

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: IN PERSON WITH REMOTE OPTION
PLACE: TOWN HALL/ZOOM

DATE: Tuesday, January 10, 2023
TIME: 6:00 P.M.

PLEASE NOTE: IT IS THE POLICY OF THE PLANNING BOARD THAT THE APPLICANT OR AN AGENT OF THE APPLICANT MUST BE PRESENT IN ORDER FOR REVIEW OF THE APPLICATION TO TAKE PLACE.

- 1) **ROLL CALL**
 - a) Quorum, Alternate Members, Conflicts of Interest
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **MOMENT OF SILENCE**
- 4) **10-MINUTE PUBLIC INPUT SESSION**
- 5) **REVIEW AND APPROVE MINUTES**
 - a) August 9 ~ December 13, 2022 – if available
- 6) **NOTICE OF DECISION**
 - a) 7 Maclellan Ln. – if available
 - b) 150 Harold L. Dow Hwy. – if available
 - c) 771/787 Main St. – Preliminary subdivision plan approval letter to subdivider per Section 41-147 – if available
- 7) **PUBLIC HEARING**
- 8) **NEW BUSINESS**
 - a) Ordinance amendments
 1. Non-stormwater discharges
 - b) Community Resilience Partnership – Discussion of ideas for grant applications
- 9) **OLD BUSINESS**
 - a) Ordinance amendments
 1. Housing/LD 2003
 2. Child care facilities and related land uses
 3. Marijuana performance standards and licensing
- 10) **OTHER BUSINESS / CORRESPONDENCE**
 - a) Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner
- 11) **SET AGENDA AND DATE FOR NEXT MEETING**
 - a) January 24, 2023
- 12) **ADJOURN**

All in-person attendees are asked to wear face masks

POSTED
1/4/23
[Signature]

NOTE: All Planning Board Agenda Materials are available on the Planning Board/Planning Department webpages for viewing.

To view a live remote meeting: (Instructions can also be found on the Planning Board webpage)

- a) Go to www.eliotme.org
- b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
- c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 6:00pm (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
- b) Please call **1-646-558-8656**
 1. When prompted enter meeting number ID: **886 2241 0135**
 2. When prompted to enter Attendee ID **press #**
 3. When prompted enter meeting password: **138724**
- c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.
- d) Press *9 to raise your virtual hand to speak

[Signature]

Carmelá Braun – Chair

NOTE: All attendees are asked to wear facial protective masks. No more than 50 attendees in the meeting room at any one time. The meeting agenda and information on how to join the remote Zoom meeting will be posted on the web page at eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.

1 **ITEM 1 - ROLL CALL**

2
3 Present: Carmela Braun – Chair, Jeff Leathe – Vice Chair, Christine Bennett – Secretary,
4 Lissa Crichton, and Jim Latter.

5
6 Also Present: Jeff Brubaker, Town Planner; Kristie Rabasca, PE, LEED AP BD+C,
7 Integrated Environmental Engineering, Inc.

8
9 Voting members: Carmela Braun, Jeff Leathe, Christine Bennett (Zoom), Jim Latter, and
10 Lissa Crichton.

11
12 **ITEM 2 – PLEDGE OF ALLEGIANCE**

13
14 **ITEM 3 – MOMENT OF SILENCE**

15
16 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

17
18 There was no public input.

19
20 **ITEM 5 – REVIEW AND APPROVE MINUTES**

21
22 **Mr. Latter moved, second by Ms. Crichton, to approve the minutes of June 21, 2022,**
23 **as amended.**

24 **VOTE**
25 **5-0**
26 **Motion approved**

27
28 **ITEM 6 – NOTICE OF DECISION**

29
30 There were no Notices of Decision.

31
32 **ITEM 7 – PUBLIC HEARING**

33
34 There were no public hearings.

35
36 **ITEM 8 – NEW BUSINESS**

37
38 **A. Stormwater/Low Impact Design (LID) – presentation by Kristie Rabasca,**
39 **Integrated Environmental Engineering, Inc.**

40
41 Ms. Rabasca said that we have a submittal that is due to the Maine DEP on September 1st,
42 2022. Mr. Brubaker and I just wanted to run through the proposed submittal with you to
43 see if you have any specific objections to any of these low-impact development strategies
44 that we’re going to attempt to adopt over the next two years. Our submittal is an intent to
45 adopt Low Impact Performance Standards (LID) that will affect development projects
46 that disturb one or more acres of land in Town. We are being required to do this by the

47 Stormwater Permit (MS4). There was an appeal that was settled last November. The draft
48 of the submittal is based on the Model Ordinance that Mr. Brubaker has attended the
49 meetings for. We had an ordinance committee that included many stormwater
50 professionals, planners from the Portland area and from the southern Maine area that
51 helped to develop this Model Ordinance. It's very similar to the Model Ordinance that we
52 developed for the Erosion & Sedimentation Control standards that you are working to get
53 on the November ballot. She put the draft submittal up on the screen. We have this
54 addition as new proposed Chapter 36 for Low Impact Development Strategies. The
55 threshold is the disturbance of one or more acres of land and that includes subdivisions
56 that might be phased, if they are going to eventually disturb one or more acres of land.
57 We are just going to do this in the Urbanized area but we may want to expand that out
58 Town-wide. The definition is: "A broad approach to site planning that preserves natural
59 resources, processes, and habitat, defines what portions of the Site are suitable for
60 development and then utilizes Stormwater Treatment Measures to manage Runoff from
61 the proposed developed impervious areas. In LID, Stormwater Treatment Measures using
62 natural processes such as vegetated buffers are given preferences over constructed
63 treatment Stormwater Treatment Measures. The goals of LID are to minimize the
64 environmental impacts of the development." This is to apply to a pre-development
65 scenario so that it looks very much the same in a post-development scenario. Our
66 definition is focused very much on getting the developer to think first about what portions
67 of the site are suitable for development by minimizing the disturbance of the site and
68 minimizing the impervious area as much as they can, which I see in a lot of your PB
69 minutes. For areas where they do have to create impervious cover – the roof, the roads,
70 the parking lots, sidewalks – they'll be using stormwater treatment measures to treat the
71 runoff for water quality. In LID, we do give preference to natural processes, such as
72 vegetated buffers or swales or treatment that will use natural vegetation, like open swales
73 that are vegetated and under-drained that will allow infiltration in order to do that
74 treatment rather than purchase a constructed storage system that is going to be underneath
75 the parking lot. It's a more holistic approach to doing development and I do see a lot of
76 these concepts in the reviews that you are giving to the developers as they come into the
77 community. Are there any questions on the definition.

78
79 Mr. Latter said that you say you give preference to natural processes. Don't you want
80 effective processes, first and foremost.

81
82 Ms. Rabasca said that every site is going to be different. A pure low impact development
83 would be to minimize the disturbances as long as there is good vegetation and it is not
84 invasive vegetation. We do try to account for some of that in the descriptions and
85 performance standards. However, I hear you. It's a juggling act.

86
87 Mr. Latter said that, first and foremost, I want to handle the stormwater from the
88 impervious surfaces. If we can do it using natural methods that's great but I don't want
89 them to use natural methods in a less effective stormwater management.

90
91 Mr. Brubaker said that one good way to test that is when they submit a drainage study.
92 There is a lot of hydric stuff out there that we all know. The main result of that is

93 hopefully they are showing a model reduction in stormwater runoff. The final numbers in
94 the study should be showing a reduction. Hopefully, that will be a good gauge going
95 forward to show the effectiveness of the methods used.

96
97 Mr. Latter said that I just envision a scenario where somebody is pushing these natural
98 solutions when it might not be what the site would need. I don't want to get hung up on
99 that and feel uncomfortable pushing for something that we think might need to be more
100 effective.

101
102 Mr. Brubaker said that, in that case, the PB would have the ability to say that it's nice that
103 it's natural but it's not effective and, therefore, it's not meeting our performance
104 standards.

105
106 Ms. Rabasca said that, if you're going to have a large vehicle maintenance facility
107 moving in and they are going to have a lot of dripping vehicles, maybe they're going to
108 have to store some outside, you are going to want to make them have an oil-water
109 separator that's pretty robust; that you aren't going to have them discharge off into a
110 vegetated buffer. It was quite a balance trying to come up with performance standards
111 that would fit the Maine DEP order we got for low impact development but still allow the
112 developers enough latitude to design what they need to design to address the site; that the
113 sites are all so different and the operations are, as well. I do think it is a very good point.

114
115 Mr. Leathe said, regarding applicability, in talking about urbanized areas being SPR, is
116 that the whole Town.

117
118 Mr. Brubaker said no. It is a specific area of land that exists primarily in the Village
119 Zone. It's hard to describe but it's primarily along the river in the Village Zone and parts
120 of Route 236, and a lot of East Eliot is outside that area.

121
122 Mr. Leathe asked if any more of the Town was being considered as applicable.

123
124 Ms. Rabasca said that the Town has applied other stormwater ordinances Town-wide in
125 order to be protective of water quality so that you don't get into a situation where you
126 have urban-impaired streams and have mandated watershed management plans in trying
127 to correct water quality. The Post-Construction Ordinance was applied Town-wide. In
128 particular, one of the ideas behind low impact development is that, when a drop of water
129 falls in an undeveloped area, it's going to evapotranspire, some of it will evaporate. But
130 some of it is going to run off, so, when you are doing low impact development properly,
131 you are making sure that water droplet acts the same way after the development that it did
132 before; that it's not picking up pollutants and carrying them downstream. It's not causing
133 erosion or scouring small streams; that you're not causing flooding. So, protection of
134 non-urbanized area is a much less costly thing to do than correct water quality if you get
135 these impairments. If you were to ask my opinion, I would say it would be very beneficial
136 to natural resources, water quality, general quality of life to apply low impact
137 development standards Town-wide.

138

139 Mr. Leathe said that my other question was around disturbance of one acre of land. Then
140 it goes on to say, and I think I understand, that if it is less than an acre but part of a larger
141 parcel, and there's more disturbance in the larger parcel, it has to be included or
142 something like that.

143
144 Ms. Rabasca said that that is primarily for subdivisions. For example, I was reading about
145 the Clover Farm Subdivision that's going in and how it's basically three or four lots that
146 two of the lots are quite large. If they were to phase one lot and not disturb an acre of
147 land for that first phase, by the time we get to the second phase, they would be triggering
148 the low impact development. That's what that means.

149
150 Mr. Brubaker said that I agree with Ms. Rabasca. I think that this should also be applied
151 Town-wide. We are really hoping to develop a nice network of stormwater standards with
152 the intention of having really good sites with all the PB reviews.

153
154 Mr. Leathe asked if Mr. Brubaker said that these should be synced.

155
156 Mr. Brubaker said that, as Ms. Rabasca mentioned, the Post-Construction Stormwater
157 Management standards are Town-wide. The proposed Erosion and Sedimentation Control
158 standards that we will discuss in a minute are Town-wide. So, it would be a good
159 alignment to have the LID standards be, as well. These are yet to be adopted. We are just
160 talking about the Model Ordinance right now, so, we have a choice. From what I'm
161 hearing from you and others, we are willing to do it Town-wide.

162
163 Mr. Leathe said that, ideally, these should sync outside of these area developments.

164
165 Mr. Brubaker said yes. I see the highlighted section, there, so that would need to change
166 to Town-wide.

167
168 Mr. Leathe asked Ms. Rabasca if other communities were having the same discussion of
169 urbanized area or Town-wide.

170
171 Ms. Rabasca agreed that other communities are going to be having that same discussion.
172 I've had discussions with Falmouth and they will be implementing town-wide. Kittery
173 hasn't made their decision, yet, but we did submit their proposed standards just today.
174 We left the 'urbanized area' in because that's all that's required by the General Permit.
175 So, the Maine DEP doesn't really care if we decide to apply it Town-wide after they
176 review and approve. They're fine if we decide we want to be more stringent on
177 developers.

178
179 Ms. Braun said that Town-wide makes more sense to me to make it uniform with all the
180 others we have. And we want to protect the entire Town, not just a certain section.

181
182 Mr. Latter said that, with the scale of the ordinance, I would think we would need it just
183 as much, if not more, in the non-urbanized areas.

184

185 Ms. Rabasca said that many of the developments that will come into Town will be
186 outside of the urbanized area. The urbanized area is the urbanized area because it is
187 where you already have a lot of impervious cover and a lot of development that has
188 already occurred. I would like to look at the standards, now, to make sure you have a
189 good understanding of the standards, themselves, before we submit. I have this section
190 highlighted in yellow. Regarding performance standards, some communities put their
191 technical standards in appendices that then they can have a special abbreviated approval
192 or change process associated with them so that's what I put in this language. I think the
193 Town of Eliot doesn't have this so I feel like I probably need strike it: *"These Technical*
194 *Appendices detail the required LID Performance Standards. These appendices shall be*
195 *updated from time to time by the Town Engineer to reflect the most current information,*
196 *and shall become effective upon public hearing and approval by the Planning Board."*
197 Rather than as in your community where it has to go through more. I don't think, from a
198 procedural standpoint, you can even do this.

199
200 The Planner and PB agreed this language should be deleted as it would be in the Code
201 and that needs Town approval.

202
203 Mr. Latter asked if the Code could point to an administrative document.

204
205 Mr. Brubaker said that it could but we would also have to actually create the document. I
206 don't know what the options are, Ms. Rabasca. If communities have the ability to refer to
207 a document, what would they do. Do they create their own specialized LID standards or
208 do they use resources from the DEP. What, ideally, would we point to in terms of the
209 performance standards. In other words, what would we need to do to create the 'technical
210 appendices'. As Mr. Latter mentioned, we could empower the PB or SB to approve these
211 standards. What do other communities do here.

212
213 Ms. Rabasca said that I believe this came from Yarmouth. I believe that the way that
214 worked is that, once this goes through the public process and it is approved with the
215 sentence in it and you decide who it is and what that process will be, I believe you could
216 do that, moving forward, but I would definitely check with Bernstein Shur because it
217 might also require a change to the Charter in order to be able to do that. I think, for now,
218 we remove this because most of your performance standards are embedded in your
219 ordinances and we have to go through the full public process in order to change them.

220
221 Ms. Lemire said that we do have appendices for our Sewer and I think the SB has
222 authority to amend them.

223
224 Mr. Brubaker said that we're actually talking about this with regard to the Fee Schedule.
225 The SB has its powers delegated to it under the Charter, as well as the PB, and then,
226 under Chapter 2, it does have a more specific enumeration of things that the SB is
227 empowered to do without going to Town Meeting. Presumably, there could at least be
228 some thought process as to empowering the SB/PB to developing these standards
229 independently of the ordinance, as long as the ordinance references those standards. I
230 think it could be done. I think it would just be would the Town have the capacity to

231 develop customized LID standards, an actual manual of standards, who would actually do
232 that. Or, could we refer to another document or something like that. It's like the phrase
233 "with great power comes great responsibility".
234

235 Mr. Latter said that, ultimately, it does devolve back to the voter. The administration is
236 answerable to the SB and the SB is answerable to the voters. All you're doing is trying to
237 keep technical expertise and decisions related to technical expertise with subject matter
238 experts.
239

240 Ms. Rabasca said that I think one of the reasons to check into an abbreviated process to
241 update the actual technical performance standards is that the Maine DEP will be updating
242 Chapter 500; that we do have references to that and, so, it would be nice for us to be a
243 little more nimble in updating the technical standards as the State standards get updated
244 so that we don't end up being in conflict with them. As you'll see in some of these
245 instances, some of these performance standards are based on Chapter 500 State
246 development standards but, in some instances, these are brand new and they're not even
247 State standards, yet. If the DEP does something and a developer can't do this, we need to
248 be able to allow them a waiver.
249

250 Mr. Brubaker said that I was confused because the standards are already there.
251

252 Ms. Rabasca clarified that these are the performance standards that we developed as part
253 of the ordinance committee that we are recommending the Town of Eliot adopt unless the
254 PB has significant issues with any of these. I have added blue text boxes for tonight's
255 review. The first LID standard (page 10) is DEP mandated, which the Town covers most
256 of. What is new is **Predevelopment Drainageways** that would require developers to look
257 at sensitive areas regarding what they will and will not develop and create a narrative
258 description to submit to the PB, which would help minimize flooding offsite, try to
259 protect high-permeability soils to help ensure some type of base flow (especially in
260 drought) to help infiltration, and preserve Maine native vegetation and significant and
261 essential wildlife habitats. This performance standard will be very new to design
262 engineers and developers, as it's not currently a State requirement. It will require that
263 they do a high intensity soils survey, which will take them some additional time/thought
264 during design and a little more time for PB review but this should be a very good benefit
265 to water quality.
266

267 Mr. Latter said that the high intensity soils survey is often asked to be waived and this
268 would make it harder to grant.
269

270 Ms. Rabasca agreed, saying that they would really need to do it.
271

272 There was a brief discussion regarding people who begin work on sites even before
273 coming to the PB and that that is not legally allowed and is a fineable offense.
274

275 Mr. Leathe said that I think what Ms. Rabasca just talked about them having a thoughtful
276 approach to the land parcel before they carve it up at all, before they cut any trees down,

277 before they do anything and starting with that in the discussion with us. Let's start there
278 and then move into the project and what they want to do with it. Personally, I think it's a
279 great approach.

280
281 Ms. Braun agreed.

282
283 Ms. Rabasca asked if there were any significant objections to us including this
284 performance standard in our submittal to the DEP.

285
286 Mr. Brubaker said no, that I just have a clarifying question. This would apply to one acre
287 of new disturbance. In other words, if I'm coming in and developing on an existing
288 parking lot or on existing compact gravel, for instance, it's possible that my development
289 may not apply to this. Is that right.

290
291 Ms. Rabasca said that maintenance is not considered to be disturbance so, as you know,
292 the devil's in the details on these definitions. So, ripping up a parking lot and putting a
293 new parking lot back in, that's considered maintenance. But, if they are going to change
294 the landscape and they are going to be disturbing one or more acres of land, then that
295 would trigger this.

296
297 Mr. Leathe asked what if they were disturbing $\frac{3}{4}$ of an acre of land, even though they had
298 previously disturbed 7 acres of parking lot.

299
300 Ms. Rabasca said that that would not trigger this.

301
302 Mr. Brubaker said that if they were taking a portion of the parking lot and building
303 something on top of it, an out building for instance, this would not apply, correct.

304
305 Ms. Rabasca said that I believe it would apply. That is not considered maintenance. They
306 would be disturbing the parking lot, baring soils, changing the landscape.

307
308 Mr. Brubaker asked if they would still then have to do the high intensity soils survey for
309 the soils that are currently locked up under the pavement that would then be replaced by
310 the building. How would that work with a site that is being plopped on top of an existing
311 impervious surface.

312
313 Ms. Rabasca said that I would say yes. If they are triggering the standard, they would
314 have to do their high intensity soil survey. When I think of Eliot, you have a lovely rural
315 character and most of your areas are really suburban. So, you have a lot of green space so
316 I kind of figure that. You think about applying this in downtown Portland or Bangor or
317 South Portland, like a mall area. And you do, with low-impact development, start to
318 correct some of what they call 'sins of the past'. So, you're also trying to improve the
319 potential for infiltration and improve the quality of the stormwater runoff through re-
320 development of projects. So, this would apply to development or re-development. It does
321 seem like we are okay with this. We do have until 2024 to carve out the rest of the details
322 and we will be doing this with many other communities, as well. The **second one** is a

323 pretty straightforward and nominal performance standard. It's a requirement that the
324 project plans **depict limits of disturbance directly on the plan**, Sometimes, people
325 don't do that. But more importantly, that they will depict the limits of the disturbance on-
326 site using flagging, fencing, signs, or other means to provide a clear indication of what
327 those limits are. That is really going to help the CEO. It is a very minor impact but really
328 great benefit to water quality.

329
330 The PB had no questions or objections.

331
332 Ms. Rabasca said that the next one is regarding open space and I have seen some
333 discussion in your PB minutes about this. The Ordinance Committee had many, many
334 discussions over this and we decided to make this optional in the base model ordinance
335 but I left it here for Eliot consideration: "*Rural New Developments shall preserve at least*
336 *40% of the Site as open space and Suburban New Developments shall preserve at least*
337 *25% of the Site as open space.*" You, fortunately, actually have zoning districts that use
338 the words Rural and Suburban so we could fairly easily apply these standards to those
339 different districts. All of the references we reviewed in developing these performance
340 standards said to make sure you have a good standard for open space. This actually came
341 from The Center for Watershed Protection, which is one of the nationally-renowned
342 watershed/water protection agencies (Chesapeake Bay). I know that open space
343 regulations are very complicated and they have to be balanced with coverage
344 requirements and minimum and maximum lot sizes, setbacks, etc. So, because there were
345 so many discussions, we decided to make this optional. For Eliot, I have seen that your
346 Chapter 41 has a requirement for just 10% of open space in subdivisions and I didn't
347 know what the pleasure of the PB might be to increase that.

348
349 Mr. Leathe said that we have an ordinance subcommittee that Ms. Bennett heads up and
350 one of the areas for further discussion is indeed the open space area. I think this is an
351 interesting idea to add to that discussion but I don't think that is anything that will be
352 determined in the near term.

353
354 Ms. Rabasca said that Mr. Brubaker and I can come up with some language that says that
355 you currently do have an open space requirement in subdivisions but you also have the
356 ordinance committee considering.

357
358 Mr. Leathe said that this is just one of several changes that we will recommend.

359
360 Mr. Latter asked, just as a point of reference, did the subdivision we just approved have
361 10% open space.

362
363 Note: This particular subdivision was conventional, not open space.

364
365 Mr. Brubaker clarified that the open space language in our ordinance says that it "*may*
366 *require up to 10% open space*".

367

368 Ms. Rabasca said that, for now, I think that Mr. Brubaker and I can smooch this language
369 a little more, or adjust this a little more, if needed. But I'll say the ordinance committee is
370 considering 'open space' issues currently and the Town does not intend to adopt this until
371 the evaluation by the ordinance committee has been completed.

372
373 Ms. Braun asked on the 40% requirement, wouldn't that depend on the size of the
374 development. We have an 8-lot subdivision and 40% of that would be pretty high. So, I
375 would think it would have to be based on the size of the development, wouldn't it.

376
377 Ms. Rabasca said that more so the way that we have seen this applied is that it's based on
378 the zoning you have. Usually, you have minimum lot sizes so the rural districts in the
379 community have larger minimum lot sizes, smaller setbacks, and they are typically in
380 areas where there is no public water or public sewer so they have to be big lots to
381 accommodate a septic system and water well. So, they are naturally a bit better suited to
382 having a larger requirement for open space and that's why the rural ones are 40%.
383 Thinking of subdivisions that you've reviewed recently, if they are in the suburban area,
384 you might want to go to 25%. You'll notice that we aren't recommending an open space
385 requirement for village or town centers (urban), again, because they probably have sewer
386 and you probably want your higher density population there. Many times, communities
387 have a separate village plan.

388
389 Mr. Leathe said that one of the ways we have been looking at open space, theoretically, is
390 that it may be a better application in the Village and Suburban Districts than the Rural
391 District because of the access to infrastructure – police, fire, sewer, water – and creating
392 more open space where there's higher density living and make more of a community out
393 of it versus in the woods off of Goodwin Road, or something. So, I'm just curious why
394 this group doesn't think of the things that way.

395
396 Ms. Rabasca said that I think it boiled down to the fact that most urban centers have some
397 kind of predisposed plan for trails and open space. So, with this piece of the code, they
398 didn't want to interfere with that element.

399
400 Mr. Leathe said that we have no downtown, village center.

401
402 Ms. Bennett said that, for our village district, we talked about having a village plan. We
403 also talked, in our last Comp Plan, about increasing the density in this zone but we have
404 not. Just for reference, we have 1-acre zoning in the Village District.

405
406 Ms. Rabasca said that it's a complicated matter.

407
408 Ms. Bennett agreed. I love the optional recommendation. I think it will make for a fruitful
409 conversation later on.

410
411 Ms. Rabasca said, regarding the fee-in-lieu, that I wanted to point out that that is also
412 very helpful to start to create a fund, should the Town have an opportunity to buy a piece
413 of property that would really benefit your village open spaces, that you might have

414 acquired the finances to do so through a fee-in-lieu type of open space program. I think, if
415 this looks good, we will go with this on this performance standard. It sounded pretty
416 reasonable. Are people familiar with the **Maine Stream Smart Principles**. (There was
417 some familiarity.) You actually have stream smart culvert on one of your roads, which
418 was installed by Public Works a few years ago. They are basically open-bottom culverts
419 that are bank-full width for any stream and they have a natural substrate bottom to allow
420 fish passage and habitat passage. This Maine Stream Smart Program is from the Maine
421 Audubon Society and developed over a number of years. The Maine DEP has been
422 offering grants to municipalities to convert their municipal stream culverts to these
423 stream smart culverts and a lot of municipalities are taking advantage of this program.
424 The design engineers are really familiar with this concept; that it's a much better program
425 for the environment. We're only requiring it, under this performance standard, for
426 passages of waters of the State. A professional engineer has to have taken the stream
427 smart course in order to design this. This is not currently a State requirement but will be a
428 new requirement. It's brand new to design engineers and developers but it's stuff that
429 almost all the civil engineers in Maine know about already and are familiar with it; that
430 they've already taken the class. This will be a moderate impact on design and
431 construction but it will really be a good benefit to water quality.

432

433 Ms. Bennett asked if the Maine Stream-Smart crossings are also really good for climate
434 resiliency as far as large water events.

435

436 Ms. Rabasca said yes, they will. Because the Stream Smart crossing requires that you be
437 more than bank-full width for the stream passing. It really helps to, especially when
438 you're closer to the ocean, alleviate flooding back up stream because you'll allow the
439 passage. So, it's just a really great program, all-around.

440

441 Mr. Leathe asked if, when you mention an artificially channelized stream, that is a stream
442 that has already been truncated for development.

443

444 Ms. Rabasca said yes. So, if a development already has a culvert on it, that would have to
445 get converted. But, if it was just a ditch, it wouldn't have to be a stream smart culvert. It
446 has to meet the definition of a water of the State in order to have this stream smart
447 culvert. Did that answer your question.

448

449 Mr. Leathe said maybe not. I'm trying to understand what artificially channelized means.
450 Is that something that humans did or is that something that occurs naturally in the world.

451

452 Ms. Rabasca said that I think some of the city committee members wanted this put in
453 because there are streams in some of the more populated areas where streams have been
454 straightened or moved over a little bit before the regulations kicked in and, so, they didn't
455 want the stream smart crossings to apply to those artificially channelized streams. I don't
456 think it will apply to Eliot much at all. In downtown Berwick, for example, there's a
457 stream that runs under the former Prime Tanning that's a pretty classic example of the
458 kind of thing they didn't want to have to undo. That might also be considered that a lot of
459 the planners were concerned about 'takings'. They didn't want to open themselves up to

460 lawsuits; that someone might say that you're going to make me take all that developed
461 area I just bought away and I will have to turn it back into a stream or put a big bridge on
462 it, etc. Are there any concerns or questions about this one. We do have this one as listed
463 that you intend to adopt this performance standard.

464
465 There was no objection.

466
467 Ms. Rabasca said that the **next one** is related to the same standard for the stream
468 crossings and the stream smart culverts (Rural and Suburban Projects). To the extent
469 practicable, projects are going to preserve the natural pre-development drainageways on-
470 site by using the natural existing flow patterns. We are allowing some waivers and
471 exceptions for that; that I think we may have to strength those a little bit. If they are
472 slowing the water down, then they can get an exception or if they can demonstrate an
473 alternative analysis.

474
475 Ms. Bennett asked if we had to have an exception here.

476
477 Ms. Rabasca said no.

478
479 Ms. Bennett said that it seems to me that, possibly, we would be opening a can of worms
480 for our engineers becoming a mini army corps of engineers. I have some concerns about
481 granting exceptions.

482
483 Ms. Rabasca said that I think we could leave the exception in here for now and then it
484 would be more stringent to remove the exception later. This will be a moderate impact on
485 the design; that they will have to spend a little more time thinking about the design that
486 are a good benefit to our water quality.

487
488 The PB agreed.

489
490 Ms. Rabasca said that, regarding **Stormwater Treatment Measures**, they are going to
491 have to treat the impervious cover using the same kinds of stormwater treatment
492 measures they would use in Chapter 500, and to the same level. Chapter 500 says you
493 have to treat 95% of the first inch of water that falls on your impervious area. That's what
494 a developer would have to treat using the Stormwater Treatment Measures, which is
495 underdrain soil filters or wet ponds or other innovative measures, treating it to remove
496 pollutants now. This is already required in Chapter 500 but at a much larger threshold
497 than the Town will be regulating. **This will be for the one acre or more disturbance but**, at
498 the State level, it will be 5 acres developed, so you will want a third-party engineer
499 review that design for you and pass that cost through to the designer.

500
501 Mr. Latter said that, if someone has a 3-acre lot and they want to put in a driveway and a
502 piece of lawn, that could easily trigger this 1-acre.

503
504 Ms. Rabasca said that it would have to be a long driveway and a big house and a big
505 yard, but it could.

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Mr. Latter said that I'm always trying to be mindful of the person who comes to the PB once. Those are the people who I want to put the least burden on.

Ms. Rabasca said that, for that kind of development, there's nothing like a vegetative buffer, putting it into the deed that that single-family home is going to have a vegetative buffer because the stormwater flow is just going to sheet off their grass into the vegetative buffer.

The PB had no objections.

Ms. Rabasca said that the next one is an **infiltration standard**. This relates back to protecting those high permeability soils to try to promote good base flow to small streams and good groundwater recharge, which is also something very important for climate change. Right now, the DEP in their Chapter 500 regulations does allow infiltration as a treatment mechanism. They do have a fairly rigorous submittal process, which we have adopted for anyone doing infiltration but we are requiring infiltration for Type A and Type B soils (sandy, permeable soils). We're going to use the Chapter 500 submittal requirements and process for allowing infiltration so there will be a lot of potential for exceptions to make sure we're not infiltrating contaminated water, such as a vehicle maintenance facility. This will be relatively new to the designers because it's currently not a requirement but it is allowed. It will be a moderate impact on design and construction, as they will have to think hard about the stormwater treatment measures they are using; infiltrate roof runoff where they can. Most everybody uses a drip edge to do infiltration on roof areas, anyway. Roof runoff is very clean.

Mr. Leathe said that I haven't had the soil tutorial, yet. I think Mr. Brubaker is planning to do that for us at some point.

Mr. Brubaker said that we will be having Mike Cuomo in to do a presentation.

Ms. Rabasca said that the A (most permeable) and B (silts/sands) soils are the most permeable. With Type C's and D's, the soils tend to be tighter, more clay and silt, with not much infiltration at all. Those are standard USDA and Natural Resource Conservation.

Mr. Leathe asked how soil infiltration is measured.

Ms. Rabasca said that the septic system designers have been doing this for years where they will dig a hole, pour water in, and measure how much will infiltrate. There are also more sophisticated devices, like lysimeters that can measure water infiltration capacity and permeability, so it can start to get pretty complicated. This is also a requirement for the high intensity soils survey so it's protection of these permeable soils and identification of which ones are A, B, C, and D on the site. They will give you the soil map as part of a project plan set.

552 Mr. Leathe said, as far as enforcement of a project, do we have any way to know whether
553 or not this infiltration program was actually done correctly and is working, or is that way
554 beyond the scope.

555
556 Ms. Rabasca said that, just like a design of underdrained grassed soil filter, the design
557 engineer has to put together the drawings showing how it's going to be constructed. The
558 contractor has to construct it to the construction drawings. Then, whoever is going to own
559 that infiltration system is going to be subject to your Chapter 35 post-construction
560 stormwater management ordinance and they will have to hire a certified person to make
561 sure that infiltration system is functioning as intended, and certify that to the Town
562 annually. That process is all built in to your development processes already.

563
564 Mr. Leathe said that, once the system is built and certified the first year that it is
565 operating correctly, do we just assume that it will continue to be that way forever.

566
567 Mr. Brubaker said that, as the development is being developed, they go to the SB to enter
568 into that post-construction stormwater agreement, and then right away every year they
569 need to self-certify that what they built is working properly. They then submit a report to
570 us that we review. The Town reserves the right to conduct additional inspections on-site
571 if there is any reason to believe that there is a problem and be able to add corrective
572 measures, if needed.

573
574 The PB had no objections.

575
576 Ms. Rabasca said that the **next standard** is pretty straightforward. This just the **road**
577 **runoff**. When this ordinance gets triggered, road runoff has to be treated. Road runoff is
578 some of the dirtiest stormwater that gets generated. We're also requiring that at least 70%
579 of the length of roadway runoff be treated. I don't think it's going to be a huge lift. It's
580 just going to take a little more thought from them.

581
582 Mr. Brubaker pointed out that, with the optional features, we do have standards that relate
583 to dead-end streets and street design. So, I'd rather not have the LID measures throw a
584 monkey wrench into the existing standards.

585
586 The Town does not intend to adopt the optional standards.

587
588 Ms. Rabasca said that the **next one** is also pretty straightforward. It's just a restriction on
589 the **maximum size of a parking stall**. It should be 9 feet X 18 feet.

590
591 Mr. Brubaker said that my only comment is that there be a reasonable exception for large
592 vehicles that may be required.

593
594 Ms. Rabasca said that, with the optional standards, I said that you won't adopt them now
595 but you can still consider them when we get to looking at the full ordinance.

596
597 The PB will revisit once revision of Chapter 45 parking standards is formed.

598 Ms. Rabasca said that there are just a few more here. ‘This’ is very similar to the
599 treatment requirements we have discussed before – **runoff from on-site roofs,**
600 **sidewalks, and peak-use overflow parking,** which will be directed into a stormwater
601 treatment buffer or stormwater treatment infiltration measures. This is because this type
602 of runoff is usually pretty clean. The **next standard** is that construction equipment
603 movement, laydown areas, and parking shall be restricted to the Disturbed Area. That
604 goes with the very first one we talked about regarding minimizing the Disturbed Area.
605 Then there is a soil compaction requirement that any areas that are to be vegetated need
606 to be tilled beforehand and amended with organic matter, as needed, such as compost or
607 fertilizer.

608
609 Mr. Leathe said that, in terms of the ordinance subcommittee, we talked a bit about an
610 issue we have seen in several projects where vegetation and landscaping was required
611 and agreed upon. They go ahead and then the developers would never plant pretty much
612 the types of things we wanted them to plant, where they wanted to plant them but then
613 they don’t care for them. Then, within several months, you can drive by and see that the
614 trees are all brown and dying. Is there any thought to trying to put more strings behind
615 this re-vegetation and planting activity so that the landscaping actually has a chance to be
616 successful. Just adding organic matter is not necessarily going to help in a drought.

617
618 Ms. Rabasca said that watering also needs to be conducted. It doesn’t address the
619 watering issue but we do have a requirement that any vegetation that gets planted in a
620 buffer area, which is defined as a stormwater treatment buffer, already a shoreland buffer
621 or a general buffer in a setback, would require that they use Maine native vegetation or
622 the climate-resilient Northeast native vegetation. That would have to be designed by a
623 Maine licensed landscape architect. So, to address your point, using native vegetation
624 gives these plants like a ten-fold opportunity at success and continued life with minimal
625 attention. These plantings like the amount of water we get, the type of soils we have, our
626 heat and sun. So, Maine native plants need a lot less attention. It’s not going to address
627 just a landscaped area, such as a common area for a subdivision, unless it falls under the
628 treatment measures or providing a screening. But we could be more stringent with this
629 piece if we wanted to be to address your concerns.

630
631 Ms. Crichton said that I think Mr. Leathe might be saying that, even though you have
632 native vegetation, they still need to be watered, and that’s what they don’t do. If you go
633 done Route 236, some of these new buffers are crispy. They are mulched and they are
634 crispy because they don’t water them. I don’t know if we can put something in there that
635 says they need an irrigation system, a drip system, some sort of regular watering.

636
637 Ms. Rabasca said that, for the pieces that are helping to treat the stormwater, that is going
638 to be embedded in the post-construction maintenance piece. Their inspector needs to
639 make sure that the plants are good and water them, if they are not, because those plants
640 are actually doing a job, they are working plants. You would have to go to the ordinance
641 committee, I think, or we could expand this if you wanted to.

642
643 Mr. Latter said that it’s an important issue but it doesn’t relate to stormwater directly.

644
645 Ms. Rabasca agreed. Next is **snow storage areas**. Snow is a big pollutant hog. It will
646 scoop up all the pollutants from all winter long, then you're depositing them somewhere.
647 You just have to be careful to make sure that snow storage areas are shown on all site
648 plans and that snow areas be prohibited from Shoreland Zoning setback buffer areas. The
649 snow areas are also prohibited from the stormwater treatment measures. These are all
650 new requirements related to snow storage. It would be a pretty minor impact on the
651 design and construction but we do want to see where they are going to be putting their
652 snow. It would have to be one acre to trigger this.

653
654 Mr. Brubaker had concern for applying this to a commercial site that touches the Limited
655 Commercial Zone (Shoreland) where no snow storage would be allowed in the Limited
656 Commercial, as an example. We can cross that bridge when we get there.

657
658 Ms. Rabasca said that as we develop these in detail, we will probably be adding some
659 more waiver language. The optional standard (rain storage) is too expensive and without
660 good performance criteria and we won't adopt this.

661
662 Mr. Latter asked if there was any way to incentivize it and grant marginal relief
663 elsewhere.

664
665 Ms. Rabasca said that I'd like to come up with something like that but I just haven't had
666 time. I do like that idea and re-use of captured rain water for landscaping might help to
667 solve the watering issue, also. I don't know if we need a motion to submit this. It is an
668 intent to adopt. It is subject to the warrant being passed and we have a lot more process to
669 go through.

670
671 Mr. Brubaker said that I don't think we need a motion for this.

672
673 Ms. Lemire agreed. You are just at the beginning of this process, just as is done with
674 other ordinance development.

675
676 Ms. Rabasca said that we will submit this on September 1st. The Maine DEP is going to
677 take our final document and send that out to public comment because that's a Clean
678 Water Act requirement. The DEP will get back to us by November 1st and tell us whether
679 these standards are acceptable. Then we can continue to create the actual Chapter 36. If
680 we find that there is something significant that we cannot adopt for some reason, we
681 would have to go back to the DEP to say we can't do it because of X, Y, or Z, and they
682 have been very reasonable in the past.

683
684 The PB thanked Ms. Rabasca for her time and presentation.

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690 **ITEM 9 – OLD BUSINESS**

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A. November 2022 Ordinance Amendments – updates as needed.

1. Ordinance Subcommittee Update

This was not discussed tonight.

2. Site Plan Review, Subdivision, and Performance Guarantee updates

Mr. Brubaker said that there was a vesting standard and I just wanted to say that §1-20 already has vesting requirements and, so, I wanted to include that in the ordinance. Ms. Bennett, where you had new standards for vesting, I just wanted simply wanted to refer the vesting back to §1-20. So again, this would be when an application is locked in to the code as it stands, even if the code then changed; that the application would be grandfathered in with the Town Code they started with. I did some wordsmithing on ‘expiration of site plan approvals’.

Ms. Bennett asked if we have a definition of ‘substantial completion’.

Mr. Brubaker said that I don’t think we do but it’s an important question in making a determination.

After a brief discussion, the PB agreed that Mr. Brubaker should get an opinion from Attorney Saucier on this.

Mr. Leathe said, as an example, if an application was approved 6 years ago but not fully completed, maybe there could be some process we could employ where the applicant could come back to tell us why it wasn’t completed.

Mr. Latter added that we could have a drop-dead date that, if you haven’t done it by ‘this’ date, you have to come back.

Ms. Bennett said that that is what some of these changes are trying to put in, expiration dates. I think some of the wording also states that, if you do want to come back for reconsideration after the expiration of your permit, if the ordinance has changed you will be subject to the new ordinance. Just think about all this we’ve been talking about with our new erosion & sedimentation and low impact development. If you had someone who got permitted 10 years ago and we’ve changed our ordinance. We need to make that new work current.

Mr. Latter commented regarding not wanting to trigger re-review under a different standard than what they got approved under, **if substantially complete. (Need new form?)**

734 Mr. Brubaker said that they get approved for their site plan, they haven't built
735 anything or they haven't gotten substantial completion, and they come back to the PB
736 for an extension. That's covered in paragraph 3.

737
738 Mr. Leathe said that, let's say that that extension request is 2 years later and our
739 ordinances have change with, say, new stormwater requirements, are they subject to
740 the new ordinances.

741
742 Mr. Brubaker said that I think that was the subcommittee's intent, correct.

743
744 Mr. Leathe and Ms. Bennett said yes.

745
746 Mr. Brubaker said yes, I agree with that. But then the situation arises that, if it has
747 changed and the PB has the power to hold them to the ordinance changes, then what.
748 So, that's why I tried to put this red text here in paragraph 4. So, the PB can say we
749 will give you an extension but it appears that, in order to meet the new ordinance,
750 you're not grandfathered in and you will have to meet the ordinance as changed.
751 Therefore, it would make sense that they would not just have to come back to the PB
752 to ask for a time extension, they would actually have to come back to the PB with a
753 site plan amendment. If they don't do that, then their plan expires and they no longer
754 have the right to build. If they do submit, then they are given a grace period where
755 their site plan wouldn't expire while they are going through PB review. That's what I
756 tried to capture here, thinking of situations that might arise if they are asking for an
757 extension and the PB wants to hold them to the ordinance change.

758
759 Ms. Lemire asked if they request an extension, they would always have to supply new
760 information.

761
762 Mr. Brubaker said that they may; that it could be that there may not be a relevant
763 ordinance change.

764
765 Ms. Lemire asked if there was going to be a separate form for a request for extension.

766
767 Mr. Brubaker said that that makes sense to me.

768
769 Ms. Lemire said that this language would go into the NOD to update language
770 already there.

771
772 Mr. Latter said that, if they come before the PB and ask for an extension, does that
773 forego their obligation to meet the code as it exists after the extension.

774
775 Mr. Brubaker said that it would make their site plan open to review and susceptible to
776 the new code. They come to the PB with the form for request for extension and, at
777 that point, the Town Planner could say we grant you the extension and nothing else is
778 said, we don't grant you the extension because you haven't shown why the extension
779 is needed, or we grant the extension but you need to come back with a site plan

780 amendment. It may be a minor change but they would need to come back to change
781 the site plan to reflect that minor change.

782
783 There was a brief discussion regarding defining ‘substantial completion’; that several
784 chapters have some defining indications; that it could be a percentage (maybe 75%)
785 completed that might be used; that a definition might be created and made
786 functionally vague (Town Planner recommend, PB agree/disagree).

787
788 Ms. Bennett commented that the last one is vague but I like the fact that there is some
789 latitude for interpretation, depending on the project.

790
791 Mr. Brubaker discussed adding expiration times for commencing or substantially
792 complete approved projects.

793
794 Mr. Latter asked if there is a definition for ‘commence’.

795
796 Mr. Brubaker said that there are some definitions in §1-2 – ‘start of construction’ –
797 *“The actual start means either the first placement of permanent construction of a structure*
798 *on a site, such as the pouring of slab or footings, the installation of piles, the construction of*
799 *columns, or any work beyond the stage of excavation; or the placement of a manufactured*
800 *home on a foundation.”* It goes on to say: *“Permanent construction does not include land*
801 *preparation, such as clearing, grading and filling; nor does it include the installation of*
802 *streets and/or walkways; nor does it include excavation for basement, footings, piers, or*
803 *foundations or the erection of temporary forms; nor does it include the installation on the*
804 *property of accessory buildings, such as garages or sheds not occupied as dwelling units or*
805 *not part of the main structure.”*

806
807 Ms. Bennett said that I think this is good. I think it’s great to have this conversation,
808 again, because the whole ‘commence’ and start of construction’, getting it to tie to
809 other parts of our code is important.

810
811 The PB agreed.

812
813 Ms. Lemire said that there is a definition, here, for ‘substantial improvement’ and
814 ‘substantial start’. ‘Substantial start’ *“means completion of 30 percent of a permitted*
815 *structure or use measured as a percentage of estimated total cost.”*, which is what you all
816 have been talking about. Then, *‘substantial improvement’ means “any reconstruction,*
817 *rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds*
818 *50 percent”*.

819
820 Ms. Braun said that we need to add those definitions to the list to clarify.

821
822 Ms. Lemire said that I think that, in the process of doing this, it will be. We could
823 actually take language from them, too.

824
825 Mr. Brubaker agreed.

826 **3. Solar Energy Systems**

827
828 Mr. Brubaker said, sharing his screen, with regard to Ms. Bennett’s
829 recommendations, we did make those updates that you see ‘here’ where large solar
830 systems must be sited on non-hydric soils. The Conservation Commission (CC) did a
831 review last Wednesday and had a minor comment that they would like the vegetated
832 buffers that are required to be maintained as a buffer. A change I wrestled a little with
833 regarded wetlands and how wetlands could be altered and, so, I added this: “*In no*
834 *case shall and SES-LG be sited on, or alter, 4,300 square feet or greater of*
835 *wetlands.*”

836
837 The PB was okay with this addition.

838
839 **4. Event Centers**

840
841 There were no updates for this. The PB will continue to work on this.

842
843 **5. Maximum Number of Licenses for Marijuana Establishments and Medical**
844 **Marijuana Establishments**

845
846 Mr. Brubaker said that, relative to the draft you have, I made some changes with a
847 further conversation with our attorney, a few clarifications in the Background and
848 Rationale. I want to stop here. ‘These’ are the actual maximum numbers – number of
849 marijuana stores is 8; number of licenses – marijuana cultivation facilities is 4,
850 marijuana product manufacturing facilities is 13; medical marijuana caregiver retail
851 store or dispensary is 4; medical marijuana cultivation facilities or product
852 manufacturing facilities is 3. So, those numbers together account for that chart that
853 you see – active or somewhere along the line for approval.

854
855 Mr. Latter asked if we found out what would happen if we made the maximum
856 number of marijuana stores less than the number we have on the pipeline.

857
858 Mr. Brubaker said yes. Our attorney mentioned another community that he is working
859 with that did that. They set the cap at less than the ones already operating so there was
860 grandfathering obviously. But it created difficulties because one entity wanted to sell
861 their property and their business and they couldn’t because any time there is a new
862 business taking over it’s a new license. No one wanted to buy because they couldn’t
863 get a new license, even though the business was grandfathered. But this does have
864 what I would call automatic attrition; that ‘this’ is a changed version of what’s in your
865 packet, found in §11-6.1(d), explaining under what circumstances licenses are
866 reduced. Our attorney advised us that we need a floor so, basically the reduction that
867 could happen is half the numbers; that’s that natural reduction over time.

868
869 Mr. Latter said that that’s good because, if sewer and water goes all the way up Route
870 236, those properties might become more attractive to different kinds of development.

871

872 Ms. Crichton asked if this cap is at 28.

873

874 Mr. Brubaker said, overall, yes. To be clear, that's establishment types, not
875 properties.

876

877 Ms. Braun said that I have a hypothetical question. This dealing with licenses that get
878 issued by the SB. What does that do to our workload if you have people anticipating
879 licenses to come due or expire. Are they going to come to us and want approval based
880 upon the anticipation of getting a license.

881

882 Mr. Brubaker said yes.

883

884 Ms. Braun said that that isn't going to help our workload, per se.

885

886 Mr. Brubaker said that I want to point to the change in §33-190. The PB's review of
887 an application for a marijuana establishment or medical marijuana establishment,
888 where the license has been capped and reached, shall not begin until the applicant
889 acknowledges that they might not get a license. So, it's like an actual risk clause in
890 there. We want to be fully clear to the applicant that, if they are applying for a
891 marijuana store PB approval and the licenses are already reached, they would go
892 forward at their own risk because, when you get approved, you build the building,
893 and you want to go to the SB to get your license, it may not be available to you. The
894 idea with this is that, perhaps, a clever applicant could hedge their bets and basically
895 seek approval for a building that could have multiple uses in the same building.

896

897 Ms. Braun said that it's possible that that PB approval could expire before a license
898 becomes available. Then they would have to come back.

899

900 Ms. Bennett asked, referring to licenses, do we need to be explicit that this is the
901 Town license versus the State license.

902

903 The PB agreed that would be a good idea, a local license.

904

905 Ms. Bennett said, as a follow-up, I'm looking at the materials from the last meeting,
906 your workbook indicated that only 2 local licenses had been issued. Is that correct.

907

908 Mr. Brubaker said that that was 'highest status achieved'. Anyone who has their State
909 active license also has their local license. So, those would be the 4 that have gotten
910 their local license but not yet their State License.

911

912 There was brief discussion regarding the thought that, as this ordinance was originally
913 established and approved by the Town, there would be inherent limitations on the
914 number of establishments.

915

916 Ms. Bennett, going back to the number of licenses issued, asked if we have issued 30
917 local licenses now.

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Mr. Brubaker said no.

Ms. Bennett said that I am trying to get my mind wrapped around that we're proposing to cap the total number of licenses at 28. How much more is that than what has been issued.

Mr. Brubaker discussed a couple of nuances to answer the question with the chart on the screen. One of the things that we haven't done is we really haven't issued licenses for medical, although we made the June 2021 changes for them. We did add medical references all throughout Chapter 11. So technically, we should be starting to issue medical marijuana licenses. There is language in this proposed amendment that basically says that the Town hasn't yet asked for medical marijuana licenses but now that we have a cap them, it will be especially important that we give a grace period so that medical providers can come in and actually get a local license. The State doesn't require an active license; that you have to prove your bona fides on the medical side but there's not the same active license as there is with the adult use side. So that's why I have 'here' that there are 5 medical that are in operation. Then there are 8 on the adult use side that have got their State active license issued. That combined total is 13 adult use and medical establishments authorized, operating or ready to operate.

Mr. Leathe asked how many physical properties have marijuana establishments on them.

Mr. Brubaker said that, to the best of my knowledge, there are 13. No, actually 10.

Mr. Leathe said that I think we just have to clarify that it's 30 establishments on 10 locations. If we say 30 that's going to be pretty alarming.

Ms. Bennett said that I threw them all onto our GIS and I came up with 15. As you said, Sweet Dirt has like 3 properties. But, if you want to know how many pieces of commercial land have a marijuana establishment on them, there are 15 right now.

Mr. Brubaker asked in operation.

Ms. Bennett said no. I used your master sheet.

Mr. Bruker said that I re-did that image.

Mr. Leathe asked if you agreed there were 15 locations.

Mr. Brubaker said that I think so.

Mr. Leathe said that I just think we should be consistent because people do ask me that question.

964 Mr. Brubaker said that I would say, based on Ms. Bennett's math and this
965 spreadsheet, I would say roughly that there are 7 that have active, in operation,
966 marijuana uses on them on 7 properties. Roughly 15 that have marijuana
967 establishments that are somewhere in the approval pipeline. Then that roughly
968 translates into 30 marijuana establishment types, 28 of which are subject to the cap
969 because CATLAB (testing facility) is both medical and adult use testing (2 in 1
970 building).

971
972 Mr. Leathe said that if somebody comes up to me after this becomes public, we have
973 15 marijuana individual sites in Eliot. And with this new ordinance and our new
974 language, how many would we expect to have.

975
976 Mr. Brubaker said that this new ordinance wouldn't necessarily limit properties, or
977 sites. It would limit establishment types or licenses. So you would basically say no
978 more than 28 licenses.

979
980 Mr. Leathe said that the people I talk to think of it in terms of actual location. So there
981 are 15 sites in Town where there is a marijuana operation and that includes 28
982 licenses.

983
984 Mr. Brubaker brought up Ms. Bennett's GIS map of the marijuana site locations for
985 the PB.

986
987 Mr. Leathe said that it would be interesting to take the commercial district along
988 Route 236 and count the number of viable commercial lots just to see what
989 percentage the marijuana industry has taken over of consumable, potential lots. In
990 hindsight, it's pretty big and it could get a whole lot bigger.

991
992 There was discussion around 28 being too high.

993
994 Ms. Bennett said that we're in a catch-22 right now and the best we can do right now
995 is the 28. I recall from the last applicant, buried in all that back-and-forth
996 correspondence with our Planner, they had identified only 2 other sites that were
997 feasible.

998
999 There was discussion regarding the '500-foot sensitive use' limitation and how that is
1000 applied based on local and State criteria.

1001
1002 Mr. Leathe said that of the issues we've talked about I think the biggest one is the
1003 crowding out effect. That's the only commercial space we have, the only viable
1004 commercial space that can generate revenue for the Town. Do you want all your eggs
1005 in one basket. I think that's principally what most people are concerned about that
1006 think about this, and obviously the noise and whether you like marijuana or a liquor
1007 store or whatever. That's sort of secondary. But I think it's more the fact that
1008 everything out there that's developable is going to be dependent on marijuana.

1009

1010 Mr. Latter asked if we will see an increase in our tax base.

1011
1012 Mr. Brubaker said that, obviously, when these businesses come in, we get the annual
1013 license fees.

1014
1015 Mr. Latter said that that is not nearly enough.

1016
1017 Mr. Brubaker said that they then develop and our assessor makes a decision based on
1018 that change in valuation.

1019
1020 Mr. Latter said that we're not getting it from the tax on property; that there's no
1021 revenue-sharing. The only upside to this from the Town's point of view is the
1022 increase in the property values that increase our tax base, and I think that should be a
1023 quantified number.

1024
1025 Ms. Lemire said that some of the parcels are in the TIF District.

1026
1027 Mr. Leathe said that a Comprehensive Plan analysis that might be interested to see is
1028 what type of commercial activity would be acceptable to the Town, what would
1029 generate the most return. I don't know what is more desirable, financially, than other
1030 types of commercial development but it would be an interesting thing to know.

1031
1032 Mr. Brubaker said that, if you read the article in recent news, there's already a
1033 contraction that's potentially starting to happen. Prices are starting to go down.
1034 Energy process for these is going up. And, as more and more locations open and
1035 potential changes across state lines, those factors will play a role. I fully agree that a
1036 lot of people would see 28, or even 14 properties with 28 establishments, and ask if
1037 that isn't still so much that it's crowding out other businesses. Part of that is that our
1038 C/I District does not yet have the infrastructure to support _____.

1039
1040 Ms. Bennett said that I like the way Mr. Brubaker caught that in the context of long-
1041 term planning that we will be doing with the Comprehensive Plan. Perhaps this may
1042 be one of those survey questions that we pose to the community. We identify as a
1043 rural community so what is our small C/I Zone supposed to do to add value to our
1044 way of life in this community. We think we're rural then what are those sorts of
1045 goods and services and types of businesses we might want to have located in the C/I
1046 District that supports the overall rural, quasi-rural, suburban Town that we have.

1047
1048 Mr. Leathe said that I think we need a Tractor Supply coming in here.

1049
1050 **6. Erosion and Sedimentation Controls**

1051
1052 Mr. Brubaker said that there were only minor changes in wording and clarifying
1053 enforcement authority versus permitting authority. I had a conversation with Attorney
1054 Saucier and Ms. Rabasca about that and that will be finalized for the next packet.

1055

1 **ITEM 1 - ROLL CALL**

2
3 Present: Carmela Braun – Chair, Jeff Leathe – Vice Chair, Christine Bennett – Secretary,
4 Lissa Crichton, and Jim Latter (Zoom).

5
6 Also Present: Jeff Brubaker, Town Planner.

7
8 Voting members: Carmela Braun, Jeff Leathe, Christine Bennett, Jim Latter, and Lissa
9 Crichton.

10
11 NOTE: Mr. Brubaker said that I would like to disclose that I have a potential, apparent
12 bias with the Shoreland application with the Town of Eliot with the Route 236 Water &
13 Sewer Project. I have been the de facto interim project manager for a little over a year.
14 Our consultant, Underwood Engineer, is here to present the application and SMPDC to
15 supervise the application. So, I'm going to recuse myself.

16
17 **ITEM 2 – PLEDGE OF ALLEGIANCE**

18
19 **ITEM 3 – MOMENT OF SILENCE**

20
21 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

22
23 There was no public input.

24
25 **ITEM 5 – REVIEW AND APPROVE MINUTES**

26
27 There were no minutes approved.

28
29 **ITEM 6 – NOTICE OF DECISION**

30
31 There were no Notices of Decision tonight.

32
33 **ITEM 7 – PUBLIC HEARING**

34
35 Ms. Braun said that we will have several Public Hearings tonight. Each ordinance will
36 have its own public hearing, explaining how the public hearings would be conducted.

37
38 **A. November 2022 Ordinance Amendments**

39
40 **1. Site Plan Review, Subdivisions, Vesting, and Performance Guarantees**

41
42 **6:08 PM Public Hearing opened.**

43
44 Ms. Brubaker said that the Ordinance Subcommittee first ordinance amendment for site
45 plan and subdivision plan expiration and performance guarantees. I do have some
46 recommended additional amendments to share based on our legal counsel review and a

47 suggestion from Ms. Bennett. I did add a definition of ‘substantially complete’ and I
48 changed the Background and Rationale accordingly. In a legal review, Attorney Saucier
49 preferred that we don’t use ‘vesting’ because it has a different legal definition, so those
50 references have been removed. After current expiration language, the new definition of
51 ‘substantially complete’ follows: means that “the property or improvements may be
52 occupied or utilized for the purpose for which they are intended and only minor items
53 such as touch-up, adjustments, or minor replacements or installations remain to be
54 completed or corrected.” (2) and (3) are the same as before. (4) is certainly a policy
55 decision, but the PB has gone with the fact that, if an extension is requested, the new
56 ordinance changes could be considered and may be applied to the extension. There is just
57 some minor wording that Attorney Saucier has recommended.

58
59 Ms. Braun said that I think this is appropriate. Does everyone agree on this language.

60
61 Ms. Bennett said if the ordinances have changed, which they haven’t changed frequently
62 at all, we would need to have the conversation, on the record, that those changes may
63 come into play. So, we must consider it.

64
65 Mr. Brubaker said yes. Then, you would have to make a determination.

66
67 Ms. Bennett said that that would be reflected in the Notice of Decision or Findings of
68 Fact.

69
70 Ms. Braun added that that would be on a case-by-case basis, anyway, for an application.

71
72 Mr. Brubaker agreed. If there is nothing to change, you can choose to grant or deny the
73 extension, end of story. But, if something needs to be changed, then they are basically in
74 the site plan amendment realm. Then, once they submit that site plan amendment, they
75 are basically in the ‘safe harbor’ where their site plan expiration kind of doesn’t happen
76 because they are in the process of making those changes. (5) and (6) are the same. In §33-
77 132 Performance guarantees, this is just wordsmithing to clarify that these will apply to
78 either public or private streets. The attorney and I talked about this wordsmithing in
79 making it very clear.

80
81 The PB had no objection.

82
83 Mr. Brubaker said that, in §33-133 Phasing of development, Attorney Saucier
84 recommended adding “The applicant shall provide a separate performance guarantee, in a
85 form and amount acceptable to the Town Manager and Select Board, for the completion
86 of the infrastructure of each phase.” This is similar language that’s already in
87 Subdivisions but he just wants to add it to the non-subdivision part.

88
89 The PB had no objection.

90
91 Ms. Braun asked if any member of the public wished to speak on this amendment.

92

93 There were no public comments.

94

95 **6:16 PM Public Hearing closed.**

96

97 Ms. Bennett said that I think the suggested changes in the legal review make this a very
98 tight and valid amendment to our subdivision and site plan review ordinances.

99

100 Mr. Brubaker said, regarding §1-20, that this has to do with when an application is
101 pending under current ordinances or whether it needs to be subject to ordinance changes.
102 Attorney Saucier recommended adding “An application for an extension of a site plan
103 approval must meet the standards in §33-59.”

104

105 Ms. Crichton asked if there is something that needs to be in there for additional fees, if
106 they waited the 2 years, or is that basically understood.

107

108 Mr. Brubaker said that there is nothing that is in this current ordinance amendment about
109 fees. If they need to submit an entirely new application after their approval expires, they
110 would then face the same fees as before. But there is no specific fee articulated for simply
111 a request for extension. If voters approve the fee schedule amendment, that would then be
112 on the SB to establish that fee, if they so wish.

113

114 Ms. Bennett asked if we could review the definition of ‘substantial change’.

115

116 Mr. Brubaker said that I sent that to Attorney Saucier but have not had a reply on that,
117 yet. I did verbally talk with him.

118

119 **Mr. Leathe moved, second by Ms. Bennett, that the Planning Board recommend**
120 **approval of the proposed Town Code Amendments related to Subdivision Plan and**
121 **Site Plan expiration, phasing, and performance guarantees at the Town Special**
122 **Election Referendum on November 8, 2022, as amended. Minor formatting changes**
123 **and revisions to the Background and Rationale section may be made prior to**
124 **presenting the amendments to the Select Board on August 25, 2022.**

125

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138

VOTE

4-0

Motion approved unanimously

2. Solar Energy Systems

6:20 PM Public Hearing opened.

Mr. Brubaker said, sharing his screen, that these amendments make additional changes to what was adopted by voters in June, specifically regarding larger-scale solar energy systems (SES-LG), potentially allowable in the Limited Commercial Shoreland Zoning District (only) if they are on appropriate soils, and clarifying the language around buffering and solar energy systems that are on developed or brownfield sites. I’ve been going back and forth with DEP representatives about nuances with regard to the smaller-

139 scale solar energy systems (SES-SR), which are either roof-mounted or ground-mounted
140 and below the 15,000 square-foot threshold. Discussing the Shoreland Land Use Table,
141 he pointed out the pertinent revision updates. For smaller systems, we simply had CEO
142 review, essentially by right, as long as applicable requirements were met. The DEP had
143 some hesitation with that, given that the threshold is 15,000 square feet. They felt that
144 that might create some allowability for systems that are a little too large and maybe used
145 commercially. So, what we've done is close the window a little bit and placed some
146 additional limitations on these smaller-scale systems in certain Shoreland Zoning
147 Districts.

148 *"^{15A} Must conform to the requirements of section 45-462. In SP and RP, an SES-SR is*
149 *only allowable as a roof-mounted system on an approved or legally non-conforming*
150 *structure, or as a ground-mounted system whose area, based on total airspace projected*
151 *over the ground, is less than ~~5,000~~ 1,000 square feet.*

152 *^{15B} Must conform to the requirements of section 45-462. In LR, an SES-SR is only*
153 *allowable if it is limited by design to supply the energy needs of an existing or allowed*
154 *use on the same lot as the system. Sale of energy to the power grid must be limited to*
155 *incidental excess power generation. ~~its primary purpose is to supply energy to a principle~~*
156 *~~use or structure located on the same lot as the system, or on an abutting lot in the case of~~*
157 *~~a common system serving more than one principle use or structure.~~"* This language is
158 what would be proposed in our Shoreland Table of Land Uses footnotes. That's where we
159 added the suggestion that they only be built on appropriate soils (non-hydric). 15A
160 applies to Stream Protection and Resource Protection Districts, which are two of the most
161 sensitive Shoreland Zoning Districts. We are trying to reflect the DEP feedback because,
162 at the end of the day, they need to approve the language. In Resource Protection (RP), a
163 lot of uses are prohibited but you can, by special exception, get a Shoreland Zoning
164 permit to build a house, and certain other buildings, like institutional, educational
165 buildings that may be allowed. Generally, we want to protect and buffer natural
166 resources. But, if someone does get approved to build a house, or they have an existing
167 legally-nonconforming house, this would allow them to seek a permit for a roof-mounted
168 system. With a very small ground system of 1,000 feet or less, I anticipated that to apply
169 to an environmental agency, for instance, that wants to set up as monitoring station and
170 have a very small power source for that, that would allow that. But no matter what, these
171 would be limited to supply only the energy needs of the existing, or allowed uses, on the
172 same lot as existing. This would limit these systems from selling in a commercial sense.
173 15B applies to Limited Residential and pretty similar. SES is only allowable if it is
174 limited by design to supply energy needs for an existing or allowed use on the same lot as
175 the system. Sale of energy to the power grid must be limited to incidental excess power
176 generation. So, those are the late-breaking changes.

177
178 Ms. Braun asked if anyone from the public wished to speak.

179
180 Mr. (Ken) Wood, State Road, said that I notice that the ordinance does not allow SES-
181 LGs in the focus areas of State-wide ecological significance. Of course, the PB know
182 we're been in front of it with a solar energy project that this PB approved. We met all the
183 standards. We have all the approvals from the State Ecological Society, Maine Natural
184 Areas Program, MHBC, IF&W. But, in this case, because that site is within the

185 headwaters of the York River, which is designated Wild & Scenic, it would be
186 prohibited. And I remember when the York River was going through, I'm pretty sure that
187 the supporters of the bill claimed that bill would not affect the property rights of any
188 owner within its watershed. In this case, it does. We have a 75-acre parcel that, even
189 though it was approved under Eliot's ordinance, wouldn't (it) be approved under this
190 revision. So, I'm wondering where that language actually came from. If it came from **too**
191 **many appeals** or something we added at the local level.

192
193 Mr. Brubaker said that we added it at the PB level.

194
195 Mr. Wood asked if he could explain the reasoning.

196
197 Mr. Brubaker said that my interpretation is that it was part of a set of environmental
198 performance standards to really ensure that these larger-scale systems are not unduly
199 impacting the environment and natural resources, especially in the most ecologically-
200 sensitive areas.

201
202 Mr. Wood asked if there's a belief that it would be detrimental to the York River Wild &
203 Scenic designation.

204
205 Ms. Bennett said that the rationale, including that language, comes from the Maine
206 Natural Areas Program, and it refers to the area of State-wide ecological significance
207 determined by them; that it has to be related to Mt. Agamenticus. There are 45 areas of
208 State-wide ecological significance. There is an overlap on the subject parcel you are
209 speaking about. There are four different focus areas. We did not consider the York Wild
210 & Scenic because you are correct that that designation would have no impact on local
211 zoning. And it's a different area than Mt. Agamenticus. It's actually wider and covers
212 more land in Eliot than this area for Mt. A. It's part of the Maine Natural Areas Program
213 and I believe that designation has been in place for about 20 years.

214
215 Mr. Brubaker added that there are also carve-out exceptions in those focus areas for
216 brownfield sites, re-development areas already permitted, or areas already significantly
217 graded by permit.

218
219 **6:32 PM Public Hearing closed.**

220
221 Ms. Bennett said that I just want to comment that I appreciate that our Planner actually
222 brought this before the DEP before tonight's hearing because then we have valuable
223 additions to what we proposed.

224
225 Ms. Braun said that, if there is no more discussion, I need a motion to forward this to the
226 SB to have it go on the November ballot.

227
228 **Ms. Bennett moved, second by Mr. Leathe, that the Planning Board recommend**
229 **approval of the proposed Town Code Amendments related to Solar Energy Systems**
230 **at the Town Special Referendum Election on November 8, 2022, as amended. Minor**

231 **formatting changes and revisions to the Background and Rationale sections may be**
232 **made prior to presenting the amendments to the Select Board on August 25, 2022.**
233

234 **VOTE**
235 **4-0**
236 **Motion approved unanimously**
237

238 **3. Maximum Number of Licenses for Marijuana Establishments and Medical**
239 **Marijuana Establishments**
240

241 **6:33 PM Public Hearing opened.**
242

243 Mr. Brubaker said that there are no additional amendments are recommended so what is
244 in your packet is the same. My recommendation would be approval. These amendments
245 establish the maximum number of licenses for marijuana establishments and medical
246 marijuana establishments. The maximum numbers are being set with regard to not only
247 in-operation or active licenses but also establishments that are currently in various stages
248 of the approval process. Testing facilities would be exempt from the maximum number.
249 The total maximum would be 28, with a maximum of eight (8) marijuana stores, thirteen
250 (13) cultivation marijuana facilities or product manufacturing facilities on the adult use
251 side. Four (4) medical marijuana caregiver retail stores or medical marijuana
252 dispensaries, and three (3) medical marijuana cultivation facilities or medical marijuana
253 product manufacturing facilities. There is an automatic reduction in §11-6.1.(d) where a
254 license is revoked, expires, or is voluntarily terminated; that the number would be
255 reduced by one (1) down to a floor, which is in subparagraph 3, and then there are rules
256 that are established for how the maximum number would be managed. Then it makes just
257 necessary wording changes to other parts of Chapter 11 and Chapter 33.
258

259 Ms. Braun asked if there was any member of the public who wished to speak to this
260 amendment.
261

262 Mr. Wood said that, as you know, we've done a number of marijuana projects within the
263 Town. I think all the facilities have been very good businesses on Route 236. I think
264 they've been an improvement over the auto graveyards and the auto recycling businesses.
265 They look good. I believe they spur our economic development and they are a good tax-
266 paying base. I think our ordinance restricts the number of licenses with the 500-foot rule
267 and I think, in some cases, this could harm one of the facilities. Let's say you have a
268 facility that brought in a medical use early and they want to add adult use. That would
269 prohibit them from doing that. It would prohibit a cultivator from opening up a retail use,
270 especially where those licenses are capped as of projects that will be before the PB as of
271 tonight's meeting. So, I'm just curious as to why do we feel there is a need to have the
272 licenses.
273

274 Mr. Brubaker said that it has been recommended based on concerns by the PB and
275 members of the community with regard to ensuring business diversity on Route 236 as
276 well as traffic concerns and occasional odor concerns.

277
278 Ms. Braun agreed. We've had a lot of concerns from the public on the issues stated and
279 this would hopefully be an avenue to help with that.

280
281 Mr. (Blake) Dubin (Zoom) said that, as a landowner in Eliot catering to this sort of
282 business, I find the Commercial/Industrial District to be fairly small in the Town and the
283 ability to operate one of these businesses is fairly restrictive, given the setbacks and
284 current space available. I feel like, inherently in Eliot, there's already a sort of cap in
285 place, given the amount of space available to such businesses. And I don't feel like it's in
286 the spirit of commerce for the Town of Eliot, especially in the area where it is
287 permissible, in the sense that there is certainly, as the previous gentleman mentioned,
288 improvements. These buildings are in good standing. They are adding to the quality of
289 businesses that are operating on Route 236 and I think it's in the spirit of commerce for
290 the Town to continue to allow for more establishments to be eligible. I feel that the cap at
291 the number 8 and at this meeting seems a little too restrictive for the reasons I mentioned
292 previously.

293
294 Mr. (Will) Dunphey (Zoom) said that I'm an Eliot resident and I just wanted to second
295 what Mr. Wood and Mr. Dubin said. It kind of limits, with the way licensing is, if we
296 wanted to be a vertically integrated business in the cannabis industry. Say you are
297 approved for a store and for cultivation but you want to build out your business. Not
298 having the ability to obtain those licenses could be a hindrance to the business. I just
299 wanted to see if there is an ability to maybe change it to 20 or just leave it as the C/I Zone
300 is available for cannabis.

301
302 Ms. (Amanda) Abelmann (Sweet Dirt) said that I just want to check on transferability of
303 the license. The ordinance seems silent on this. I just want to make sure that if we are to
304 transfer a license that that doesn't necessarily count as giving up a license.

305
306 Mr. Brubaker said that §11-12 of the licensing chapter does address and prohibit license
307 transfers.

308
309 Ms. Abelmann said that, from a business standpoint, not being able to transfer a license is
310 prohibitive. Cannabis companies are just businesses and not being able to transfer a
311 license from one entity to another is probative with running a business. So, if the PB is
312 willing to take that up at some point, I would love to have that conversation brought in –
313 the ability to transfer.

314
315 Mr. (Joel) Pepin, owner of JAR Cannabis Company, said that I'm on the agenda later
316 tonight, first review for a site plan. Just to speak specifically about the ordinance as I'm a
317 little new to Town and in the industry. My concern is the language in the ordinance that
318 says specifically having a hearing by today's date and then my specific circumstance
319 being last on the agenda (as time allows). So, I believe as a store which we are applying
320 for, if for some reason we were not heard tonight I just want to state on the record that
321 that would be problematic - the way the proposed ordinance mentions today's date.

322 We're on the agenda and I hope we get to talk and have our first review of the site plan
323 today, but I just wanted to state that for the record.

324
325 Mr. Brubaker said that §11-12 Transfer of ownership and change of location is pretty
326 short:

327 (a) Licenses issued under this article are not transferable to a new owner.

328 (b) A state transfer license shall require a new local marijuana license.

329 (c) Licenses are limited to the location for which they are issued and shall not be
330 transferable to a different location. A licensee who seeks to operate in a new location
331 shall acquire a new local license for that location.

332 (d) Licensees shall provide evidence to the town clerk annually of their license issue date
333 with complete list of employees, owners, directors, and stake holders.

334
335 Mr. Brubaker said that I think that elaborates on my previous summary where it may not
336 fully prohibit certain types of changes of use of establishment types. It was mentioned
337 that the cap is 8 and that is not correct. The proposed cap is 28 total for marijuana
338 establishments or medical marijuana establishments. The number 8 only applies to
339 marijuana adult use stores.

340
341 **6:45 PM Public Hearing closed.**

342
343 Ms. Crichton asked if any of these places generate funds for the Town.

344
345 Ms. Bennett said that I believe that because they are improving the property by building
346 structures, the valuation increases. It is in the TIF District and is favorable to the Town in
347 that we don't have to share it with the State.

348
349 Mr. Brubaker added that the Town does receive annual license fees from these
350 establishments. With one potential exception, the State has not been engaging in a
351 revenue-sharing of sales and excise tax to municipalities, to my knowledge.

352
353 Ms. Braun said that, if there were no more comments, I would need a motion to move this
354 forward to the SB for the November ballot.

355
356 **Ms. Braun moved, second by Ms. Crichton, that the Planning Board recommend**
357 **approval of the Proposed Town Code Amendments Related to Limiting the Number**
358 **of Marijuana Establishment and Medical Marijuana Establishment Licenses at the**
359 **Town Special Referendum Election on November 8, 2022. Minor formatting**
360 **changes and revisions to the Background and Rationale sections may be made prior**
361 **to presenting the amendments to the Select Board on August 25, 2022.**

362
363 **VOTE**
364 **4-0**
365 **Motion approved unanimously**

366
367

368 **4. Erosion and Sedimentation Control**

369
370 **6:47 PM Public Hearing opened.**

371
372 Mr. Brubaker said that this should be pretty straightforward and I think it's in a really
373 good spot. These are erosion and sedimentation control requirements that are to be added
374 to our code to ensure we comply with our MS4 General Permit. They're based on the
375 Southern Maine Working Group's Model Ordinance. We need to adopt them by next year
376 so we are in a good spot right now to put them on the November ballot. The only minor
377 change has to do with the Conservation Commission's comments. On page 18 under
378 Permanent Stabilization, I added what I feel reflects the CC's comment, which is "*Native*
379 *plants and native seed mixes should be used to the maximum extent practicable. If hay is*
380 *used, it shall be weed-free hay.*" I think this is good for now. I ran it by Ms. Rabasca and
381 she was good with that. If we want to further address native plantings, when we bring up
382 the LID ordinance, we can do it then.

383
384 There was no public comment.

385
386 **6:50 PM Public Hearing closed.**

387
388 Ms. Braun said that, if no one has any comments on this, I need a motion to forward this
389 to the SB for inclusion on the November ballot.

390
391 **Mr. Leathe moved, second by Ms. Crichton, that the Planning Board recommend**
392 **approval of the Proposed Town Code Amendments Related to Erosion and**
393 **Sedimentation Control at the Town Special Referendum Election on November 8,**
394 **2022, as amended. Minor formatting changes and revisions to the Background and**
395 **Rationale section may be made prior to presenting the amendments to the Select**
396 **Board on August 25, 2022.**

397
398 **VOTE**
399 **4-0**
400 **Motion approved unanimously**

401
402 **5. Town Fee Schedule**

403
404 **6:51 PM Public Hearing opened.**

405
406 Mr. Brubaker said that there are no recommended additional amendments, here, so they
407 are the same as in your packets. In summary, this makes changes to §1-25, which has the
408 fee schedule embedded in our Town Code. This would essentially empower the SB to be
409 the one in charge of adopting and maintaining a master fee schedule. When that happens,
410 the fees that are particularly enumerated in that section will be repealed. It basically
411 streamlines the SB as the maintainer of the fees.

412
413 There were no public comments.

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6:52 PM Public Hearing closed.

Ms. Braun said that if no members had any questions on this amendment, I will need a motion to move this forward to the SB to be placed on the November ballot.

Mr. Leathe moved, second by Ms. Crichton, that the Planning Board recommends approval of the Proposed Town Code Amendments Related to the Town Fee Schedule at the Town Special Referendum Election on November 8, 2022. Minor formatting changes and revisions to the Background and Rationale section may be made prior to presenting the amendments to the Select Board on August 25, 2022.

**VOTE
4-0
Motion approved unanimously**

ITEM 8 – NEW BUSINESS

A. 276 Harold L. Dow Highway (Map 37/Lot 9), PB22-14: Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – sketch plan review.

**Received: June 29, 2022
1st Heard: August 16, 2022 (sketch plan review)
2nd Heard: _____ 2022 (site plan review/completeness)
3rd Heard: _____, 2022 (continued review/Public Hearing/approval)
Public Hearing: _____, 2022
Site Walk: N/A
Approval: _____, 2022**

Mr. (Ken) Wood, P.E. Attar Engineering, was present for this application.

Mr. Wood said that Blackbeard Farms is proposing to put a 600 square-foot food processing area within the existing facility at 276 H.L. Dow Highway that Black Hawk operates. Mr. (Jelal) Jones would operate it. The function would be to make candy bars (edibles). On a big week, they would do about a hundred cases with 24 candy bars each in a case. The candy bars have a distillate added to them. They melt the chocolate, mix the ingredients, cool it down and put it in the refrigerator to produce a candy bar.

Ms. Braun asked if Mr. Brubaker would give an overview.

Mr. Brubaker said that they have provided their OCP conditional license for the manufacturing use. The kitchen will be inside the existing building, kind of adjacent to the cultivation area. Additional documents have been provided regarding waste and odor, which would be in the next review. I think this is pretty administrative but State licensing for a commercial kitchen will eventually be needed.

460
461 Mr. Wood said that he has applied for that license and expects it in three weeks.
462
463 Mr. Brubaker said to note that their application package does include information on the
464 septic system, including a septic inspection from Dave Anderson. Otherwise, it's clearly
465 an allowed use in the Commercial/Industrial Zoning District. As the cover letter notes,
466 there are minimal external changes. It's primarily to establish a commercial kitchen on-
467 site.
468
469 Ms. Crichton said that I have, for Blackbeard Farms, three addresses – 84 Marginal Way,
470 Portland; 223 Beech R; and PO Box 661, York, Maine. Blackbeard Farms, and Black
471 Hawk is the owner of the property.
472
473 Mr. Wood said that Blackbeard Farms is a tenant in Black Hawk's facility. Mr. Jones is a
474 resident of York, which may be why he has those two addresses.
475
476 Ms. Crichton asked, on the lease agreement, is it just for two years.
477
478 Mr. Wood said I believe yes, with a renewal.
479
480 Ms. Crichton said that it's very hard to read this lease.
481
482 Mr. Wood said that I noticed that; that it's the copy we had. Assuming we get sketch plan
483 approval and move to preliminary, I will provide a clearer copy of the lease, and we can
484 answer your question on the timing of the lease.
485
486 Ms. Crichton said, regarding the septic, I realize there is an approval from 1989.
487
488 Mr. Wood said that the HHE-200 Form is from 1989. The system was sized for 40
489 employees. I think there is even a reduction, now; that I don't believe it's 15 gallons per
490 day per employee unless it includes shadows now. Currently, Black Hawk has 3
491 employees. Blackbeard would put 2 employees in for 10 total employees for a system
492 that is sized to accommodate 40 employees. He's provided the inspection. I don't really
493 know what the prior company had for employees when they were there but I know that
494 site was vacant for a long time and underutilized. Usually, one of the best deterrents to a
495 failing system is to let the system rest so the organic mat below the system can crack and
496 break up and thus receive more affluent. So, I feel that the in-place system is adequate
497 and I think the inspection of the system reinforces that.
498
499 Ms. Crichton read a note at the end of the report: "*Note: at the time of inspection, the*
500 *brick-and-mortar risers were leaking, allowing groundwater from snow melt and rain*
501 *into the tank and the pump chamber. It is suggested that the existing risers to be seated.*
502 *Alternatively, it is suggested that concrete or plastic riser be installed that are properly*
503 *seal to the tank to prevent water, soil, or root intrusion."* I think that was the only thing
504 that needed updating.
505

506 Mr. Wood said that we would like to put that as a condition of approval.

507

508 Ms. Bennett said that I am looking at the second sheet you provided, the one that shows
509 the septic system. How is Existing Building #2 tied into the septic system.

510

511 Mr. Wood said that it's tied in by the line on the front; the line that comes out the front of
512 where the kitchen is. Do you see the leader that says "Approximate Location" of the
513 Adult Use Manufacturing. The line and the tank are right in front of it. He showed her on
514 the physical plan the location.

515

516 Ms. Crichton asked how far it is from the church.

517

518 Mr. Brubaker said that it's near the church but cultivation and manufacturing facilities are
519 exempt from the 500-foot rule. The building in front is the appropriate distance.

520

521 Ms. Braun asked what the purpose was for the grease trap.

522

523 Mr. Wood said that the grease trap, under Chapter 241 of the plumbing code, is required
524 for commercial, industrial kitchens and food prep facilities. A grease trap is usually
525 internal to a building and grease interceptors are external. It's a 1,000-gallon tank, where
526 750 is the minimum size, that collects the kitchen waste water (sink, dishwasher, food
527 prep water) and allows it to cool down independent of the sewerage that's going to the
528 septic tank. Then the grease will settle to the bottom and a couple times a year you hire a
529 guy to come with a pumping truck to pump the grease out. We don't want grease to get
530 into the wastewater field because it will cause failure of the field.

531

532 Ms. Braun asked if they applied for the renewal of their license.

533

534 Mr. Wood said that I believe they did and I believe he is also getting his food processing
535 license within 3 weeks.

536

537 Ms. Crichton asked if they were making their own or are they shipping it in and getting it
538 in the gel, sticky form that they are putting into the candy bars.

539

540 Mr. Wood said that, from what Mr. Jones explained to me, they bring the raw ingredients
541 in, they mix them together, then form the candy bars. He (Mr. Jones) did promise to be at
542 the next meeting to explain the food process. I don't believe he is making his own
543 distillate but that will be clarified.

544

545 Ms. Crichton asked if Blackbeard was leasing the whole 50 acres.

546

547 Mr. Wood said that I believe that Mr. Steve Dunker's firm, **Blackbeard** Black Hawk
548 Holdings, owns that entire property. He and Jon Smith purchased it from Linda Corbin
549 (previous owner). I don't know if the whole entity is in Black Hawk but I know Steve
550 Dunker represents Black Hawk and Steve Dunker and John Smith own that parcel.
551 Blackbeard is just taking 'this' small portion of it, just the kitchen.

552
553 Ms. Braun said that I assume it emits no odors because it's food processing.
554
555 Mr. Wood said that the applicant has an odor control plan and he is within a facility that
556 also has an odor control plan. It might smell like chocolate.
557
558 Mr. Leathe asked if there were any security precautions.
559
560 Mr. Wood said that he is in a secure building. He said just today that he did get a security
561 plan, a waste management plan, and an odor control plan but it wasn't submitted and I
562 really thought it was part of the preliminary plan. His security keeps the food processing
563 separate from the rest of the building and I will supply that with the preliminary plan.
564
565 Ms. Bennett said that there was a question raised by the Planner about an updated traffic
566 movement in his letter. It was stated that there would be "*no changes...employees or*
567 *predicted traffic movement.*"
568
569 Mr. Wood said that Mr. Brubaker corrected me in his memo. We are adding 2 employees.
570
571 Mr. Brubaker said that I think Note #7 of the site plan noted that they would generate 89
572 peak hour trips and the DOT Driveway Permit said that it wouldn't impact it.
573
574 Mr. Wood said that there would be 89 to 94 van trips but I'm not sure if he has daily
575 deliveries going out.
576
577 Ms. Braun said that we would like to know the number of deliveries, as that will affect
578 our decision on whether we will ask for a traffic movement analysis or not.
579
580 Mr. Wood agreed that we can address that with preliminary.
581
582 There was discussion regarding a potential site walk. The Planner will check with legal
583 regarding public access, as there are limitations with an inside-the-building site walk. Mr.
584 Wood will check with the applicant, as well.
585
586 **B. 147 Beech Road (Map 29/Lot 4) & 0 Harold L. Dow Highway (Map 36/Lot 13),**
587 **PB22-16: Shoreland Zoning Permit Application – Town of Eliot Route 236**
588 **Water & Sewer Project Pump Stations – sketch plan review.**
589
590 **Received: June 9, 2022**
591 **1st Heard: August 16, 2022 (sketch plan review)**
592 **2nd Heard: _____, 2022 (continued review/completeness)**
593 **3rd Heard: _____, 2022 (continued review/approval)**
594 **Public Hearing: _____, 2022**
595 **Site Walk: N/A**
596 **Approval: _____, 2022**
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643

Mr. Brubaker said that I will step down, now, and I have the site plan materials that Underwood provided right here if someone from Underwood could sit here and scroll down during the presentation.

Mr. (Cole) Melendy, Underwood Engineers Project Manager. I have Andrew Weaver (Project Engineer, Underwood) with me. We're here to talk about the two proposed wastewater pumping stations to service the TIF District. We thought a good place to start was an overview of the plan and the two pumping stations are denoted in purple, pointing out the two parcels involved on the powerpoint. The intent of the project is to provide municipal sewer and water. These are wastewater pumping stations from the TIF District on Route 236. We call the pumping station on Route 236 a 'lift station' so, the pumping stations are at the low part. The sewers operate by gravity, for the most part. They flow to the lowest spot. That is the same thing with the Beech Road pumping station. Unfortunately, when you flow in low spots, oftentimes they are by water. We try to follow the natural topography as much as we can with the conveyance of the sewers. Both these stations are within the Shoreland Protection Zone. Regarding the 147 Beech Road pumping station, we have an existing easement. Stepping back, the pumping station on Route 236 is on a Town-owned parcel and the Town acquired an easement for the pumping station on Beech Road as part of preparation planning that was over a decade ago. The easement dimensions are about 60-70 feet by 60 feet, as shown by that little red box. There is an existing house on the site. It's about a 1-acre parcel. There's about 3,000 +/- of impervious area existing on the site and we're proposing to add about 1,200 square feet with the pumping station and associated driveway at that parcel. So, it's less than 10% of the overall coverage and that is included in the application. 'This' is the site plan and that is a blow-up of that little red box. Both of these pumping stations are within the Shoreland Zone of Sturgeon Creek so that's the water body within which we're within that 250 feet. But we also wanted to mention, for full disclosure, that we are within the 75-foot boundary for beyond the wetland buffer, so the wetland edge of 75 feet we're within that zone as well, and it's really an operational necessity to try to minimize the depth of the sewer and the cost, the conveyance. We follow the natural topography on Beech where there are natural spots to convey the wastewater. And they are consistent with the easement and it's an essential service.

Mr. Leathe asked what is going on, now, without these pumping stations. Are there already pumping stations and this is an additional enhancement to that system, a 30,000-foot view.

Mr. Melendy said that there is an existing pumping station that services Eliot Commons. That has a force main that then goes around to Bolt Hill Road but it's only servicing that small area. It's a private pumping station, not a municipal pumping station. There is also a pumping station that services Baran Place. So, Baran Place pumps over to Eliot Commons and is just a little lift over there. There is a relatively new apartment building and right as you are driving into that apartment building, you see a little wooden house and there are some wet wells, that is the existing pumping station that pumps around to Bolt Hill Road and into the Town's municipal system. So right now, that's the limit that it's a private

644 pumping station. The Town doesn't have any municipal infrastructure in this area. The
645 municipal infrastructure is to the south on Bolt Hill Road, State Road. There's a couple of
646 pumping stations down there. Ultimately, this all flows to those pumping stations, then
647 they get conveyed across the causeway past Spinney Creek Shellfish and past the boat
648 yard, there, and up under the highway to dump into a manhole and then flows by gravity,
649 for the most part, into Kittery for treatment. The Town has an intermunicipal agreement
650 (IMA) with Kittery to provide wastewater treatment for the existing system. This is an
651 expansion of the Town's municipal wastewater system to service the TIF area to facilitate
652 growth in that area.

653
654 Mr. Leathe asked how much this extends our capability, a mile, two miles.

655
656 Mr. Melendy said, with the collectors on Route 236, they are about 2 miles long. It's
657 basically from Bolt Hill Road almost to the municipal highway garage. There's a low spot
658 so the Route 236 pumping station is kind of the low spot where the creek crosses the road.
659 So, there's gravity that flows there and that, then, lifts it up to Brook Road and then flows
660 by gravity from there to this other pumping station. The collectors follow the topography
661 so, you can see in the 'blue', those are cross-country interceptors to get the sewers along
662 Route 236 (I'm going to call it east of Bolt Hill Road) to flow through that gravity that
663 would go down through the Commons and over to the Beech Road pumping station
664 behind Baran's Place. Then there are collectors that go down Passamaquoddy, Brook
665 Road, to collect the sewers on that side. They all go to the Beech Road pumping station,
666 which then conveys it down Beech Road and connect to the existing gravity on State
667 Road.

668
669 Mr. Leathe said that a lot of these marijuana businesses that we've approved over the past
670 2 years, I would assume are in that new area that you just mentioned. Are they already
671 connected in some way or will they connect.

672
673 Mr. Melendy said that, with what we're proposing here, it has to be complete before
674 connections can be made. We have Contract #1, which has been bid, to build the force
675 main and some of the collectors and then the gravity sewers and pumping stations. Once
676 the pumping stations are operational and accepted by the Town, then those connections
677 can be made. What we do is extend services to the ROW so that when it comes time to
678 connect, there will be a capped service place that people can connect to for the new sewer
679 and not have to dig up the road.

680
681 Ms. Braun asked about the timeframe for this.

682
683 Mr. Melendy said that we are in the process of trying to award Contract #1 and get that
684 going. The intent is to be building the pumping stations next year.

685
686 Mr. Leathe asked what this whole project cost.

687
688 Mr. Melendy said that I would have to refresh my memory but there was a warrant article
689 back in November. Some of the costs are associated with off-site improvements so I think

690 there was a \$22.6 million warrant article that was approved in November. Some of those
691 costs were off-site. Some of those costs were improvements to your existing pumping
692 stations downstream. So, there are a number of different things within that number.

693
694 Ms. Crichton asked if there are any costs associated with connecting to the sewer. Any of
695 the businesses, any of the homeowners.

696
697 Mr. Melendy said that I would have to defer to the Town on any fees associated with
698 connection to the sewers. It's not uncommon to have that but I can't remember off-hand
699 what the Town's policy is.

700
701 Ms. Crichton said that Kittery was connecting and a couple of friends of mine paid
702 \$30,000.

703
704 Ms. Braun said a betterment fee. But it's an improvement for Route 236 and it's a much
705 better way of disposing of wastewater.

706
707 Mr. Melendy told the story of the town he lives in in New Hampshire. I just look at that
708 there hasn't been the foresight to have municipal sewer and municipal water, and I look at
709 the quality of growth that can occur, and I look at other places that have that opportunity
710 and it's striking to see the difference. If I'm a business person and I'm looking at going
711 either 'here' or 'there' and, with 'this' one, all I have to do is hook up to a pipe and maybe
712 I have to pay a little bit to hook up to the pipe or I have to go through sub-surface rules, I
713 have to go through the DEP, I have to make sure I'm outside of the shoreland, there's a
714 number of different things, he or she becomes a wastewater operator at that point. It's
715 much more complicated. I might want to look elsewhere because all I want to do is hook
716 up to a pipe. And I want to hook up to a water pipe so I can get fire flow so that I can have
717 fire suppression so that it helps my insurance and I don't have to have a big cistern and
718 some of the other things I have to have. I think that's the high-level logic behind what
719 we've been working towards on this one.

720
721 Mr. Leathe said that I assumed that was the genesis of this project.

722
723 Mr. Melendy agreed that it was. The TIF has been in the works for a long time.

724
725 Mr. Leathe asked how disruptive is this work going to be on Route 236.

726
727 Mr. Melendy said that some of that is means and methods. As part of the big package, we
728 have a traffic control plan for the pipes on Route 236 as well as Beech and State. There are
729 some areas where the traffic is neck down. For the most part, we have water on one side
730 and sewer on the other and we can get two lanes of traffic through. That is the intent.
731 There will always be traffic coming through. I'm not going to say that there will not ever
732 be disturbances but the intent is that they do their work and then open it back up at the end
733 of the day. Then, there are certain requirements, working with the DOT, that they have for
734 paving. Replacing the pavement daily is a requirement and it's a very difficult requirement

735 to meet. So, there is an incentive for the contractor to do a good job, as the DOT may
736 allow buttoning up weekly, but that is at the discretion of the DOT.

737

738 Mr. Leathe asked if this was a 3-phase project.

739

740 Mr. Melendy explained that Contract #1 is the collectors on Route 236. It's been kind of a
741 moving target because we're trying to coordinate our work with the DOT, with getting the
742 infrastructure in ahead of their planned work, because once they do their work, they have
743 moratoriums like cutting up the pavement, and we are having some cross-road work done.
744 We have some services (main lines) that are going to go parallel with the road but the
745 services do have to cross the road. Those are generally done at night, as well as the work
746 at the intersections for the most part, so that we can minimize the disruption. As part of
747 this overall plan, we looked at different areas that might benefit from sewer service so we
748 were sizing it to plan for future growth and, perhaps, in other areas. So, the pumping
749 station on Route 236 is designed to accommodate the school, as an example, so that they
750 could bring their wastewater into the system. So, there's been some thought into the
751 planning and this (TIF) was the focus, as it's kind of the heart of it, and it can then radiate
752 from there, depending on the demand.

753

754 Ms. Bennett said that you said that with a building, specifically like the pump station on
755 Beech Road, it was 3 feet above flood level. How complicated would it be to raise that
756 pump station up a little bit more. We're getting 100-year storms like every 30 years, now,
757 and sometimes more frequently. Has there been any thought or consideration to berming
758 up, or raising, that foundation up, or does it affect the hydraulics.

759

760 Mr. Melendy said that it does affect the hydraulics. One of the things the Town has done is
761 to standardize around a single pump; that you have similar-size pumps in Town and the
762 Town is standardized around one. They are called 'end suction centrifugal'. You have a
763 couple of different types of pumps when you're dealing with wastewater. Wastewater is
764 kind of nasty to deal with so, you have submersible pumps that are down in it where the
765 pump is actually in the wastewater and then out but these pumps do both. The wastewater
766 flows into a wet well, which is a big concrete tank much like a septic tank. The floor of the
767 tank is sloped to where the pipes go in. The pumps sit on the floor and draw the
768 wastewater up, so the pumps are high and dry, then the pump pumps it to where you want
769 it to go. So, the Town is standardized around that style of pumps. One of the challenges
770 with that style of pump is that there is a limit to how far you can draw it before it starts to
771 vaporize. And the pumps are okay and work in drawing in that vacuum but they're not
772 really happy. They're happy, once it's full, going 'this' way. This is a benefit because now
773 your pumps are high and dry but there's a limit and there are certain regulations, or certain
774 criteria, from the Maine DEP. So, raising the pumping station raises that draw so there are
775 limits to how high. I will say that, when looking at the flood elevation, the standard was 2
776 feet so that 3-foot is somewhat of a new standard to account for what you're talking about
777 – the increase in frequency flooding and sea level rise. We're putting these things in for
778 the long-haul. So, that 3 feet above is an extra foot, if you will, above what has been
779 historically done within the past 2-5 years.

780

781 Ms. Bennett asked if the building itself be waterproofed in some way so that you wouldn't
782 get as much infiltration in case of a flood that exceeds the 3-foot level.

783
784 Mr. Melendy said that what we are talking about is the finished floor. We are talking
785 about having the finished floor be about 3 feet above that 100-year flood elevation and
786 most of the equipment is above that. So, even if the water gets into the building, there
787 usually isn't anything electrical sitting on the floor. You have some room there, too. So,
788 it's a pretty wide area. When you're looking at flood hydraulics, it takes a lot of rain and
789 it's also the area. So, when you look at a stream channel that's defined like 'this' [narrow],
790 a little bit of flow, you raise it, it doesn't take a lot of flow because your radius is kind of
791 like a small pipe. But, when you get out of that channel, this thing starts to widen. So, for
792 every foot, you're now adding a much larger area for storage. So, you can accommodate,
793 even if we do get a lot of rain, a lot more flow in the area, say, 300 feet versus 20 feet in a
794 channel.

795
796 Ms. Bennett suggested maybe a little knee wall around the pump station may spread it out
797 a little more.

798
799 Mr. Melendy said that I've seen those. There are provisions, and we've dealt with it with
800 other clients, with putting a wall around it or even around the door. He also discussed the
801 use of stop-logs being utilized to protect against flooding. The standards are increasing.

802
803 Mr. (Lee Jay) Feldman said that these are very straightforward projects. From a design
804 standpoint for the site plan portion of the project, it's very standard information, so I'm
805 not sure there's a need for me to go into anything other than what you have from my
806 reports. The design engineers have done a fine job at putting the plans together and there's
807 been a lot of detailed explanation for you this evening. I'll leave it at that unless you have
808 specific questions of me.

809
810 Ms. Braun thanked Mr. Feldman. This is a sketch plan review so we will see you again
811 Mr. Melendy.

812
813 **7:38 PM** At this time, the PB took a 5-minute break.

814
815 **C. 7 Maclellan Lane (Map 37/Lot 19) PB22-15: Site Plan Amendment/Review and**
816 **Change of Use – Marijuana Store, Office, and Retail – sketch plan review (as**
817 **time allows).**

818
819 **Received: June 28, 2022**
820 **1st Heard: August 16, 2022 (sketch plan review)**
821 **2nd Heard: _____, 2022 (continued review/completeness)**
822 **3rd Heard: _____, 2022 (continued review/approval)**
823 **Public Hearing: _____, 2022**
824 **Site Walk: _____**
825 **Approval: _____, 2022**

826

827 Mr. (Lewis) Chamberlain, Attar Engineering and Mr. (Joel) Pepin, applicant, were present
828 for this application.

829
830 Mr. Chamberlain, representing Blake Dubin (property owner) and Joel Pepin (applicant),
831 said that we are here with a sketch plan for a 3-acre site that has been in front of the PB I
832 think at least 3 times. The first was in 2004 for a car wash approved at the site, which
833 operated for a while. It closed, the property changed hands and, in 2021, there was a site
834 plan that converted the car wash building to a marijuana manufacturing facility and an
835 8,000 square-foot additional that was general retail. Earlier this year, the project came
836 back for some things and clarification on that marijuana use in relation to the 8,000
837 square-foot building. Currently, Mr. Pepin is proposing to construct a marijuana retail
838 store of 2,000 square feet and that would be the main focus of our amendment. The 8,000
839 square-foot building would be reduced in size to about 3,200 square feet and that would be
840 kind of a future phase of the project. The sketch plan does show all of the improvements
841 and one of the features of the marijuana store is that it is 500 feet from a Town-owned
842 parcel that's across Route 236 from this parcel. That parcel is vacant but, nonetheless, it is
843 owned by the Town and we're careful to make sure that the new building will be 500 feet
844 away. We've got 62 parking places drawn on the sketch plan. There are probably 49 or 50
845 required by the dimensions. When we come in with the site plan, we would have a phasing
846 plan that shows how the two buildings are going to be constructed. I think the first phase
847 would be to do the retail building and then have the 3,200 square-foot building in a future
848 phase so they would come in with two plans for this property.

849
850 Ms. Braun asked Mr. Brubaker for his comments.

851
852 Mr. Brubaker said that I think Mr. Chamberlain covered it pretty well. Mr. Pepin did
853 provide the OCP conditional license by email so we do have that. A general summary
854 highlight, the septic system is to be modified and re-built. As to notes, a traffic impact
855 analysis will be required as it's a new marijuana retail store. Screening and vegetative
856 buffering was pretty well covered on the last approval so just assuring that previous
857 requirements for screening are carried forward. The parking we will see in our next
858 submittal along with some other performance standards – detailed stormwater, etc. For
859 now, it's just sketch plan review and, with that in mind, I have no other comments but
860 would be happy to answer any questions.

861
862 Ms. Crichton asked if the applicant was doing this in 3 phases. The first phase is already
863 done so there are two more to go.

864
865 Mr. Chamberlain said that the first phase is kind of already done, right. And there will be
866 two more.

867
868 Ms. Crichton said that, on this first plan, you have the 2,000 square-foot building, which is
869 the building that is there now.

870
871 Mr. Chamberlain said that that's the old car wash building.

872

873 Ms. Crichton said that then you have 1,600 feet for the second building and 2,000 feet for
874 the next building. Is that correct.

875
876 Mr. Chamberlain said that you have 3,200 for what I will call the phase three divided into
877 1,600 square feet of retail and 1,600 square feet of office. That building is kind of a
878 conceptual form that may come back, which may be something different but right now we
879 want to keep the approval for that.

880
881 Ms. Crichton asked if that was going to be two floors.

882
883 Mr. Chamberlain clarified that it would be one floor.

884
885 Ms. Crichton said that, off to the right, you have an existing leach field, which is there
886 now.

887
888 Mr. Chamberlain said correct.

889
890 Ms. Crichton said that your phase three shows that next building and parking directly over
891 the leach field.

892
893 Mr. Chamberlain said that that is what we would call phase two. The field that's there was
894 built for the car wash. It's way too big for the uses that are going to be there in phases one,
895 two, and three. So, we're proposing to bring in a revised – a brand new design for a new
896 system that would meet all the needs of those three phases.

897
898 Ms. Crichton said, so, that's when you say that the septic system will be modified or re-
899 built to a smaller footprint due to reduction in reduction in the sewer capacity, even
900 though you are building two more buildings in addition to the third one.

901
902 Mr. Chamberlain said that that is correct. Those three buildings don't add up to a car
903 wash. So, we show a conceptual 40'X50' Stillman system that we would have designed
904 and bring it to you as part of the site plan.

905
906 Ms. Crichton asked where was the well.

907
908 Mr. Chamberlain said that it's not shown on the sketch plan. It's on some of the previous
909 plans; that it is in the right front corner just inside the setbacks. That will show up on the
910 next submittal.

911
912 Mr. Leathe said that you say that the car wash use has been discontinued and adult use
913 marijuana manufacturing has been established in that building. Is that the case. I don't
914 remember that happening but has that indeed happened.

915
916 Mr. Chamberlain said that that has happened.

917
918

919
920 Ms. Braun said that I'm a little confused. In your submittal letter, it said that it says "JAR
921 Cannabis Co, proposes to construct and operate a 2,000 s.f. Adult Use Marijuana Retail
922 Store with an additional 2,000 s.f. of office space on a second level in the same building."
923 You just said that it was one level.
924
925 Mr. Chamberlain said that we were talking about the other building. I guess I did not note
926 that the retail store is going to have a second level with 2,000 square feet of office that
927 would be used by JAR Cannabis.
928
929 Ms. Braun said that I have another couple of housekeeping things for you. Mr. Pepin did
930 not sign the agent letter and you did not sign site plan application.
931
932 Mr. Chamberlain said that I do have a signed agent letter so it's my error that it didn't end
933 up in the packets.
934
935 Ms. Braun asked if that's Mr. Dubin's signature.
936
937 Mr. Chamberlain said that I believe it is. I can verify that with him. Regarding the
938 application, I signed it with a pdf certified so it doesn't have a squiggly line it's got a
939 paragraph.
940
941 Ms. Braun said that I would like the squiggly line.
942
943 Mr. Chamberlain agreed.
944
945 Ms. Braun, regarding phase 2 and your phasing notes, said that I'm confused as to whether
946 you are saying that you going to eventually build an 8,000 square-foot building. It says
947 here that "...the required site improvements should the 8,000 square-foot addition be built
948 (Phasing Note #1).
949
950 Mr. Chamberlain clarified that that was a previously approved site plan that has that note.
951 It should hopefully plan with the next submission.
952
953 Ms. Braun asked if they could provide a full site plan.
954
955 Mr. Brubaker said that they did provide that.
956
957 Ms. Crichton asked if the applicant had a lease agreement with Mr. Dubin.
958
959 Mr. Pepin said that we do. I can provide that to you.
960
961 Ms. Crichton said that, in the agent letters, it says "Lewis Chamberlain, P.E. and Michael
962 Sudak, E.I.T of Attar Engineering, Inc. will be acting as my agents for the applications
963 and permitting of my project at 7 Maclellan Lane." It says "my project" for both so, are
964 you guys doing that together or is it just the wording in the letter.

965
966 Mr. Chamberlain said that I think we viewed these two gentlemen as co-applicants. Just to
967 be safe, we got agent authorization letters from both. Mr. Pepin has just an interest in the
968 retail store and Mr. Durbin runs the rest of the property.

969
970 Ms. Crichton asked, for the second floor of the phase 3 building, if that would all be
971 offices.

972
973 Mr. Chamberlain said yes, and marijuana retail on the first floor.

974
975 Ms. Crichton said that you will have marijuana retail in phase 2 and phase 3.

976
977 Mr. Chamberlain said that it would just be phase 2. Phase 3 has no marijuana use at this
978 time – general retail and general office, to be more specific, such as a clothing store, etc.

979
980 Ms. Braun said that there are a whole bunch of performance standards that have to be met.

981
982 Mr. Chamberlain said yes. We are familiar with those.

983
984 Ms. Braun added a traffic study is required.

985
986 Mr. Chamberlain agreed. We would like to keep all the phases together. The sketch plan
987 shows all three and that's how we want to proceed with the site plan.

988
989 Ms. Braun said okay. Do you have a timeframe for all three phases.

990
991 Mr. Chamberlain said that phase 2 would start as soon as we get approvals. Phase 3 would
992 be based on no schedule.

993
994 Ms. Braun said that I have a question, based on curiosity, and has nothing to do with
995 anything. When this was originally approved (marijuana manufacturing), there was a
996 whole bunch of site issues that needed to be addressed before anything else. Why is it that
997 we are doing retail, and this type of stuff, before doing the site improvements. These site
998 improvements needed to be done before the manufacturing could happen. I'm curious as
999 to why those site plan improvements haven't been done but you're coming back to do a
1000 marijuana retail store without doing the site plan improvements.

1001
1002 Mr. Chamberlain said that I think the phasing plans done earlier this year should have
1003 straightened that out. Some landscaping was installed. The establishment of the uses there
1004 now didn't really require any extra parking, buildings, or anything like that. If there is
1005 something that should have been done that didn't get done, I can certainly look into it.

1006
1007 Ms. Braun said that I'd really like you to look into the background to satisfy my curiosity.
1008 It just seems to me that the site improvements should be done before any type of
1009 construction happens. Are we ready to say that the sketch plan is okay and proceed to the
1010 next level.

1011
1012 The PB said yes.

1013
1014 Ms. Braun said okay. We will see you back when you have all your information. Do let
1015 me know what your research finds out.

1016
1017 Mr. Chamberlain said that I will.

1018
1019 **ITEM 9 – OLD BUSINESS**

1020
1021 **A. Comp Plan Update**

1022
1023 Ms. Braun discussed PB assignments to the Comp Plan subcommittees. One member was
1024 not present to give feedback so it was decided to wait until the next meeting to finalize
1025 this.

1026
1027 **ITEM 10 – OTHER BUSINESS/CORRESPONDENCE**

1028
1029 **A. Town Planner update – written or verbal – if available.**

1030
1031 Mr. Brubaker said that we are looking forward to our Comp Plan table at Eliot Festival
1032 Days.

1033
1034 There was discussion around Festival Day table set-up and recruitment for the Comp Plan
1035 update.

1036
1037 Ms. Bennett let the PB know that she was elected to be a representative for our State
1038 district to the Maine Municipal Association Legislative Policy Committee.

1039
1040 Ms. Braun said that at the last SB meeting, I did tell Mr. Donhauser that we were
1041 interested in having a workshop-type meeting with them and I gave him a list of
1042 questions that might spark some conversation. He said he was interested and I would like
1043 to keep that on the forefront.

1044
1045 Mr. Leathe discussed the possibility of, not a site walk necessarily, but visiting one of the
1046 marijuana places in Eliot and how we could actively do that, if we're allowed into a
1047 facility, and thinking that might be something we want to talk to Attorney Saucier about.
1048 It could be that we could go in twos to visit so that it isn't a quorum or have a
1049 subcommittee visit or executive session or special education meeting or some other
1050 forum. I think that would be helpful to do industries, from time to time, along Route 236,
1051 for us to get more education about what they're actually doing and how they're doing it.
1052 That would only help us when we go through these applications. It just seems to me that
1053 we could continue our education without tripping any of those legislative requirements.

1054

1055 Ms. Bennett suggested doing something like this away from any applications, maybe
1056 getting invited for an educational tour, then we wouldn't be doing PB business. Maybe
1057 we could run that by the attorney.

1058
1059 Mr. Brubaker will follow up on that.

1060
1061 **ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING**

1062
1063 Mr. Paul Schumacher (SMPDC) will be discussing LD2003.

1064
1065
1066
1067
1068 The next regular Planning Board Meeting is scheduled for September 6, 2022 at 7PM.

1069
1070 **ITEM 13 – ADJOURN**

1071
1072 The meeting adjourned at 8:17 PM.

1073
1074
1075
1076
1077 **Christine Bennett, Secretary**
1078 **Date approved:** _____

1079
1080
1081 **Respectfully submitted,**
1082
1083 **Ellen Lemire, Recording Secretary**

1084
1085
1086



TOWN OF ELIOT MAINE
PLANNING OFFICE
1333 State Road
Eliot ME, 03903

DRAFT

To: Ken Wood, PE, Attar Engineering, Applicant’s Representative
Mike Sudak, EI, Attar Engineering, Applicant’s Representative
From: Carmela Braun, Chair, Planning Board
Cc: Jeff Brubaker, AICP, Town Planner
Kim Tackett, Land Use Administrative Assistant
Shelly Bishop, Code Enforcement Officer
Date: January 10, 2023
Re: PB22-9: 771 & 787 Main St. (Map 6, Lots 43, 44, & 154) – Clover Farm Subdivision (8 lots) – Preliminary Plan – Planning Board Decision Letter pursuant to Section 41-147

On December 13, 2022, the Planning Board provided preliminary approval of the preliminary plan for the subject project, as follows:

Motion to approve the Preliminary Plan for PB22-9: 771 & 787 Main St. – Clover Farm Subdivision (8 lots).

In accordance with Sections 41-146 and 41-147:

1. The following changes shall be included or reflected in the final subdivision plan submittal:
 - a. The subdivider shall provide to the Town a copy with the approved stormwater permit from the Maine Department of Environmental Protection (DEP).
 - b. The subdivider shall provide to the Town an up-to-date entrance permit from MaineDOT for the subdivision street.
 - c. The subdivider shall address outstanding third-party review or Planning Board comments (if any).
2. The following requirements relate to improvements for which waivers have been requested:
 - a. The subdivider shall provide to the Town cash payments-in-lieu of \$1,888 for each subdivision lot for the development of improvements at the Eliot Boat Basin. For Lots 5-6, such payments shall be provided within 30 days of the recording in the Registry of Deeds of the final plan. For Lots 1-4 and 7-8, such payments shall be provided prior to the sale of, or issuance of building permits for, those lots, whichever comes first.
3. The following relate to improvements and guarantees that are a prerequisite of approval of the final plan:

- a. The subdivider shall provide a performance guarantee by entering into a written agreement with the Select Board agreeing that no lots shall be sold and no building permits shall be issued until the proposed street, utilities, new plantings, and stormwater facilities are completed in accordance with the Planning Board's approval. The performance guarantee shall be consistent with Section 33-132 generally and subsection (b)(2) specifically, reflecting "Option 2".
4. The following are additional conditions:
 - a. Prior to the sale of, or issuance of building permits for – whichever comes first – any lot, except for building permits already applied for on Lot 6, the subdivider shall offer for dedication to MaineDOT or the Town the proposed easement along Main St. for a future sidewalk, and shall offer for dedication to the Town other easements, such as those related to access to stormwater facilities and public access along the subdivision street to the Remick Cemetery (per preliminary subdivision plan, Sheet 1, Note 13).
 - b. After the stormwater facilities are completed and reviewed per 33-132, the owner of the facilities shall enter into a post-construction stormwater maintenance agreement with the Town consistent with Ch. 35, the operations and maintenance plan submitted with the preliminary subdivision plan application, and any other applicable state or local standards. If there is a conflict between any two provisions, the stricter shall control.



Mr. Jeff Brubaker
Eliot Town Planner
1333 State Road
Eliot, ME 003903

December 6, 2022

Subject: Proposed Changes to Chapter 31 Non-stormwater Discharges Required by the General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) for Planning Board consideration.

Dear Mr. Brubaker:

This letter provides an overview and proposed redline changes for Planning Board consideration to address one ordinance change required by the General Permit for Stormwater Discharges from the Municipal Separate Storm Sewer Systems (MS4s).

The change affects only Chapter 31, Non-stormwater Discharges, which prohibits pollutants from being discharged into the Town's storm drain system. The MS4 General Permit requires that if any illegal connection into the storm drain system is identified, or if any dumping or discharges into the storm drain system occur, the discharge or connection must be corrected within 60 days of identification of the source. I have attached a document which describes the change and provides proposed updated language in bold/underline (for new text) and strikethrough (for deleted text).

Because the MS4 General Permit requires that the changes be codified by 6/30/2023, we suggest the Planning Board review these at their earliest convenience to allow review by the Selectboard, Public Hearings, and placement on the spring 2023 warrant for public vote.

If you have any questions about this information or need changes in advance of the meetings, or if you need me to attend any meeting please let me know. I can be reached at 207-415-5830 or via email at krabasca@integratedenv.com.

Sincerely,

Integrated Environmental Engineering, Inc.

A handwritten signature in black ink that reads 'Kristie L. Rabasca'.

Kristie L. Rabasca, P.E., LEED AP BD + C

cc. Steve Robinson, Public Works Director

Attachments: Proposed changes to Chapter 31 to address MS4 General Permit requirements.

Proposed Ordinance change dated 12/6/2022 for Planning Board Consideration

Short Title

Proposed Town Code Amendments of Chapter 31 - Non-Stormwater Discharges

Ballot question – Town Special Referendum Election (Date TBD)

ARTICLE # __: Shall an “Ordinance entitled Chapter 31 - Non-Stormwater Discharges” be amended to require removal of pollutants from the storm drain system within 60 days of identification or if 60 days is not possible, within a time frame approved by the Code Enforcement Officer?

Background and rationale

The Town of Eliot is subject to a Clean Water Act permit designed to protect waters from stormwater pollution. The permit, called the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (“MS4 Permit”), is issued by Maine Department of Environmental Protection (DEP). DEP periodically issues updated versions of the permit, most recently in 2021.

The new MS4 Permit requires that, by June 30, 2023, municipalities update their ordinances to ensure that any pollutants discharged to the storm drain system be removed within 60 days of identification of the source of the pollutant. If removal within 60 days is not possible, the owner or discharger may work with the Code Enforcement Officer to set an alternate schedule to remove the source of the pollutant.

The Town of Eliot enacted Chapter 31 Non-Stormwater Discharges in 2004 prohibit pollutants from being discharged to the storm drain system. This ordinance includes a list of a few allowed non-stormwater discharges such as uncontaminated groundwater and spring water. The changes are proposed to be made to the Notice of Violation section of the Chapter. Additional changes are being made to Section 31-11 to correct the basis for the ordinance.

The proposed changes to Chapter 31 are presented in the following paragraphs:

(New text underlined in bold)

~~Deleted text in strikethrough~~

[Text in brackets, bold, and italics introduces a large block of new text:]

[Text in brackets and italics is a temporary explanatory note]

Sec. 31-9. - Enforcement.

In order to determine compliance with this chapter, the enforcement authority may enter upon and inspect the property of the premises subject to this chapter at reasonable hours or

any building on the premises with the consent of the premises' owner, occupant or agent: to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring, sampling and testing of the discharge to the storm drainage system.

- (1) *Notice of violation.* Whenever the enforcement authority believes that a person has violated this chapter, the enforcement authority may order compliance with this chapter by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
- a. The elimination of non-stormwater discharges to the storm drainage **system within 60 days of identification of the source**, including, but not limited to, disconnection of the premises from the MS4;
 - b. The cessation of discharges, practices, or operations in violation of this chapter;
 - c. At the person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-stormwater discharges to the storm drainage system and the restoration of any affected property; and/or
 - d. The payment of fines, of the municipality's remediation costs and of the municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, **or if elimination of the Non-Stormwater Discharge is not possible within 60 days of identification of the source**, the notice shall set forth a deadline within which such **elimination**, abatement, or restoration must be completed

Sec. 31-11. - Basis.

The town enacts this Non-Stormwater Discharge Ordinance (the "ordinance") pursuant to 30-A M.R.S.A. § 3001 (Municipal Home Rule Ordinance Authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), [33](#) U.S.C. § 1251 et seq. (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General permit for the discharge of stormwater from small municipal separate storm sewer systems" ~~dated June 3, 2003~~, has listed the Town of Eliot as having a regulated small municipal separate storm sewer system ("Small MS4"); under this general permit, listing as a regulated small MS4 necessitates enactment of this chapter as part of the municipality's stormwater management program

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

DRAFT for December 6, 2022 Planning Board review

Short title

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Ballot question – Town Meeting and Referendum, June 6, 2023

ARTICLE #__: Shall an Ordinance entitled “[insert final title here]” be enacted?

(A copy of this ordinance is available in the Town Clerk’s Office)

Background and rationale

[to be added]

New text underlined in bold

~~Deleted text in strikethrough~~

[Text in brackets, bold, and italics introduces a large block of new text:]

[Text in brackets and italics is a temporary explanatory note]

Sec. 1-2. - Definitions and rules of construction.

[abridged to only show changes]

~~Accessory dwelling unit means a separated living area which is part of an existing or new single family owner occupied residence, and which is clearly secondary to the existing single family use of the home~~ **self-contained dwelling unit located within, attached to, or detached from a single-family dwelling unit located on the same parcel of land. An accessory dwelling unit must meet** and that meets the requirements of section 45-459.

[DECD Guidance: “Municipalities may also define ADUs, as long as the definition is consistent with state law in Title 30-A, §4301. 1-C.”]

[...]

Affordable housing means decent, safe and sanitary dwelling units that can be afforded by households with annual incomes no greater than 80 percent of the median household income in non-metropolitan York County, as established by the U.S. Department of Housing and Urban Development (median household income shall be published in the Annual Report of the Municipal Officers of the Town of Eliot, Maine). A renter-occupied unit is affordable to such households if the unit's monthly housing costs, including rent and basic utility costs (the costs of heating and of supplying electricity to the unit plus the cost, if any, of supplying public water and public wastewater disposal service to the unit), do not exceed 30 percent of gross monthly income. An owner-occupied unit is affordable to such households if its price results in monthly housing costs that do not exceed 28 percent of gross monthly income for principal, interest, insurance and real estate taxes. Estimates of mortgage payments are to be based on down payments and rates of interest generally available in the area to low and moderate income households.

Affordable housing development means “affordable housing development” as defined by 30-A MRSA §4364(1), as may be amended.

[...]

Short-term rental means living quarters offered for rental through a transient rental platform.

State law reference – 30-A M.R.S.A. 4364-C.

[...]

Tiny home means “tiny home” as defined by 29-A MRSA 101(80-C), as may be amended.

[State law: “a living space permanently constructed on a frame or chassis and designed for use as permanent living quarters that:

- A. Complies with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety and construction or National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles; [PL 2019, c. 650, §1 (NEW).]
- B. Does not exceed 400 square feet in size; [PL 2019, c. 650, §1 (NEW).]
- C. Does not exceed any dimension allowed for operation on a public way under this Title; and [PL 2019, c. 650, §1 (NEW).]
- D. Is a vehicle without motive power. [PL 2019, c. 650, §1 (NEW).]

“Tiny home” does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.”]

[...]

Transient rental platform means “transient rental platform” as defined by 36 MRSA 1752(20-C), as may be amended.

[State law: “an electronic or other system, including an Internet-based system, that allows the owner or occupant of living quarters in this State to offer the living quarters for rental and that provides a mechanism by which a person may arrange for the rental of the living quarters in exchange for payment to either the owner or occupant, to the operator of the system or to another person on behalf of the owner, occupant or operator.”]

[...]

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

[Add a new chapter:]

CHAPTER 5 – BUSINESS LICENSING

Sec. 5-1. – Short-term rentals

[to be added]

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Sec. 44-34. – Table of land uses.

[draft table, not yet updated to include November 2022 amendments]

All land use activities, as indicated in table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in section 44-33 and other applicable ordinances. The district designated for a particular site shall be determined from the official zoning map.

Key to table 1:

Yes	-	Allowed (no permit required but the use must comply with all applicable land use standards)
No	-	Prohibited
SPR	-	Allowed with site plan review and approval by the planning board
CEO	-	Allowed with permit issued by the code enforcement officer
LPI	-	Allowed with permit issued by the local plumbing inspector

Abbreviations:

RP	-	Resource protection
LR	-	Limited residential
LC	-	Limited commercial
GD	-	General development
SP	-	Stream protection

The following notes are applicable to the land uses table on the following page:

Note: The term "functionally water-dependent use" as defined, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by water or use water for cooling, to traditional commercial fishing enterprises, and public shorefront parks.

Table 1. Land Uses in the Shoreland Zone

		Districts				
Land Uses		SP	RP	LR	LC	GD
Uses or Activities Without Structures						
(1)	Clearing of vegetation for activities other than timber harvesting	CEO	CEO ¹	CEO	CEO	CEO
(2)	>Emergency operations	yes	yes	yes	yes	yes

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

(3)	Fire prevention activities	yes	yes	yes	yes	yes
(4)	Forest management activities, except for timber harvesting and land management roads	yes	yes	yes	yes	yes
(5)	Mineral exploration	no	no	no	yes ²	yes ²
(6)	Mineral extraction, including sand and gravel extraction	no	no	no	SPR	SPR
(7)	Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
(8)	Nonintensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
(9)	Soil and water conservation practices	yes	yes	yes	yes	yes
(10)	Surveying and resource analysis	yes	yes	yes	yes	yes
(11)	Wildlife management practices	yes	yes	yes	yes	yes
Principal Structures or Uses						
(12)	Principal structures and uses:					
	a. One- and two-family residential	SPR ⁴	SPR ⁹	CEO	CEO	CEO
	b. <u>Tiny home</u>	<u>SPR⁴</u>	<u>SPR⁹</u>	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>
	b. Multifamily dwelling	no	no	SPR	SPR	SPR
	c.					
	d. <u>Affordable housing development</u>	<u>no</u>	<u>no</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>
	e. Commercial (not listed elsewhere)	no ¹³	no ¹³	no ¹³	SPR	SPR ⁵
	d. Industrial	no	no	no	no	SPR
	f.					
	e. Governmental and institutional	no	no	no	SPR	SPR
	g.					

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

	<u>f.</u> <u>h.</u>	Small nonresidential facilities for educational, scientific or nature interpretation purposes	SPR ⁴	SPR	CEO	CEO	CEO
(13)	Agriculture		CEO	SPR	CEO	CEO	CEO
(14)	Aquaculture		SPR ¹⁰	SPR ¹⁰	SPR ¹⁰	SPR	Yes
(15)	Auto graveyard		no	no	no	no	no
(16)	Auto hobbyist storage area		no	no	no	no	no
(17)	Auto junkyard		no	no	no	no	no
(18)	Auto recycling operation, limited		no	no	no	no	no
(19)	Auto recycling operation, principal		no	no	no	no	no
(20)	Bed and breakfast		no	no	SPR ¹⁰	SPR ¹⁰	SPR
(21)	Boardinghouse		no	no	SPR ¹⁰	SPR	SPR
(22)	Campgrounds		no	no ⁷	no	no	SPR
(23)	Conversions of seasonal residences to year-round residences		LPI	LPI	LPI	LPI	LPI
(24)	Fireworks sales		no ¹⁷	no ¹⁷	no ¹⁷	no ¹⁷	no ¹⁷
(25)	Gambling Casino		no	no	no	no	no
(26)	Marijuana establishment						
	a.	Marijuana store	no	no	no	SPR	SPR
	b.	Marijuana cultivation facility	no	no	no	SPR	SPR
	c.	Marijuana products manufacturing facility	no	no	no	no	SPR
	d.	Marijuana testing facility	no	no	no	SPR	SPR
(27)	Marinas						
	a.	Full service	no	no	no	no	SPR
	b.	Limited	no	no	no	SPR	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

(28)	Medical marijuana establishment					
	a. Medical marijuana dispensary	no	no	no	SPR	SPR
	b. Medical marijuana cultivation facility	no	no	no	SPR	SPR
	c. Medical marijuana caregiver retail store	no	no	no	SPR	SPR
	d. Medical marijuana products manufacturing facility	no	no	no	no	SPR
	e. Medical marijuana testing facility	no	no	no	SPR	SPR
(29)	Off-site parking	no	no ⁷	no	no	no
(30)	Public and private recreational areas involving minimal structural development	SPR	SPR	SPR	SPR	CEO
(30.5)	Solar energy system; larger-scale	no	no	no	no	no
<i>[^This numbering is how it looks in Municode now, but fixing the numbering was accomplished by November 2022 solar energy system ordinance amendments. Municode should be updated soon.]</i>						
Accessory Structures or Uses						
(31)	Structures accessory to allowed uses, not otherwise listed	SPR ⁴	SPR	CEO	CEO	CEO
(32)	Essential services	SPR ⁶	SPR ⁶	SPR	SPR	SPR
	a. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²
	b. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	SPR ⁶	SPR ⁶	CEO	CEO	CEO
	c. Non-roadside or cross-country distribution lines involving 11 or more	SPR ⁶	SPR ⁶	SPR	SPR	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

		poles in the shoreland zone					
	d.	Other essential services	SPR ⁶	SPR ⁶	SPR	SPR	SPR
(33)	Fences		yes ^{11A}				
(34)	Filling and earthmoving of < 10 cubic yards		CEO	CEO	yes	yes	yes
(35)	Filling and earthmoving of > 10 cubic yards		SPR	SPR	CEO	CEO	CEO
(36)	Home business		no ^{12A}	no ^{12A}	SPR ^{10A}	SPR ^{10A}	no
(37)	Home occupations; regular and water-dependent		no	no	no	no	no
(38)	Home Office		CEO	no	CEO	CEO	CEO
(39)	Individual, private campsites		CEO	CEO	CEO	CEO	CEO
(40)	Piers, docks, wharves, bridges and other structures and uses and extending over or below the normal high-water line or within a wetland:						
	a.	Temporary	CEO ¹¹				
	b.	Permanent residential	SPR	SPR	SPR	SPR	SPR
	c.	Permanent commercial	SPR ¹⁴	SPR ¹⁴	SPR ¹⁴	SPR	SPR
	d.	Limited commercial	SPR ⁵	SPR ⁵	SPR ⁵	SPR	no
(41)	Private sewage disposal systems for allowed uses		LPI	LPI	LPI	LPI	LPI
(42)	Road and driveway construction		SPR	no ⁸	SPR	SPR	SPR
(43)	Service drops, as defined, to allowed uses		yes	yes	yes	yes	yes
(44)	Signs.		yes ^{9A}				
(45)	Solar energy system, small-scale ground-mounted or roof mounted		CEO ¹⁵				
(46)	Small wind energy system		SPR ¹⁶				

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

(47)	Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
(48)	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
(49)	Uses similar to uses requiring a SPR permit	SPR	SPR	SPR	SPR	SPR
(50)	Waste containers	CEO ^{5A}				

Footnotes:

¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

² Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.

³ In RP not allowed in areas so designated because of wildlife value.

⁴ Provided that a variance from the setback requirement is obtained from the board of appeals.

⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only (see note on previous page).

^{5A} Only as an accessory use to an allowed principal use on the lot. Must conform to the requirements of [section] 45-422, Waste containers.

⁶ See further restrictions in subsection 44-35(1)(2), essential services.

⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a site plan review is required from the planning board.

⁸ Except as provided in subsection 44-35(h).

⁹ Single family residential structures may be allowed by special exception only according to the provisions of subsection 44-44(f), Special exceptions. Two-family residential structures are prohibited.

^{9A} See sign ordinance section.

¹⁰ Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.

^{10A} Must conform to the requirements of section 45-456.1, Home business.

¹¹ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

^{11A} Must conform to the requirements of section 45-423, Fences.

¹² Permit not required, but must file a written "notice of intent to construct" with CEO.

^{12A} "No" except in conjunction with aquaculture, small nonresidential facilities for educational, scientific or nature interpretation purposes or limited commercial piers, docks, wharves, bridges

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

and other structures and uses extending over or below the normal high-water line or within a wetland.

¹³ Use is "No" except when permitted under another specific land use entry.

¹⁴ Only commercial aquaculture allowed on piers in this zone, with no other commercial pier uses. Pier must meet the requirements of a residential pier in these zones.

Note: A person performing any of the following activities shall require a permit from the department of environmental protection, pursuant to title 38, M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- a. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- b. Draining or otherwise dewatering;
- c. Filling, including adding sand or other material to a sand dune; or
- d. Any construction or alteration of any permanent structure.

¹⁵ Must conform to the requirements of section 45-462.

¹⁶ Must conform to the requirements of section 45-461.

¹⁷ See chapter 12 for additional regulations pertaining to the sale and use of fireworks.

(T.M. of 11-06-2018(3); T.M. of 7-14-2020(4) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(3) , art. 36; T.M. of 6-8-2021(4) , art. 31; T.M. of 6-14-2022(2) , art. 25)

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Sec. 45-290. – Table of permitted and prohibited uses.

[additional changes to this section are proposed by other draft ordinance amendments]

The following table of land uses designates permitted uses by a yes and prohibited uses by a no. Any use not listed is a prohibited use. The letters CEO, SPR, and SD are explained in section 45-402.

Table of Land Uses

Land uses	R	S	V	C/I
Accessory dwelling unit	CEO	CEO	CEO	CEO
<u>Affordable housing development</u>	<u>no</u>	<u>SPR²²</u>	<u>SPR²²</u>	<u>no</u>
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes ¹	12	SPR ^{1&8}	no
Animal husbandry	yes ¹	yes ¹	yes ¹	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR ⁸	no
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto hobbyist storage area	SPR	SPR	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR
Auto recycling operation, principal	9	no	no	SPR
Auto recycling operation, limited	9	9	no	SPR
Auto repair garages	14	14	SPR ⁸	SPR
Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR
Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Bed and breakfasts	14	14	SPR ⁸	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR ²
Business office	14	14	SPR ⁸	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Clearing	yes	yes	yes	yes
Clinics	no	no	no	SPR
Clustered housing	SPR	no	no	no
Commercial adult enterprise	no	no	no	SPR
Commercial establishment, 2 or more where allowed	-	9	no	SPR
Day nurseries	SPR	16	SPR ⁸	SPR
Earth material removal, less than 100 cubic yards 100 cubic yards or greater	yes SPR	yes SPR	yes SPR	yes SPR
Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes
Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO
Farm equipment stores	SPR	10	no	SPR
Fences	yes ⁵	yes ⁵	yes ⁵	yes ⁵
Firewood sales	yes	13	SPR ⁸	yes
Fireworks sales	no ¹⁹	no ¹⁹	no ¹⁹	no ¹⁹
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Gambling casino	no	no	no	no
Gardening	yes	yes	yes	yes
Gasoline stations	no	9	no	SPR
Governmental buildings or uses	SPR	SPR	SPR	SPR
Grain or feed stores	SPR	10	no	SPR
Harvesting wild crops	yes	yes	yes	yes
Home business	SPR ⁸	SPR ⁸	SPR ⁸	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR
Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR
Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no
Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR ⁸	SPR
Manufacturing	SPR ⁸	SPR ⁸	SPR ⁸	SPR
Marijuana establishment*	no	no	no	SPR ²⁰
Medical marijuana establishment*	no	no	no	SPR ²⁰
Mobile home parks	SPR/ SD ⁷	SPR/SD ⁷	SPR/SD ⁷	no
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Museums	SPR	SPR	SPR	SPR
New construction of telecommunication structure 70 feet and higher	9	9	no	SPR
New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR ⁸	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR ⁸	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR ⁸	SPR
Public utility facilities	SPR	SPR	SPR	SPR
Recreational facilities, nonintensive	SPR	SPR	SPR	no
Recreational use not requiring structures	SPR	yes	yes	no
Restaurant	9	9	SPR ⁸	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR ⁸	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO
Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no ⁶
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Solar energy system, larger-scale	SPR ²¹	SPR ²¹	no	SPR ²¹
Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes
<u>Tiny home</u>	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no ⁶
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO ³	CEO ³	CEO ³	CEO ³
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Uses similar to allowed uses	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
Uses similar to uses requiring a planning board permit	SPR	SPR	SPR	SPR

*Marijuana establishment and medical marijuana establishment are defined in section 11-3 of this Code.

Notes:

1. Buildings housing animals shall be no less than 100 feet from property lines.
2. Each bulk oil fuel tank shall not exceed 50,000 gallons in size and use shall be limited to local use only.
3. Only as an accessory to an allowed principal use on the lot. Must conform to the requirements of 45-422, Waste containers.
4. Individual stores shall not have more than 2,500 square feet of gross floor area, except stores located on Route 236 may have up to 5,000 square feet. Customer sales areas shall be confined to one floor.
5. Must conform to the requirements of section 45-423.
6. See section 45-192(b) for an exception on accessory uses and structures.
7. See division 2 of article V of chapter 41 of this Code for specific areas where mobile home parks are allowed.
8. Must conform to the requirements of section 45-456.1 Home business.

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

9. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
10. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
11. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) non-commercial properties.
12. Use is "SPR 1 & 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 1" and must be visually screened from abutting (same street side) non-commercial properties.
13. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "yes" and must be visually screened from abutting (same street side) non-commercial properties.
14. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
15. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties in accordance with Sec. 33-175(a). Overnight boarding and outdoor kenneling of animals is prohibited in the rural and suburban zoning districts.
16. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) noncommercial properties.
17. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) noncommercial properties.
18. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 4" and must be visually screened from abutting (same street side) noncommercial properties.
19. See chapter 12 for additional regulations pertaining to the sale and use of fireworks.
20. Must conform to the requirements of section 33-190. Marijuana establishments and medical marijuana establishments may only be authorized as principal uses, and not as accessory uses.
21. Must conform to the requirements of section 45-462.

22. Must conform to the requirements of Section 45-458.

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 207); T.M. of 12-15-93; Amend. of 3-25-95; T.M. of 3-27-99(1), § 5; Ord. of 3-25-00(1); T.M. of 3-16-02, (art. 3), (art. 4); T.M. of 6-19-01, (art. 6), (art. 7); T.M. of 11-5-02; T.M. of 11-4-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-14-08; T.M. of 6-12-2010(3); T.M. of 6-18-2011(6); T.M. of 11-8-2011; T.M. of 6-16-2012(1); T.M. of 6-16-2012(2); T.M. of 11-5-2019(5); T.M. of 7-14-2020(5) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(4) , art. 31; T.M. of 11-2-2021(4) , art. 5; T.M. of 6-14-2022(2) , art. 25)

Cross reference(s)—Review procedures and standards for site review requirements in the zoning table of uses, § 33-56 et seq.

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Sec. 45-405. Dimensional standards.

[DRAFT table]

(a) Lots and structures in all districts shall meet or exceed the following minimum requirements:

District	Rural	Suburban	Village		C/I	MHP
			<u>water & sewer^w</u>	<u>all other lots</u>		
<u>Min. lot size (acres or ft.²), acres (ac) or square feet (ft²)</u>	<u>3 ac</u>	<u>2 ac</u>	<u>½ ac</u>	<u>1 ac</u>	<u>3 ac</u>	6,500 ft ² _n 12,000 ft ² _n 20,000 ft ² _n
<u>Min. st. frontage (ft.)^l</u>	<u>200</u>	<u>150</u>	<u>75</u>	<u>100</u>	<u>300</u>	<u>50/75/100ⁿ</u>
<u>Backlots^m</u>						
<u>Min. area per dwelling unit, acres (ac) or square feet (ft²)</u>						
<u>1 unit</u>	<u>3 ac</u>	<u>2 ac</u>	<u>½ ac</u>	<u>1 ac</u>	<u>=</u>	<u>0</u>
<u>2 units</u>	<u>6 ac</u>	<u>4 ac</u>	<u>1 ac</u>	<u>2 ac</u>	<u>=</u>	<u>=</u>
<u>Each additional unit</u>	<u>3 ac</u>	<u>1 ac</u>	<u>½ ac</u>	<u>½ ac</u>	<u>=</u>	<u>=</u>
<u>Assisted living facility</u>	<u>=</u>	<u>s</u>	<u>s</u>	<u>=</u>	<u>s</u>	<u>=</u>
<u>Elderly housing</u>	<u>=</u>	<u>g</u>	<u>g</u>	<u>=</u>	<u>g</u>	<u>=</u>
<u>Life care facility</u>	<u>=</u>	<u>t</u>	<u>t</u>	<u>=</u>	<u>t</u>	<u>=</u>
<u>Affordable housing development</u>						
<u>1 unit</u>	<u>=</u>	<u>2 ac</u>	<u>½ ac</u>	<u>1 ac</u>	<u>=</u>	<u>=</u>
<u>2 units</u>	<u>=</u>	<u>2 ac</u>	<u>½ ac</u>	<u>1 ac</u>	<u>=</u>	<u>=</u>
<u>Each additional unit</u>	<u>=</u>	<u>0.4 ac</u>	<u>0.2 ac</u>	<u>0.2 ac</u>	<u>=</u>	<u>=</u>
<u>Min. yard dimensions (ft.)</u>						
Front yard	30	30 ^p	<u>25^p</u>	30 ^p	50 ^{a,p} 30	20 ^o
Side yards	20	20 ^p	<u>15^p</u>	20 ^p	20 ^p 100 ^b	20 ^o

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

Rear yard	30	30 ^P	<u>25^P</u>	30 ^P	20 ^P 100 ^b	10 ^o
Accessory building ^c						
Front yard setback	30	30	<u>30</u>	30	50 ^a 30 ^a	5 ^o
Side and rear yard setback	10	10	<u>10</u>	10	20 100 ^b	5 ^o
Accessory dwelling unit	u	u	<u>u</u>	u	u	—
Max. height (ft.)	35	35	<u>35</u>	35	55 ^d	35
Max. lot coverage (%)	10	15 ^q	<u>20^q</u>	20 ^q	50 ^q	50 ^o
Setback-normal high water mark (feet) ^e	75	75	<u>75</u>	75	75	75
Dwelling units:						
Min. size (sq. ft. per unit):	<400 ^g	<400 ^{g,f}	<400 ^{g,f}		f	<400
<u>Accessory dwelling unit (ADU)</u>	<u>u</u>	<u>u</u>	<u>u</u>		<u>u</u>	=
<u>Assisted living facility</u>	=	<u>300</u>	<u>300</u>		<u>300</u>	=
<u>Federal and state elderly housing, other than assisted living facility</u>	=	<u>No min.</u>	<u>No min.</u>		<u>No min.</u>	=
<u>Mobile home park units</u>	=	=	=		=	<u>650</u>
<u>Tiny home</u>	<u>120</u>	<u>120</u>	<u>120</u>		<u>120</u>	=
<u>All other units</u>	<u>650</u>	<u>650</u>	<u>650</u>		<u>650</u>	=
Min. area (acres):						
1 unit	3	2	1		—	e

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

2 units	6	4	2		—	—
Each additional unit	3	1	1/2^g		—	—
Assisted living facility	—	s	s		s	—
Elderly housing	—	g	g		g	—
Life care facility	—	t	t		t	—
Max. number of principal structures per lot	h	h	h		v	1

(b) Signs in all districts shall meet or exceed the following minimum requirements:

[the below rows have been separated out to a separate table. Struckthrough rows are included in the previous table.]

Signs:					
<u>District</u>	<u>Rural</u>	<u>Suburban</u>	<u>Village</u>	<u>C/I</u>	<u>MHP</u>
Max. sign area (sq. ft.)	6	6	6	100	6
Max. sign area (sq. ft.), commercial establishments only	12	12	12	100 ⁱ	12
Max. sign area (sq. ft.), new residential subdivisions	50 ^j	50 ^j	50 ^j		50 ^l
Min. setback (ft.) (front lot line only)	8 ^k	8 ^k	8 ^k	-- ^k	8 ^k
Min. st. frontage (ft.) ^l	200	150	100	300	50/75/100 ^m
Backlots^m					

Notes:

- a. A front yard abutting a state or town road shall have a minimum depth of 50 feet from the right-of-way line. A front yard abutting an interior street within the proposed site shall have a minimum depth of 30 feet from the right-of-way line. All parking areas shall conform to setback requirements.
- b. All side and rear yards abutting an existing residential use shall have a minimum depth of 100 feet from the side or rear lot lines.
- c. Accessory buildings shall be located no less than 30 feet from any principal buildings on adjacent property.

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

- d. Rooftop antennas and other telecommunications structures shall conform to the requirements of sections 33-185 and 45-460. Steeples and spires shall be exempt from maximum height requirements.
- e. Setbacks and setback measurements in shoreland zones shall follow requirements of chapter 44.
- f. (Reserved.)
- g. The minimum acreage for elderly housing in all districts, where allowed, shall be one acre for the first dwelling unit and one quarter acre for each additional unit. Minimum acreage requirements shall revert back to dwelling unit requirements if elderly housing is discontinued. ~~Dwelling unit minimum size (square feet per unit) requirements do not apply to federal or state elderly housing.~~
- h. In the rural, suburban and village districts, more than one principal structure may be located on a single lot, provided each such structure is located in such a fashion that it could be separately conveyed on a separate lot in compliance with all dimensional requirements of the district (except that any lawfully existing structure which does not meet all minimum dimensional requirements may continue that nonconformity).
- i. See section 45-528(c) for other requirements applicable to two or more commercial or industrial establishments under separate ownership on one parcel within the commercial/industrial district.
- j. Signs identifying subdivisions of ten or more lots shall be posted at the entrance of the subdivision and shall be approved by the planning board. Signs shall contain only the name of the subdivision.
- k. See section 45-532 for additional sign placement requirements.
- l. Street frontage shall be measured along one street. The planning board is authorized to vary frontage requirements for new subdivisions according to section 41-255(g). Such lots shall be treated as conforming lots for the purpose of this chapter.
- m. Back lot requirements are contained in section 45-466.
- n. Lots within a mobile home park shall be a minimum of:
 - 6,500 feet² if served by public sewer. Minimum lot width is 50 feet.
 - 12,000 feet² if served by central subsurface wastewater disposal approved by the state department of human services. Overall density of park, including road rights-of-way and buffer strips shall be 20,000 feet² per dwelling. Minimum lot width is 75 feet.
 - 20,000 feet² if served by onsite subsurface wastewater disposal. Minimum lot width is 100 feet.
- o. See section 41-276 et seq. for specific requirements.
- p. Elderly housing, nursing facility, assisted living facility and life care facility shall have setbacks of 50 feet from lot line or 100 feet from residential dwelling unit, whichever is greater.
- q. Life care facility shall have a maximum lot coverage of 50 percent. Elderly housing, nursing facility or assisted living facility individually shall have a maximum lot coverage of 35 percent.

r. ~~Each dwelling unit in an assisted living facility shall have a minimum of 300 square feet.~~
(Reserved.)

s. One acre for the first dwelling unit and then one-fifteenth acre for each additional dwelling unit provided all other dimensional requirements are met.

t. One acre for the first dwelling unit and then one-fifteenth acre for each additional assisted living facility dwelling unit plus one-fourth acre for each additional elderly housing dwelling unit plus district acreage requirement (1-village, 2-surburban, 3-C/I) for each single family dwelling unit provided all other dimensional requirements are met.

Example: A 15-acre suburban district lot could contain three single family dwelling units (five acres) plus 61 assisted living facility dwelling units (five acres) plus 17 elderly housing dwelling units (five acres) plus a nursing facility (0 acres) provided all dimensional requirements are met.

u. See section 45-459 for requirements.

v. In the C/I district, more than one principal structure may be located on a single lot which meets the minimum lot size and street frontage requirements for the district. Each such structure must maintain required yards adjacent to the front, side, and rear lot lines and must be located no closer than 20 feet (as viewed from the front lot line) to any other such structure on the lot. Such structures need not comply separately with the minimum lot size and frontage requirements, but the aggregate of all the structures on the lot shall not exceed the maximum lot coverage requirement. Nonconforming lots of record, with existing commercial structures, at the time of adoption of this section change may also contain more than one principal structure provided the setback and expansion requirements are met. Separation of structures shall not be less than 20 feet.

w. Applies to lots served by both public water and public sewer service.

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 305); T.M. of 12-15-93; Amend. of 3-26-94; Ord. of 3-25-00(1); T.M. of 6-19-01, (art. 8); T.M. of 3-16-02, (art. 4); T.M. of 11-5-02; T.M. of 6-14-05; T.M. of 6-18-2011(5); T.M. of 6-14-2016(1); T.M. of 11-6-2018(5).....)

Cross reference(s)—Requirements unique to mobile home park subdivisions, § 41-276 et seq.; other district regulations, § 45-286 et seq.

[Add a new section:]

Sec. 45-458. – Affordable housing developments

(a) *Purpose.* Recognizing that the market alone will not provide the range and diversity of housing types needed for a vibrant community, the Town of Eliot desires to encourage affordable and workforce housing for households of modest means and for all ages, in a manner consistent with the character of Eliot and the policies of the Comprehensive Plan. The purpose of this section is to fulfill Affordable Housing Policy 1 of the 2009 Comprehensive Plan: “Create additional housing opportunities through diversity of housing”, and its related Strategy 2: “Consider providing a density bonus for projects, which create affordable housing.” This section is also intended to address density requirements in 30-A MRSA 4364(2).

(b) *Applicability*

- (1) Affordable housing developments are allowable, subject to Planning Board site plan review, in zones specified by Sections 44-34 and Sections 45-290.
- (2) This section does not apply to lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodgings, rooming homes, and the like; elderly housing; assisted living facilities; or life care facilities.
- (3) An affordable housing development shall be either:
 - a. located in a designated growth area consistent with 30-A MRSA 4349-A(1A) or (1B) or
 - b. served by a public water system and a public sewer system.

(c) *Basic requirements*

- (1) At least [10, 25, 50, other?, see table below] percent of the units in an affordable housing development shall be designated as affordable. The units shall be calculated by rounding up to the nearest whole number.
- (2) As a prerequisite of Planning Board approval, the owner of the affordable housing development shall execute a restrictive covenant, recorded in the York County registry of deeds, for the benefit of and enforceable by a party acceptable to the Town, to ensure that for at least 30 years after completion of construction:
 - a. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and
 - b. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.
- (3) Affordable housing developments shall comply with Chapter 44.

- (4) The site plan for an affordable housing development involving multifamily dwellings shall be consistent with Section 33-183.
- (5) All affordable housing units in an affordable housing development must have received a certificate of occupancy before the final market-rate unit receives such.

(d) Design standards

- (1) The outside appearance of affordable units shall be similar to the market-rate units, and any affordable units must be integrated into the development as a whole. Affordable units cannot be confined to one building of a multiple building development except in the cases of accessory dwelling units or two-family residences.
- (2) Affordable housing units need not be the same size as market-rate housing units but the number of bedrooms in each such dwelling unit may not be less than [] percent of the total number of market-rate bedrooms in the development, rounded up when the fractional portion is 0.5 or more. For example, a five-unit multifamily dwelling with four market rate housing units of two bedrooms each would be required to provide one affordable housing unit with one bedroom.
 - a. Studio dwelling units will be counted as a one-bedroom unit. In cases where a development is providing only studio apartments and one-bedroom apartments, the Planning Board has the authority to decide whether each required affordable housing unit will be a studio or one-bedroom unit.

(e) Water and wastewater. The owner of an affordable housing development shall provide written verification to the Town that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection shall include the following:

- (1) If a housing unit is connected to a public sewer system, an approved sewer capacity allocation;
- (2) If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system shall be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal shall be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42. An affordable housing development involving multifamily buildings shall be connected to a municipal sewer system, if available, pursuant to Section 33-183(j);
- (3) If a housing unit is connected to a public water system, proof of adequate service to support any additional flow created by the unit, and proof of payment for the connection and the volume and supply of water required for the unit; or,

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

(4) If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

(f) *Subdivision requirements.* This section may not be construed to exempt a subdivider from the requirements of Chapter 41.

(g) *Restrictive covenants.* This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

Proposed Town Code Amendments of Chapter 1 – General Provisions, _____, and Chapter 45 – Zoning, Related to Housing

[temporary explanatory table]

% designated affordable -->	50%	LD2003: "majority of the units that the developer designates as affordable" must be...	25%		10%
Rental	Other standard?	affordable to rent for ≤80% AMI households spending ≤30% on housing costs			
Owned	Other standard?	affordable to buy for ≤120% AMI households spending ≤30% on housing costs			
Total units	Affordable units	"majority of the units"	Affordable units	"majority of the units"	Affordable units ("all of the units")
1	1	1	1	1	1
2	1	1	1	1	1
3	2	1	1	1	1
4	2	1	1	1	1
5	3	2	2	1	1
6	3	2	2	1	1
7	4	2	2	1	1
8	4	2	2	1	1
9	5	3	3	2	1
10	5	3	3	2	1
11	6	3	3	2	2
12	6	3	3	2	2
13	7	4	4	2	2
14	7	4	4	2	2
15	8	4	4	2	2
16	8	4	4	2	2
17	9	5	5	3	2
18	9	5	5	3	2
19	10	5	5	3	2
20	10	5	5	3	2

Sec. 45-459 – Accessory dwelling unit

- (a) ~~An accessory dwelling unit (ADU) is a small apartment which is part of an existing or new single family owner-occupied home, and which is clearly secondary to the single family home. The accessory dwelling unit may be rented so that the owner-occupant may benefit from the additional income. The owner may also elect to occupy the accessory dwelling unit and rent the principal dwelling unit.~~
- (b) Owner-occupied means that either the principal dwelling unit or the accessory dwelling unit is occupied by a person who has a legal or equitable ownership interest in the property and bears all or part of the economic risk of decline in value of the property and who receives all or part of the remuneration, if any, derived from the lease or rental of the dwelling unit.
- (c) An accessory dwelling unit may be permitted as an accessory use to a single family home under the following conditions:
- (1) Only one accessory dwelling unit (ADU) is permitted per lot. The accessory dwelling unit shall be located in the same building as the principal dwelling unit or in a building accessory to the principal dwelling unit. ~~Any structure containing an accessory dwelling unit must meet minimum yard and setback requirements for principal structures.~~
[Reading DECD guidance p. 13, it appears that LD2003 does not require municipalities to allow more than one ADU to be built on a lot with an existing home, if one unit is attached and the other is detached. In other words, the LD2003 language, “A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2 dwelling units: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each,” does not, in DECD’s interpretation, apply to ADUs. We can revisit this if Rulemaking says otherwise.]
 - (2) A building permit for the proposed construction of a new ADU or the creation of a new ADU within an existing building, must be issued by the CEO. Planning board approval is not required for an ADU.
 - (3) A building permit for a new single family home may include an ADU as long as the provisions of this section are met and the building conforms to all of the dimensional requirements for the zone in which it is being built. An ADU may be included in a new home constructed on a lawful nonconforming lot of record which may be built upon pursuant to section 45-194.
 - (4) The property owner must occupy either the principal dwelling unit or the ADU as their principal residence, and at no time receive rent for the owner-occupied unit. Principal residence must be proven by voter registration or other evidence acceptable to the CEO.
 - (5) The maximum gross floor area of an ADU shall be 1,000 square feet or 50 percent of the gross floor area of the principal dwelling unit, whichever is less. The minimum gross floor area of an ADU shall be ~~300~~ **190** square feet. An ADU shall not have more than two bedrooms.
 - (6) Apartments built prior to November 2, 1982 and existing on March 16, 2002, shall be considered lawful nonconforming uses which may continue pursuant to section 45-191.

Any apartments existing on (effective date of section 45-459) and built on or after November 2, 1982 shall not be considered lawful nonconforming uses, unless the property owners applies for a building permit for the ADU and brings the unit up to the health and safety provisions of the minimum housing code standards. A grace period of one year from the adoption of this article will be allowed for homeowners to modify such unlawful nonconforming units. The CEO will have the authority to waive certain space and setback requirements for such unlawful nonconforming units where full compliance would be impractical. On March 16, 2003, all owners of unlawful nonconforming units who have not brought them up to the health and safety standards of the minimum housing code, will be in violation of this section and subject to fines per subsection 45-6(b).

(7) When any property containing an accessory dwelling unit is sold or transferred, the new owner must continue to meet the requirements of this Section in order to continue the use of the accessory dwelling unit. Should the new owner not meet the requirements of this section, the use of the unit must be discontinued. However, any lease in effect at the time of transfer may be continued until it expires or up to one year from the date of the transfer, whichever is shorter. This subsection (7) does not apply to an apartment built before November 2, 1982 and existing on March 16, 2002.

(8) To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the county registry of deeds a covenant in a form acceptable to the town attorney that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling unit or the principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section.

(9) New accessory dwelling units are not subject to the requirements of the growth management ordinance, chapter 29. ~~However, the number of accessory dwelling units that may be issued building permits within a calendar year is limited to a total of 12, to be issued on a first-come, first-served basis in the order in which the code enforcement officer receives completed applications for building permits under section 45-127. If two or more applications are received simultaneously (as in as a single mail delivery), the code enforcement officer shall determine their order by random selection. The provisions of this paragraph are retroactive to January 1, 2003.~~

(10) This provision shall not prohibit the conversion of a single family dwelling to a multifamily dwelling so long as said conversion complies with all current zoning requirements. However, if such conversion is approved, any accessory dwelling unit previously allowed under this section must be incorporated into and meet all the requirements for one of the units of the multifamily dwelling. Multifamily dwellings shall not include accessory dwelling units as defined in this section.

(11) Design criteria:

- a. An ADU shall be designed to maintain the architectural design, style, appearance, and character of the main building as a single-family residence. If an ADU extends beyond the existing footprint of the main building, such an addition must be consistent with the existing facade, roof pitch, siding, and windows.
- b. Exterior stairs are restricted to the rear or sides of the structure.

(12) Occupancy of an ADU shall be limited to the following: No more than two persons per bedroom are allowed, unless otherwise approved by the code enforcement officer and the fire chief or their respective designees. Increased occupancy limits may be granted after application to the code enforcement officer and inspection of the dwelling unit.

~~(13) One off street parking space must be provided for the accessory dwelling unit in addition to the off street parking required for the principal dwelling unit.~~

[re#](14) An occupancy permit must be issued by the CEO prior to occupancy of an accessory dwelling unit created or modified pursuant to this section 45-459.

(15) The CEO shall prepare a biennial report to the planning board on accessory dwelling units which will include:

- a. The number of units established;
- b. The geographic distribution of the units; and
- c. The average size of the units.

The planning board shall reassess the provisions of this section allowing accessory dwelling units every five years or sooner if records show that 20 percent of single family homes have ADUs.

(16) The code enforcement officer may inspect an accessory dwelling unit, with or without complaint with a minimum of 48 hours of receipt of notice of inspection to the property owner to ensure compliance with the section. Any property owner found in violation of this section shall have 30 days from the date of written notice to correct such violation. Failure to correct the violation shall result in the revocation of the accessory dwelling unit certificate of occupancy, as well as subjecting the property owner to the remedies and penalties provided in sections 45-101 and 45-102.

(d) Lot line setbacks.

(1) Except as provided in paragraph (2) of this section, any structure containing an ADU must meet minimum yard and setback requirements for principal structures.

(2) An accessory structure that existed as of April 27, 2022, and meets accessory structure, but not principal structure, setback requirements in Section 45-405, may be fully converted into an ADU, may be renovated to include an ADU, or may be replaced with an ADU, subject to the following limitations:

- a. **The accessory structure to be converted must have a valid building permit issued by the Town, or the applicant must demonstrate that it was built before building permits were required for such structures.**
- b. **The ADU, or structure containing the ADU, shall meet minimum setback requirements for accessory structures.**
- c. **Compared to the accessory structure to be converted, renovated, or replaced, the ADU, or ADU area within the renovated accessory structure, shall not have a greater footprint within the minimum setback area for principal structures.**

- d. **Compared to the accessory structure to be converted, renovated, or replaced, the height of the ADU, or the portion of the renovated accessory structure containing the ADU, shall not be increased within the minimum setback area for principal structures, except where additional height (such as additional ceiling height) is required by an applicable building or life safety code. Within the minimum setback area for principal structures, an ADU shall not have more than one story above ground.**
- e. **The ADU shall not have a porch, attached deck, or balcony within the minimum setback area for principal structures.**
- f. **The ADU shall not be a short-term rental.**

Emergency responder access for ADUs – seek FD’s comment

State law reference

(T.M. of 3-16-02, (art. 4); T.M. of 6-10-03; T.M. of 6-14-05; T.M. of 6-8-2021(1) , art. 34)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

DRAFT for January 10, 2023 Planning Board review

Short title

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

Ballot question – Town Meeting and Referendum, June 6, 2023

ARTICLE #__: Shall an Ordinance entitled “[insert final title here]” be enacted?

(A copy of this ordinance is available in the Town Clerk’s Office)

Background and rationale

[to be added]

New text underlined in bold

~~Deleted text in strikethrough~~

[Text in brackets, bold, and italics introduces a large block of new text:]

[Text in brackets and italics is a temporary explanatory note]

Sec. 1-2. - Definitions and rules of construction.

[abridged to only show changes]

[...]

Adaptive reuse means the rehabilitation or expansion of an existing building in order to introduce a new use or uses of the building while preserving certain features of the building.

[...]

Adult day care means an ongoing program of health, social, maintenance and rehabilitative services available to persons needing this level of service, as determined by an assessment of their functional abilities and need for health and social services.

State law reference – 22 MRSA 6202(1)

[...]

Child care center means: (1) a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or (2) Any location or locations operated as a single child care program or by a person or persons when there are more than 12 children being cared for.

State law reference – 22 MRSA 8301-A(1-A)

Child care facility means a child care center, small child care facility, or nursery school. “Child care facility” does not include a facility operated by a family child care provider, a youth camp licensed under 22 MRSA 2495, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball, a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Maine Commissioner of Education in accordance with MRSA Title 20-A or a private school recognized by the Maine Department of Education as a provider of

equivalent instruction for the purpose of compulsory school attendance. Any program for children under 5 years of age that is located in a private school and programs that contract with one or more Child Development Services System sites are required to be licensed as a child care facility.

State law reference – 22 MRSA 8301-A(1-A)

[...]

~~*Day nurseries* means a house or other place in which a person maintains or otherwise carries out, for consideration, a regular program which provides care for three or more children. This term includes day care centers.~~

[...]

Family child care provider means a person who provides day care in that person's home on a regular basis, for consideration, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's home.

State law reference – 22 MRSA 8301-A(1-A)

[...]

Nursery school means a house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program that provides care for 3 or more children 33 months of age or older and under 8 years of age, provided that:

- (1) No session conducted for the children is longer than 3 1/2 hours in length;**
- (2) No more than 2 sessions are conducted per day;**
- (3) Each child in attendance at the nursery school attends only one session per day; and**
- (4) No hot meal is served to the children.**

"Nursery school" does not include any facility operated as a child care center or small child care facility licensed under subsection 22 MRSA 8301-A(2), a youth camp licensed under section 22 MRSA 2495, a public or private school in the nature of a kindergarten approved by the Maine Commissioner of Education, in accordance with MRSA Title 20-A, or an outdoor education program as defined in this section.

State law reference – 22 MRSA 8301-A(1-A)

Nursery schools. See "day nurseries."

[...]

Outdoor education program means a program that provides education and enrichment for children 2 years of age or older and is primarily conducted outdoors, provided that:

- (1) **No session conducted for the children is longer than 3 1/2 hours in length;**
- (2) **No more than 2 sessions are conducted per day;**
- (3) **Each child in attendance at the outdoor education program attends only one session per day;**
- (4) **No hot meal is served to the children; and,**
- (5) **The program is not located within a building, except that it may make incidental use of buildings to meet the essential needs of the children or the program, to provide for occasional indoor educational or administrative activities, or to provide shelter from inclement or extreme weather conditions. The extent and nature of the use of a building is a primary factor in differentiating between an outdoor education program and a nursery school or other child care facility. This differentiation may also be informed by State child care provider licensing requirements or other factors.**

[...]

Private school means an academy, seminary, institute or other private corporation or body formed for educational purposes covering kindergarten through grade 12 or any portion thereof.

State law reference – 20-A MRSA 1

[...]

Public school means a school that is governed by a school board of a school administrative unit and funded primarily with public funds.

State law reference – 20-A MRSA 1

[...]

School means any institution at which instruction is given in a particular discipline. a public school or private school. It does not mean a child care facility, although a child care facility may be located within a school as provided in the definition of child care facility in this section.

[...]

Small child care facility means a house or other place, not the residence of the operator, in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 to 12 children under 13 years of age.

State law reference – 22 MRSA 8301-A(1-A)

[...]

Youth camp means a combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children with social, recreational, spiritual and educational objectives and operated and used for 5 or more consecutive days during one or more seasons of the year. “Youth camp” includes day camps, residential camps, and trip and travel camps. “Youth camp” does not include programs overseen by employees or volunteers of municipalities and educational institutions when the activities generally take place at municipal or institutional properties and buildings.

State law reference – 22 MRSA 2491(16)

[Add a new section:]

Sec. 33-192. – Child care facilities and family child care providers

- (a) Child care facilities and family child care providers must comply with the requirements of the State of Maine Child Care Facility Licensing Rule (10-148 Code of Maine Rules, Chapter 32), as may be amended, or other applicable state laws or regulations.
- (b) While the Town does not have jurisdiction to enforce the laws and regulations referenced by paragraph (a), to avoid a conflict between an approved site plan and said laws and regulations, site plans (or related application materials) for proposed child care facilities or family child care provider home business applications to be reviewed by the Planning Board shall demonstrate how they intend to comply with said laws and regulations that are relevant to site plan review, including, but not necessarily limited to:
 - (1) Sufficient minimum usable space for the maximum number of children proposed to be served; and
 - (2) Sufficient outdoor play area(s), protection of such areas from hazardous conditions, and location and dimensions of fences and gates for such areas.
- (c) Site plans for child care facilities or family child care provider home business applications shall demonstrate adequate provision for safe and orderly pickup and drop-off of children, as well as access to and egress from parking areas, consistent with Sections 33-179, 45-406, and 45-486 et seq.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

Sec. 45-290. - Table of permitted and prohibited uses.

The following table of land uses designates permitted uses by a yes and prohibited uses by a no. Any use not listed is a prohibited use. The letters CEO, SPR, and SD are explained in section 45-402.

Table of Land Uses

Land uses	R	S	V	C/I
Accessory dwelling unit	CEO	CEO	CEO	CEO
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes ¹	12	SPR ^{1&8}	no
Animal husbandry	yes ¹	yes ¹	yes ¹	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR ⁸	no
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto hobbyist storage area	SPR	SPR	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR
Auto recycling operation, principal	9	no	no	SPR
Auto recycling operation, limited	9	9	no	SPR
Auto repair garages	14	14	SPR ⁸	SPR
Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR
Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no
Bed and breakfasts	14	14	SPR ⁸	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR ²

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

Business office	14	14	SPR ⁸	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
<u>Child care facility: child care center</u>	<u>16A</u>	<u>16A</u>	<u>16A</u>	<u>SPR</u>
<u>Child care facility: nursery school</u>	<u>16B</u>	<u>16B</u>	<u>16B</u>	<u>SPR</u>
<u>Child care facility: small child care facility</u>	<u>16B</u>	<u>16B</u>	<u>16B</u>	<u>SPR</u>
<u>Child care provider, family</u>	<u>SPR⁸</u>	<u>SPR⁸</u>	<u>SPR⁸</u>	<u>SPR</u>
Clearing	yes	yes	yes	yes
Clinics	no	no	no	SPR
Clustered housing	SPR	no	no	no
Commercial adult enterprise	no	no	no	SPR
Commercial establishment, 2 or more where allowed	-	9	no	SPR
Day nurseries	SPR	16	SPR⁸	SPR
Earth material removal, less than 100 cubic yards 100 cubic yards or greater	yes SPR	yes SPR	yes SPR	yes SPR
Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes
Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO
Farm equipment stores	SPR	10	no	SPR
Fences	yes ⁵	yes ⁵	yes ⁵	yes ⁵
Firewood sales	yes	13	SPR ⁸	yes
Fireworks sales	no ¹⁹	no ¹⁹	no ¹⁹	no ¹⁹
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no
Gardening	yes	yes	yes	yes

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

Gasoline stations	no	9	no	SPR
Governmental buildings or uses	SPR	SPR	SPR	SPR
Grain or feed stores	SPR	10	no	SPR
Harvesting wild crops	yes	yes	yes	yes
Home business	SPR ⁸	SPR ⁸	SPR ⁸	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR
Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR
Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no
Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR ⁸	SPR
Manufacturing	SPR ⁸	SPR ⁸	SPR ⁸	SPR
Marijuana establishment*	no	no	no	SPR ²⁰
Medical marijuana establishment*	no	no	no	SPR ²⁰
Mobile home parks	SPR/ SD ⁷	SPR/SD ⁷	SPR/SD ⁷	no
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR
New construction of telecommunication structure 70 feet and higher	9	9	no	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR ⁸	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
<u>Outdoor education program</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR ⁸	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR ⁸	SPR
Public utility facilities	SPR	SPR	SPR	SPR
Recreational facilities, nonintensive	SPR	SPR	SPR	no
Recreational use not requiring structures	SPR	yes	yes	no
Restaurant	9	9	SPR ⁸	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR ⁸	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO
Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no ⁶
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹
Solar energy system, larger-scale	SPR ²¹	SPR ²¹	no	SPR ²¹
Surveying and resource analysis	yes	yes	yes	yes

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

Timber harvesting	yes	yes	yes	yes
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no ⁶
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO ³	CEO ³	CEO ³	CEO ³
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
<u>Youth camp</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>
Uses similar to allowed uses	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
Uses similar to uses requiring a planning board permit	SPR	SPR	SPR	SPR

*Marijuana establishment and medical marijuana establishment are defined in section 11-3 of this Code.

Notes:

1. Buildings housing animals shall be no less than 100 feet from property lines.
2. Each bulk oil fuel tank shall not exceed 50,000 gallons in size and use shall be limited to local use only.
3. Only as an accessory to an allowed principal use on the lot. Must conform to the requirements of 45-422, Waste containers.
4. Individual stores shall not have more than 2,500 square feet of gross floor area, except stores located on Route 236 may have up to 5,000 square feet. Customer sales areas shall be confined to one floor.
5. Must conform to the requirements of section 45-423.
6. See section 45-192(b) for an exception on accessory uses and structures.
7. See division 2 of article V of chapter 41 of this Code for specific areas where mobile home parks are allowed.
8. Must conform to the requirements of section 45-456.1 Home business.
9. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.

10. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
11. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) non-commercial properties.
12. Use is "SPR 1 & 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 1" and must be visually screened from abutting (same street side) non-commercial properties.
13. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "yes" and must be visually screened from abutting (same street side) non-commercial properties.
14. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
15. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties in accordance with Sec. 33-175(a). Overnight boarding and outdoor kenneling of animals is prohibited in the rural and suburban zoning districts.
- 16A. Use is "~~SPR 8~~" **prohibited** unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) noncommercial properties.
- 16B. Use is prohibited unless property abuts Route 236, State Road, or Goodwin Road. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) noncommercial properties. If property abuts State Road or Route 101 (Goodwin Road or Dover Road), use is "SPR" and must conform to the requirements of Section 45-463.**
17. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) noncommercial properties.
18. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 4" and must be visually screened from abutting (same street side) noncommercial properties.
19. See chapter 12 for additional regulations pertaining to the sale and use of fireworks.
20. Must conform to the requirements of section 33-190. Marijuana establishments and medical marijuana establishments may only be authorized as principal uses, and not as accessory uses.
21. Must conform to the requirements of section 45-462.

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 207); T.M. of 12-15-93; Amend. of 3-25-95; T.M. of 3-27-99(1), § 5; Ord. of 3-25-00(1); T.M. of 3-16-02, (art. 3), (art. 4); T.M. of 6-19-01, (art. 6), (art. 7); T.M. of 11-5-02; T.M. of 11-4-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-14-08; T.M. of 6-12-2010(3); T.M. of 6-18-2011(6); T.M. of 11-8-2011; T.M. of 6-16-2012(1); T.M. of 6-16-2012(2); T.M. of 11-5-2019(5); T.M. of 7-14-2020(5) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(4) , art. 31; T.M. of 11-2-2021(4) , art. 5; T.M. of 6-14-2022(2) , art. 25)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

Cross reference(s)—Review procedures and standards for site review requirements in the zoning table of uses, § 33-56 et seq.

[Add a new section:]

Sec. 45-463 – Child care facilities; adaptive reuse pilot program

- (a) *Purpose.* The purpose of this section is to allow for a limited number of child care facilities that are:
 - (1) Located outside of the Commercial-Industrial zoning district;
 - (2) Not located along Route 236;
 - (3) Not located on roads classified as minor collectors or local roads;
 - (4) Not home businesses; and,
 - (5) Consistent with the character and scale of their surroundings and the corridor.
- (b) *Objectives.* The objectives of this section are to:
 - (1) Support 2009 Comprehensive Plan Economy Policy 1: “Continue to support broad-based community economic development activity, reflecting community desires and the community’s role in the region,” and Strategy 5: “Consider zoning changes and/or incentives to promote the development of essential service- type businesses in Eliot (banks, food stores, pharmacies, hardware stores, etc.)...”
 - (2) Support 2009 Comprehensive Plan’s Historic and Archaeological Policy 2: “Provide town decision makers with the necessary support to protect the town’s most valued historical assets”.
 - (3) Respond to a documented need for child care facilities in Maine and York County (for example, the 2021 *Child Care Plan for Maine* from the Maine Department of Health and Human Services).
 - (4) Preserve the character of the areas where child care facilities are located by encouraging their location within existing structures.
- (c) *Allowability.* Up to three (3) child care facilities that are not home businesses and are not on lots abutting Route 236 are allowable, subject to Planning Board site plan review, in the Rural, Suburban, or Village zoning districts, provided that:
 - (1) At least two (2) are small child care facilities. One (1) of the 3 facilities may be either a small child care facility or a nursery school.
 - (2) They are located on a lot abutting either State Road or Route 101 (Goodwin Road or Dover Road) and have their primary access directly from those roads; and,
 - (3) They comply with this section.
- (d) *Applicability of buildings or structures.* The child care facilities in subsection (c) shall be located in a building or structure that, as demonstrated by the applicant and determined by the Planning Board, meets one of the following criteria:

- (1) The building is 100 years in age or older, has traditionally had a residential use, is a principal structure (building) on the lot, is historically and-or architecturally significant, and is in a state of disrepair such that its restoration for residential use is not economically viable. The applicant proposes to restore and adapt the building for suitable reuse as a child care facility.
 - (2) The building is 100 years in age or older, has traditionally had a nonresidential use, is a principal structure (building), and is historically and-or architecturally significant. The applicant proposes to restore, adapt, or otherwise upgrade the building for suitable use as a child care facility, either exclusively or shared with other compatible uses.
- (e) *Adaptive reuse standards.* The child care facilities in subsection (c) shall meet the following adaptive reuse standards:
- (1) The height of the existing building shall not be increased, and the height of an allowable building expansion shall not exceed the height of the existing building.
 - (2) Subject to the dimensional standards in Section 45-405, the building footprint may expand by up to 25 percent. Any expansion shall not extend from the front of the existing building or block the view of a substantial portion of the front of the existing building as seen from the public way.
 - (3) The front façade of the existing building shall maintain the same percentage of windows and entryways after the building is restored.
 - (4) Restoration of the existing building shall not substantially alter the color of, or type of materials used for, the exterior siding of the building as it existed prior to the restoration. The color of, and type of materials used for, the exterior siding of any expansion shall be compatible and harmonious with the existing building before and after the restoration.
 - (5) Restoration of the existing building shall not substantially alter the pitch of, or type of materials used for, the roof of the building as it existed prior to the restoration. The pitch of, and materials used for, the roof of any expansion shall be compatible and harmonious with the existing building before and after the restoration.
- (f) *Exceptions to adaptive reuse standards.* The standards in subsection (e) shall not apply to improvements or alterations to the building referenced in subsection (d) that make it accessible pursuant to the Americans with Disabilities Act or are required by the State child care licensing rules or applicable building or life safety codes.
- (g) *Building interior.* Nothing in this section shall be interpreted to limit improvements or alterations to the interior of the building referenced in subsection (d) that are needed to comply with the State child care licensing rules or applicable building or life safety codes, or that are desired for safe and effective operation of the child care facility. Where feasible, applicants are

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, _____, and Chapter 45 – Zoning, Related to Child Care

encouraged to retain or restore historically and-or architecturally significant interior features or styles.

- (h) *Accessory dwelling unit allowed.* A building with a child care facility pursuant to this section may not have a residential use. However, an accessory dwelling unit (ADU) may be located on the same lot, pursuant to Section 45-459, provided that it is detached from the child care facility building and is occupied by an owner or employee of the child care facility.

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Sec. 45-495. – Schedule of minimum required off-street parking spaces.

	Use	Standards
(1)	Dwelling units	alternately, 2 for the first unit, 3 for the second unit, 2 for the third unit, and so on
(2)	Lodging business and motels	1 space for each sleeping room and for each person anticipated to be employed on the largest shift
(3)	Home occupation	1 for each employee and customer up to 10 maximum, not counting residential use
(4)	Camper park	1 space per site
(5)	Takeout restaurant	minimum 25 parking spaces plus 1 space for each 50 square feet (or fraction thereof) of floor space in excess of 900 square feet, and 1 space for every exterior table
(6)	Other restaurants or places serving food	1 space for each 3 seats, permanent or otherwise
(7)	Wholesale or retail sales, or service establishment	1 space for each 150 square feet of retail floor area; 1 space for each 100 square feet of retail floor area (minimum 10 spaces) for marijuana retail stores)
(8)	Automobile, truck and tractor repair and filling stations	1 parking space for each regular employee plus 1 space for each 50 square feet of floor area used for service work
(9)	Public building and professional offices (excluding medical and dental offices), nonprofit medical marijuana dispensaries	1 parking space for each 200 square feet, or major fraction thereof, of floor area exclusive of bulk storage areas
(10)	Medical and dental offices	7 parking spaces for each physician, dentist or other medical practitioner
(11)	Commercial and industrial uses not specifically enumerated	1 space for each person employed or anticipated to be employed on the largest shift
(12)	Schools	Day nursery Child care center —2 parking spaces for each nursery child care room plus 1 space for each adult instructor
		<u>Family child care provider—See Section 45-456.1</u>

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		Elementary and junior high schools—1 parking space for each adult employee plus 15 parking spaces for each 100 students, or major fraction thereof, of total enrollment
(13)	Theaters, auditoriums, churches, arenas, and libraries	1 parking space for every 4 seats, or for every 100 square feet of assemblage space if no fixed seats
(14)	Hospital, sanitariums or nursing homes	1 space for each 500 square feet (or major fraction thereof) of floor area, exclusive of basement
(15)	Adequate spaces shall be provided to accommodate customers, patrons, and employees for permitted uses not listed above	

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 333.3); T.M. of 6-18-2011(6); T.M. of 6-14-2022(3) , art. 26)

Summary of potential ordinance amendments relating to marijuana – June 2023 ballot

Jeff Brubaker, AICP

Town Planner

For Planning Board meeting on January 10, 2023

Ch. 11 - Licensing

- Sec. 11-12 – Clarify transfer of ownership in relation to maximum licenses
- Sec. 11-6.1 – Maximum licenses
 - Consider consolidating medical + adult use retail, keep cap at 12 and (adult use) store cap at 8
- Overhaul application procedures to better integrate with Planning Board applications
- Note license cap information expected to be posted on Town website soon

Home delivery

- Currently prohibited in Town by 33-190(9)
- Limited delivery service and curbside pickup allowed by LD 1827
- To address LD 1827, will need to change 33-190(9), and add site plan review standards and licensing requirements for home delivery/pickup

33-190 performance standards

- (3) change sign content provisions regarding “cannabis”, “marijuana” wording etc.
- (5) potential changes to separation (buffering) from sensitive uses:
 - Add cultivation facilities to “500 foot rule”
 - Consider flexibility to allow for change from one retail type to another

Others?