



**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.

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

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

**ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED**

There were no minutes reviewed tonight.

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

There were no Notices of Decision reviewed tonight.

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

**A. Continued review of a Final Plan and application for Subdivision/Site Plan Review to construct 21-unit elderly housing dwelling units off State Road. Applicant is Joseph Falzone (mailing address: 7B Emery Lane, Stratham, NH 03885). 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. Falzone, Mr. Wood, Mr. Gove, Attorney Parkinson, and Mr. Libbey were present for this application.

Mr. Beckert said that we have the letter Mr. Wood sent in going over the checklist; that the PB also has a letter from Mr. Noel; a letter from Pierce Atwood, who is an attorney hired by Helen and Paul Goransson and Judith Hilt; and a letter from the Eliot Historical Society.

Mr. Wood said that he asked Attorney Parkinson to comment on the receiving of the Matthew Manahan letter (Pierce Atwood), which we received late yesterday afternoon. He said that there was not a lot to talk about on the plan; that we went through the plan in great detail at the last PB meeting; that this submittal has the individual driveways, serving two units, and we discussed that in pretty good detail at the last meeting. He added that we felt, even though a common driveway serving three or more units might be applicable, it would require a waiver and we opted out of that waiver. He said that the PB also has the review letters from Mr. (Michael) Cuomo, who the Town used as a third

party review for a certified soil scientist to evaluate; that he has two letters from Mr. (Joseph) Noel; that we don't believe there are any other issues with soil suitability or wastewater meeting both the 1,000-foot requirement and the 20,000 square-feet per lot. He said that he wasn't sure what the PB would like to do with Matthew Manahan's letter but he did review it, even though we received it late; that if you believe Mr. Manahan's letter, none of us know what we're doing – we don't know what we're doing, Town staff doesn't know what they're doing, DEP doesn't know what they're doing, DOT doesn't know what they're doing and, unfortunately, the PB doesn't know what they're doing. He added, however, that all the issues in Mr. Manahan's letter have been brought up before and discussed in great detail; for instance, the waiver on unit size, this PB, either with current members or previous members, has approved a waiver in unit size for at least two of the projects we've done – The Villages at Great Brook and the Eliot Commons Senior Housing facility. He added that the other points regarding soil suitability, stormwater, DEP, site location, development permits, have all been discussed in great detail; that Chris Woodruff (DEP), as requested by the PB, sent the PB a summary of her field visit with Chris Coppi to determine that the wetlands were not wetlands of special significance. He said that Mr. (Orland) McPherson had also asked them to come down to evaluate the pond; that he believes the PB has Ms. Woodruff's summary that we received today that is a review of the project under a stormwater permit; that when they review a stormwater permit, they also look at if the project trips the 3-acre threshold for site location development, which it has not. Regarding traffic, he said that State Road is either at a level of service of 'A' or 'B'; that it's not at a level of service at 'C' or below; that we gave this PB a traffic impact and congestion study and he thinks that Diane Morabito is pointing out things that are not true. He said that Barry Sheff he knows very well and actually worked for us several years ago; that Mr. Sheff was kind enough to call me before the letter came out to discuss some of these things; that if the PB would like us to go into more detail, he would be glad to but he would tell the PB that Mr. Sheff has never seen this site; that he asked Mr. Sheff if he had come down and, unfortunately, by the time he was notified to do this study he didn't have any time to come down and view the site. He reiterated that Barry Sheff has never been on-site and it's probably safe to assume that Matthew Manahan and Diane Morabito haven't been on-site. Mr. Wood said that we have a DOT Entrance Permit. Regarding any DEP issues, he said that the PB has the results of Chris Woodruff's site visit with Chris Coppi and they are reviewing our stormwater management law, our Chapter 500 application, and it doesn't require a site location development. He added that, just for comparison, he could use the same acreage that he has and he could put a 1,000-foot road in it, at least 10 single-family detached residential homes (not elderly), he wouldn't be asking for any waivers from this Board, the same amount of wastewater flows if they were 4-bedroom homes instead of 2-bedroom homes, and his traffic for those 10 homes would be 100 trips per day in comparison to the 78 trips per day that we've given the Board documentation on. He added that another thing to compare it with is that State Road has 3,310 trips per day; that ADT, the Maine DOT 2013 specs, is a little subdivision we did on State Road for Alan Newson, six lots; that those six lots, which were just south of Beech Road, generate 60 trips per day (10 trips/day for each unit); that they are 18 trips less than this development is going to generate so he would submit to the PB that 78 trips per day on a State road that has 3,310 trips per day; and remember that our trips happen off-peak and he's given

the PB the ADT information; you know, there is not going to be an impact, it's not going to change the level of service up State Road from either 'A' or 'B' to 'C' or 'D'. He said that the PB has been very cooperative; that Ms. Pelletier and Ms. Ross, when we've asked them to, have done a wonderful job and Ms. Pelletier certainly got all the information out; that he just has a lot of problems with a 12<sup>th</sup> hour letter claiming that pretty much everything with the subdivision is wrong, when he knows this Board has discussed, in detail, most of the points referred to here, asked us for additional information, where appropriate, and we've provided it; that he doesn't believe that DOT or DEP have made any grave errors, as Barry Sheff would like to point out. He said that we would ask the PB to please consider approving our final plan tonight if they could find their way to do that. He added that he didn't know if Mr. Falzone wanted to add anything.

Mr. Falzone said that we've come to numerous hearings and we've tried to provide everything the PB has asked for; that he is just trying to plan for the spring and to get going on the project.

Mr. Wood said that any questions on points in either letter or points we brought up in the past, of course, we would be glad to answer.

Mr. Beckert said that he went over the letter from Pierce Atwood in context with the ordinance in it; that he would say this, it was a feeble attempt by someone who does not understand land use ordinances and took a lot of stuff out of context instead of using the proper sections of the ordinance.

Mr. Wood thanked the Chair for reviewing it; that he knew he received it late.

Mr. Whalen said, just for clarification purposes because he happens to interpret differently than as was outlined in the letter from Pierce Atwood, regarding Chapter 37 Streets & Sidewalks §37-69 G, that that talks about layout requirements and entrances. He added that the ordinance states, "*Entrances onto existing or proposed arterial streets shall not exceed a frequency of one per 1,000 feet of street frontage.*" He said that one interpretation has it that that frequency of one per 1,000 feet means, in fact, any street coming out onto an arterial road, whereas, he believes that the appropriate interpretation of what the ordinance says is that any entrance onto or for subdivision shall not occur at a frequency of greater than one per 1,000 feet of frontage. He asked Mr. Wood if he would please comment on that because he's obviously worked with plans and projects at a greater frequency than we do; what is the correct interpretation.

Mr. Wood said that he and Ms. Pelletier discussed that this morning; that he believes the correct interpretation is one entrance per 400 feet for collector roads for a new subdivision and one entrance per 1,000 feet for an arterial road. He added that, in this case, the DOT has jurisdiction but you can't expect that every lot owner on an arterial road to own 2,000 feet of frontage before he can do one thing; that, for example, he would have to own 2,000 feet of frontage and he would have to put his road right in the middle of it to have an entrance frequency of 1,000 feet so he didn't put his neighbors out

of business. He added that the project requirements in the Suburban District are 150 feet; so, Mr. Whalen has it correct because Wells, for instance, has a very similar ordinance that, if you have two entrances serving a proposed subdivision, they cannot be any closer than 400 feet; that's in agreement with our minor and collector street requirements and, if he had the same subdivision with two entrances because he had greater than a 1,000-foot cul-de-sac or a loop road, he would have to divide those by 1,000 feet on the parcel he was proposing to subdivide. He said that he didn't think you can just take all landowner's rights away by saying we're going to have one entrance for every 1,000 feet of frontage on an arterial road and one entrance for every 400 feet of frontage on a collector road, when the actual frontage required for lots is 150 feet, because he could put a road in and he could put all his neighbors out of business.

Mr. Bouchard asked if we were all set with driveways.

Mr. Beckert said that, at the last meeting, it was decided they were going back to the original plan. He added that we do have a letter from the Fire Chief and he stated that he would have preferred the shared driveways but, even with the individual driveways, he still recommends the hammerhead turnaround, which is what you're proposing anyway.

Mr. Wood said yes. He added that Chief Muzeroll came over to the office yesterday and he and Mr. Randall sat with the Chief for quite a while going through the plans. He said that the Chief would prefer shared driveways, like most of us would, but the ordinance just doesn't allow us to get there.

Mr. Lentz confirmed that the latest of the drawings now reflects where we want to be with those driveways.

Mr. Wood said yes.

Ms. Bennett asked if the driveways were 16 feet wide.

Mr. Wood said that the Fire Chief allowed us to go to 12-foot wide driveways.

Mr. Duncan confirmed that they were 16 feet when they were shared.

Mr. Wood agreed they were shared at 16.

Ms. Bennett said that the single driveways are 12, asking if the shared driveways were 16; that there are still some shared driveways.

Mr. Wood said serving 2.

Mr. Duncan asked if Mr. Wood could walk the PB through Mr. Noel's letter (12/14) and how the drawings currently reflect those comments.

Ms. Bennett apologized but said she was having a hard time digesting a lot of dense information that we received today, or yesterday; that she knew that the applicant may have gotten the information in on December 1<sup>st</sup> or December 8<sup>th</sup> but it's only getting to PB members on December 14<sup>th</sup> or 15<sup>th</sup>.

Mr. Wood asked if she was referring to Mr. Manahan's letter, which he has no control over.

Ms. Bennett said that she was actually not making any reference to any specific document but to the number of documents actually sitting before us on this table or in our boxes at Town Hall this evening, or anything else. She added that she is just expressing that to the Chair and not saying applicant.

Mr. Beckert said noted.

Mr. Wood said, for the record, we certainly object to Mr. Manahan's letter; that it came in after the public hearing and the Board was left with pretty much only 24 hours' notice; for the record, even though we're prepared to answer the points in it he would object to it.

Ms. Bennett said that Mr. Wood got it a day before us so he has that advantage; that we didn't get it until today.

Mr. Wood said that some of these points we've been through before; that on this plan we have the 1,000 square-foot boxes drawn around the wastewater systems; that he believes even Mr. Cuomo's letter, dated December 8<sup>th</sup>, says, "*The plan I reviewed does not designate a 1000 square foot suitable soil area around each wastewater disposal area.*" Mr. Wood said that he had an earlier plan. He further read, "*Examining the test pit data and the High Intensity Soil Survey, I believe the pre-development soil on the site meets this requirement.*" He added that the other requirement of Eliot's ordinance we talked about a little before – 20,000 square feet per lot – he thinks we established at the last meeting that the 12-acre lot, which has the nine units, has 150,000 square feet and is greater than the 20%; that the northern lot serving the nine units has 208,000 square feet; that we supplied those figures to the PB before, at the last meeting, so he believes that we provide you that we meet both the 1,000 square-foot requirement for the wastewater fields and the percentage requirement. He said that, if we go to Mr. Noel's last letter (wastewater), dated December 11<sup>th</sup>, in Item 2, Mr. Noel calculated that the fields need to be 11'X24' and he thinks the sizes on our plan are 11'X20' and we would certainly be glad to add 4 feet. He said that, usually, when this Board reviews wastewater suitability on sites we provide you with test pits, only, and the actual design and size of the field is up to the HHE-200 Form, the CEO, and the LPI, who reviews and approves the design. He said that, in Item 3, we have added spot grades to the plan so the drainage actually...that it didn't go the wastewater disposal system before but you could interpret it that way...so we added spot grades that keeps any surface water drainage from going over the system. He added that Items 4-6 have been resolved – that the driveways aren't ROW's so there is no 10-foot separation distance. He said that, in Item 7, we specified that any wastewater disposal systems located near a driveway are either graded but HS20

loading, which vehicles can drive over them as these are concrete chambers or we moved those slightly when we applied for the HHE-200 Form. He said that, with Item 9, we talked about the 1,000 square-foot requirement; that the rest are just notes. He said that Mr. Noel notes that there is a 750-gallon tank requirement; that we are proposing, like most designers would propose for a single-family residential, a two-compartment 1,000-gallon tank with a 250-gallon capacity pump chamber. Mr. Wood said that, other than that, he thinks that we and Mr. Noel have kind of gone over-and-above the requirements set forth by the ordinance and the PB rightfully asked for their third-party review; that he thinks the PB had two letters from Mr. Cuomo more or less attesting to the same. He added that he would submit to the PB that both the soil suitability requirements and the individual wastewater disposal requirements have been more than met for PB approval. He said that we are about at HHE-200 Form design stage, now.

Mr. Duncan said that he guessed the fact that we have a 12/1 last revision date on this map set and this letter is dated 12/14, do we anticipate any changes to the drawings.

Mr. Wood said not to the drawings, themselves, as there could be subtle changes to the design of the wastewater systems that would be specified in the HHE-200 Form, the actual design of the systems, themselves; system locations are not going to move appreciably, you have test pits; that the 20,000-square-foot requirement for each lot has been met and the 1,000-foot requirement for each system has been met, so, no.

Mr. Bouchard, addressing Ms. Pelletier, said that he saw a few sections on the checklist – 41-213 – are we all set with everything yellowed out.

Mr. Lentz said that he went through them all this afternoon and most of them Mr. Wood had answered; that there are a few he had a question mark on. He discussed Water Supply 41-127 (b), saying that the ordinance calls for a minimum water supply to be 350 gallons/day and he knows we have a letter from Kittery Water District, asking if it is sufficient to cover 350 gallons/day.

Mr. Wood said that he believes we've submitted two letters – one for capacity dated Nov 10<sup>th</sup> says, "*Please accept this letter as verification that the Kittery Water District has reviewed the plans for the Libbey Parcel located off of State Road and have found the proposed water main and associated utility easements to be acceptable.*" He added that the first letter established that capacity is available; that he could probably find it.

Ms. Pelletier said that she has that letter on capacity availability.

Mr. Beckert said that the stormwater permit was still pending but that can be a condition of approval.

Mr. Duncan discussed unit size. He said that he knows we've waived the requirements as established in the ordinance and, if he recalls correctly, the applicant has said, over and over again, that we're talking 1,500- to maybe 1,800-square feet.

Ms. Horner said no; between 1,200 and 1,500.

Mr. Wood said that the applicant would have asked for a waiver for 1,800.

Mr. Duncan said that he keeps looking at drawings showing these units being 50'X40', which is like 2,000 square feet. He added that he looks at your drawing, and he assumes this is a hypothetical plan for a unit and he hasn't multiplied out all the square footage for the various rooms...just conceptually we're looking at...

Mr. Wood suggested bigger than 1,500.

Mr. Duncan said yes.

Mr. Wood asked if Ms. Pelletier could help him out with the definition and what's included and what isn't.

Ms. Pelletier said that garages are not included in the floor area calculations but just living space. She added that they always say not to put the houses on the subdivision plans because they change location, they change size; that no one would allow them to be more than 1,500 square feet at building permitting time. She said that it will say that on the plan but the location of houses are not meant to be binding on the final subdivision plan, as long as it shows it could support it in that general location; that all efforts will be made to construct it there, she's sure.

Mr. Beckert said that the PB has basically granted up to 1,500 square feet of living space and that is what the CEO will enforce when permits are pulled, no more than that.

Ms. Pelletier agreed.

Ms. Horner said to Ms. Pelletier that, in that checklist she provided, there was a section about allowing Town personnel to access property within the condo HOA agreement, asking if this was an appropriate time to ask about that.

Ms. Pelletier said yes.

Mr. Wood clarified that that was for post-stormwater.

Ms. Pelletier said yes; so, just amend the declarations.

Mr. Wood said that, if you find your way to approval, make it a condition and we'd be glad to amend it; that that's for the CEO or Planning to kind of look it up – stormwater, bmp's - to make sure they're operating in accordance with the maintenance and operation agreement that you have that DEP will approve.

Mr. Whalen, discussing 41-310 (a), said that the applicant has provided a sketch, or a drawing, of what he guessed was a typical unit.

Mr. Wood said yes.

Mr. Whalen asked if there was a requirement in the ordinance to have a plan that was any more than a guideline or sketch.

Ms. Pelletier said no; that there are no architectural standards so it's just reviewed at the time of building permitting by the CEO.

Mr. Whalen said that that was just a way to give the PB and the public an idea of what the units were going to look like as opposed to a specificity regarding size or size of rooms or dimensional issues.

Mr. Wood said that that's right; that he thought that the Board had asked, at one time, what these units look like so we had a color rendering, you've all seen, with the floor plans; that he's sure that, before any building permits are issued, the CEO that they met with the area increase over the 1,500 square feet previously granted by waiver. He added that there has been some rumor out there that these units are the same as Greenbriar, the garage is on level and residents can't use them and that's not true; that most of them are single-family units, garage on same floor; remember, by our definition he could have moved into these units five years ago.

Mr. Bouchard said, in reference to the Eliot Historical Society, that it was our understanding that there was nothing on that site that is registered with the federal historical registry.

Mr. Beckert said nothing.

Mr. Bouchard said that that would be the only issue, if something was registered.

Mr. Beckert said as he reads it. He asked Ms. Pelletier if that was her interpretation that there is nothing on that site that has been considered by, or registered with, the federal historical registry.

Ms. Pelletier said that that was her understanding.

Ms. Bennett, going back to the December letter from Mr. Cuomo, said to Mr. Wood that when he was discussing some responses to that letter, in Item 4, the issue that was raised was, "If the shared driveway serving units 13 and 14 is a right-of-way..." and you said these driveways aren't rights-of-way.

Mr. Wood said that they weren't a right-of-way, they are an easement; that at best they're shared between two lot owners and certainly not a right-of-way; that a right-of-way would implicate a road and, by our ordinance, roads can't exceed 1,000 feet in length.

Ms. Bennett asked if the legal definition of a right-of-way is a road.

Mr. Wood said that he believed that a right-of-way can be a number of things but, in this case, the driveways are not rights-of-way; that there is no established right-of-way for a driveway. He said that Eliot's definition says that a driveway can serve two or less homes; it's not a right-of-way, it's a driveway.

Ms. Bennett asked if the owners of these dwelling units have rights to pass on their driveways.

Mr. Wood said that of course but they have rights in common, they share a driveway; that if it was a right-of-way, it would require setbacks, etc.

Attorney Parkinson said that driveways are not normally considered a right-of-way; that in this context, you have the main road coming in and very short driveways that are triggering other zoning requirements.

Mr. Beckert asked if the PB had other questions on the checklist or the subdivision plan, in general. He added that, hearing none, he asked what the PB's pleasure was on this application; that we are at final plan.

Mr. Duncan said that it was his personal opinion that we had new information dated December 14<sup>th</sup> in front of us that the PB should take time to review; that it was certainly submitted well after the deadline for this meeting. He added that he realizes that the applicant may not have control over some of those submissions but he thinks, with the public interest that has been placed on this application, that the PB should take its time to review that information before considering this application any further.

Mr. Beckert asked for the feelings of the rest of the PB.

Mr. Bouchard said that he could go either way.

Mr. Lentz said that he would be willing to spend a little more time.

Mr. Whalen said that he was flexible, either way; that he's had the opportunity to review this information this afternoon and other members did not.

Ms. Pelletier reminded the PB that they are under a 45-day timeframe to approve the application; that she would get the wording for them.

Mr. Duncan said that the PB can also deny it if the applicant doesn't grant an extension to that.

Ms. Pelletier said that she didn't think the PB would be just in denying it; that they have met all the requirements.

Mr. Duncan said that, maybe, the PB doesn't think they have.

Ms. Pelletier said that, if you don't, then you need to identify which ones they have not met so that they can meet them.

Mr. Wood said that, if you look at the letter from Woodward & Curran, the materials date from April 21<sup>st</sup> to November 13<sup>th</sup>, with the exception of the last three items, which address soils that are the Soils Survey, the Subdivision Plan (dated Dec 1<sup>st</sup>), and a letter from the reviewing soil scientist, Mr. Cuomo, dated December 8<sup>th</sup>. He added that we made final plan application on November 17<sup>th</sup>; that he thought that any abutter who wanted to have a dog in the fight had ample opportunity to get a letter to this PB before yesterday.

Ms. Bennett asked when was the waiver of applying for the sewer that was conditioned on the soils being suitable for wastewater treatment; that she thought that was after November 17<sup>th</sup> but she can't remember.

Ms. Pelletier said that it was October 20<sup>th</sup>.

Mr. Wood said that, except by your logic, he could hire an attorney and a review engineer to derail any project with the applicant on the firing line against a 45-day deadline and deny his application, even though he's met all the standards.

Mr. Lentz said that that's true.

Mr. Wood said that that's not how zoning works.

Attorney Parkinson said that, then, we're forced to make an appeal for the denial because of the passage of time.

Mr. Wood agreed; that maybe that's true but it's certainly not how zoning works and he doesn't think he's ever seen any other town in York or Cumberland Counties operate that way.

Mr. Beckert again asked what the pleasure was of the PB on this application.

Mr. Bouchard moved, second by Mr. Whalen, to accept PB15-03 as the final plan application with the following conditions:

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. Copies of approved permits from the Maine Department of Environmental Protection and the US Army Corps of Engineers, if applicable, shall be provided to the Code Enforcement Officer before construction on this project may begin.

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 approval 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. Copy of approved Traffic Movement Permit from the Maine Department of Transportation shall be provided to the Code Enforcement Officer before construction on this project may begin. If a Traffic Movement Permit is not applicable to this project, a letter from the Maine Department of Transportation Traffic Engineering Division saying so shall be provided to the Code Enforcement Officer before construction may begin on this project.
5. Prior to the issuance of building permits, the homeowner's association, in accordance with Chapter 35 (Post-Construction Stormwater Management), shall enter into a maintenance agreement with the Town of Eliot to acknowledge that the homeowners' association shall have the legal obligation and the resources available to:
  - a. To clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, at least annually, to prevent the buildup and storage of sediment and debris in the system as described in the Post-Construction Maintenance Plan for the facilities;
  - b. To allow access by Town personnel or the Town's designee for annual inspection of the Stormwater Management Facilities for conformance with these requirements;
  - c. To pay the Town of Eliot an annual fee to conduct the inspections;
  - d. To repair any deficiencies in the Stormwater Management Facilities noted during the annual inspection;

This agreement shall constitute a covenant running with the land and shall be referenced in all deeds to lots/units within the approved development. (See appendix 1 of Chapter 35 for a sample maintenance agreement)
6. Condominium declarations shall be revised to acknowledge the post-construction maintenance agreement and provided to the Code Enforcement Officer prior to the issuance of building permits.
7. In accordance with Sec. 33-132, the subdivider shall furnish a performance guarantee in the form and amount approved by the Board of Selectmen prior to the issuance of building permits.
8. Memorandum from the Fire Chief, dated December 14, 2015, regarding the driveways.

## DISCUSSION

Ms. Pelletier said to Mr. Wood that he would have to provide his drawing to reflect the Fire Chief's comment.

Mr. Wood said that that was fine; that we'll get an approval letter from the Chief that would be included in a final plan.

Ms. Pelletier said that the PB would have to look at the final version of this plan, anyway; that you would have to sign it.

Mr. Duncan said that he would only say, at this point, that this application should be voted against; that the waivers that have been granted, particularly the sewer and unit size requirements in our ordinance; that they are there for a reason, in his opinion; that the benefit this applicant has for density is there because of those ordinances and, by waiving those ordinances as this Board has, he thinks, we've gotten both ends of a bad stick, here. He said that he is recommending a vote against.

Ms. Bennett said that she would echo Mr. Duncan's sentiments about this; that she thinks there are still pieces of this application puzzle that we have yet to really look at; that she didn't think we have satisfactorily taken a look at the soils and septic and that is a large piece of a very substantial waiver of this application with regard to the sewer. She added that the documents have been coming in only days before the meetings and we have not had sufficient time to review them; that she thought that this PB should take a moment within this 30-day window and review, a little more closely, the larger, major subdivision to come through Eliot in a very long time.

## DISCUSSION ENDED

### VOTE

3-1 (Mr. Duncan)

Chair concurs in the affirmative

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

**B. Application for Site Plan Review to construct a self-storage facility at 220 Beech Road. Applicant/owner is: Medical Environments, LLC (mailing address: 42 Pepperell Road, Kittery Point, Maine 03905). Property can be identified as Map 29/Lot 37 and is located in the Commercial/Industrial Zoning District. (PB15-21)**

The applicant, Brian Rodonets, was present for this application.

Mr. Rodonets said that he has owned part of that 4.91 acre parcel for about 13 years, with a partner; that we have been waiting and watching the climate to see what would go in there. He added that, as it turns out, we have not attracted any of the clients we were

looking for; so, what we're doing right now is proposing to put in a series of self-storage units. He added that we have 11 buildings, with a current total of 336 units; single story, as proposed; that we meet the setbacks, the height requirement. He said that our neighbors are in support of this – Niven Damon; that his partner in the land is up for it, as well – Richard Donhauser; that it seems like a good use of the land.

Mr. Lentz asked if access to the storage units was from Beech Road.

Mr. Rodonets said yes; that there would be no access onto Route 236.

Mr. Lentz asked if there was water.

Mr. Rodonets said yes; that there is water right at the edge of the property; that it is Kittery water. He added that there would be very light use of water; that we will have only one bathroom and a sink and a utility sink.

Mr. Lentz asked if septic would be required.

Mr. Rodonets said yes.

Mr. Lentz asked if there was septic right there on Route 236.

Mr. Beckert and Ms. Pelletier said that it was on the other side of the road.

Mr. Lentz asked if it was the plan to go across the road.

Mr. Rodonets said no; that that's a private line and the owner has a lot of people on that little 4-inch line right now. He added that we don't think that line can handle the small amount of sewage that we need right on the property; that we'd be putting in a private septic.

Ms. Pelletier asked the applicant if he had a design in the works for that.

Mr. Rodonets said yes; that he has contacted with a septic designer; that he has gone to the property but hasn't done any testing on it, yet; that there is no design, yet, but he's ready to go.

Mr. Duncan said that, at one time, this was approved for the flea market.

Mr. Beckert added that it was approved for a dollar store and approved for a medical office building at one time. He added that this is what the applicant is coming in for, now, and if it's a viable project, then that's what we need to look at, what he's presenting.

Mr. Lentz asked if they would be sitting on concrete pads.

Mr. Rodonets said no; that they would be full foundations and concrete slabs.

Mr. Bouchard asked what building the bathroom would be in.

Mr. Rodonets said that it would be in the building right at the entrance when you come in, which is the office, shown in Building #5 on the plan.

Mr. Whalen asked if this was intended to be a phased-in project or are you building these all at once.

Mr. Rodonets said that what he'd like to do is get approval for the whole project right now and, because of the nature of it, he would like to phase it; do a Phase I and, right behind it, a Phase II. He clarified that what he is looking at right now is a Phase I for 6 buildings and, then, the Phase II would be an additional 5; that looking at the site plan, the top 6 buildings are Phase I.

Mr. Whalen asked if these are climate-controlled units.

Mr. Rodonets said no.

Mr. Duncan asked if there would be any utilities in the buildings.

Mr. Rodonets said no; that they would have security lights on the outside of the buildings and security lights around the perimeter, along with the fence and security cameras, but no other utilities.

Mr. Duncan confirmed there would be no electric in the units, themselves.

Mr. Rodonets said that that was correct.

Mr. Whalen said that, knowing full well what may be requested regarding signage, he asked Ms. Pelletier if where the signage is located on this plan currently conforms.

Ms. Pelletier said that as long as it is set back 8 feet from the ROW. She added that the 100 square feet, she believes, is for multiple commercial businesses, separate businesses and not buildings; that she thought 100 square feet is the max we allow and that's when you have multiple commercial...

Mr. Rodonets agreed that that was correct.

Ms. Pelletier asked what the other business was on the signage.

Mr. Rodonets said that there isn't one.

Ms. Pelletier said that the applicant may be over what he is allowed for signage because he only has one business entity, asking if that was correct.

Mr. Rodonets said that that was correct.

Ms. Pelletier said that the pertinent section is 45-528 (c) but she is missing that page; that it is for a new lot and this is an existing lot.

Mr. Beckert read §45-527, "*The aggregate area of all signs upon a lot or premises, except where otherwise provided in this article, shall not exceed the maximum area permitted in that district.*" - §45-528 (c) Measurements: "*In a commercial or industrial establishment under separate ownership on one parcel within the commercial/industrial district, a common freestanding structure shall be permitted adjacent to a town way or interior street, provided that such sign: (1) Identifies establishments located within the parcel; (2) Does not exceed one sign per use; (3) Does not exceed ten square feet per sign in area; (4) Does not exceed 100 square feet in size.*" He added that he doesn't see where it breaks it out into if you've only got one business on the property.

Ms. Pelletier asked how come this has never come up before.

Mr. Duncan said that it says a common, free-standing structure for multiple establishments.

Mr. Beckert said that the applicant only has one business.

Ms. Pelletier said that she thought the applicant could still have 100 square feet; that the footnote says, for requirements applicable to 2 or more commercial or industrial establishments under separate ownership on one parcel within commercial/industrial district; that that's where it breaks it out into the 10 square feet per, but, back to the dimensional table, it would just be 100 square feet otherwise.

Mr. Beckert confirmed that the applicant can have a 100-square-foot sign.

Ms. Pelletier said yes, apologizing for the confusion.

Mr. Rodonets asked if that 100-square-foot signage could be divided into two locations; that, for instance, what he'd like to do is put one so that it is visible from Harold L. Dow Highway and, then, one up near the gate; like, on the gate, so that when people are driving up the road they'll see it.

Mr. Duncan asked if, then, (b) applies, which basically says that he thinks he's limited to 50-square-foot per sign.

Mr. Rodonets asked even with the same business.

Mr. Duncan read the section, "Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another..."; so, you could have one two-faced sign, as long as it's less than two feet thick, be 100 square

feet, or, he could have two signs that are 300 feet apart that are 50 square feet a piece, or 25/75.

Mr. Rodonets clarified that it has to add up to 100 square feet.

Mr. Beckert said yes.

Mr. Rodonets said okay; that that's fine.

Mr. Whalen had a question regarding the egress road. He said that we've seen that road before, on previous plans, that goes from Mr. Damon's office building property onto this property, here, and appears as though that is being maintained; that, he guessed, that was a secondary use of egress. He asked if that was intended to be exit-only or two-way traffic coming in and out of that second road; that his other question is why wouldn't you simply run it through the middle of the project right out to the entrance.

Mr. Rodonets said that that's where it goes now; that if you took it from Mr. Damon's building right across to the entrance you see on that plan, that's the entrance that's on the property. He added that he has a security concern about that; about having someone who shouldn't be in that facility running right through so he looped them around, rerouted that road; that they can't run right through, anymore, because he has a security fence up.

Mr. Whalen said that he saw 'edge of pavement' but, maybe, he was missing something.

Mr. Duncan said that all those square boxes that are along 'that' line are fence.

Ms. Bennett said that the applicant is fencing in the units and the egress road is on the outside of the fence.

Mr. Rodonets agreed.

Mr. Duncan said that there was a note just in the lower right corner near 'jurisdictional wetlands' that says chain link fence.

Mr. Whalen asked if that was a ROW; that he was trying to understand the relationship between this egress road and Mr. Damon's property.

Mr. Duncan said that it is an easement across 'this' property, isn't it.

Mr. Whalen said that that's what he's trying to understand.

Mr. Rodonets said yes, that you are correct; that that's an easement; that he talked to Mr. Damon about it and he's good with the project as long as he had his egress road. He said that he thought that egress road was something that preceded us and he thought it was because of Mr. Damon's access off of Route 236 was very hard to get out of and go to

the turn to the left; that Mr. Damon owned all that property, at one point, so that's why he said that that's okay, that he would just have an egress road that goes out onto Beech Road; that we're respecting that but just relocating it. He added that we are still giving Mr. Damon an egress, and he believes it's simply egress; that you could obviously use it either way, but, he thinks that Mr. Damon uses it right now as an egress.

Mr. Whalen said that it's labelled as an egress, asking what was to prevent it from being an ingress.

Ms. Bennett said that we don't have a deed to show whether this is something that actually has a metes and bound easement or whether or not there's no deed accompanying it.

Mr. Whalen said that he was still hung up on this road; that he probably shouldn't be but...

Mr. Beckert said that the road really has no relevance to this project; that the road went through the middle of the parcel; that, as Mr. Rodonets has indicated, he has rerouted it to still give Mr. Damon his easement outside of the security fence perimeter of the project, itself.

Mr. Duncan said that, if the easement for this property, by deed, is through the middle, then the deed's going to have to be redone.

Mr. Beckert said that that is not the PB's concern.

Mr. Whalen said that, just as a point of clarification, we are creating two entrances and exits.

Mr. Beckert said no; that we are adding a new entrance onto Beech Road.

Mr. Whalen said that we are adding one for a total of two.

Mr. Duncan said that we are creating one and relocating the other.

Mr. Whalen asked if that was allowed in our ordinance.

Ms. Pelletier said yes; Access points from public road to commercial...

Mr. Whalen said that it looks like it's a little less than 1,000 feet; that he just wanted to make sure we're not overstepping our bounds, here.

Mr. Bouchard asked about lighting.

Mr. Rodonets said that we will have security lighting around the buildings, mounted on the buildings; that they basically shine out and down and not up; that they're shielded.

Ms. Horner asked if that needed to be on this plan.

Mr. Beckert said that this is sketch plan; that you can request a lighting plan.

Mr. Bouchard asked about dumpsters and if any waste disposal containers will be onsite.

Mr. Rodonets said no.

Mr. Duncan clarified that someone emptying their unit, or maintaining their unit, would have to cart it off-site.

Mr. Rodonets said that that was correct; that we are not in the waste removal business. He added that, if something has to be taken out of the unit, we'll hire a truck or put it in our truck and take it to the dump or the freebie barn, or whatever.

Mr. Bouchard asked if that was a requirement for a warehouse.

Ms. Pelletier said no.

Mr. Bouchard said that letters from the Fire Department and Police will come. He asked about buffers and screening.

Mr. Rodonets said that we do plan to have a 5½- to 6-foot fence around the whole property, with security cameras on that and, then outboard of that, especially on Route 236, and up Beech Road to the entrance, we would be looking at landscaping trees – evergreen.

Mr. Bouchard asked if that would be part of the plan.

Mr. Rodonets said yes, that's coming up.

Mr. Whalen asked about snow removal.

Mr. Rodonets said that we meet the setbacks and exceed them; that the buildings are 26 feet apart and, then, on the ends, we go to 30 feet out, and that's the minimum; that then we go another distance to the fence so we end up with 30 feet of paving and, then, we end up with another 8 to 10 feet passed the paving before the fence. He added that that was pretty much a minimum all the way around this project.

Mr. Whalen said except on the egress road in.

Mr. Rodonets agreed except on that side; that on the north side of the buildings, #1 and #2, there's a sloped bank but there are no entrances to units on that side and we wouldn't need to plow that. He added that, on the lower left side of the site, there's quite a bit of land down there; that there's quite a bit of property before the fencing and right in front of Building #11 that we could stack snow in.

Mr. Lentz said that his concern was that you have a lot of area for run-off and, if he recalls, it's kind of sloped; that he thought there would be a need to do something about stormwater run-off.

Mr. Rodonets agreed; that we have a preliminary location for that and it is in that lower right-hand side that has hatch lines on it and says 'proposed water retention area'; that he thinks it is very realistic if not larger than we need, but, that will be determined.

Mr. Whalen moved, second by Mr. Lentz, to accept PB15-20 as sketch plan stage.

**VOTE**

**4-0**

**Chair concurs in the affirmative**

Mr. Beckert asked Ms. Pelletier for next steps.

Ms. Pelletier said it would be their full site plan.

Mr. Rodonets said that he would let Ms. Pelletier know when he was ready to come back to the PB.

**C. Request for Planning Board Action to amend a previously approved site plan for a school (PB13-04) located at 403 Harold L. Dow Highway by constructing a 7,000 sq. ft. addition to the existing structure for additional classrooms. Applicant/owner is: Seacoast Waldorf Association (mailing address: PO Box 420, Eliot, Maine 03903). Property can be identified as Map 45/Lot 4 and is located in the Commercial/Industrial Zoning District. (PB15-21)**

John Chagnon (representative) and Deirdre McEachern (school director) were present for this application.

Mr. Chagnon, Ambit Engineering, said that we got site plan approval back in April 2013 for the Seacoast Waldorf School to move to this location on H. L. Dow Highway from their location on Beech Road and we are here to say that that has been a very successful operation; that they were glad to stay in Eliot, things are going great, and they are in a position, now, to look at expanding the facility. He added that they want to add some classrooms and, actually, grade levels to the school; that the plan calls for a 7,000 +/- square-foot building addition on the south side. He pointed out the existing building and said that we are talking about 'this' construction being the expansion.

Mr. Duncan asked what the existing square footage was on that building, asking if he was talking about doubling this.

Mr. Chagnon said that he would say, just looking at the map, that we would be adding at least 75% more; that there was a second story on the existing building.

Ms. McEachern said that she thinks it is close to 10,000 square feet for the whole building, if you're looking for a rough number.

Mr. Chagnon discussed the elements of the plan; that this is an amendment to an approved site plan but assumed that it sort of takes the same flavor as a sketch plan with the PB at this juncture.

Mr. Beckert agreed.

Mr. Chagnon said that they understood that this was by no means the final submittal and there is a lot more we have to do but we wanted to get the PB's feedback on what we're thinking about for the site. He said that we are going to keep the driveway in the same location, expand it a little bit in width, and have a dedicated left-turn-out lane; that the new sign, that you may have seen that is in place, is positioned so that it will be out of the way of that driveway expansion. He added that we're going to come in off the road with a drop-off loop from the south side of the lot; that it's a two-lane so cars can drop off and, then, pass around if it's full and loop back around; that there's some parking off to the side for those people who want to bring in their child to the school; that they have varying policies and the operations would be staggered so that not everybody is showing up at the same time, just as you do in the public system, here, in Eliot where the schools with different grade levels start at different times. He said that there's an island in the middle of that loop, which is going to be part of the stormwater management system that will consist of bringing drainage that currently runs down 'this' side; that we are going to add some drainage swales on 'this' side, as we have some new roof area; bring it in underneath 'here', over to 'here', and down a swale to the front area where we will collect; that currently the drainage goes underneath Route 236 in that location; so, we will be working with the existing pattern but slowing it down with some interesting landscaped elements, such as rain gardens and statuaries.

Mr. Whalen asked if the driveway areas and parking areas were intended to remain gravel or pavement.

Mr. Chagnon said that, right now, the thought is that we haven't decided the surface treatment but, either way, if it's still gravel, or it's paved, it's going to have the same coefficient of run-off. He added that we are going to do some testing and look at the possibility of infiltration, but we need to test out the soil first. He said that some of that, too, might depend on budgets as we move forward; proposing some interim solutions and, then, some final solutions from there as we are able to get back into operations, which will be a significant requirement of monies to put the infrastructure in. He said that the school main entry is off of the middle of that entrance area and, hopefully if we have budget, we will be introducing some visual effects associated with the run-off coming from the roof; sort of visual aids that the school is very interested in allowing the children to sort of experiencing, as a part of the whole curriculum; that that, again, is budget-driven but that will be sort of a general access-orientation where people can come in to either the lower grades or the upper grades, and there is a little bit of a separation there, but also, if you go through, there's going to be a common area in the back that will have a

pavilion back 'here', which is intended to be sort of a stage with open ends and a roof that would provide an area for presentations and educational components with seating, loosely, on the ground in front of it or, in some instances, chairs could be brought out and it could be more formal. He added that there are two early-childhood play areas that are in the drawings; that one is 'here' and one is 'here'; that they are on both sides of the northerly wing and those allow for protected areas for the younger, early-childhood children to have a play-space outside; that that is very important in the Waldorf experience – that the children be allowed to go outside everyday as a part of the class day. He said that, for the older kids, there is a games area 'here' and there will be some gardening in 'this' area, some garden elements; so, again, part of the curriculum that they will be able to connect with, and assist, to help grow things and learn about those kinds of things; that maybe a chicken coop would be a part of that, if it's allowed.

Mr. Chagnon said that there is an existing apartment on the north end of the building that is legally and lawfully there; that that's going to remain the plan calls for a bit of an parking area 'here' to provide for sort of a set-off area for the people living in the apartment, separate from teachers, so provides for sort of a full-time presence and a good benefit to the school; that he thought they would play it that way for a long time; that they should be able to find a teacher who would be able to utilize that. He said that this is more of a gravel, maybe even some other treatment, than just grass access to that parking area for the apartment and, then, possibly access 'here' for overflow parking, if there is a need. He said that there will be some school-wide events, occasionally, that may require additional parking in the main loop and, then, the parking area 'here', which is in a loop-fashion to allow for circulation and there is a possibility of additional parking on 'this' lawn area, in the front, when they need a ride. He said that we anticipate having about 54 parking spaces and we anticipate that that would meet the code requirements under the Eliot Code. He added that, in the back, there is common play space and, then, rounding out the lot, there is a wooded area, which is also a place for the students to wander and play in so they have both a field and wooded environment for playing and creating treehouses and nature trails. He said that there is an existing septic system in the back that is pumped to and we will anticipate...that we will be working with, probably, Advanced On-Site, or some other advanced treatment system; that we'd like to put in an advanced treatment system and re-use that existing field even as we are expanding the number of students; that we hope to be able to provide a cleaner affluent, which would require a smaller leech field as we use that area. He added that he thinks that that's it; that we are looking forward to getting the PB's feedback.

Mr. Lentz said that, if he remembers from last time, there was something about the well and the septic location; that, if he remembered, there was something off to the north of the building and it was going to be moved to the back.

Ms. McEachern said that that (well) was actually in the front of the building; that the septic is in the back; that the current well is right 'here'.

Mr. Chagnon said that there was an abandoned well in that area.

Mr. Lentz said that the applicant was anticipating keeping it there.

Ms. McEachern said yes; that she saw no reason to move it.

Mr. Bouchard, discussing capacity, asked how many children will be there when you are at full capacity.

Ms. McEachern said that, right now, we have 40 grade students and that, starting in January, we'll have 34 part-time early childhood students; that her goal with this is to add three new classes, which is to add middle school (6, 7, & 8); that we average about 15 kids per class, so, that would be an additional 45 students, when we get there; that we are adding one grade per year so, right now, our highest grade is 5<sup>th</sup> Grade; that it would then be 6<sup>th</sup> Grade next year, then 7<sup>th</sup> Grade, then 8<sup>th</sup> Grade; that, in three years hopefully, we would add...

Mr. Bouchard asked, with the new addition, what would be the new capacity if you were to fill the school with all students.

Ms. McEachern said around 100 to 110, counting the early childhood students, which are part-time, and the full-time elementary and middle school students.

Mr. Bouchard discussed the need, recognizing where we are in this, the need for Fire Department input.

Mr. Duncan said that Mr. Bouchard pointed to his main concern, at that moment, and that was fire. He suggested that the applicant talk to the Fire Chief to just make sure...

Mr. Beckert said that the Fire Marshall would be involved.

Mr. Duncan agreed, but he would get the Fire Chief involved, too, to make sure that access to the back could be obtained, etc.

Ms. Bennett discussed additional trips per day; that if there are an additional 45 students then that would be, theoretically, another 90 people coming in and out onto Route 236, asking if that triggered anything.

Mr. Beckert said to remember this is a State road so this would be State-governed.

Ms. Bennett said that, so, the State will look at that.

Ms. McEachern said not necessarily because many of those students are siblings of other students and there is one parent that drops off; that there are some that actually carpool because they come from Hampton, Kennebunk, and Dover; so, they carpool together and it's not two cars...

Mr. Beckert asked Ms. Pelletier if this required a Traffic Movement.

Ms. Pelletier asked if they were widening the entrance.

Mr. Beckert said that the applicant was going to widen the driveway.

Mr. Chagnon said that, right now, the entrance is actually pretty wide and we are going to define it with curbs, and such.

Ms. Pelletier said that, if DOT doesn't need one, she asked the applicant to provide the PB a letter from them (DOT) that says you don't need a modified entrance permit or a traffic movement permit, which she didn't think they were even close to tripping the requirement for.

Mr. Chagnon agreed.

Mr. Whalen said that one of the questions on the table the last time around was future expansion; that he would ask the same question, again...does this proposed expansion reach the manifest destiny of this site or, in fact, are there additional capabilities for building more structure beyond what is proposed for this, say, phase two.

Mr. Chagnon said that, not to say that we are going to go there, but, any good architect is going to build 'it' in and this area 'here', behind the existing building, would allow for a future expansion; that that would be the area that they would go next.

Mr. Beckert asked for the pleasure of the PB.

Mr. Duncan moved, second by Mr. Lentz, that PB15-21 be accepted as sketch plan stage.

#### DISCUSSION

Mr. Bouchard asked if this plan met sketch plan the way it is designed.

Ms. Pelletier said that she believes it does; structures, setbacks, wetlands, waterbodies, access road, north arrow.

#### DISCUSSION ENDED

#### VOTE

4-0

**Chair concurs in the affirmative**

Mr. Beckert said that they were approved at sketch plan stage; to let the PB know when they would be ready to come back before the PB.

Mr. Chagnon said to clarify the process, that we will come back for preliminary and, then, public hearing, asking if the PB waited until preliminary to schedule site walks.

Mr. Beckert said that it is usually at preliminary that we schedule a site walk; that we see the preliminary plan and, if they have questions and want to do a site visit, then, that's when we schedule it.

**ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS**

There were no outstanding action items.

**ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED**

- **12-10-15 Correspondence from Eliot Historical Society**

This was already discussed.

Mr. Bouchard asked to be excused for the next regular meeting (Jan. 5).

**ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING**

The next regular Planning Board Meeting is scheduled for January 5, 2015 at 7PM.

**ITEM 10 – ADJOURN**

There was a motion and a second to adjourn the meeting at 8:35 PM.

  
\_\_\_\_\_  
Steve Beckert, Chairman  
Date approved: 3-1-16

Respectfully submitted,

Ellen Lemire, Recording Secretary