of a question, of the terms and conditions of a project qualifying under HUD guidelines, would be required prior to the issuance of building permits.

Ms. Pelletier said that that was correct.

Mr. Bouchard asked Mr. Duncan if he were looking to have the report looked at again or to have a totally other survey done by another party.

Mr. Duncan said the former (look at report again); just to have it reviewed by someone independent, relying on test pit results that already exist; that he doesn't see any reason to go back out and dig another 28 holes in the ground out there.

Mr. Lentz asked if we were all satisfied, then, that we're looking for a document that says all is well.

Mr. Duncan said he was looking for a recommendation from an independent expert that says that the following review – I agree, disagree - whatever the recommendations in this report are for the following reasons.

Mr. Lentz said that one of the things, for example, that he heard from the public tonight is whether we have a contingency plan and what happens if they do fail.

Mr. Duncan said that there was a question whether there was adequate space for a secondary system.

Mr. Lentz said that he has a list of about 20-25 things that people spoke about tonight and he's sure that, when we see the comprehensive list, it's going to be more. He added that he, for one, would like to be able to sit with the PB and go through these things to make sure we are all of the same understanding. He added does that mean we approve a waiver tonight, not as far as he is concerned; that he thinks it can wait.

Mr. Beckert asked the PB if they were in favor of going out for another independent opinion.

Mr. Lentz said that he was in favor of a document that says all is well; that he feels very bad and is not doubting Mr. Noel; that he thinks it's critical, based on what we've heard, that we know that.

Mr. Noel said, as a suggestion, that there have been a couple of instances where the State soils scientist has come down and reviewed test pits so it wouldn't be another consultant, it would be the State.

Ms. Pelletier said that the ordinance requires that for any technical consultant that requirement be made at the sketch plan; that there is no provision in there for it at this point in the process; that she thought the applicant would have to agree to it because we are past that point where we can require that of them.

Mr. Randall said not to speak to that because he thinks that's good; that with the test pit logs, he's actually documenting what's actually there; that if you want that second party, then that is kind of what the State is going to go through when they approve the HHH-

200 so, if that's the PB's kind of backup, someone else reviewing the actual information and saying yes, this works...

Mr. Beckert said that that would be State approval.

Mr. Randall said that that was correct.

Ms. Bennett said that she was struggling with understanding the Stormwater Management Plan; that it's a highly technical document and there was a lot of conversation this evening about this area flooding and inundation from high storms; that whether or not this was going to wash out any of these septic systems and start to pollute the adjacent wetlands and water bodies. She said that, working off of Mr. Duncan's suggestion, she was wondering if we couldn't, perhaps, have an independent engineer come and take a look at the Stormwater Management Plan in conjunction with the Hi-Intensity Soils Survey just to give us an independent assessment of these highly technical documents.

Ms. Pelletier said that the same thing would apply; that you would have had to ask for it at the sketch plan; that they have to get a full Stormwater Permit from the State of Maine; that it's quite lengthy and quite involved, if you've ever read the rules. She added that she doesn't think you can require it at this point in the process; that if they agree to it, fine, but the ordinance says it's sketch plan as the time to do that.

Mr. Wood asked Ms. Bennett if that gave her any more of a level of comfort.

Ms. Bennett said absolutely not.

Mr. Wood asked if that was because she didn't trust the State.

Ms. Bennett said that it wasn't that; that she just feels like we are being asked to make default decisions to the State to grant a waiver, subject to the State doing its job adequately, and she doesn't know if that exempts us from doing our due diligence.

Mr. Wood said that he's just trying to get his arms around what Ms. Bennett is asking for.

Ms. Bennett said that she is just trying to understand.

Mr. Wood said that the Stormwater Management Plan is reviewed by the State, by a qualified engineer before they issue the Stormwater Law Permit but he doesn't think that is what she's asking; that he thought she was asking if you can have somebody, maybe, review both the wastewater and the Stormwater Management Plan and get back to you. He added that he just wanted to clarify that that is what she is asking.

Ms. Bennett said that, yes, that was her question.

Ms. Pelletier said that the PB isn't expected to make sure that each of these reports and information complies with a standard that's out of their purview; that they are just

expected to collect the information and check off that they've received it based on the requirements of the ordinance; that no one expects you to know how to interpret a lengthy stormwater management report; that one of the conditions of approval, a standard one, is that these permits be secured and in-hand prior to building permitting from the State; that there's really not much more to your involvement in it so you wouldn't be liable if anything were to fail.

Mr. Lentz said that the State is accountable.

Ms. Pelletier said and the installer and the designer and the homeowner.

Mr. Falzone asked why our system would be any different than your system, if it failed; that you would have to do exactly what we would have to do, with all the regulations.

Mr. Whalen said that, to that point, he thinks that, for all of us in this room this evening, he suspects that the majority of us are on septic systems and, probably, a well.

Mr. Wood said that that's true.

Mr. Whalen said that, so, any more than he was asked by the CEO when he built his home in Eliot, what would happen if your septic system failed, any more than he suspected you did, either; or when you bought your home, did the bank ask, if you financed it, or, at the closing when you were asked by the closing officer what happens if your septic system fails; or his well, for that matter. He added that, perhaps, some confusion about how this type of project works in terms of accountability, in terms of repairs and maintenance but, in fact, to that very point, if his septic system fails he needs to go get it fixed, or he stops living there. He said that the check and balance within a condominium project, if you will, is that there is a governing body that is responsible for the declaration of by-laws to take care of those very items. He said that, while it may seem foreign to all of you who have only lived in single-family homes, for someone who has been in the real estate business and has not only owned, but developed, multi-family and condominium properties, the fact of the matter means that that governing body is tasked with responsibility for overseeing the health and welfare of that project, to include taking care of any issues related to septic systems. He added that the other comment about the elderly housing part of it, and he knows there were a lot of comments about thinking that an elderly project is only for those who are in their 80th year, and that's just not, in fact, the case; that, for the most part, gave you a clear definition of the eligibility requirement for these units and, for all intents and purposes, these are very active adults; that the regulations that set in motion as a result of the HUD documents, State of Maine also has their definition of elderly housing, as does New Hampshire; so, all of those benchmarks are clearly in play in determining who can and who can't live there, subject to those RSA and State statutes. He added that he feels very confident that if, in fact, these systems do at some point down the road fail and, inevitably he suspects some of them may, the backup plan is that they have to have a contingency plan in place simply because that is required to be so.

Mr. Lentz reiterated that it was very clear that we are not all together as far as understanding things. He added that he wants to make sure that, whatever was collected tonight from the public, we go through it with understanding, as we agreed; that if that takes another session with the PB, he thinks it's necessary.

Ms. Horner asked Mr. Lentz what in particular he felt he didn't understand.

Mr. Lentz said that it was not so much a question of understanding but understanding each other and how we feel about all of these subjects that were brought up tonight. He added that he thought it was important that we collectively are thinking the same way.

Ms. Horner said that she saw their role as reviewing the ordinances and applying what we are being asked, of which tonight, is a waiver be granted; that, for her, it just seems like too many emotions are involved versus just the ordinances that we've been given to review.

Mr. Lentz said that he totally agreed; that that's why he thinks we ought to have a comprehensive list and we have something to talk about.

Mr. Beckert asked for Ms. Pelletier's thought.

Ms. Pelletier said that it was certainly up to the PB; that you have determined already, by vote, that the preliminary plan is complete; that unless someone is willing to go back on that motion and change their minds, then it's complete and they move on to the next process, which is the final plan; that the PB has approved it up to this point; that all of the requirements of the preliminary plan were met, so, unless somebody is going to reconsider that motion, you have to move on.

Mr. Beckert said that, at which, the next step would be to address the waiver.

Ms. Pelletier said address the waiver and, then, the final plan.

Mr. Beckert asked for the PB's pleasure; that they have a waiver application before them.

Mr. Bouchard clarified that it's beyond our time to request a review of the results.

Ms. Pelletier said yes, according to the ordinance.

Mr. Beckert said that the results, both the stormwater and septic, are going to be reviewed by the adequate State agency and permits, if the PB approves the project, to build anything will not be approved unless those State agencies have signed off and given their approval.

Mr. Lentz said or make them conditions of approval.

Mr. Beckert agreed the PB could make that a condition of approval that there are no building permits issued until the State signs off and says that the wastewater treatment facilities, which are the septic systems, are satisfactorily designed, and the soils, they are going to review all of that; that it was the same thing with the stormwater, with the DEP reviewing the stormwater and we can make it a contingency, at some point, that no permits are issued unless the proper State permitting is granted by the DEP for the stormwater plan, period; that it's no different from the Town's stormwater plan; that that has to be approved by the State of Maine.

Ms. Bennett said that she was new to the PB and trying to learn; that she was just reviewing the Purpose of the Subdivision Chapter and it states, "*...the planning board shall consider the following criteria and before granting approval shall determine that the proposed subdivision will:*

- (1) Preserve and enhance general air quality.*
- (2) Preserve and enhance general water quality.*
- (3) Preserve and enhance soil quality and subterranean resources.*
- (4) Preserve and enhance natural resources and scenic beauty, including access to direct sunlight.*
- (5) Respect and preserve historical features and sites and traditional land use patterns.*
- (6) Provide sufficient water for development either from public or private sources.*
- (7) Provide adequate sewer disposal from public or private sources.*
- (8) Provide adequate solid waste disposal from public or private sources.*
- (9) Contribute to or at least not burden government services.*
- (10) Maintain safe roads and prevent traffic congestion.*
- (11) Protect and promote public health and safety.*
- (12) Comply with local, state and federal land use and other policies and laws.'*

She added that it states that we must consider that and, so, she thinks we should have those approvals from the State; is it going to meet the State standards or is it not going to meet the State standards before we move towards accepting this plan as it has been designed; that she did hear some concerns from abutters on wells; that not everyone has public water in the Village so there may be people who are rightfully concerned about their well water.

Mr. Beckert asked the question, again, on where the PB wants to go with this. He added that everything Ms. Bennett brought up has been part of the review, thus far; that that's part of the standard review – the checklist, the deliberations, relying on State agencies that govern certain areas of expertise.

Ms. Horner asked Ms. Pelletier if she would read, again, why the PB is allowed to grant a waiver.

Ms. Pelletier read §41-67, "*Where the planning board finds that due to special documented circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent in*

proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.”

Ms. Horner said that she felt this waiver was easier than the other one.

Ms. Pelletier said that her advice, when you are considering a waiver, is does that requirement somehow preserve what the purposes of the ordinance are; that some of those things very clearly do, like having a water supply and having a means for sewage disposal; that other things are not, asking yourself, if you didn't have whatever the requirement is, would the overall public health and general welfare be affected. She added does it matter to the public if they have a septic system or Town sewer; that they have provided a means to provide it and you would, she guessed, have to ask yourself if anyone was injured or harmed or grieved by choosing one over the other; that that would be, generally speaking, her advice.

Ms. Horner said that she totally sympathized; that her family has owned a farm in Connecticut since before the Revolutionary War; that it's like 500 acres, a beautiful piece of property, and a developer came in and wanted to develop it; that people in our community got together with a land trust and swooped in and, basically, pulled the carpet out from beneath the developer; that she, personally, couldn't have been more thrilled because she still gets to go home and walk the bunches of acres. She added that she sympathizes with the emotion in the room but, as a PB member, she feels it's their duty to respect the request of the applicant and read the ordinance, as it's written to us, and evaluate it based on that. She added that, as an alternate, she doesn't have the voting power this evening; otherwise she would have made motion, already, that we would grant this waiver to these people that have been coming here since February. She said that, besides emotional reasons, she can't personally find a reason why we can't grant this waiver other than it's one step closer to this land being developed, which she knows is devastating to some people.

Mr. Beckert asked the PB one more time; that we need to move in a direction, right, wrong, or indifferent. He added that the PB has a waiver request before them to allow the project to use private septic systems versus hooking in to a public sewer, which the Town is not capable of providing at this point.

Mr. Wood said that he sympathized with Mr. Lentz; that he's asked a lot of questions about septic since we've been here from the beginning; that there were a lot of questions on the site walk. He said that he didn't know if the PB would consider a motion to grant our waiver with the condition that we have the test pits reviewed and approved by an independent site evaluator or soil scientist; that maybe that would satisfy some of the other PB members. He added that he knows that Mr. Lentz has asked a lot of questions; that he's tried to answer them; that he feels that Mr. Lentz is fairly well-educated on it but, if a review of those test pits and one of our designs would satisfy Mr. Lentz, he would certainly like to put that on the table.

Mr. Lentz said that he would make that motion.

Mr. Beckert asked who the Town would use for the independent; that the Town gets to pick the independent.

Ms. Pelletier said that there were not many around here; that there's a couple. She asked if Mr. Wood knew a soil scientist.

Mr. Wood said that, maybe, Mike Mariano of Highland, as he's local in case the PB had questions.

Mr. Beckert said that, if the applicant has put the offer out there and is willing to move forward in that direction and let the PB do that, then that's fine; that that's one of those things, folks, that we can't require, by law, but if the applicant is willing to do it and work with us.

Mr. Wood said that Mike Mariano's a local soils scientist, site evaluator, licensed in New Hampshire and Maine, and he operates out of Somersworth so, if the PB wanted him here, he's sure the PB could get him here. He added that Mr. Mariano has reviewed stuff for us before, worked with us before, and he's local; that he didn't know if the PB would consider him and, if so, we would be glad to pay for his services.

Mr. Beckert said that, if he can get a motion out of this PB to move forward in this direction, can we talk to Ms. Ross, because he's sure our CEO is familiar with independent parties that do this in the area.

Mr. Whalen asked if we weren't getting around the issue of retaining technical support.

Mr. Beckert said that they have agreed to it; that they don't have to but they have agreed to it as a means to move forward in a direction; that in order for an applicant to come forward with a final plan, they have to have a direction from this PB in which to move.

Mr. Whalen asked what the process was of retaining technical support, as outlined in our ordinance, what is the protocol.

Ms. Pelletier said that they pay a deposit, some amount of money; \$500, or something, to get started; that it's pretty wide open; that the PB chooses. She added that she doesn't know how the PB wants to select this person.

Mr. Whalen asked if we would assign that responsibility to someone within the Town.

Ms. Pelletier said yes; that she would carry out whatever you wanted carried out.

Mr. Whalen clarified that she would be the PB's agent of record to choose and select a third party.

Ms. Pelletier said yes or, if you wanted, you could delegate that decision to Ms. Ross.

Mr. Beckert said that he would think we could delegate that to the CEO and have her decide who it goes to; that she isn't even here tonight listening to this discussion so that's about as far removed and third-party as you are going to get at this point.

Mr. Lentz moved, second by Mr. Whalen, that the Planning Board accept the waiver request for the on-site wastewater disposal system with the provision that the Planning Board get an independent evaluator, qualified to give the Planning Board a good feeling on whether these are sufficient or adequate.

DISCUSSION

Mr. Duncan said that that satisfies his need, as well.

Ms. Bennett said that she thinks it will make them feel good, as well.

Ms. Horner said that she didn't see any need for the independent study but, if the PB is comfortable with that, then she will agree.

Mr. Bouchard agreed with it, too; that he's satisfied with the public's view on the project and giving them a second review, knowing that the first one is fine; that if they feel that the systems are correct and designed correctly, then he would move forward with that.

Mr. Beckert said that the PB has heard the motion, they've heard the second; that we're going to delegate the authority to the CEO to pick the third party, and he asked for a vote.

VOTE

4-0

Chair concurs

Ms. Pelletier asked the PB if she could ask them to make a quick decision on something. She added that she and Mr. Randall were just talking about submission deadlines and asked, when it comes to something like this where the Town is doing it (requesting an independent review), is it the PB's interpretation that that also needs to be 14 days ahead of the meeting.

Mr. Duncan said that it was his opinion that the answer would be no, as long as the applicant doesn't feel they need time to review the report; that if we can get a report here and you distribute it to the members of the PB, even the day of the meeting, that would be fine by him.

Mr. Falzone said that he was assuming that, whoever this independent is, he will communicate with Mr. Noel as to the paperwork for his results to review.

Mr. Duncan said that it would come to the applicant.

Mr. Bouchard asked if we were expecting a report or a letter.

Mr. Beckert said yes; that what Ms. Pelletier was asking is if we need the letter 14 days in advance of our next meeting.

Both Mr. Bouchard and Mr. Lentz said no.

Mr. Wood clarified that, as long as we have the report prior to the next meeting, we can probably come before you again.

Mr. Beckert said yes.

Mr. Whalen asked if that would only be if we do not extend the public hearing.

Mr. Beckert said that the public hearing is closed, at this point.

Mr. Whalen said that he understood but, if we extend it, then the 14-day requirement would be in place.

Ms. Pelletier said it would be in place.

Mr. Bouchard asked what the benefit of a second public hearing be, at this point, or further down the road.

Mr. Beckert said that the PB would have to determine if there was any new significant information or changes.

Mr. Bouchard said that there was nothing that we would be changing, anyway, at that point, that would be influenced by the public.

Mr. Beckert reiterated that, if the applicant came forward with a significant change between now and the next meeting, then the PB could certainly have another public hearing and would probably be a good idea; that if there is no substantive change from this point to that point, then...

Mr. Lentz said that he would ask, in response to that, are we all able to answer all of those questions the same way that came up tonight; that he thinks the answer is no.

Mr. Duncan asked if we have to, other than a majority.

Mr. Lentz said that he thought we should but, a majority, okay. He added that he did think we should be of the same mindset.

Mr. Beckert said that, at the earliest, we meet in another two weeks.

Mr. Whalen asked on that matter, only, or do we direct the applicant to proceed to final plan.

Mr. Beckert said that the applicant, at this point, can proceed to final plan because we've given him a direction.

Mr. Whalen asked if they were going to proceed to final plan.

Mr. Wood said that, yes, we will proceed to final plan.

The PB requested several things for the final plan; a typical landscaping plan for a unit, an overlay of the units on the soil, an artists' rendering, footprints, and final submission 14 days prior to the review meeting – November 17.

9:50 PM The PB called for a 5-minute break.

B. PUBLIC HEARING and continued review of an application for a Home Business Permit to establish a custom cabinetry and furniture business at 804 Goodwin Road. Applicant/owner is Caleb Dietrich (mailing address: 804 Goodwin Road, Eliot, ME 03903). Property can be identified as Map 80/Lot 21 and is located in the Rural Zoning District. (PB15-15)

The applicant and his representative, Ken Markley, were present for this application.

Mr. Markley said that Mr. Dietrich is a carpenter and builds cabinets, mostly for kitchens and bathrooms; that this is a traditional home occupation. He added that the applicant wants to do a 32X48 barn and he has recently talked to the CEO about that; that he thinks that's about the size they are going to come to an agreement with. He said that the applicant builds the cabinets inside; that everything is enclosed within the building, itself; that he gets deliveries, at the most, twice a week but, usually, two to three times a month; that will be pretty much lumber, as the rest of it he usually goes out and gets himself. He added that the applicant does use finishes and, sometimes, paints that are flammable and he plans on storing them properly; that the insurance company is going to go over that in how to take care of that and will notify the Fire Department how it's being stored so that, if they have to come, they will know exactly where it's located. Regarding fumes, he said that there is ventilation that takes it outside the building. He added that the applicant uses a metal dust-collection system and part of that is, if he makes PVC's, metals, and things like that, sometimes you have a fire hazard and, again, his insurance company is going to be talking to him about how to minimize fire hazards; that the applicant won't be creating dust around the neighborhood. He said that the applicant is going to use cellulose insulation for noise in the walls; that that absorbs almost all the noise coming through the walls; that he is also minimizing some of the windows on the left-hand side of the building. He added that the applicant also plans to have a bit of a vegetative buffer between him and the neighbors; that it is wooded completely around the building. He said that most of the time the doors are closed and the reason for that is dust and, also, for humidity; that the wood can swell so he tries to have a controlled environment. He said that when the applicant transfers the units into a truck to be delivered there will probably not be any machinery running at that time because they'll be busy loading the truck. He added that the applicant does sell all his products off-site; that he comes to your house

and measures everything, talk to you about your products, and things like that; that the only time that anyone would hardly come by is to, maybe, check out how it's coming; that he doesn't actually sell any of his products there but delivers and installs it in the house. He said that the setbacks for this particular project are 20 feet for a home business from the property line and he plans on adhering to that.

Mr. Duncan asked if it was just the applicant; that there are no other employees.

Mr. Dietrich said not at this point; that he thinks he is allowed up to two but, currently, it's just him.

Mr. Whalen asked if the plan we have in front of us is the same.

Mr. Markley said yes; that he just blew it up to a little larger scan.

Mr. Dietrich said that the building size is shrinking from what is shown.

Mr. Markley said that it is now 32X48.

Ms. Pelletier said that we are coming close to an agreement that everyone can live with in terms of the provisions of...

Mr. Bouchard asked if we were talking about a home business or a building.

Ms. Pelletier said a home business; that that's the PB's purview. She added that Ms. Ross is going to permit the structure as an accessory structure and he still has to be, in her eyes, smaller. She added that the PB's purview is Chapter 45 §456.1 Home Business.

Mr. Duncan clarified that it would be as if the building were there.

Ms. Pelletier said yes. She added that she and Mr. Dietrich are working on conditions if the PB so chooses to use it; that he acknowledges that the CEO has to permit this and, if it changes in dimension, he has to come back to the PB for an amendment from what is currently proposed; that he has not yet sent a new plan to her so what we are going on is the same one that we went on last time.

Mr. Bouchard asked where he was going to perform the work before the building is built.

Mr. Beckert clarified that we are approving a home business in a space, 32X48, regardless of where it is on the property.

Ms. Pelletier said that this was just like Cumberland Farms that hadn't been built yet; that it's to be built.

Ms. Horner said that it's just that he doesn't want to build a building he can't use.

Ms. Pelletier said that he is fully aware that he needs to satisfy the requirements of the CEO at the same time.

Mr. Markley said that this is the applicant's sole source of income; that that was probably why he (Mr. Markley) got involved because we want to make sure he gets his home occupation; that that's how he is raising his family.

Mr. Duncan asked the applicant if he was doing this somewhere else at the moment.

Mr. Dietrich said yes.

Mr. Duncan clarified that it was not on your property.

Mr. Dietrich said no.

The PB acknowledged receiving two letters in support of this application.

10:05 PM The Public Hearing was opened.

No one from the public spoke.

10:06 PM The Public Hearing was closed.

Mr. Beckert said that what we have before us is an application for a home business for Mr. Dietrich to do his cabinetry business in a space, 32X48, somewhere on the property.

Mr. Lentz asked Mr. Bouchard if he understood what happened last time, as you weren't here.

Mr. Bouchard said that he thinks he has the gist of it to this point.

Ms. Pelletier said that, as far as you are concerned, you can pretend that it is there now; does it meet the requirements in what he has proposed in the sketch within that building. She added that, within any accessory building, you are allowed to use up to 1,500 square feet of it for the home business, even though the building might be larger than that.

Mr. Bouchard said that his question was under what law provision, or ordinance, do we have the right to do this without the building being built.

Ms. Pelletier said that, with anything, you condition it on permits being granted by the CEO; that that's the case with any site plan review.

Mr. Duncan moved, second by Mr. Lentz, that the Planning Board approve PB15-15, as presented, with the following conditions of approval:

1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the

Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board.

2. The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.
3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
4. The applicant agrees to abide by the conditions of the Code Enforcement Officer as to the future building for this activity.
5. The applicant will coordinate with the Eliot Fire Chief on issues related to fire code compliance.

VOTE

4-0

Chair concurs

Mr. Beckert said that there is a 30-day period by which the PB decision can be appealed by an aggrieved person or parties – move forward but move forward cautiously.

C. Application to amend a previously approved Site Plan for a day nursery and artists' studios (PB14-20) by relocating two existing buildings on the property located at 230 Beech Road and attaching them to the main building. Applicant/owns are Jeff Apsey/Granite State Pioneer, LLC (mailing address: 5 Chauncey Creek Road, Kittery Point, Maine 03905). Property can be identified as Map 20/Lot 19 and is located in the Suburban Zoning District. (PB15-16)

The applicant was present for this application.

Mr. Apsey said that the two portable buildings were used as classrooms by the Waldorf School so they are all done, the ceilings are in, the lighting is in, finished flooring, etc. He added that he wanted to try to use them for the daycare because she has a demand for it and, if he could connect them to the main building, then they would become handicapped accessible, part of the other building, and just seems like that's what the Fire Marshall and all the licensing people really want to see with daycare – single level; that they don't like multiple levels or elevation changes because they want it all accessible, the flow for the children and the usage and, then, it makes the fire requirements less stringent when you have one single level. He reiterated he would move those two buildings up to, and connect them with, the existing building, maintain that 20-foot sideline setback, and connect them with a 20-foot section; that that was under the request of the tenant because

she said that the classrooms had to be a little bigger than what they are now. He said that, if he took the two buildings and stuck them together, but had a 20-foot section that he would mend them together with, that would allow him to get the bathrooms in the buildings; that he has to add a bathroom for each classroom, as that is the law for a daycare; that he also has to put a handicapped hallway in to keep the whole handicapped accessibility for the facility; that that would eat up square footage and the bathrooms would be the square footage and, then, that would make the whole thing work for two daycare classrooms. He added that, with the plumbing, when they are connected to the main building it makes it easier to get the water service to them. He said that they would be insulated; that right now he can't put bathrooms in them because there is no foundation and would have issues with that; that this way it would be a full foundation so that he can get the plumbing in the buildings and would be more accessible for the children, connected on the same level to the existing structure. He added that the building would be about the same distance from the property line that it is now; that it would just be sliding up. He said that one positive thing is that he would be getting rid of one of those ugly circular decks that were built, and the yurts.

Ms. Pelletier said that the Fire Chief contacted her late today and apologized; that he's been away; that he wanted to ask if he could have until the next meeting to look at this in terms of which life safety codes and Fire Marshall review.

Mr. Beckert said that we could put this on the next meeting agenda.

Ms. Pelletier agreed and said that there are no other issues; that the PB doesn't have to do a public hearing on this.

Mr. Duncan said that there is no change in site use; that it's just relocating existing structures.

Mr. Apsey agreed; that the buildings were used as classrooms and would now be used for classrooms, just more accessible.

Ms. Horner asked if this would qualify as an administrative change because everything that's really changing seems to have to do with the CEO.

Ms. Pelletier agreed. She added that the usual way the PB does this is that the Fire Chief will weigh in and you will incorporate his comments into the conditions of approval; that you can leave it open and have them defer to him, whatever those comments may be, or you can take a look at them yourselves; that she doesn't think anything major will come out of that tonight but you never know.

There was discussion regarding the southeast corner of the proposed structure not meeting the 20-foot setback and the applicant agreed to measure that corner off to meet the setback and allow the rest of the structure to fall where it falls.

Mr. Bouchard asked if we could approve this with Fire Department conditions.

Ms. Pelletier said yes.

Mr. Beckert asked what the PB's pleasure was on this.

Mr. Bouchard said that it was his opinion that there was no further action by us beyond the Fire Chief's approval and could approve the change.

Mr. Duncan moved, second by Mr. Bouchard, that the Planning Board accept PB15-16 as an Administrative Change to PB14-20 with the same terms and conditions as applicable to the original application with the additional condition that the applicant comply with any issues raised by the Eliot Fire Chief.

VOTE
4-0
Chair concurs

Mr. Beckert said that there is a 30-day period by which the PB decision can be appealed by an aggrieved person or parties – move forward but move forward cautiously.

ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

There was no discussion.

ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED

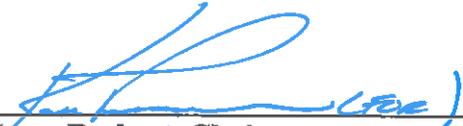
This was not discussed.

ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for November 3, 2015 at 7PM.

ITEM 10 – ADJOURN

There was a motion and a second to adjourn the meeting at 10:20 PM.



Steve Beckert, Chairman
Date approved: 1/5/2016

Respectfully submitted,

Ellen Lemire, Recording Secretary