

# TOWN OF ELIOT, MAINE

## PLANNING BOARD AGENDA

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

DATE: Tuesday, August 1, 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) **NOTICE OF DECISION – if available**
- 6) **NEW BUSINESS**
  - a) 41 Rogers Point Drive (Map 32 / Lot 2), PID # 032-002-000, PB 23-14: Shoreland Zoning Permit Application (Request for Planning Board Reapproval) – Replace and expand existing nonconforming residential structures
  - b) 150 Harold Dow Highway (Map 30 / Lot 3), PID # 030-003-000, PB 23-15: Site Plan Amendment/Review – Mobile Vendor Site
- 7) **OLD BUSINESS**
  - a) November 2023 Ordinance Amendments
    1. Incorporation of State Statute (LD2003) to Increase Housing Opportunities
    2. Public Park-and-Ride Lots
    3. Grocery Stores
- 8) **REVIEW AND APPROVE MINUTES/ OTHER BUSINESS / CORRESPONDENCE**
  - a) Minutes - May 16, 2023
  - b) Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Member
- 9) **SET AGENDA AND DATE FOR NEXT MEETING**
  - a) August 15, 2023
- 10) **ADJOURN**

**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](http://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:

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.

- a) Please call **1-646-558-8656**
  1. When prompted enter meeting number ID: **867 2909 3687**
  2. When prompted to enter Attendee ID
  3. When prompted enter meeting password: **116752**
- b) 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.
- c) Press \*9 to raise your virtual hand to speak



Planning Board Chair

PB23-14: 41 Rogers Point Dr. (Map 32/Lot 2): Shoreland Zoning Permit Application (Request for Planning Board Re-Approval) – Replace and expand existing nonconforming residential structures



## TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
From: Jeff Brubaker, AICP, Town Planner  
Cc: Jane E. and John C. Fantry, Applicants  
Christen and Jennifer Wilber, Property Owners  
Shelly Bishop, Code Enforcement Officer  
Kim Tackett, Land Use Administrative Assistant  
Date: July 31, 2023 (report date)  
August 1, 2023 (meeting date)  
Re: PB23-14: 41 Rogers Point Dr. (Map 32/Lot 2): Shoreland Zoning Permit Application  
(Request for Planning Board Re-Approval) – Replace and expand existing nonconforming residential structures

Application Details/Checklist Documentation	
✓ Address:	41 Rogers Point Dr.
✓ Map/Lot:	32/2
✓ Zoning:	Suburban
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Christen and Jennifer Wilber
✓ Applicant Name:	Jane E. and John C. Fantry
✓ Proposed Project:	Re-approval: replace existing residential structure, expand footprint
✓ Application Received by Staff:	May 23, 2023
Application Fee Paid and Date:	TBD
Application Sent to Staff Reviewers:	Not yet sent
✓ Application Heard by PB	August 1, 2023 (scheduled)
Found Complete by PB	TBD
Site Walk	TBD
Site Walk Publication	TBD
Public Hearing	TBD
Public Hearing Publication	TBD
✓ Reason for PB Review:	Shoreland Zoning Permit Application

### Overview

Applicants seek re-approval of a Shoreland Zoning Permit Application approved on December 15, 2020, under case PB20-19. The current owner received that approval but is now under contract to sell the property to the applicants.

Shoreland zoning permits expire after one year with no substantial start to construction, and one year after substantial start if construction is not completed (44-45). The permit in PB20-19 has thus expired.

PB23-14: 41 Rogers Point Dr. (Map 32/Lot 2): Shoreland Zoning Permit Application (Request for Planning Board Re-Approval) – Replace and expand existing nonconforming residential structures

In summary of PB20-19 (Notice of Decision in your packet), the then-applicant and current owner sought to demolish a seasonal residence and replace it with a year-round residence, plus modify an existing boathouse/garage to create a living area (ADU) over car storage. As noted in the May 23, 2023, letter in your packet, the boathouse/garage conversion is done. The letter notes that COVID supply and contractor availability issues affected the construction timing of the cottage replacement. The applicants now seek to build their own cottage on the same footprint as approved in PB20-19, with a different house style but still adhering to the 20 ft. height limitation [44-32(c)(1)c1].

The review in PB20-19 addressed several limitations for rebuilding the residence placed on structures in the shoreland zone this close to the normal high-water line. Those review points can be seen in the NOD and my December 15, 2020, meeting staff report.

### **Type of review needed**

While shoreland zoning reviews typically require a public hearing, in this case in reviewing the Town Code, I believe one is optional.

#### **Rationale**

- Ch. 44 by itself does not mandate a public hearing for shoreland zoning permit applications. 44-44(b) suggests one is optional.
- However, this project involves a one-family residential structure, partly in the RP shoreland zoning district, which is an SPR use in the 44-34 land use table.
- SPR uses are reviewed under Ch. 33, which requires a public hearing, except for minor amendments under 33-140
- Newly enacted (November 2022 Town Election) section 33-141 outlines the process for requesting reapproval when a site plan review has expired, including a PB public hearing.
- However, 33-59 allows 3 years from date of approval to “substantially complete” the project. For this project that would be Dec. 2023. (This is assuming the project commenced by Dec. 2022.) Assuming all this, the (non-shoreland) site plan approval has not yet expired.

In summary:

1. In my reading of the Code, a public hearing is not required, though PB review is still needed on the question of a new SLZ permit.
2. However, the PB may still choose to require a public hearing under its authority.
3. The applicant could choose to request a public hearing (with additional fee) or make the case that one isn’t needed.

I have discussed the above with the applicant and my understanding is that they feel one is not needed as there is neighbor support for the project. To that end they have provided a memo signed by 4 of 5 abutters supporting the project and suggesting to waive the public hearing.

### **Recommendation**

Deem application complete, approval with conditions

### **Motion templates**

Completeness and approval with shoreland zoning findings and conditions (recommended)

Motion to deem the Shoreland Zoning Permit Application for PB23-14 for the replacement of a residence at 41 Rogers Point Dr. complete, and to approve the application, with the intent of the approval being a renewal of the same Shoreland Zoning Permit approval in PB20-19, decided December 15, 2020 – except for changes to the style of the residence and the omission of the boathouse/garage work and new septic system (which are already completed) – with the following findings of fact (in addition to other applicable findings of fact to be included in the Notice of Decision):

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and Shoreland Zoning Permit Application have been or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
  - a. Will maintain safe and healthful conditions;
  - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
  - c. Will adequately provide for the disposal of all wastewater;
  - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
  - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
  - g. Will avoid problems associated with floodplain development and use;
  - h. Is in conformance with the provisions of section 44-35, land use standards.
3. Applicant has met §44-32 – Nonconformance. Without limiting the generality of this finding, the Planning Board also specifically finds that the new residential structure and foundation will substantially reduce the area of encroachment in the river setback compared to the previous residential structure, from 58 square feet to 9 square feet, while continuing to meet the existing Rogers Point Drive setback. This nonconforming lot of record is narrow and creates a challenging building envelope. Therefore, working within a significantly constrained site, the applicant has met the river setback requirement for the residential structure and its foundation to the greatest practical extent.
4. The Planning Board finds that under Section 33-140(b), the proposed site plan revisions are minor and do not result in any substantial changes to the approved development or further impact abutters.

The approval includes the following conditions:

1. [Standard conditions]
2. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the York County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the Eliot Planning Board. The applicant may make minor informational or formatting changes to the site plan, relative to the plan presented for approval, to address the information required for the recorded plan. The Planning Board's approval authorizes (and the recorded plan must have) a signature from the Planning Board Chair.

PB23-14: 41 Rogers Point Dr. (Map 32/Lot 2): Shoreland Zoning Permit Application (Request for Planning Board Re-Approval) – Replace and expand existing nonconforming residential structures

3. Within 20 days of completion of the project, the applicant shall submit photos of the shoreland area and vegetation to the Code Enforcement Officer.

*Denial*

Motion to deny the Shoreland Zoning Permit Application for PB23-14, for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_ [etc.]

*Continuance*

Motion to continue PB23-14 to the August 15, 2023, meeting.

[alternative: deem complete but set public hearing]

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

Mr. Jeffrey Brubaker, Town Planner  
Town of Eliot, Maine  
1333 State Road  
Eliot, Maine 03903

May 23, 2023

**RE: Request For Planning Board Action  
41 Rogers Point Drive  
Eliot, Maine**



Dear Mr. Brubaker:

On behalf of Jane E. & John C. Fantry, I have enclosed a Request For Planning Board Action and additional supporting documentation for the above referenced project. Mr. and Mrs. Fantry have a Purchase and Sales Agreement on the property. This is a project which was approved by the Board in December of 2020, (see N.O.D. attached) and is being resubmitted due to the expiration of the original permit. The expiration of this permit was largely due to the lasting effects of Covid on materials and contractor availability, as well as changing circumstances on the part of the original applicant. Please note that part of this original project, the restoration of the Boat House and ADU has been completed and no further work is contemplated under this application. The 0.32-acre parcel, located on Rogers Point Drive, off River Road, is in the Suburban Zoning district and within the Shoreland Overlay Zone.

The applicant is proposing a to construct entirely within the same footprint as was approved by the Board in 2020. The style of the cottage replacement has been changed to more closely match the style of the completed Boathouse.

Included in this submission is a rough floor plan layout as well as elevation views. The proposed building will be limited to 20 feet in height.

I look forward to discussing this project at the next available Planning Board meeting. If any additional information is required, please contact me. Thank you for your assistance.

Sincerely;

Chris Wilber, PLS  
Agent for Applicant and Property Owner





# TOWN OF ELIOT

1333 STATE RD., ELIOT, ME 03903



## REQUEST FOR PLANNING BOARD ACTION

(FOR MISCELLANEOUS USES OR CHANGES)

□ Applicant Jane E. & John C. Fantry  
 Mailing Address PO Box 897 City Scarborough State ME Zip 04070-0897  
 Telephone # 207-451-3940 Email address janeantry@icloud.com

(TO RECEIVE MEETING NOTICES)

□ Property Owner Christen & Jennifer Wilber  
 Mailing Address PO Box 90 City Eliot State ME Zip 03903

□ Property address 41 Rogers Point Dr. Tax Map # 32 Lot # 2  
 Size (acres) 0.32 Zoning District Suburban Shoreland Overlay District? Yes

□ Conforming Lot? YES/NO Conforming Use? YES/NO Conforming Structure? YES/NO

□ Legal interest in property identified by applicant by:

- ☐ Owner (copy of deed &/or tax records)  
☒ Pending Owner (copy of purchase & sale agreement)  
☐ Lease (copy of lease agreement with owners & applicants signature)  
☐ Corporate Officer (letter from corporation)  
☐ Other (identify: \_\_\_\_\_)

□ Nature of action requested: See Planning Board Approval Dated 12/15/2020  
 (Example: *Request to amend a previously approved site plan by adding a 10' x 20' addition*)  
Request for re-approval. Replace and expand an existing non-conforming residential  
structure located within 75' of the Pistacaqua River. The replacement and expansion  
is subject to compliance with Sec. 44-42 of the Eliot Code of Ordinances. The applicant  
proposes to increase the overall distance from the river, to bring the structure in  
greater compliance with the ordinance. There is an approved septic system in place.

□ Attach ten (10) copies of sketch plan of property showing in approximate dimensions, all zoning districts, existing/proposed structures, parking areas, streets, entrances, existing and proposed setbacks, proposed lot divisions, proposed open space to be preserved, common areas, site & public improvements and facilities, any areas of excavation and grading, and any other criteria needed to evaluate request. Sketch plan is not required if so advised by the Planning Assistant.

□ Applicants signature Jane E. Fantry Date 5/23/23

□ Property owners signature Christen Wilber Date 5/22/23

### TO BE COMPLETED BY PLANNING ASSISTANT

Date application received by PA \_\_\_\_\_ PA signature \_\_\_\_\_

Sketch plan required? YES NO

FEE AMOUNT \$ \_\_\_\_\_ DATE PAID: \_\_\_\_\_ FORM OF PAYMENT: \_\_\_\_\_

# PURCHASE AND SALE AGREEMENT

("days" means business days unless otherwise noted, see paragraph 23)

Offer Date April 14, 2023

04/17/2023, Effective Date  
Effective Date is defined in Paragraph 23 of this Agreement.

1. PARTIES: This Agreement is made between Jane E. Fantry, John C. Fantry ("Buyer") and Christen B. Wilber, Jennifer C. Wilber ("Seller").

2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy ☒ all ☐ part of (if "part of" see para. 26 for explanation) the property situated in municipality of Eliot, County of York, State of Maine, located at 41 Rogers Point Road and described in deed(s) recorded at said County's Registry of Deeds Book(s) 18370, Page(s) 733 all.

3. FIXTURES: The Buyer and Seller agree that all fixtures, including but not limited to existing storm windows, screens, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood/pellet stoves, sump pump, electrical fixtures, hard-wired generators, landscaping, and none are included with the sale except for the following: no exceptions. Seller represents that all mechanical components of fixtures will be operational at the time of closing except: no exceptions.

4. PERSONAL PROPERTY: The following items of personal property as viewed on April 14, 2023 are included with the sale at no additional cost, in "as is" condition with no warranties: Dryer; Electric Range; Refrigerator; Washer; Aluminum Dock, Ramp and Float.

5. PURCHASE PRICE/EARNEST MONEY: For such Deed and conveyance Buyer agrees to pay the total purchase price of \$                    . Buyer ☐ has delivered; or ☒ will deliver to the Agency within 3 days of the Effective Date, a deposit of earnest money in the amount \$                     . Buyer agrees that an additional deposit of earnest money in the amount of \$ none ~~refundable~~ <sup>non-</sup> will be delivered After satisfactory septic inspection. If Buyer fails to deliver the initial or additional deposit in compliance with the above terms Seller may terminate this Agreement. This right to terminate ends once Buyer has delivered said deposit(s). The remainder of the purchase price shall be paid by wire, certified, cashier's or trust account check upon delivery of the Deed. CBW  
JCW

This Purchase and Sale Agreement is subject to the following conditions:

6. ESCROW AGENT/ACCEPTANCE: Duston Leddy Real Estate ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until April 15, 2023 (date) 6:00 PM ☐ AM ☒ PM; and, in the event of non-acceptance, this earnest money shall be returned promptly to Buyer.

7. TITLE AND CLOSING: A deed, conveying good and merchantable title in accordance with the Standards of Title adopted by the Maine Bar Association shall be delivered to Buyer and this transaction shall be closed and Buyer shall pay the balance due and execute all necessary papers on July 31, 2023 (closing date) or before, if agreed in writing by both parties. If Seller is unable to convey in accordance with the provisions of this paragraph, then Seller shall have a reasonable time period, not to exceed 30 calendar days, from the time Seller is notified of the defect, unless otherwise agreed to in writing by both Buyer and Seller, to remedy the title. Seller hereby agrees to make a good-faith effort to cure any title defect during such period. If, at the later of the closing date set forth above or the expiration of such reasonable time period, Seller is unable to remedy the title, Buyer may close and accept the deed with the title defect or may terminate this Agreement in which case the parties shall be relieved of any further obligations hereunder and any earnest money shall be returned to the Buyer.

8. DEED: The property shall be conveyed by a Warranty deed, and shall be free and clear of all encumbrances except covenants, conditions, easements and restrictions of record which do not materially and adversely affect the continued current use of the property.

JE JCF



**SALE OF PROPERTY ADDENDUM - IF ALREADY UNDER CONTRACT**To Agreement dated April 14, 2023, betweenChristen B. Wilber, Jennifer C. Wilber

("Seller")

and Jane E. Fantry, John C. Fantry

("Buyer")

for property located at 41 Rogers Point Road, Eliot,

("Property #1")

The Purchase and Sale Agreement is further subject to the following terms:

1. Buyer's obligations under the Agreement are subject to closing on the sale of Buyer's property located at: 202 Two Lights, Cape Elizabeth, ME ("Property #2") which is currently under contract. Buyer shall notify Seller in writing if the purchase and sale agreement for Property #2 expires or is terminated. Any failure of Buyer to notify Seller within 2 days of such expiration or termination shall be a default under the Agreement.
2. Upon receipt of notification from Buyer that the purchase and sale agreement for Property #2 has expired or been terminated, Seller shall have the right to declare the Agreement null and void by written notice to Buyer in which case any earnest money shall be returned to Buyer.
3. Buyer shall have until 07/31/2023 (date) to close on the sale of Property #2. Buyer shall notify Seller that the closing on the sale of Property #2 has occurred within 24 hours after closing.
4. The closing date on Property #1 described in the TITLE AND CLOSING paragraph of the Agreement shall be 0 days from the closing on the sale of Property #2 or on 07/31/2023 (date), whichever comes first, or such earlier date as agreed to by both parties.
5. If Buyer does not close on the sale of Property #2 by the date specified above, Seller shall have the right to declare the Agreement null and void by written notice to Buyer in which case any earnest money shall be returned to Buyer.

DocuSigned by:

Jane Fantry 4/14/2023  
 Buyer CEAD09AB3DEF469... Date

Jane E. Fantry 4/14/2023  
 Buyer 9D59D59BC184456... Date

John C. Fantry  
 Buyer Date

Buyer Date

Buyer Date

Christen B Wilber  
 Seller Date

Christen B. Wilber  
 Seller Date

Jennifer C Wilber  
 Seller Date

Jennifer C. Wilber  
 Seller Date

Seller Date

Seller Date



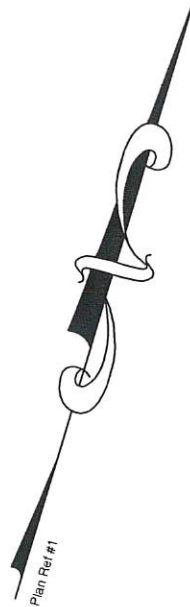
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LandVest / CHRISTIE'S International Real Estate, 36 Danforth Street Portland ME 04101  
 James (Jim) Nadeau

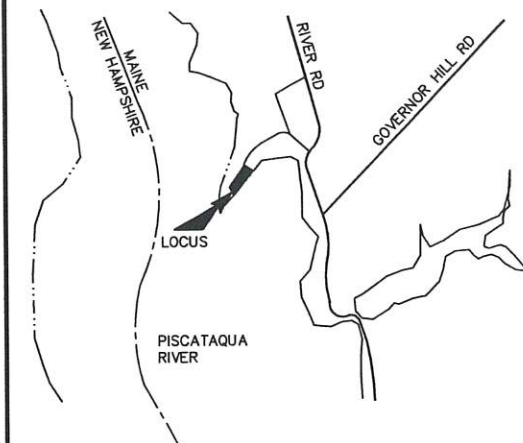
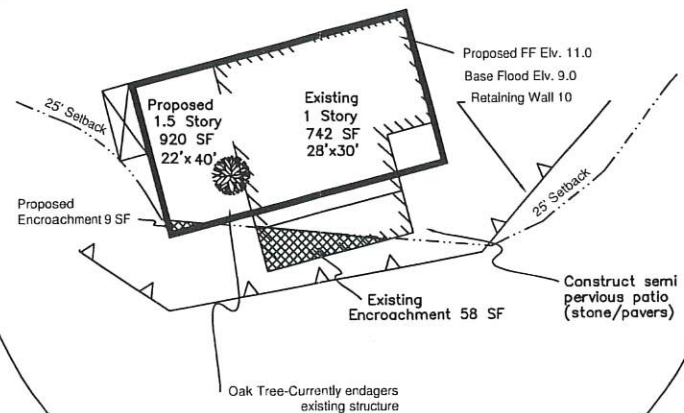
Phone: 2073373687 Fax: 2073373687  
 Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 [www.lwolf.com](http://www.lwolf.com) @



41 Rogers Point



### BUILDING DETAIL (not to scale)



### LOCATION MAP Not to Scale

### PRIOR APPROVAL

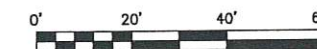
See Case # 19-2049 Shoreland Zoning Permit Application  
REPLACEMENT OF NON-CONFORMING RESIDENTIAL STRUCTURE  
PLANNING BOARD APPROVED 12/15/2020 NOTICE OF DECISION DATE 1/17/2021

NOTE:  
THIS PLAN IS AN UPDATE OF A PLAN WHICH WAS  
ORIGINALLY APPROVED BY THE TOWN OF ELIOT  
PLANNING BOARD ON DECEMBER 15, 2020. THE  
UPDATES INCLUDE A NEW APPLICANT, DANGER TREE  
REMOVAL AND THE DECK REMOVAL/STAIR  
INSTALLATION ON THE ADJ. BOATHOUSE STRUCTURE.  
NO OTHER CHANGES, ADDITIONS HAVE BEEN MADE  
TO THIS PLAN.

### SITE PLAN For

JANE E. & JOHN C. FANTRY

41 & 43 Rogers Point Drive, Eliot, Maine  
May 18, 2023 Scale: 1" = 40'

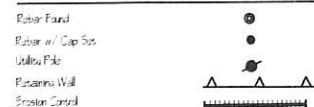


By: Measured, Inc.  
P.O. Box 90  
Eliot, ME 03903  
207-451-3940



Date: 5/23/23

### LEGEND



### SURVEY NOTES

This plan is the result of field work by C. Wilber and boundary information  
contained in Plan Ref. #1 and #2  
Field Work by C.W. using a Topcon GTS 3009 Total Station, Error of Closure less than 1/10,000  
Data Research by C.W.  
Plan by C.W.  
Revision set by C.W. NAD 1983-500 Engineering, LLC  
Field Work and Boundary Research performed prior to purchase by C. & J. Wilber

### PLAN REFERENCES

1) "BOUNDARY SURVEY FOR MICHAEL D. SART" At Rogers Road, Eliot, ME  
Dated August 20, 2001 by Anderson-Linington Engineers, Inc.  
2) "WEST HALF PLAN OF ROGERS POINT" In Blue, Maine, Owned by  
Shadow Land Co. Date Aug 7, 1957, By George O'Hara, N032 PB12 Pg.50

Map 32 Lot 4  
Matheson Realty Trust  
Bk 17052 Pg 518  
2015

Map 32 Lot 6  
John Matheson  
Tracy Eggleston  
Bk 16363 Pg 391  
2012

Map 32 Lot 7  
Stephen A Oeser  
Lorraine P Oeser  
Bk 2319 Pg 121  
1978

Map 32 Lot 1  
Robert A Longtin  
Melinda M Longtin  
Bk 16238 Pg 569  
2012

Map 32 Lot 3  
Rawlings & Vaccaro

PISCATAQUA RIVER  
(Tidal)

PISCATAQUA RIVER  
(Tidal)

Seasonal High Tide

### Zoning Information

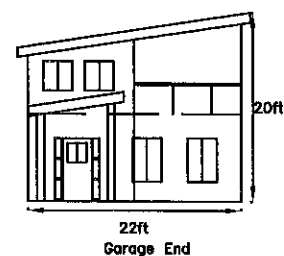
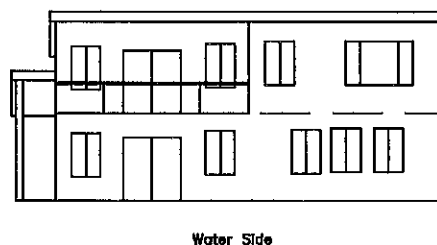
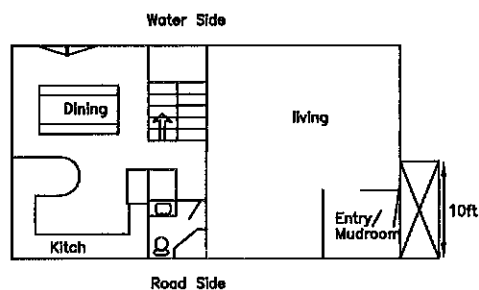
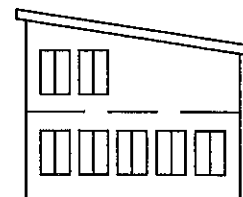
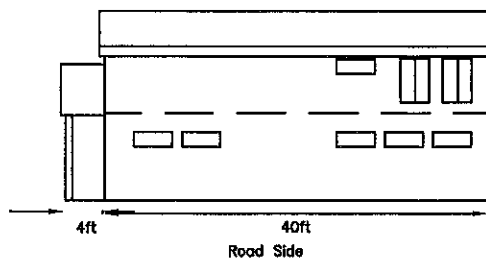
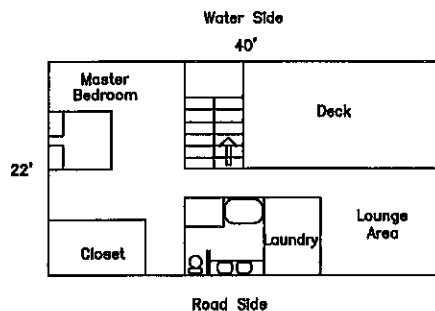
Suburban  
Standard Zoning Overlay District  
Set Backs  
Front 50'  
Side 20'  
Rear 50', Plan shows 25' East Standard Zoning Setback only  
Lot Area 155,000+ SF.  
Proposed House 742 SF.  
% Coverage 920 SF, 24% expansion  
House 742 SF.  
Garage 625 SF.  
Driveway 600 SF.

### APPLICANT

Jane E. & John C. Fantry  
PO Box 997  
Scarborough, ME 04070-0997  
Purchase & Sales Agreement Dated 4/17/2023

### OWNER OF RECORD

Map 32 Lot 2  
Christen B. & Jennifer C. Wilber  
PO Box 90  
Eliot, ME 03903  
Bk 18970 Pg. 155



## Proposed Cottage

<b>DRAWN</b> CBW	<b>DATE</b> 05/19/23	41 ROGERS POINT RD ELIOT, ME  Work Sheet Only Revised xx/xx/xx
<b>APPROVED</b>	<b>DATE</b>	
<b>SCALE</b> 1" = 20'	<b>SHEET</b>	<b>PROJECT NO.</b>

# TOWN OF ELIOT, MAINE

## PLANNING BOARD NOTICE OF DECISION

CASE #: PB20-19 - SHORELAND ZONING  
PERMIT APPLICATION/REPLACEMENT OF  
NON-CONFORMING RESIDENTIAL STRUCTURE

MAP/LOT: 32/2

DATE OF DECISION: 12/15/2020

1/7/2021

Chris and Jennifer Wilber  
PO Box 90  
Eliot, Maine 03903

Dear Mr. & Mrs. Wilber,

This **Notice of Decision** is to inform you that the Planning Board has acted on your **Shoreland Zoning Permit Application** for the replacement of an existing, non-conforming structure, re-built shoreline retaining wall, and modification of an existing boathouse/garage:

### I. APPLICATION DOCUMENTS AND SUPPORTING MATERIAL SUBMITTED FOR THE RECORD:

#### Submitted for October 6, 2020:

1. Request for Planning Board Action, received September 16, 2020.
2. Warranty Deed: Book 18370, Page 733, recorded at the York County Registry of Deeds, dated September 9, 2020.
3. Abutters List.
4. Project Narrative.
5. Shoreland Zoning Permit Application, received September 16, 2020.
  - Drawing of proposed Boathouse.
  - Drawing of proposed Cottage.
  - Site Plan showing existing and proposed structures, prepared by Chris Wilber, PLS.
6. Memo from Jeff Brubaker, Town Planner, dated October 6, 2020.

#### Submitted for November 10, 2020:

1. Copy of Shoreland Site Review Application /Request for Planning Board Action and accompanying documents.
2. Copy of Notice of Site Walk, posted October 26, 2020.
3. Copy of legal Notice of Site Walk, advertised in the Portsmouth Herald October 24, 2020.
4. ME DEP NRPA Permit-by-Rule Application, dated September 27, 2020. Approved October 21, 2020, PBR #71136.
5. CAI Technologies Location Map.
6. Copy of existing/proposed site plan.
7. Copy of HHE-200 Subsurface Wastewater Disposal System Application, prepared by Joseph Noel, SE, dated April 1, 2000.
8. Copy of Replacement System Variance Request and accompanying approval letter, dated June 5, 2000.
9. Photographs of the site and existing structures.
10. Memo from Jeff Brubaker, Town Planner, dated October 6, 2020, updated.

#### Submitted for December 15, 2020:

1. Notice of Public Hearing to the Town, dated December 3, 2020.
2. Copy of Legal Notice of Public Hearing in the Portsmouth Herald, dated December 3, 2020.
3. 500-foot Abutters List, dated October 26, 2020.
4. Copy of Request for Planning Board Action/Shoreland Site Review Application.
5. Copy of HHE-200 Application and approval letter.

6. Copy of ME DEP NRPA Form.
7. Copy of Location Map.
8. Copy of Site Plan existing and proposed structures.
9. Letter from abutters at 46 Rogers Point Drive in support of the project, dated December 8, 2020.
10. Memo from Jeff Brubaker, Town Planner, dated December 8, 2020.

#### FINDINGS OF FACT:

1. The owners of the property are Chris and Jennifer Wilber (mailing address: PO Box 90, Eliot, Maine 03903).
2. The applicants are: Chris and Jennifer Wilber (mailing address: PO Box 90, Eliot, Maine 03903).
3. The property is located at 41 Rogers Point Drive, Eliot, ME and is 0.32 acres.
4. Property can be identified as Assessor's Map 32/ Lot 2 and is located in the Suburban Zoning District/Resource Protection and Limited Residential Shoreland Zoning District Overlays.
5. The applicant proposes to replace existing non-conforming 1-story,  $\frac{3}{4}$  bath residential structure (cottage) further away from the Piscataqua River with a  $1\frac{1}{2}$ -story,  $1\frac{3}{4}$ -bath, 2-bedroom residence and modify the 2-story boathouse/garage, to include a new roof and Accessory Dwelling Unit within existing footprint, demolish the existing deck and add stairway to second floor, keeping the same square footage (64 square feet).
6. Copies of the application and supporting materials were provided to the Police Chief, Public Works, Fire Department, Conservation Commission, and Code Enforcement. The Conservation Commission's only comment was that measures have been identified to avoid environmental impact.
7. The Planning Board reviewed the application at the following regular meetings:
  - October 6, 2020 (Sketch Plan Review)
  - November 10, 2020 (Site Plan Review/Site Walk Review)
  - December 15, 2020 (Site Plan Review/Public Hearing)
8. In accordance with §33-130, a public hearing was advertised in the Portsmouth Herald/Seacoast Online on December 3, 2020 and held on December 15, 2020. Abutting land owners were notified via certified mail.
9. One abutter sent a letter supporting the project. No one from the public spoke at the public hearing.
10. The following application fees have been paid by the applicant, in accordance with §1-25:
  - Site Plan Review Application Fee (Shoreland): \$100, paid 9/16/2020.
  - Non-conforming structure in Shoreland Overlay \$75.00, paid 9/16/2020.
  - Public Hearing Fee: \$175.00, paid 9/16/2020.
11. The Planning Board held a site walk on November 9, 2020, which was legally noticed October 24, 2020. The property was well-flagged and all questions were satisfactorily answered.
12. The Planning Board accepted the application as complete on November 10, 2020.
13. The subject parcel is within a subdivision created in 1937, titled "Rogers Point". Cottage built in 1940 and garage/boathouse built in 1979.
14. Parcel is within the 75-foot setback from the Piscataqua River and subject to §44-35(b)(1). Proposed cottage structure to be located further away from the Piscataqua River to the greatest extent practicable. Planning Board "greatest extent practicable" review of §44-32(c)(4) was completed during review of this application.
15. §44-32 was updated at Town Meeting in November 2018 to be consistent with the State of Maine Chapter 1000 Shoreland Zoning regulations, which removed 'volume' as part of the 30% expansion rule for non-conforming structures.
16. Majority of the proposed cottage structure re-location to be moved out of the 25-foot normal highwater line setback, with existing encroachment at 58 square feet and proposed at 9 square feet, making it less non-conforming.
17. Regarding Rogers Point Drive setbacks, setbacks will remain the same, not increasing the non-conformity.
18. There is a current dock structure on the property, described as in 'poor condition'. No change is proposed at this time.
19. There is a shared drilled well on the neighboring property with deed rights.
20. The applicant verified that there is no evidence available to indicate the garage/boathouse structure sustained damage from a discrete event of over 50% of its value at the time of the event.
21. Existing structures are allowed to expand by 30% under §44-32(c)(1) C.1.:
  - a. 30% expansion: 742 square feet to 920 square feet or 24%.



- b. Shoreland Lot Coverage: 15%
  - c. Shoreland Structure Height: proposed is to be no more than 20 feet.
  - d. Septic System, designed by Joseph Noel (Site Evaluator), is currently approved for two (2) bedrooms.
  - e. Parcel will retain access to the shared private well.
  - f. Parking area (driveway) will remain the same.
22. Applicant filed for a ME DEP NRPA Permit. The Permit was granted October 21, 2020 and a copy submitted to the Planning Department.
  23. Applicant will verify, prior to construction of accessory dwelling unit, that the current septic system is adequate for a third bedroom. Accessory Dwelling Unit will comply with §45-459.
  24. Four large trees, delineated on the Site Plan, will be removed and replaced.
  25. The applicant proposes to rebuild, in place, the shoreline retaining wall for soil stability. During replacement, silt fencing and/or hay bales will be used for erosion control; disturbed areas will be re-vegetated, per the Site Plan.
  26. The driveway is, and will remain, gravel.
  27. The existing property is accessed through a deeded, private gravel right-of-way of the land known as "Rogers Point".

#### CONCLUSIONS:

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44), Shoreland Zoning Permit Application, Chapter 33 Site Plan Review and §45-459 (Accessory Dwelling Unit) have or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
  - a. Will maintain safe and healthful conditions;
  - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
  - c. Will adequately provide for the disposal of all wastewater;
  - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
  - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
  - g. Will avoid problems associated with floodplain development and use; and
  - h. Is in conformance with the provisions of section 44-35, land use standards.
3. Applicant has met §44-32 – Nonconformance. Without limiting the generality of this finding, the Planning Board also specifically finds:
  - a. The new residential structure and foundation will substantially reduce the area of encroachment in the river setback compared to the existing residential structure, from 58 square feet to 9 square feet, while continuing to meet the existing Rogers Point Drive setback. This nonconforming lot of record is narrow and creates a challenging building envelope. Therefore, working within a significantly constrained site, the applicant has met the river setback requirement for the residential structure and its foundation to the greatest practical extent.
  - b. Based on information presented during application review and the site walk, the Planning Board finds that there is no evidence of a discrete event damaging the boathouse by more than 50 percent of the market value of the structure before such damage, destruction or removal. Therefore, the boathouse is not subject to Section 44-32(c)(4). Normal upkeep and maintenance of nonconforming structures, including repairs or renovations which do not involve expansion of the nonconforming use or structure, are allowed under 44-32(b)(2).

#### DECISION:

Based on the above facts and conclusions, on **December 15, 2020**, the Planning Board voted to approve your application to replace existing non-conforming residential structure (cottage) further away from the Piscataqua River and modify the 2-story boathouse/garage, to include a new roof and Accessory Dwelling Unit, demolish the existing deck and add stairway to second floor, keeping the same square footage.

#### CONDITIONS OF APPROVAL:

The applicant must comply with all requirements of the Town of Eliot Land Use Ordinances. In addition, to further promote the purposes of the (Eliot Zoning Ordinances), the Planning Board has voted to impose the following conditions on the approval of this application:

1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board. Copies of approved permits from Maine DEP, Army Corps of Engineers, if applicable, and State shall be provided to the CEO before construction on this project may begin.
2. The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.
3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
4. Prior to installation of a third bedroom, the capacity of the subsurface wastewater disposal system to serve three bedrooms shall be documented through an approved HHE-200 form and permit, or by a signed letter from a State-licensed site evaluator or other qualified professional.
5. Per §44-32(c)(1)(d), an approved plan for expansion of a non-conforming structure must be recorded by the applicant with the York County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the Shoreland Zone boundary and evidence of approval by the Eliot Planning Board. The applicant may make minor informational or formatting changes to the site plan, relative to the plan presented for approval, to address the information required for the recorded plan. The Planning Board's approval authorizes (and the recorded plan must have) a signature from the Planning Board Chair.
6. Planning Board approval of this application is further supported and clarified by specific language in the "Conclusions" section (3 a. and b.) of the Notice of Decision per §44-32.

#### PERMITS:

The Planning Board has approved your application and the Code Enforcement Officer is authorized to grant you the necessary Permits or Certificates of Occupancy, as appropriate. It is your responsibility to apply for these permits. In exercising this approval, you must remain in compliance with all the conditions of approval set forth by the Planning Board, as well as all other Eliot, State, and Federal regulations and laws. Be aware, however, that Site Plan approvals (including home businesses) that are granted by the Eliot Planning Board have expiration provisions specified in Section 33-59 of the Town of Eliot Code of Ordinances, which states:

*The approval of a site plan review under chapter 33, article III shall expire if the work or change involved does not commence within two years of the date the planning board makes its determination of approval under section 33-131, or if the work or change is not substantially completed within three years after such date.*

The holder of an approved permit should take care to ensure that the approval granted on December 15, 2020 does not expire prior to commencement of work or change.

**APPEALS:**

This decision can be appealed to the Board of Appeals within 30 days after **December 15, 2020** by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Elliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Elliot Municipal Code of Ordinances, section 1-2.

Sincerely,



Dennis Lentz, Chair

*This letter reviewed and approved by the Planning Board on January 5, 2021.*

CC: Steve Robinson, Public Works Director  
Elliott Moya, Police Chief  
Jay Muzeroll, Fire Chief  
Martine Painchaud, Tax Assessor  
Shelly Bishop, Code Enforcement Officer  
Kari Moore, Conservation Commission

TO: Jeff Brubaker, Planner Town of Eliot, ME  
Town of Eliot Planning Board  
FROM: Chris Wilber, Agent for Applicant Jane & John Fantry  
Current owner, 41 Rogers Point Drive

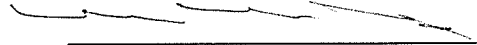
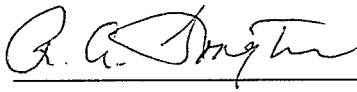
DATE: June 3, 2023

RE: 41 Roger's Point Drive  
Request for Planning Board Action

Re-Approval of Shoreland Zone Permit, Original approval dated 12/15/2020

The below abutters have received copies of the application by the Fantry's and support the decision of the Board regarding re-approval of the application without a public hearing.

Map 32 Lot 1 Melinda M. Longtin & Robert A. Longtin  
25 Rogers Point Drive



Date 6/7/23

Map 32 Lot 8 Jeffrey D. Henderson  
36 Rogers Point Drive

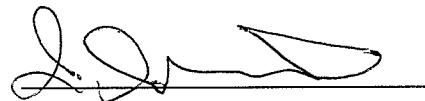
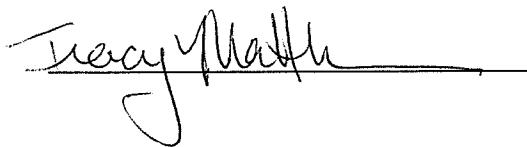


Date \_\_\_\_\_

Map 32 Lot 7 Stephen A. Oeser & Lorraine P. Oeser  
38 Rogers Point Drive

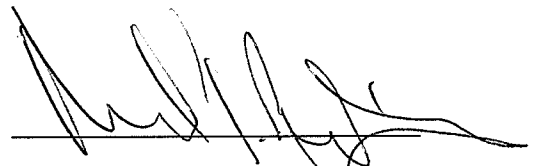


Map 32 Lot 4 John Mattheson & Tracy Egleston  
Map 32 Lot 6 42 Rogers Point Drive



Date \_\_\_\_\_

Map 32 Lot 3 Robert Vaccaro & Daniel Rawling  
46 Roger Point Drive



Date 6 June 2023

TO: Jeff Brubaker, Planner Town of Eliot, ME  
Town of Eliot Planning Board  
FROM: Chris Wilber, Agent for Applicant Jane & John Fantry  
Current owner, 41 Rogers Point Drive

DATE: June 3, 2023

RE: 41 Roger's Point Drive  
Request for Planning Board Action

Re-Approval of Shoreland Zone Permit, Original approval dated 12/15/2020

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25 Rogers Point Drive

\_\_\_\_\_  
Date\_\_\_\_\_

Map 32 Lot 8 Jeffrey D. Henderson  
36 Rogers Point Drive

\_\_\_\_\_  
Date\_\_\_\_\_

Map 32 Lot 7 Stephen A. Oeser & Lorraine P. Oeser  
38 Rogers Point Drive

Stephen A. Oeser 6/5/2023 Lorraine P. Oeser 6/5/23

Map 32 Lot 4 John Mattheson & Tracy Egleston  
Map 32 Lot 6 42 Rogers Point Drive

\_\_\_\_\_  
Date\_\_\_\_\_

Map 32 Lot 3 Robert Vaccaro & Daniel Rawling  
46 Roger Point Drive

\_\_\_\_\_  
Date\_\_\_\_\_



TO: Jeff Brubaker, Planner Town of Eliot, ME  
Town of Eliot Planning Board

FROM: Chris Wilber, Agent for Applicant Jane & John Fantry  
Current owner, 41 Rogers Point Drive

DATE: June 3, 2023

RE: 41 Roger's Point Drive  
Request for Planning Board Action

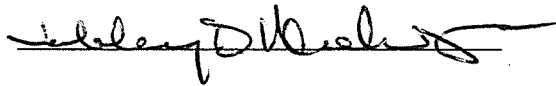
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25 Rogers Point Drive

\_\_\_\_\_  
Date \_\_\_\_\_

Map 32 Lot 8 Jeffrey D. Henderson  
36 Rogers Point Drive



\_\_\_\_\_  
Date 6/4/23

Map 32 Lot 7 Stephen A. Oeser & Lorraine P. Oeser  
38 Rogers Point Drive

Map 32 Lot 4 John Mattheson & Tracy Egleston  
Map 32 Lot 6 42 Rogers Point Drive

\_\_\_\_\_  
Date \_\_\_\_\_

Map 32 Lot 3 Robert Vaccaro & Daniel Rawling  
46 Roger Point Drive

\_\_\_\_\_  
Date \_\_\_\_\_

PB23-15: 150 Harold L. Dow Highway (Map 30/Lot 3): Site Plan Amendment/Review and Change of Use – Mobile Vendor Site



## TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
From: Jeff Brubaker, AICP, Town Planner  
Cc: William Widi, Applicant  
Shelly Bishop, Code Enforcement Officer  
Kim Tackett, Land Use Administrative Assistant  
Date: July 31, 2023 (report date)  
August 1, 2023 (meeting date)  
Re: PB23-15: 150 Harold L. Dow Highway (Map 30/Lot 3): Site Plan Amendment/Review and Change of Use – Mobile Vendor Site

Application Details/Checklist Documentation	
✓ Address:	150 Harold L. Dow Hwy.
✓ Map/Lot:	30/3
✓ PB Case#:	22-19
✓ Zoning:	Commercial/Industrial (C/I) District
✓ Shoreland Zoning:	None
✓ Owner Name:	Nancy Shapleigh
✓ Applicant Name:	William Widi
✓ Proposed Project:	Addition of mobile vendor site on lot
✓ Application Received by Staff:	May 31, 2023
Application Fee Paid and Date:	To update at meeting
Application Sent to Staff Reviewers:	Not sent
Application Heard by PB	August 1, 2023 (scheduled)
Found Complete by PB	TBD
Site Walk	TBD
Site Walk Publication	TBD
Public Hearing	Not needed if PB deems a minor amendment
Public Hearing Publication	Not needed if PB deems a minor amendment
Deliberation	TBD
✓ Reason for PB Review:	Change of Use, SPR Use, Site Plan Amendment

### Overview

Applicant seeks approval to create a mobile vendor site on the property, which currently has approved professional office (real estate office) and residential uses. The site is proposed to host food trucks. Hours of operation are listed as 11am to 9pm, and the applicant proposes to have portable toilets available. There would be no change to the already-approved uses on the property.

## Uses

Mobile vendor sites were added to the land use table (45-290) as SPR uses in the C/I and Village zones, and a definition was added to Section 1-2 with ordinance amendments approved by voters in June. The definition is:

...any mobile vehicle or unit, or bicycle, used to prepare, sell, or serve food, or to sell non-food products, at a number of sites and capable of being moved from its vending site at any time. It shall also include a tent, booth, stand, or table used for the same purpose if it is accompanied by a mobile vehicle or bicycle capable of moving it from its vending site at any time. Mobile vendor does not include any such equipment or appurtenances if they are used for the seasonal sales of produce and plants raised locally.

Per the same ordinance amendments, there are licensing rules for mobile vendors in the new Chapter 5 – Business Licensing. Any mobile vendors seeking to operate longer than a “temporary mobile vendor” would need to seek a license from the Select Board, as outlined in Section 5-6.

The applicant proposes to designate the vacant area to the southeast of the building as the mobile vendor site, as shown in the sketch in their application package. They propose to prepare the site by spreading gravel on an already disturbed area, building and placing planters between the site and Route 236 as a buffer, adding picnic tables, and adding portable toilets. Parking would be behind the mobile vendors, with driveway access adjacent to the picnic table and waiting areas. One suggestion would be to discuss with the applicant additional planters or other physical barriers between the driveway and picnic tables.

## Recommendation

Approval as a minor amendment/revision

### Motion templates

#### Approval as a minor site plan amendment (recommended)

Motion to approve PB23-15 as a Minor Site Plan Amendment/Revision and Change of Use adding “mobile vendor site” to the approved uses at 150 Harold L. Dow Hwy.

The Planning Board finds that the proposed revisions are minor and do not result in any substantial changes to the approved development or further impact abutters. The following are conditions of approval:

1. [Standard conditions]
2. \_\_\_\_\_[Other conditions if desired]

#### *Major Site Plan Amendment needing to go through the Site Plan Review process*

Motion to find that the revisions proposed in PB23-15 are substantial. The applicant must seek approval through a site plan review process, beginning with submittal of a Site Plan Review application.

PB23-15: 150 Harold L. Dow Highway (Map 30/Lot 3): Site Plan Amendment/Review and Change of Use – Mobile Vendor Site

*Disapproval*

Motion to disapprove PB23-15 for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

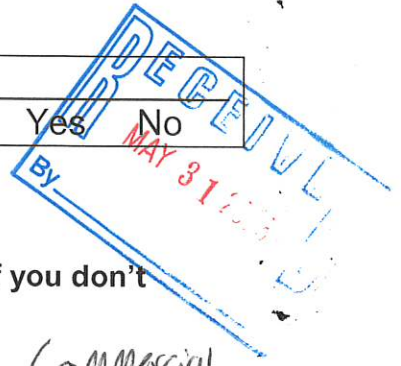
\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

Case No. _____
Site review? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**APPLICATION FOR SITE PLAN REVIEW  
TOWN OF ELIOT PLANNING BOARD**



☒ **Step 1. (Fill in all blocks below - See the Planning Assistant if you don't understand.)**

Tax Map 30 Lot# 3 Lot Size 2.81 Ac Zoning District: Commercial  
Your Name William Widi Your mailing address 34 Sandy Hill Lane  
City/Town Eliot State: ME Zip: 03903 Telephone: 207 475 7360

Who owns the property now? Nancy Sharpleigh

Address (Location) of the property 150 Dow Highway

Property located in a flood zone? Yes ☐ No ☒  
(If yes, please complete the attached Flood Hazard Development Application and return it with your completed application)

☒ **Step 2 (establish your legal interest in the property)**

Attach a copy of the Purchase and Sales Agreement, Deed, Tax records, Signed Lease, or other documents to the satisfaction of the Planning Assistant. If you are representing a corporation, provide documentation that you have authority to speak for the corporation.

☒ **Step 3 (Go to the Zoning Ordinance Section 45-290, Table of Land uses)**

What SPECIFIC land use are you applying for? ~~Restaurant/Tavern~~ / Mobile Vendors Site  
(You MUST make this selection from Section 45-290 of the Zoning Ordinance)

Having entered the SPECIFIC land use above now provide a more detailed description of what you want to do:

We would like to create a "Food truck Lot"  
Spaces would be rented to "Mobile Vendors"  
Hours of operation would be 11AM - 9PM  
Portable Toilets would be Available / Cleaned  
based on usage.  
All other approved / Existing uses would remain.



Case No. \_\_\_\_\_

Site review? Yes No

☒ **Step 4** Attach ten (10) copies of a sketch plan, showing in approximate dimensions the following:

☒ All zoning districts

☒ The location of all existing and/or proposed buildings

☒ The setbacks of all existing and proposed structures or uses.

☒ The location of proposed signs, their size, and direction of illumination.

☒ The location of all existing and/or proposed entrances and exits.

☒ All existing and/or proposed parking areas (parking is permitted in the front, rear and side of the premises, so long as it does not violate setback requirements.)

☒ Plans of buildings, sewage disposal facilities, and location of water supply.

☒ **Step 5** Sign the application (both owner and applicant must sign and date the application) and submit fee with preliminary plans (\$100 per acre for first 5 acres and \$50 per acre after five plus \$150 for advertising and public hearing fees)

Applicant

William Widi

Representative  
for owner

Date

5/28/23

Property Owner

ency

Date

5/28/23

☐ **Step 6** Application received by Planning Assistant

Date received by the PA

PA initials

☐ **Step 7** The Planning Assistant will review the application and if complete, will place your application on a future Planning Board agenda

☐ **Step 8** The applicant or representative of the applicant must attend the Planning Board meeting

### PART 1 - THE PROCEDURE

Case No. \_\_\_\_\_  
Site review?    Yes    No

**(STEP 1)** Meet with the Planning Assistant to assure that Site Review is required. Obtain application forms and assemble data for submission.

**(STEP 2) Sketch Plan Stage** Application submission. Include 10 copies of the sketch plan, survey map, location map, and affidavit of ownership or legal interest. (Section 33-63)

**(STEP 3)** Applicant attends first meeting with Planning Board, describes project, and answers questions (*Board may review checklist for the Site Plan at this time or act on waivers requested for submission of data*)

**(STEP 4)** Board sets up site visit with applicant (Section 33-64).

**(STEP 5)** Board visits site with applicant.

**(STEP 6)** Applicant attends succeeding meetings. Board does preliminary review of the Ordinance requirements for applicability to the Site Plan. Board and notifies applicant of changes required to Sketch Plan after site inspection (Section 33-103).

**(STEP 7)** Applicant revises the "Sketch Plan" as needed, submits the Site Plan, and pays non-refundable fees prior to the second Planning Board meeting. (Sections 33-126 & 33-128).

**(STEP 8) Site Plan Stage** Applicant attends succeeding meetings with Planning Board and discusses Site Plan (Section 33-129) until Board votes to accept the Site Plan (Section 33-126) *Board schedules public hearing for future meeting when all requirements have been or will be met.*

**(STEP 9)** Board conducts Public Hearing (Section 33-130).

**(STEP 10) Approval stage** Board approves / approves with conditions / disapproves applicants application within 30 days of the close of the final Public Hearing or 75 days from date Board accepted completed application and Site Plan (Section 33-131). If more than one public hearing is held, the 30-day period begins after the last public hearing.

**(STEP 11)** Board issues a Notice of Decision, which contains findings certifying compliance with ordinance, reasons for conditional approval or reasons for disapproval (Section 33-131). The Notice of decision and signing of the final plan is for documentation purposes and does not determine the beginning of the appeal period.

**(STEP 12) Appeal Period** A 30-day appeal period begins from the date the Board makes a decision on the application. (Section 45-50) The applicant may begin work on the project during this period, but does so at his or her own risk.

## PART 2

Case No. \_\_\_\_\_

Site review?    Yes    No

**DETAILED ORDINANCE REFERENCES FOR EACH SITE REVIEW EVENT**

1. Submit application. (Section 33-63) Include 10 copies of all submissions that show:

- ☐ Sketch Plan- (See Section 33-105) showing:
  - ☐ All zoning districts
  - ☐ Existing and proposed structures
  - ☐ Existing and proposed parking areas (parking is permitted in the front, rear and side of the premises, so long as it does not violate setback requirements.)
  - ☐ Existing and proposed Streets and entrances
  - ☐ Existing and proposed setbacks
  - ☐ Other site dimensions and area
  - ☐ Site and public improvements and facilities
  - ☐ Areas of excavation and grading
  - ☐ Any other site changes
- ☐ Location Map-This is to be submitted along with or as part of the Sketch Plan (See Section 33-104) and includes:
  - ☐ Scale of 500 ft to the inch
  - ☐ Show all area within 2000 ft of property lines
  - ☐ All surrounding existing streets within 500 ft
  - ☐ Abutters lots and names within 500 ft of property boundary
  - ☐ Zoning districts within 500 ft
  - ☐ Outline of proposed development showing internal streets and entrances

2. Site inspection (Section 33-64) The Board and Applicant conduct site inspection. Applicant shall stake the lot corners, the location of all proposed structures, parking and the centerlines of all proposed streets and entrances in development. Verify that parking meets applicable setbacks

3. Board notifies applicant of changes required to Sketch Plan after site inspection such as contour interval, street classification, etc. (Section 33-103) and determines:

- ☐ If other Local, State or Federal agencies or officers (Section 33-102) should review Sketch Plan.
- ☐ If applicable, MaineDOT driveway permit is **required** prior to local approval for anyone installing, physically changing or changing the use of a driveway on state highway.
- ☐ If review by Eliot Fire Chief \_\_\_\_, Police Chief \_\_\_\_, or Road Commissioner\_\_\_\_ is required.

Case No. \_\_\_\_\_

Site review?    Yes    No

4. Applicant converts Sketch Plan into a "Site Plan" (Sections 33-126). The following requirements are considered by the Planning Board

Chapter 33 required information

☐ 4.1. Applicant shall provide one original and 10 copies of Site Plan drawn at a scale not smaller than 1-inch equals 20 feet showing the following information:

- ☐ 4.1.1. Development name, owner, developer, designer name and address and names and addresses of all abutters and abutters land use.
- ☐ 4.1.2. Certified perimeter survey showing a north arrow, graphic scale, corners of parcel, total acreage, etc. This means a survey of the property using the standards of practice established by the State of Maine Board of Licensure for Professional Land surveyors, MRSA Chapter 121.
- ☐ 4.1.3. Temporary markers.
- ☐ 4.1.4. Contour lines at 5-ft intervals or as Board decides.
- ☐ 4.1.5. A list of the provisions of Chapter 45 (Zoning) which are applicable to this area and identification of any zoning district boundaries affecting the development.
- ☐ 4.1.6. Storm water Drainage Plan. (50 year storm)
- ☐ 4.1.7. Required bridges or culverts.
- ☐ 4.1.8. Location of natural features or site elements to be preserved.
- ☐ 4.1.9. Soil Erosion and Sediment Control Plan.
- ☐ 4.1.10. High Intensity Soils Report.
- ☐ 4.1.11. Locations of sewers, water mains, culverts and drains.
- ☐ 4.1.12. Water supply information.
- ☐ 4.1.13. Sewerage System Plan.
- ☐ 4.1.14. Septic System Survey.
- ☐ 4.1.15. Estimated progress schedule.
- ☐ 4.1.16. Construction drawings for CEO which show floor areas, ground coverage, location of all structures, setbacks, lighting, signs, incineration devices, noise generating machinery likely to generate appreciable noise beyond the lot lines, waste materials, curbs, sidewalks, driveways, fences, retaining walls, etc.
- ☐ 4.1.17. Telecommunication tower details as required.

☐ 4.2. Additional requirements made by Board (Section 33-126).

Other Chapter 33 Site Review Ordinance Requirements.

- ☐ 4.4. Traffic data if applicable (Section 33-153)
- ☐ 4.5. Campground requirements if applicable (33-172)
- ☐ 4.6. Commercial Industrial requirements if applicable
  - ☐ 4.6.1. Landscaping (Section 33-175)

Case No. \_\_\_\_\_

Site review?    Yes    No

- ☐ 4.6.2. Vibration (33-176)
- ☐ 4.6.3. Site Improvements (33-177)
- ☐ 4.6.4. Electromagnetic Interference (33-178)
- ☐ 4.6.5. Parking and Loading Areas (33-179, 45-487, 45-495)
- ☐ 4.6.6. Glare (33-180)

- ☐ 4.7. Motel requirements if applicable (Section 33-182)
- ☐ 4.8. Multi-family dwelling requirements if applicable (Section 33-183)

Chapter 35 Post-Construction Stormwater Management

Disturbance of more than one acre of land or less than one acre if the development is part of a larger common plan for development must comply with Chapter 35 Post – Construction Stormwater Management.

Chapter 45 Zoning Ordinance Requirements. compliance includes the following Article VIII Performance Standards:

- ☐ 4.9. Dimensional Standards (Section 45-405)
- ☐ 4.10. Traffic (Section 45-406)
- ☐ 4.11. Noise (Section 45-407)
- ☐ 4.12. Dust, Fumes, Vapors and Gases (Section 45-408)
- ☐ 4.13. Odor (Section 45-409)
- ☐ 4.14. Glare (Section 45-410)
- ☐ 4.15. Storm-water run-off for a 50 year storm. (Section 45-411)
- ☐ 4.16. Erosion Control (Section 45-412)
- ☐ 4.18. Preservation of Landscape (Section 45-413)
- ☐ 4.19. Relation of Buildings to Environment (Section 45-414)
- ☐ 4.20. Soil Suitability for Construction (Section 45-415)
- ☐ 4.21. Sanitary Standards for Sewage (Section 45-416)
- ☐ 4.22. Buffers and Screening (Section 45-417)
- ☐ 4.23. Explosive Materials (Section 45-418)
- ☐ 4.24. Water Quality (Section 45-419)
- ☐ 4.25. Refuse Disposal (Section 45-421)
- ☐ 4.26. Specific Activities (Article IX) which include:
  - ☐ 4.26.1. Accessory Use or Structure (Section 45-452)
  - ☐ 4.26.2. Home Occupation (Section 45-455)
  - ☐ 4.26.3. Mobile Homes (Section 45-457)
  - ☐ 4.26.4. Off-street Parking and Loading (Article X)
  - ☐ 4.26.5. Signs (Article XI)
- ☐ 4.27. In addition the Board may make other conditions for approval that will insure such compliance and would mitigate any adverse affects on adjoining or neighboring properties which might otherwise result from any proposed use (Section 33-131).



Case No. \_\_\_\_\_  
Site review?    Yes    No

5. Board discussion of Site Plan (Section 33-126).

☐ 5.1. Board discusses Site Plan with applicant.

6. Public Hearing (Section 33-129 & 130).

☐ 6.1. Conducted within 30 days of Boards acceptance of Site Plan.

☐ 6.2. Three notices posted 10 days prior to the Public Hearing.

☐ 6.3. Notices advertised in two newspapers 10 days prior to Public Hearing.

☐ 6.4. Other Towns notified 10 days prior to if within 500 feet of applicant's lot.

☐ 6.5. Abutters notified 10 days prior to by certified mail, return receipt requested. \$150.00 paid by applicant to cover the cost of advertising and abutter notification (Sec. 1-25)

☐ 6.6. Selectmen, CEO, and Board of Appeals shall be notified 10 days prior to the Public Hearing.

7. Board approves / approves with conditions / disapproves applicants Application within 30 days of Public Hearing or 75 days from date Board accepted completed Application and Site Plan (Section 33-131).

**Note:** Computation of time shall be in accordance with Section 1-2 as follows:

"In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation."

8. Notice of Decision issued which contains findings certifying compliance with ordinance, reasons for conditional approval or reasons for disapproval (Section 33-131).

# 150 HAROLD L DOW HWY

Location 150 HAROLD L DOW HWY

Mblu 30/ 3/ / /

Acct#

Owner SHAPLEIGH, NANCY E

Assessment \$354,500

Appraisal \$354,500

PID 1227

Building Count 1



## Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$135,500	\$219,000	\$354,500

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$135,500	\$219,000	\$354,500

## Owner of Record

Owner SHAPLEIGH, NANCY E  
Co-Owner  
Address 28 SANDY HILL LN  
ELIOT, ME 03903

Sale Price \$0  
Certificate  
Book & Page 2136/0489  
Sale Date 07/01/1976

## Ownership History

Ownership History				
Owner	Sale Price	Certificate	Book & Page	Sale Date
SHAPLEIGH, NANCY E	\$0		2136/0489	07/01/1976

## Building Information

### Building 1 : Section 1

Year Built: 1970  
Living Area: 3,332  
Replacement Cost: \$274,026  
Building Percent Good: 48  
Replacement Cost  
Less Depreciation: \$131,500

Building Attributes



Description	OFFICE BLD	Frontage	0
Zone	C/I	Depth	0
Neighborhood		Assessed Value	\$219,000
Alt Land Appr	No	Appraised Value	\$219,000
Category			

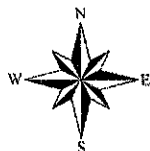
Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAV1	PAVING-ASPHALT			2000.00 S.F.	\$4,000	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$135,500	\$219,000	\$354,500
2020	\$173,700	\$164,400	\$338,100
2019	\$173,700	\$164,400	\$338,100

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$135,500	\$219,000	\$354,500
2020	\$173,700	\$164,400	\$338,100
2019	\$173,700	\$164,400	\$338,100



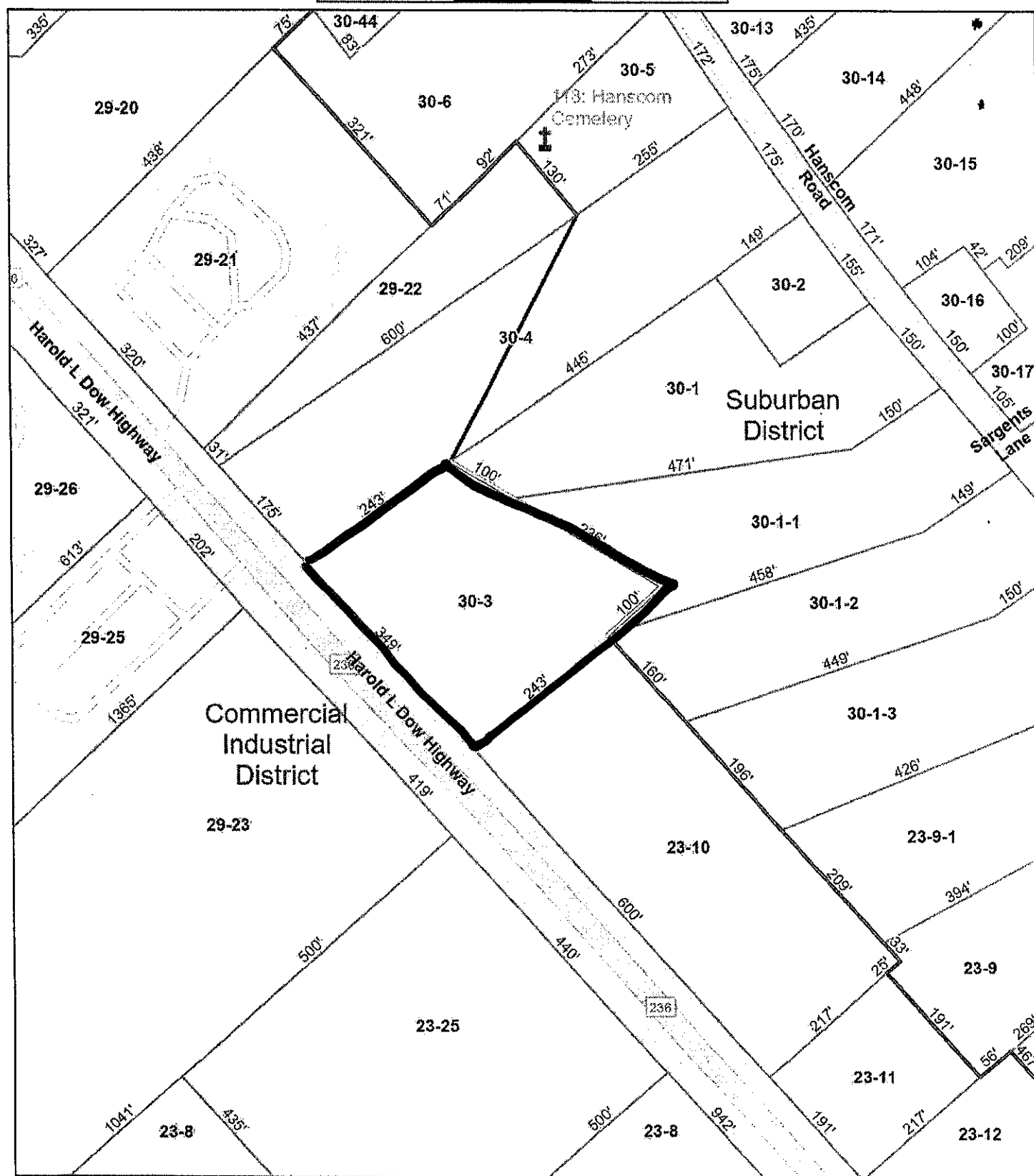
1 inch = 188 Feet



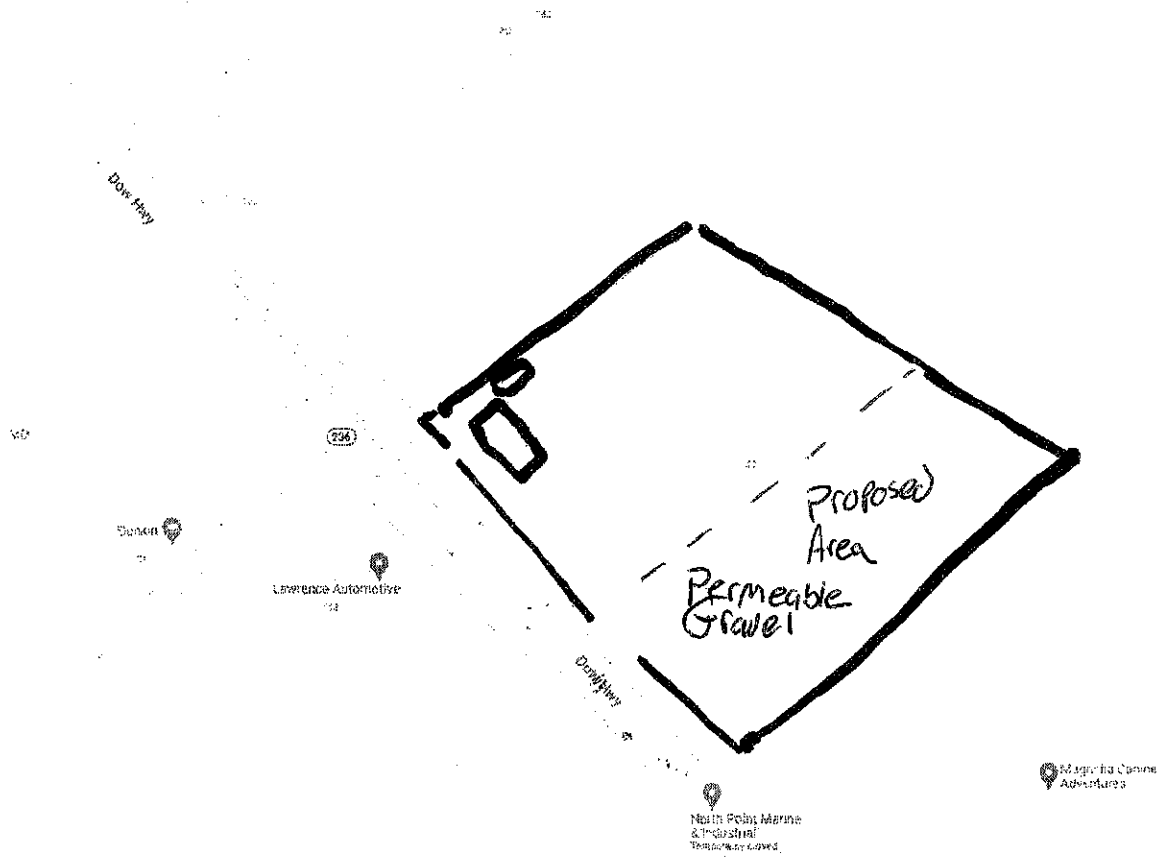
**CAI Technologies**

www.cai-tech.com

May 28, 2023



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

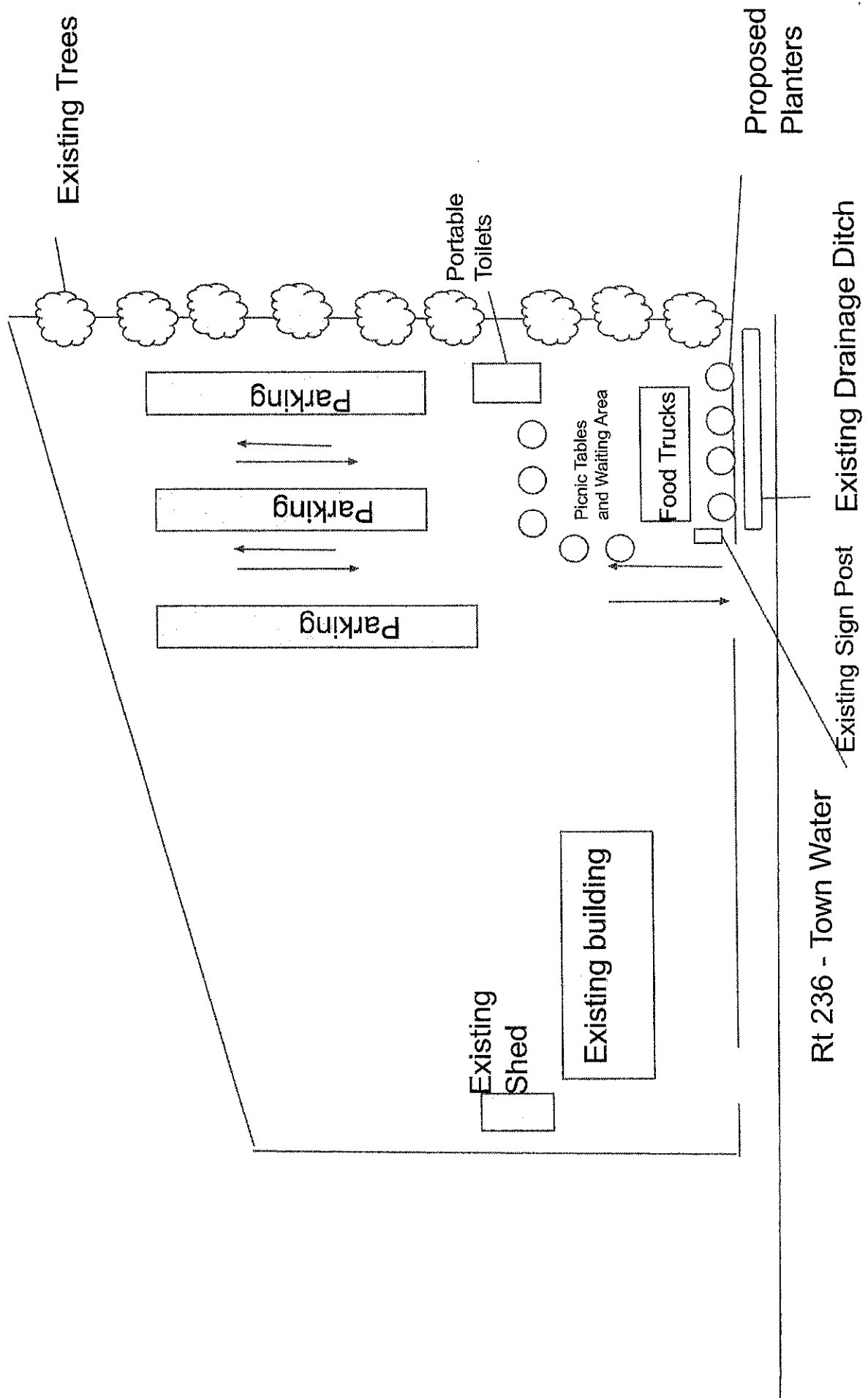


Google

150 Dow Highway proposed Minor physical changes to the property

1. Spread Gravel for parking area on existing disturbed area
2. Build and place planters
3. Place portable toilets
4. Place sign on existing sign post





Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

*Planning Board recommends \_\_\_\_\_ (#-#)*  
*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for August 1, 2023 Planning Board discussion (Some changes since 7/18/2023 in blue)*

### **Short title**

Proposed Town Code Amendments of Chapter 1 – General Provisions, [Chapter 33 – Planning and Development](#), [Chapter 41 – Subdivisions](#), Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to ~~Residential Density and Affordable Housing Developments~~ Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

### **Ballot question – Town Referendum, November 7, 2023**

ARTICLE #\_\_: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, [Chapter 33 – Planning and Development](#), [Chapter 41 – Subdivisions](#), Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to ~~Residential Density and Affordable Housing Developments~~ Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations” be enacted?

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

### **Background and rationale**

[In April 2022, the Governor signed into law LD 2003, An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions. Toward increasing housing opportunities in Maine, the law requires municipalities to comply with certain minimum standards in their local zoning ordinances.](#)

LD2003 is codified in state statute primarily in Title 30-A M.R.S.A. §§4364, 4364-A, 4364-B, and 4364-C. §4364 pertains to incentivizing affordable housing developments. §4364-A pertains to the number of residential units per lot. §4364-B pertains to accessory dwelling units (ADUs). In summary, the statutes require municipalities to allow certain unit types and numbers on a lot.

[LD2003 was amended by LD1706, An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units, which became effective on June 16, 2023. Among other changes, LD1706 extended the deadline for towns governed by Select Boards, such as Eliot, to comply with LD2003 to July 1, 2024. Noncompliance would put the Town of Eliot at risk of legal challenge.](#)

Changes relating to accessory dwelling units (ADUs) approved by voters at the Town Meeting Election and Referendum on June 13, 2023, addressed the requirements of LD2003 (§4364-B). [The proposed amendments codify an additional requirement of LD1706 that ADUs are not prohibited in the shoreland zone but can be governed by shoreland zoning.](#)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

These proposed ordinance amendments will adjust the Town’s zoning and land use regulations to comply with other parts of LD2003, namely the requirements of §4364, “Affordable housing density”, and §4364-A “Residential areas, generally”.

§4364-A requires municipalities to allow multiple residential units “by right” on any lot within any zone that allows residential units. “By right” means that a property owner or builder is not required to seek Planning Board approval but can simply apply for permits through the Code Enforcement office. [Accordingly, the state statute requires some minor adjustments to the Town Code.](#) For many years, Section 45-290, the table of permitted and prohibited uses (commonly known as the “land use table”) has allowed single-family and two-family dwellings by right in all zones that allow residential uses. Footnote h of the Dimensional Standards Table (Section 45-405) states: “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”. This means that the additional residential structures meet the dimensional standards set forth in Section 45-405. In all residential zones (Village, Suburban, and Rural), on lots without any residential structures, §4364-A requires that municipalities allow up to two dwelling units “by right”. Since the land use table already provides for this, no changes are proposed.

§4364-A also expands this by-right allowance to four units in a “designated growth area”. As a background on how this affects the zoning regulations and what changes may be needed, in 2009, the voters of Eliot approved the Town’s current Comprehensive Plan, which designated a Rural Area and a Designated Growth Area. The Village Zone was chosen to be the designated growth area because some infrastructure existed at the time (public water supply and sewer) in a portion of this zone that could accommodate more dense development and smaller lots. After adoption of the plan, the State certified it as consistent with the State’s Growth Management Act. Because the Town did not choose to expand the sewer throughout the Village as proposed in the Comprehensive Plan, the Planning Board refrained from formally changing the Village Zone [in our ordinance](#) to be our designated growth area. Now LD2003 grants specific development rights to this area and we must implement this change.

[The proposed amendments codify the Comprehensive Plan](#) by modifying Section 45-288 to designate the Village zoning district as our growth area and modify Section 45-405 to reduce the minimum lot size for lots served by water and sewer from 1 acre to ½ acre. At the same time, the amendments remove the density bonus now provided for the Village and Suburban districts for each unit after the second unit. The acreage-per-dwelling-unit standard is now the same for each additional unit.

LD2003 allows municipalities to require a certain amount of acreage for each dwelling unit, “as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit”. Section 45-405 already has such requirements that comply with this standard. For example, 3 acres are needed to build a single-family dwelling in the Rural district, and an additional 3 acres are needed for each additional unit. In the Suburban and Village districts, a density bonus is offered for each additional unit after the second unit, requiring only half as much

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

additional acreage (e.g. in the Village district, 1 acre for 1 unit, 2 acres for 2 units, 2.5 acres for 3 units, and so on).

LD2003 also permits lots with an existing residential unit up to 2 more residential units, by-right. The Planning Board desires to maintain our ADU ordinance, which allows only one ADU per principal residential structure, as written and adopted. To comply with the requirements of the new State statute and maintain our ADU ordinance, a proposed amendment to the Dimensional Standards table creates note f that allows an existing single family residence to be converted to a two-family unit without requiring additional acreage, if the second unit is wholly contained within the footprint of the existing residential structure. Such a conversion is typically known as a duplex, and a new definition is added to Section 1-2, “Definitions and rules of construction”.

§4364 requires that municipalities “shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3 units”. Affordable housing developments are developments where 51 percent or more of the units are restricted to be either rented or owned by households that meet certain income eligibility requirements. In the land use table, multifamily dwellings are allowable, subject to Planning Board site plan review (labeled an “SPR use”), in the Village and Suburban districts. The amendments add “Affordable housing development” to the land use table as an SPR use in the Village and Suburban districts – the same as for multifamily dwellings. The amendments also add to Section 1-2 definitions of “Affordable housing development” and “Affordable unit” that accord with LD2003’s definitions.

The amendments also establish a new section, 45-464, that sets standards for affordable housing developments, primarily related to procedures to ensure that the affordable units remain affordable for at least 30 years. This proposed new section also requires that certain affordable units need to have a minimum number of bedrooms. It also requires that all affordable units receive their certificates of occupancy before the last market-rate unit receives its certificate of occupancy. Definitions are added to Section 1-2 that are related to these provisions: restrictive covenant, affordable housing covenant, qualified holder, market-rate unit, and market rent.

To reflect the above-described changes, the amendments make formatting and organizational changes to the existing dimensional standards table in Section 45-405. The density allowances for affordable housing developments are broken out into a separate table for easier readability. In some cases, footnote information is embedded into the table.

The amendments also make changes to the Town’s wastewater disposal regulations. They add a new provision to Section 45-416, Sanitary standards for sewerage, requiring that any subsurface sewage disposal system that receives in excess of 2,000 gallons per day shall be an engineered system, a definition of which is added to Section 1-2.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

**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]*

*[...]*

~~*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 covenant (as applied to an affordable housing development) means a type of restrictive covenant that includes an agreement among one or more owners, one or more tenants of residential real estate, and one or more qualified holders; or between one or more owners and one or more qualified holders; or between one or more tenants and one or more qualified holders, that permits a qualified holder to control, either directly or indirectly, the purchase price or rent of a dwelling unit for the primary purpose of providing that the unit remains affordable consistent with the definition of “affordable unit”.*

*Affordable housing development means a development in which a majority 51 percent or more of the dwelling units are affordable units.*

State law reference – 30-A M.R.S.A. 4364(1)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

**Affordable unit (as applied to an affordable housing development) means a dwelling unit in an affordable housing development that is priced so that:**

- a) if it is a rental unit, a household whose income, at the time of initial occupancy, does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford to rent the unit without spending more than 30% of the household's monthly income on housing costs, or,**
- b) if it is an owner-occupied unit, a household whose income, at the time of initial occupancy, does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford the unit without spending more than 30% of the household's monthly income on housing costs.**

**State law reference – 30-A M.R.S.A. 4364(1)**

[...]

**Area median income means the midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.**

[...]

**Centrally managed water system means a water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water. This water system may be privately owned.**

[...]

**Density means the ratio of a particular feature on the land per a given area of land.**

[...]

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

**Designated growth area means an identified area designated in an adopted municipal Comprehensive Plan pursuant to 30-A M.R.S.A. 4326 where needed public services are available to accommodate residential, commercial or industrial growth.**

[...]

**Engineered subsurface disposal system means a domestic wastewater system designed to treat average daily flows in excess of 2,000 gallons per day. The design and location of these systems are regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules* and require review by the Maine Department of Health and Human Services prior to issuance of permit by the Local Plumbing Inspector (Code Enforcement Officer).**

[...]

**Market-rate unit means a dwelling unit in an affordable housing development that is intended to be sold or rented at market value, or that is otherwise not designated as an affordable unit.**

**Market rent means the estimated rent a property will be rented for in the open market and under prevailing market conditions in a lease or rental agreement between a willing lessor and a willing lessee, both conversant with the property and with prevailing general rent levels.**

[...]

**Qualified holder means a governmental entity empowered to hold an interest in real property under the laws of Maine or the United States or a nonprofit organization whose purposes include the provision of affordable housing or the increasing of affordable housing opportunities for lower income or moderate-income households, including governmental or quasi-governmental entities such as public housing authorities, community action agencies, or other similar nonprofit or governmental entities committed to providing opportunities for lower income or moderate-income households to obtain affordable housing authorities, community action agencies, or other similar nonprofit or governmental entities committed to providing opportunities for lower income or moderate-income households to obtain affordable housing.**



Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

[...]

***Restrictive covenant* means a provision in a deed (or other covenant conveying real property) restricting the use of the land.**

[...]

*Two-family dwelling* means a building or portion principally designed, adapted, or used for occupancy by two families, and each living in its own separate quarters. **A *duplex* means a two-family dwelling with each unit under single ownership.**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

Sec. 33-183. Multifamily dwellings.

- (a) A multifamily dwelling is a structure or portion that is principally designed, adapted or used for occupancy by three or more families, each living in its own separate quarters. Each individual unit which functions as a separate living quarter shall be deemed to be a dwelling unit.
- (b) A maximum of eight dwelling units shall be permitted in any one multifamily building.
- (c) Residential buildings containing multifamily dwelling units shall be located at least 100 feet apart from each other and any other structure.
- (d) Garages or other accessory buildings shall not be located between the multifamily residential buildings and the front lot line. Accessory buildings shall be located so as not to inhibit the access of emergency vehicles and fire apparatus to any side of a residential building.
- (e) No multifamily residential building shall exceed two floors above grade, or 35 feet from the average ground grade to the eaves.
- (f) The proposed development shall provide for safe access to and from public and private roads. Safe access shall be ensured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic generators. All corner lots shall be kept clear from visual obstructions, higher than three feet above ground level.
- (g) The proposed development shall not have an unreasonable adverse impact on the town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate parking and turnaround areas. Street entrances and exits shall be limited to one per street; however, developments containing 16 or more units shall have two entrances to town ways. All driveways and parking areas within the site shall be constructed in accordance with the standards in 37-51 et seq.
- (h) All multifamily residential buildings on a single lot shall be connected to a common water supply and distribution system, either private or public, at no expense to the town. Prior to the issuance of any building permit, the applicant shall demonstrate by actual test or by a signed affidavit from an authorized representative of the servicing water company that water can be supplied at the rate of at least 250 gallons per day per dwelling unit and at an adequate pressure for firefighting purposes before starting construction of any building.
- (i) All principal buildings shall have sprinklers ~~or~~ and an approved fire alarm system installed pursuant to NFPA standards. Either Both systems shall be connected to the municipal fire alarm system or dispatching panel.
- (j) All multifamily dwellings shall be connected to a municipal sewer system, if available. have adequate wastewater disposal. If available, public sewer connections shall be governed by Chapter 18. If a private wastewater disposal system will be utilized, the system shall be designed, installed, and maintained consistent with Section 45-416, and

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

**the owner (or designee) shall submit a maintenance schedule to the local plumbing inspector and shall update the local plumbing inspector annually on maintenance done over the past year. If the proposed development is a subdivision, wastewater disposal shall also be governed by Section 41-218.**

- (k) It shall be the responsibility of the owner to provide for rubbish disposal, snow removal and site maintenance.

*Note:* In reviewing any development of multifamily housing which is classified as elderly housing, an assisted living facility or a life care facility under chapter 45, section 45-1 of this Code, the planning board may waive any of the standards of this section which the board determines are not applicable because of the nature and circumstances of the proposed development the planning board must vote separately on each standard waived and the reasons for each waiver must appear in the board's minutes.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 408); Ord. of 3-25-00(1))

Cross reference(s)—District regulations, § 45-286 et seq.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

Sec. 44-34. Table of land uses

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 <sup>1</sup>	CEO	CEO	CEO
(2)	>Emergency operations	yes	yes	yes	yes	yes
(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 <sup>2</sup>	yes <sup>2</sup>

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(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 <sup>4</sup>	SPR <sup>9</sup>	CEO	CEO	CEO
	b. Multifamily dwelling	no	no	SPR	SPR	SPR
	c. Commercial (not listed elsewhere)	no <sup>13</sup>	no <sup>13</sup>	no <sup>13</sup>	SPR	SPR <sup>5</sup>
	d. Industrial	no	no	no	no	SPR
	e. Governmental and institutional	no	no	no	SPR	SPR
	f. Small nonresidential facilities for educational, scientific or nature interpretation purposes	SPR <sup>4</sup>	SPR	CEO	CEO	CEO
(13)	Agriculture	CEO	SPR	CEO	CEO	CEO
(14)	Aquaculture	SPR <sup>10</sup>	SPR <sup>10</sup>	SPR <sup>10</sup>	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 <sup>10</sup>	SPR <sup>10</sup>	SPR
(21)	Boardinghouse	no	no	SPR <sup>10</sup>	SPR	SPR
(22)	Campgrounds	no	no <sup>7</sup>	no	no	SPR
(23)	Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
(24)	Fireworks sales	no <sup>17</sup>	no <sup>17</sup>	no <sup>17</sup>	no <sup>17</sup>	no <sup>17</sup>

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(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
(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 <sup>7</sup>	no	no	no
(30)	Public and private recreational areas involving minimal structural development	SPR	SPR	SPR	SPR	CEO
(31)	Solar energy system; larger-scale (SES-LG)	no	no	no	SPR <sup>15</sup>	no
Accessory Structures or Uses						
<b>(32)</b>	<b><u>Accessory Dwelling Units</u></b>	<b><u>SPR<sup>4</sup></u></b>	<b><u>SPR<sup>9</sup></u></b>	<b><u>CEO</u></b>	<b><u>CEO</u></b>	<b><u>CEO</u></b>
re# (32)	Structures accessory to allowed uses, not otherwise listed	SPR <sup>4</sup>	SPR	CEO	CEO	CEO
(33)	Essential services	SPR <sup>6</sup>	SPR <sup>6</sup>	SPR	SPR	SPR
	a. Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>12</sup>	yes <sup>12</sup>	yes <sup>12</sup>
	b. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	SPR <sup>6</sup>	SPR <sup>6</sup>	CEO	CEO	CEO

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	c.	Non-roadside or cross-country distribution lines involving 11 or more poles in the shoreland zone	SPR <sup>6</sup>	SPR <sup>6</sup>	SPR	SPR	SPR
	d.	Other essential services	SPR <sup>6</sup>	SPR <sup>6</sup>	SPR	SPR	SPR
(34)		Fences	yes <sup>11A</sup>	yes <sup>11A</sup>	yes <sup>11A</sup>	yes <sup>11A</sup>	yes <sup>11A</sup>
(35)		Filling and earthmoving of < 10 cubic yards	CEO	CEO	yes	yes	yes
(36)		Filling and earthmoving of > 10 cubic yards	SPR	SPR	CEO	CEO	CEO
(37)		Home business	no <sup>12A</sup>	no <sup>12A</sup>	SPR <sup>10A</sup>	SPR <sup>10A</sup>	no
(38)		Home occupations; regular and water-dependent	no	no	no	no	no
(39)		Home Office	CEO	no	CEO	CEO	CEO
(40)		Individual, private campsites	CEO	CEO	CEO	CEO	CEO
(41)		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 <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>
	b.	Permanent residential	SPR	SPR	SPR	SPR	SPR
	c.	Permanent commercial	SPR <sup>14</sup>	SPR <sup>14</sup>	SPR <sup>14</sup>	SPR	SPR
	d.	Limited commercial	SPR <sup>5</sup>	SPR <sup>5</sup>	SPR <sup>5</sup>	SPR	no
(42)		Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
(43)		Road and driveway construction	SPR	no <sup>8</sup>	SPR	SPR	SPR
(44)		Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
(45)		Signs.	yes <sup>9A</sup>	yes <sup>9A</sup>	yes <sup>9A</sup>	yes <sup>9A</sup>	yes <sup>9A</sup>
(46)		Solar energy system, small-scale ground-mounted or roof mounted (SES-SR)	CEO <sup>15A</sup>	CEO <sup>15A</sup>	CEO <sup>15B</sup>	CEO <sup>15</sup>	CEO <sup>15</sup>
(47)		Small wind energy system	SPR <sup>16</sup>	SPR <sup>16</sup>	SPR <sup>16</sup>	SPR <sup>16</sup>	SPR <sup>16</sup>
(48)		Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
(49)		Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
(50)		Uses similar to uses requiring a SPR permit	SPR	SPR	SPR	SPR	SPR
(51)		Waste containers	CEO <sup>5A</sup>	CEO <sup>5A</sup>	CEO <sup>5A</sup>	CEO <sup>5A</sup>	CEO <sup>5A</sup>

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*Footnotes:*

- <sup>1</sup> In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
- <sup>2</sup> Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.
- <sup>3</sup> In RP not allowed in areas so designated because of wildlife value.
- <sup>4</sup> Provided that a variance from the setback requirement is obtained from the board of appeals.
- <sup>5</sup> Functionally water-dependent uses and uses accessory to such water dependent uses only (see note on previous page).
- <sup>5A</sup> Only as an accessory use to an allowed principal use on the lot. Must conform to the requirements of [section] 45-422, Waste containers.
- <sup>6</sup> See further restrictions in subsection 44-35(l)(2), essential services.
- <sup>7</sup> 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.
- <sup>8</sup> Except as provided in subsection 44-35(h).
- <sup>9</sup> Single family residential structures and accessory dwelling units within or attached to those structures may be allowed by special exception only according to the provisions of subsection 44-44(f), Special exceptions. Two-family residential structures and detached accessory dwelling units are prohibited.
- <sup>9A</sup> See sign ordinance section.
- <sup>10</sup> Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.
- <sup>10A</sup> Must conform to the requirements of section 45-456.1, Home business.
- <sup>11</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- <sup>11A</sup> Must conform to the requirements of section 45-423, Fences.
- <sup>12</sup> Permit not required, but must file a written "notice of intent to construct" with CEO.
- <sup>12A</sup> "No" except in conjunction with aquaculture, small nonresidential facilities for educational, scientific or nature interpretation purposes or limited commercial piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.
- <sup>13</sup> Use is "No" except when permitted under another specific land use entry.
- <sup>14</sup> 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.



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*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.

<sup>15</sup> Must conform to the requirements of section 45-462. SES-LGs in LC must be sited on soils that are non-hydric and are otherwise appropriate pursuant to subsection 44-35(r).

<sup>15A</sup> Must conform to the requirements of section 45-462. In SP and RP, an SES-SR is only allowable as a roof-mounted system on an approved or legally nonconforming structure, or as a ground-mounted system whose area, based on total airspace projected over the ground, is less than 1,000 square feet. The SES-SR shall be limited by design to supply the energy needs of an existing or allowed use on the same lot as the system. Sale of energy to the power grid must be limited to incidental excess power generation.

<sup>15B</sup> Must conform to the requirements of section 45-462. In LR, an SES-SR is only allowable if it is limited by design to supply the energy needs of an existing or allowed use on the same lot as the system. Sale of energy to the power grid must be limited to incidental excess power generation.

<sup>16</sup> Must conform to the requirements of section 45-461.

<sup>17</sup> 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; T.M. of 11-8-2022(2) , art. 3; **T.M. of 6-13-2023, art. 26**)

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Sec. 44-44. - Procedure for administering permits.

- (a) Within 35 days of the date of receiving a written application, the planning board or code enforcement officer, as indicated in section 44-34, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.
- (b) The planning board or code enforcement officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the planning board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the planning board's agenda following receipt of a completed application, or within 35 days of the public hearing, if one is held, if the proposed use or structure is found to be in conformance with the purposes and provisions of this chapter.
- (c) The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this chapter.
- (d) After the submission of a complete application to the planning board, the board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
  - (1) Will maintain safe and healthful conditions;
  - (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
  - (3) Will adequately provide for the disposal of all wastewater;
  - (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
  - (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
  - (7) Will avoid problems associated with floodplain development and use; and
  - (8) Is in conformance with the provisions of section 44-35, land use standards.
- (e) If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality.
- (f) *Special exceptions.* In addition to the criteria specified in this section, excepting structure setback requirements, the planning board may approve a permit for a single family residential structure and an accessory dwelling unit within or attached to that structure in a resource protection district provided that the applicant demonstrates that all of the following conditions are met:

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- (1) There is no location on the property, other than a location within the resource protection district, where the structure can be built.
  - (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the resource protection district.
  - (3) All proposed buildings, sewage disposal systems and other improvements are:
    - a. Located on natural ground slopes of less than 20 percent; and
    - b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.
- If the floodway is not shown on the Federal Emergency Management Agency maps, it is deemed to be one-half the width of the 100-year floodplain.
- (4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
  - (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

(T.M. of 11-06-2018(3))

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Sec. 45-288 Village district

The purpose of the village district is to:

- (1) Preserve the physical, aesthetic and social quality of the town's village area.
- (2) Provide for the location of residential uses close to the services provided by the town.
- (3) Provide space for small, local retail sales, commercial services, and office uses which are needed or may be desirable and are in keeping with the scale and character of the neighborhood, while minimizing the problems and interruption created by such development.

**(4) Act as the town's designated growth area pursuant to M.R.S.A 30-A §4326(3-A).**

(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, (§ 205.4);....)

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

*[reflects the additional changes to this section proposed by these 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
<b>Affordable housing development</b>	<b>no</b>	<b>SPR</b>	<b>SPR</b>	<b>no</b>
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes <sup>1</sup>	12	SPR <sup>1&amp;8</sup>	no
Animal husbandry	yes <sup>1</sup>	yes <sup>1</sup>	yes <sup>1</sup>	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR <sup>8</sup>	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 <sup>8</sup>	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 <sup>8</sup>	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR <sup>2</sup>
Business office	14	14	SPR <sup>8</sup>	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Childcare facility	16	16	16	SPR
Childcare provider, family	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Clearing	yes	yes	yes	yes

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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
Earth material removal, less than 100 cubic yards	yes	yes	yes	yes
100 cubic yards or greater	SPR	SPR	SPR	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 <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>
Firewood sales	yes	13	SPR <sup>8</sup>	yes
Fireworks sales	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>
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
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 <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>
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

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Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR <sup>8</sup>	SPR
Manufacturing	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Marijuana establishment*	no	no	no	SPR <sup>20</sup>
Medical marijuana establishment*	no	no	no	SPR <sup>20</sup>
Mobile home parks	SPR/ SD <sup>7</sup>	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	no
Mobile vendor site	no	no	SPR	SPR
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
New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR <sup>8</sup>	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
Outdoor education program	yes	yes	yes	yes
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR <sup>8</sup>	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR <sup>8</sup>	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 <sup>8</sup>	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR <sup>8</sup>	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 <sup>6</sup>
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>
Solar energy system, larger-scale	SPR <sup>21</sup>	SPR <sup>21</sup>	no	SPR <sup>21</sup>

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Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes
Tiny home on wheels	CEO <sup>22</sup>	CEO <sup>22</sup>	CEO <sup>22</sup>	no <sup>22</sup>
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Youth camp	SPR	SPR	SPR	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.
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.



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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. May be permitted as a principal residential unit or as an accessory dwelling unit. All tiny homes shall conform to the requirements of Section 45-137. Accessory dwelling unit tiny homes shall also conform to the requirements of Section 45-459. For tiny homes in the C/I zoning district, reference footnote 6.

(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; **T.M. of 6-13-2023, art. 26, art. 28 & art. 29**)

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

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Sec. 45-405. Dimensional standards.

[ADOPTED Table T.M 06-13-2023]

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

District	Rural	Suburban	Village		C/I	MHP
			<u>No water or sewer<sup>y</sup></u>	<u>Water &amp; sewer<sup>y</sup></u>		
Min. lot size, acres (ac) or square feet (ft <sup>2</sup> )	3 ac	2 ac	1 ac	<u>½ ac</u>	3 ac	6,500 ft <sup>2</sup> <sup>n</sup> 12,000 ft <sup>2</sup> <sup>n</sup> 20,000 ft <sup>2</sup> <sup>n</sup>
Min. street frontage (ft.) <sup>l</sup>	200	150	100	<u>75</u>	300	50/75/100 <sup>n</sup>
Min. street frontage: back lots	m	m	m	<u>m</u>		
	Min. area per dwelling unit, acres (ac)					
1 unit	3 ac	2 ac	1 ac	<u>½ ac</u>	—	o
2 units <sup>f</sup>	6 ac	4 ac	2 ac	<u>1 ac</u>	—	—
Each additional unit	3 ac	<u>1</u> 2 ac	<u>½</u> 1 ac <sup>g</sup>	<u>½ ac</u>	—	—
Assisted living facility	—	s	s	<u>s</u>	s	—
Elderly housing	—	g	g	<u>g</u>	g	—
Life care facility	—	t	t	<u>t</u>	t	—
	Min. yard dimensions (ft.)					
Front yard	30	30 <sup>p</sup>	30 <sup>p</sup>	<u>25<sup>p</sup></u>	50 <sup>a,p</sup> 30	20 <sup>o</sup>
Side yards	20	20 <sup>p</sup>	20 <sup>p</sup>	<u>15<sup>p</sup></u>	20 <sup>p</sup> 100 <sup>b</sup>	20 <sup>o</sup>
Rear yard	30	30 <sup>p</sup>	30 <sup>p</sup>	<u>25<sup>p</sup></u>	20 <sup>p</sup> 100 <sup>b</sup>	10 <sup>o</sup>
	Accessory building <sup>c</sup>					

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Front yard setback	30	30	30		50 <sup>a</sup> 30 <sup>a</sup>	5°
Side and rear yard setback	10	10	10		20 100 <sup>b</sup>	5°
Accessory dwelling unit	u	u	u	<u>u</u>	u	—
Max. height (ft.)	35	35	35	<u>35</u>	55 <sup>d</sup>	35
Max. lot coverage (%)	10	15 <sup>q</sup>	20 <sup>q</sup>	<u>20, 25</u>	50 <sup>q</sup>	50°
Setback-normal high water mark (feet) <sup>e</sup>	75	75	75	<u>75</u>	75	75
Dwelling units:						
Min. size (sq. ft. per unit):						
Accessory dwelling unit (ADU)	u	u	u	<u>u</u>	u	—
Assisted living facility	—	300	300	<u>300</u>	300	—
Federal or state elderly housing, other than assisted living facility	—	No min.	No min.	<u>No min.</u>	No min.	—
Mobile home park units	—	—	—	<u>—</u>	—	650
Tiny home on wheels or foundation-built tiny home	r	r	r	<u>r</u>	r	—
All other units	650	650	650	<u>650</u>	650	—
Max. number of principal structures per lot	h	h	h	<u>h</u>	v	1

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

Signs:					
District	Rural	Suburban	Village	C/I	MHP
Max. sign area (sq. ft.)	6	6	6	100	6

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Max. sign area (sq. ft.), commercial establishments only	12	12	12	100 <sup>i</sup>	12
Max. sign area (sq. ft.), new residential subdivisions	50 <sup>j</sup>	50 <sup>j</sup>	50 <sup>j</sup>		50 <sup>l</sup>
Min. setback (ft.) (front lot line only)	8 <sup>k</sup>	8 <sup>k</sup>	8 <sup>k</sup>	-- <sup>k</sup>	8 <sup>k</sup>

**(c) Affordable housing developments (AHDs) may seek a density bonus of up to two-and-a-half times the density otherwise allowed in the zoning district, as outlined in the table below.**

			<u>Village District</u>		<u>Suburban District</u>	
<u>Dwelling units (#)</u>	<u>Min. affordable units (#)</u>	<u>Buildings required for multi-family (#) (see 33-183)</u>	<u>Non-AHD (for reference) (acres required – base density) <sup>x</sup></u>	<u>AHD (acres required-density bonus applied) <sup>x</sup></u>	<u>Non-AHD (for reference) (acres required – base density) <sup>x</sup></u>	<u>AHD (acres required-density bonus applied) <sup>x</sup></u>
<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>
<u>2</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>4</u>	<u>2</u>
<u>3</u>	<u>2</u>	<u>1</u>	<u>3</u>	<u>1.2</u>	<u>6</u>	<u>2.4</u>
<u>4</u>	<u>3</u>	<u>1</u>	<u>4</u>	<u>1.6</u>	<u>8</u>	<u>3.2</u>
<u>5</u>	<u>3</u>	<u>1</u>	<u>5</u>	<u>2</u>	<u>10</u>	<u>4</u>
<u>6</u>	<u>4</u>	<u>1</u>	<u>6</u>	<u>2.4</u>	<u>12</u>	<u>4.8</u>
<u>7</u>	<u>4</u>	<u>1</u>	<u>7</u>	<u>2.8</u>	<u>14</u>	<u>5.6</u>
<u>8</u>	<u>5</u>	<u>1</u>	<u>8</u>	<u>3.2</u>	<u>16</u>	<u>6.4</u>
<u>9</u>	<u>5</u>	<u>2</u>	<u>9</u>	<u>3.6</u>	<u>18</u>	<u>7.2</u>
<u>10</u>	<u>6</u>	<u>2</u>	<u>10</u>	<u>4</u>	<u>20</u>	<u>8</u>
<u>11</u>	<u>6</u>	<u>2</u>	<u>11</u>	<u>4.4</u>	<u>22</u>	<u>8.8</u>
<u>12</u>	<u>7</u>	<u>2</u>	<u>12</u>	<u>4.8</u>	<u>24</u>	<u>9.6</u>
<u>13</u>	<u>7</u>	<u>2</u>	<u>13</u>	<u>5.2</u>	<u>26</u>	<u>10.4</u>

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<u>14</u>	<u>8</u>	<u>2</u>	<u>14</u>	<u>5.6</u>	<u>28</u>	<u>11.2</u>
<u>15</u>	<u>8</u>	<u>2</u>	<u>15</u>	<u>6</u>	<u>30</u>	<u>12</u>
<u>16</u>	<u>9</u>	<u>2</u>	<u>16</u>	<u>6.4</u>	<u>32</u>	<u>12.8</u>

**\*For more than 16 units, use the same formula as with the above table.**

*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.
- 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.)~~ **Conversion of an existing single family dwelling to a two family dwelling will not require additional acreage if the additional unit is wholly contained within the existing footprint [or % expansion allowance] of the single family dwelling unit and remains under single legal ownership.**
- 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.
- 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.

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- 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 feet<sup>2</sup> if served by public sewer. Minimum lot width is 50 feet.
  - 12,000 feet<sup>2</sup> 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 feet<sup>2</sup> per dwelling. Minimum lot width is 75 feet.
  - 20,000 feet<sup>2</sup> 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. Tiny homes on wheels shall conform to the requirements of Section 45-137. Accessory dwelling unit tiny homes on wheels and foundation-built tiny homes shall also conform to the requirements of Section 45-459.
- 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-suburban, 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

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setback and expansion requirements are met. Separation of structures shall not be less than 20 feet.

**x. ~~Base density refers to the acreage required in each zone for additional dwelling units.~~ The density bonus is an increase in density of 2.5 times less the minimum acreage per dwelling unit (while meeting minimum lot size standards) for eligible affordable housing developments where ~~more than half~~ 51 percent of more of the units meet income requirements.**

**y. For the purpose of this table, “Water & sewer” means that the lot and all dwelling units thereon are served by connections to both a public water system and a public sewer system. “No water or sewer” means that the lot or at least one dwelling unit thereon are not served by a public water system, a public sewer system, or both.**

(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); **T.M. of 6-13-2023 (art.26).....**)

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



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Sec. 45-416. Sanitary standards for sewage.

All subsurface sewage disposal facilities shall be installed in conformance with the state plumbing code and the following:

- (1) All subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size.
- (2) The minimum setback for subsurface sewage disposal facilities shall be no less than 100 horizontal feet from the normal high water mark of a waterbody. This requirement shall not be reduced by variance.
- (3) **A new or replacement subsurface sewage disposal system that receives in excess of 2,000 gallons per day shall be:**
  - a. an engineered subsurface disposal system;**
  - b. reviewed by a technical consultant pursuant to Section 33-128 or Section 41-142, as applicable;**
  - c. submitted to the Maine Department of Health and Human Services for review.**

(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, (§ 317))

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*[Add a new section:]*

Sec. 45-464. – Affordable housing developments

(a) *Long-term affordability.* For at least thirty (30) years after the completion of construction of an affordable unit:

- (1) For rental housing, occupancy of the unit shall remain limited to households with income, at the time of initial occupancy, at or below 80 percent of the local area median income; and,
- (2) For owner-occupied housing, occupancy of the unit shall remain limited to households with income, at the time of initial occupancy, at or below 80 percent of the local area median income.

(b) *Assurance of long-term affordability.* The owner of an affordable housing development shall demonstrate compliance with subsection (a) through at least one of the following:

- (1) The development is required by the terms of a grant, loan, or other assistance from a federal or state governmental agency, whose purposes include the provision of affordable housing, to assure long-term affordability consistent with subsection (a);
- (2) The owner of the affordable housing development is a nonprofit or governmental agency, whose purposes include the provision of affordable housing, and provides supporting documentation for how they will comply with subsection (a), including, but not necessarily limited to, deed restrictions, financial agreements, or other appropriate legal and binding instruments;
- (3) Before a certificate of occupancy may be granted for any affordable unit, the owner of the affordable housing development provides an affordable housing covenant for the affordable unit that is:
  - a. Consistent with subsection (a);
  - b. Held by a qualified holder; and,
  - c. Recorded in the York County Registry of Deeds.

(c) *Qualified holder.*

- (1) An application for an affordable housing development that proposes to assure long-term affordability using a qualified holder pursuant to paragraph (b)(3) must include a signed statement by the qualified holder that it will serve as the holder of the affordable housing covenant. If warranted, the Planning Board may review the sufficiency of a nonprofit organization to serve as a qualified holder, including requesting a review and recommendation from the Town's legal counsel. The costs of any such review shall be borne by the applicant in accordance with Section 33-128. If the Planning Board finds that there is substantial risk of the qualified

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holder's inability to enforce the affordable housing covenant, it may request that the applicant propose a new qualified holder. The lack of a sufficient qualified holder is grounds for disapproval of the project.

- (2) The owner of the affordable housing development shall notify the Town whenever the qualified holder (if used) changes. A change of qualified holder does not, by itself, warrant Planning Board review. However, the Town Manager or Code Enforcement Officer may review the new qualified holder as described in paragraph (1). A review finding that there is substantial risk of the new qualified holder's inability to enforce the affordable housing covenant is grounds for a violation as described below.
- (3) An affordable housing covenant applicable to any rental affordable unit shall include a written description of the mechanism by which the owner of the affordable housing development shall document annually to the qualified holder, Town Planner, and Code Enforcement Officer that the unit(s) has or have remained priced and, if occupied, actually rented at affordable levels consistent with subsection (a). Failure to make such annual documentation shall constitute a violation as described below.
- (d) *Deed restriction.* Any affordable unit that is to be sold shall include a restriction in its deed that requires that the unit be kept affordable according to subsection (a).
- (e) *Unit type variety.* To promote a variety of affordable housing options in an affordable housing development for households of different sizes, at minimum:
  - (1) Every third affordable unit shall have at least one separate bedroom.
  - (2) Every sixth affordable unit shall have at least two separate bedrooms.
  - (3) Every ninth affordable unit shall have at least three separate bedrooms.
  - (4) As an illustrative example, if an affordable housing development has nine affordable units, it will be required to have at least one (1) one-bedroom unit, at least one (1) two-bedroom unit, and at least one (1) three-bedroom unit. The remaining six (6) affordable units can have any number of bedrooms or be studio or efficiency units.
- (f) *Timing of unit occupancy.* A certificate of occupancy may not be granted for the final market-rate or market rent unit in an affordable housing development until certificates of occupancy have been granted for all affordable units in the development.
- (g) *Enforcement, violations, and penalties.*
  - (1) A qualified holder shall notify the Town Manager and Code Enforcement Officer of any apparent or actual violation by the owner of the affordable housing development of the affordable housing covenant.

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- (2) The Code Enforcement Officer may issue warnings or violations, or seek other appropriate remedial action, to correct an apparent or actual violation of this section. An affordable housing covenant may include its own terms for enforcement, violations, and penalties, but it shall not supersede, nullify, or prevent any remedial action taken by the Town under its authority in the Town Code.
- (3) Fines shall be set forth for violation of any of the provisions of this article; violators shall be punished by a civil penalty of not less than \$50.00 and not more than \$200.00 for each violation, plus attorneys' fees and costs, to be recovered on complaint, to the use of the Town. If the Town establishes an affordable housing reserve fund, all or part of the civil penalty amount collected may be placed in this fund. Each day a violation is committed, or permitted to continue, shall constitute a separate violation and shall be fined as such.

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Sec. 45-495. - Schedule of minimum required offstreet parking spaces.

*[section was amended by June 2023 ordinance amendments; not yet updated in Municode]*

	Use	Standards
(1)	Dwelling units	<b><u>Affordable housing developments—2/3 of a space per dwelling unit, rounded up to the nearest whole number</u></b>
		<b><u>Accessory dwelling units—no spaces required</u></b>
		<b><u>All other units</u></b> —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

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations

(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—2 parking spaces for each nursery room plus 1 space for each adult instructor
		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)

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

*Planning Board recommends \_\_\_\_\_ (#-#)*

*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for August 1, 2023 Planning Board review*

**Short title**

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

**Ballot question – Town Meeting and Referendum, November 7, 2023**

ARTICLE #\_\_: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 –  
General Provisions and Chapter 45 – Zoning, Related to Public Park-and-Ride Lots” be enacted?

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

**Background and rationale**

These ordinance amendments propose to make public park-and-ride facilities allowable within the  
Commercial/Industrial (C/I) zoning district.

Section 1-2 has a definition of “off-site parking” that enumerates four types of off-site parking  
facilities. A public park-and-ride facility could be one or more of these types – for example, one  
of them is: “Any surface parking lot or parking structure which provides parking spaces for  
passengers of a regularly scheduled shuttle bus service.” Section 45-290, the table of permitted  
and prohibited uses (commonly known as the “land use table”), prohibits off-site parking  
townwide (in every zoning district). Therefore, public park-and-ride facilities are effectively  
banned in town, although the 2009 Comprehensive Plan (see below) recommends them.

In 2019, a Joint Land Use Study (JLUS) was completed that focused on collaborative planning  
related to the Portsmouth Naval Shipyard (PNSY) and its employees. This partnership involved  
PNSY, the Town of Kittery, the Southern Maine Planning and Development Commission  
(SMPDC), and other municipalities and regional planning organizations in the region, including  
the Town of Eliot. The JLUS describes itself as “an opportunity...to strengthen [this] existing  
partnership, understand and address the issues impacting both the Navy and communities  
throughout the region – especially traffic congestion – and establish a blueprint for mutually  
beneficial actions to support military readiness, and continued community growth and economic  
development” (quote from p. 7). Since the completion of the JLUS report, the partnership has  
stayed in place to focus on implementation of its recommendations. One of the recommendations  
is to establish new regional park-and-ride locations that “could incentivize PNSY drivers to  
consider carpools, vanpools, or transit as a commuting alternative” (p. 86). One of the locations  
that the partners have discussed is Eliot Commons, which has a bus stop for the COAST Route  
100 bus, which serves the Shipyard and makes one trip in the morning and one trip in the afternoon.

Park-and-ride facilities can serve several different types of trips. People can park there to catch the  
bus, carpool, or vanpool the rest of the way to their destination. Some people might use them to  
drive part of the way but ride a bicycle the rest of the way. They can be used for different trip

## Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning, Related to Public Park-and-Ride Lots

purposes but are typically focused on serving commutes to employment. A typical objective of building a park-and-ride facility is to reduce the amount of single-occupancy car traffic along a popular commuter route, relieving traffic congestion.

The amendments change the land use table to make public park-and-ride facilities allowable, subject to Planning Board site plan review, in the C/I zone. They propose a new definition of public park-and-ride facility in Section 1-2 relating to use for carpooling, vanpooling, or bus service, or to park and ride a bicycle for the last leg of a trip. Under this definition, the facility must be primarily oriented toward commute trips and generally open to the public. It can be a lot or a structure. The amendments revise the “off-site parking” definition to exempt public park-and-ride facilities and make other editorial changes. They create a new Section 45-496 in Article X of Chapter 45 (Offstreet Parking and Loading) that includes performance standards and encouraged amenities for public park-and-ride facilities, including bicycle parking and electric vehicle charging stations.

The amendments are proposed to address the following recommendation and strategy in the 2009 Comprehensive Plan:

“Currently, the Town of Eliot does not have any designated Park and Rides. In fact, the Town currently restricts the development of such lots...Currently, the Town of Eliot has very limited transit service and the Town does not currently allow Park & Ride Lots in any part of Town. For the benefit of the population currently unable to drive (see inventory), for the benefit of households that are having a more difficult time stretching their budget by paying for increasing gas and oil prices and for the benefit of alleviating peak hour traffic, the town may want to actively pursue avenues for increasing transit service and allowing Park and Ride lots.” [pp. 77 and 83]

### *Transportation*

Policy 5: To promote public health, protect natural and cultural resources, and enhance livability by managing land use in ways that maximize the efficiency of the transportation system and minimize increases in vehicle miles traveled.

Strategy 1: Revise the current land use standards, as needed, to allow publicly- funded park and ride facilities.



Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

**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]*

**Bicycle means a “bicycle” as defined by 29-A M.R.S.A. §101(9), as may be amended.**

*[...]*

**Electric vehicle means a vehicle that is solely powered by an electric motor with a battery or powered by a combination of both an electric motor and a gasoline engine.**

*[...]*

*Off-site parking* **facility** means ~~an off-site parking facility is any~~ **a** facility meeting one or more of the following criteria:

- (1) Any surface parking lot or parking structure which provides more than ten parking spaces for use by persons who are not visitors to or occupants, customers or employees of a use other than parking located on the same lot or a contiguous lot;
- (2) Any surface parking lot or parking structure which charges fees for parking, where such fees constitute the primary source of revenue derived from the use of the lot on which the parking is located;
- ~~(3) Any surface parking lot or parking structure which provides parking spaces for passengers of a regularly scheduled shuttle bus service;~~
- ~~(4)~~**(3)** Any surface parking lot or parking structure which is the only use located on the lot, unless the parking is utilized to provide required off street parking for a use on an adjacent lot as allowed by section 45-490 or section 45-492 of this Code.

The term ~~off-street~~ **off-site** parking does not include a long term storage facility approved as a storage business; **or a public park-and-ride facility.**

*[...]*

**Public park-and-ride facility means a parking lot or structure that:**

- (1) **provides parking spaces for the vehicles of persons using a bus service, carpool, or vanpool, or for persons using a bicycle to complete the last segment of a trip;**
- (2) **is primarily used for commuting trips, but may occasionally or partially be used for trips to special events or other non-commuting trips;**
- (3) **is owned, leased, maintained, and-or operated by a governmental agency; and,**
- (4) **is generally open to the public for the above purposes, except it may have reasonable restrictions on the hours or days of use and the duration of parking.**

[...]

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

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

*[draft table]*

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 <sup>1</sup>	12	SPR <sup>1&amp;8</sup>	no
Animal husbandry	yes <sup>1</sup>	yes <sup>1</sup>	yes <sup>1</sup>	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR <sup>8</sup>	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 <sup>8</sup>	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 <sup>8</sup>	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR <sup>2</sup>
Business office	14	14	SPR <sup>8</sup>	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Child care facility	16	16	16	SPR
Child care provider, family	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
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
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 <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>
Firewood sales	yes	13	SPR <sup>8</sup>	yes
Fireworks sales	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

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 <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>
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 <sup>8</sup>	SPR
Manufacturing	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Marijuana establishment*	no	no	no	SPR <sup>20</sup>
Medical marijuana establishment*	no	no	no	SPR <sup>20</sup>
Mobile home parks	SPR/ SD <sup>7</sup>	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	no
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

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 <sup>8</sup>	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
Outdoor education program	yes	yes	yes	yes
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR <sup>8</sup>	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR <sup>8</sup>	SPR
<b><u>Public park-and-ride facility</u></b>	<b><u>no</u></b>	<b><u>no</u></b>	<b><u>no</u></b>	<b><u>SPR</u></b>
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 <sup>8</sup>	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR <sup>8</sup>	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 <sup>6</sup>
Small wind energy system	SPR	SPR	SPR	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

Solar energy system, small-scale ground mounted or roof-mounted	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>
Solar energy system, larger-scale	SPR <sup>21</sup>	SPR <sup>21</sup>	no	SPR <sup>21</sup>
Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Youth camp	SPR	SPR	SPR	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.

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

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.
16. 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) 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.

(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 and Chapter 45 – Zoning,  
Related to Public Park-and-Ride Lots

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. 45-496. - Public park-and-ride facilities.

- (a) A public park-and-ride facility may be created through the conversion or designation of existing off-street parking spaces for park-and-ride use if the applicant demonstrates that, after the conversion or designation, enough parking spaces remain for all uses on the lot, pursuant to this article.
- (b) Public park-and-ride facilities are encouraged to provide the following features and amenities, if warranted:
  - (1) Pedestrian access to a stop for a regular bus service if the stop is within 200 feet of the facility
  - (2) A bicycle rack that provides secure parking for up to five (5) bicycles
  - (3) One or more electric vehicle charging stations

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

*Planning Board recommends \_\_\_\_\_ (#-#)*

*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for August 1, 2023 Planning Board review*

**Short title**

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

**Ballot question – Town Meeting and Referendum, November 7, 2023**

ARTICLE #\_\_: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 –  
General Provisions and Chapter 45 – Zoning, Related to Grocery Stores” be enacted?

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

**Background and rationale**

These ordinance amendments propose to define grocery stores in Section 1-2 of the Town Code and add a row for grocery stores to the table of permitted and prohibited uses in Section 45-290 (also commonly known as the “land use table”).

Currently, a grocery store is listed as one type of “commercial establishment” under Section 1-2, but the land use table only lists “commercial establishment” with the qualifier, “2 or more where allowed”. The land use table also has a row for “retail sales, local, other”, which allows retail stores – subject to Planning Board site plan review (“SPR” in the land use table) – in the commercial/industrial (C/I) zone, in the Suburban and Rural zones for properties that abut Route 236, or otherwise as a home business. Retail stores in the Suburban and Rural zones on properties abutting Route 236 are limited to 5,000 square feet of gross floor area (GFA) with customer sales confined to one floor. Where uses are only allowed as home businesses (and subject to Planning Board site plan review), the land use table labels them “SPR 8” uses, referring to the table footnote that references the performance standards for home businesses.

The amendments would make grocery stores SPR uses in the C/I zone and assign a “16” for grocery stores in the Rural and Suburban zones, referring to footnote 16. This means that they would be SPR uses for properties abutting Route 236, but they would no longer face the 5,000 square feet of GFA limitation. That limitation would remain for “retail stores, local, other” – effectively carving out grocery stores from this size limitation for other types of retail stores. Grocery stores would be prohibited on other properties in these two zones. The amendments also prohibit grocery stores in the Village zone, which does not touch Route 236.

The proposed new definition of “grocery store” seeks to differentiate it from other commercial establishments that might sell similar items as a grocery store, e.g. a restaurant that retails a limited number of grocery items or store that sells a limited number of items, e.g. a convenience store (though “convenience store” is not defined in Section 1-2). It would also clearly differentiate “grocery store” from locally-grown food sales, which are defined and made broadly allowable by other sections of the Town Code.

## Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning, Related to Grocery Stores

While these amendments would not make grocery stores “SPR 8” uses, the Town Code would continue to allow broad opportunities for home-based sales of food items under other use categories. As described above, there is a “by right” allowance for seasonal sales of locally-grown and -produced food, agriculture, and animal husbandry, meaning these uses (when outside of the shoreland zone) can generally be pursued without Planning Board or Code Enforcement Officer approval. Also, Section 45-456.1(h) – which has the home business performance standards – allows on-site sales of merchandise and products that are “are created, grown, built, or substantially altered as part of the home businesses” as well as on-site sales of merchandise and products that are “customarily incidental” to the former.

The amendments also make an editorial change to Section 45-495, with grocery stores facing the same parking requirement (1 space per 150 square feet) as most other retail uses.

The amendments are consistent with the following goals and policies of the 2009 Comprehensive Plan:

### *Economy*

Goal: To promote an economic climate, which increases sustainable and well- paying job opportunities, and overall economic well being.

Policy #1. Continue to support broad-based community economic development activity, reflecting community desires and the community’s role in the region

Strategy #3. Consider zoning changes and/or incentives to promote the development of essential service- type businesses in Eliot (banks, food stores, pharmacies, hardware stores, etc.)...

**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]*

*[...]*

**Grocery store means a retail store that devotes a minimum of eighty percent of its total gross floor area to the display and sale of food products for human consumption and typical non-food household products. Outdoor areas reserved for regular display of groceries shall be included in this calculation. Grocery stores may be differentiated from other commercial establishments that sell similar products by several characteristics, including, but not necessarily limited to:**

- 1) **The proportion of business activity or area of the lot (or unit, if the grocery store is on a lot with multiple commercial establishments) devoted to the display and sales of groceries relative to other products or services. For example, a restaurant or takeout restaurant that also sells a limited number of groceries is not necessarily a grocery store.**
- 2) **The variety and volume of products and brands available. For example, a retail store may offer a variety of grocery items, but it typically does not offer a wide variety of brands, sizes, or variations of such items and is not necessarily a grocery store.**
- 3) **Where the products were grown, processed, or produced. For example, local food (Section 14-22) and seasonal sales of produce and plants raised locally (Section 1-2) are defined and allowed elsewhere in this Code, and these uses are presumptively not grocery stores.**

*[...]*

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

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

*[draft table]*

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 <sup>1</sup>	12	SPR <sup>1&amp;8</sup>	no
Animal husbandry	yes <sup>1</sup>	yes <sup>1</sup>	yes <sup>1</sup>	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR <sup>8</sup>	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 <sup>8</sup>	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 <sup>8</sup>	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
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Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR <sup>2</sup>
Business office	14	14	SPR <sup>8</sup>	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Child care facility	16	16	16	SPR
Child care provider, family	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
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
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 <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>
Firewood sales	yes	13	SPR <sup>8</sup>	yes
Fireworks sales	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no

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

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
<b><u>Grocery store</u></b>	<b><u>16</u></b>	<b><u>16</u></b>	<b><u>no</u></b>	<b><u>SPR</u></b>
Harvesting wild crops	yes	yes	yes	yes
Home business	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>
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 <sup>8</sup>	SPR
Manufacturing	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Marijuana establishment*	no	no	no	SPR <sup>20</sup>
Medical marijuana establishment*	no	no	no	SPR <sup>20</sup>
Mobile home parks	SPR/ SD <sup>7</sup>	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	no
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR



Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
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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 <sup>8</sup>	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
Outdoor education program	yes	yes	yes	yes
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR <sup>8</sup>	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR <sup>8</sup>	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 <sup>8</sup>	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR <sup>8</sup>	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 <sup>6</sup>
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning,  
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Solar energy system, larger-scale	SPR <sup>21</sup>	SPR <sup>21</sup>	no	SPR <sup>21</sup>
Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Youth camp	SPR	SPR	SPR	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.

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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 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.
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)

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 Grocery Stores

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

[draft table]

	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, <b><u>grocery store</u></b> , 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

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(12)	Schools	Child care center—2 parking spaces for each child care room plus 1 space for each adult instructor
		Family child care provider—See Section 45-456.1
		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)

**ITEM 1 - ROLL CALL**

Present: Carmela Braun – Chair, Jeff Leathe – Vice Chair, Christine Bennett – Secretary, Jim Latter, Suzanne O’Connor, and Paul Shiner.

Also Present: Jeff Brubaker, Town Planner.

Voting members: Carmela Braun, Jeff Leathe, Christine Bennett, Jim Latter, and Suzanne O’Connor.

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

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

There was no public input.

**ITEM 5 – REVIEW AND APPROVE MINUTES**

Mr. Latter moved, second by Ms. O’Connor, to approve the minutes of April 18, 2023, as amended.

**VOTE**

**5-0**

**Motion approved**

**ITEM 6 – NOTICE OF DECISION**

NOTE: Ms. Braun recused herself from this review and appointed Mr. Leathe as Chair.

NOTE: Mr. Leathe said that the applicant requested this be reviewed at tonight’s meeting.

**0 Bolt Hill Road, PB22-21: Village at Great Brook Subdivision**

**Mr. Latter moved, second by Ms. Bennett, that the Planning Board accept the Notice of Decision for PB22-21 After-the-Fact Amendment to Existing Subdivision Plan Hybrid Subdivision Review for Village at Great Brook Subdivision, as amended.**

**VOTE**

**4-0**

**Motion approved**

Mr. Leathe said that a Notice of Decision can be appealed to the Board of Appeals within 30 days of the last public hearing. In this case, that exceeded that time so an appeal would be outside of the ordinance.

At this time, Ms. Braun came back to the Board as Chair.

**ITEM 7 – PUBLIC HEARING**

There were no public hearings

**ITEM 8 – NEW BUSINESS**

**A. PB23-06: 18 Cole Street (M1/Lot143), Shoreland Zoning Permit Application – Seasonal Float Expansion.**

**Received: March 22, 2023**

**1<sup>st</sup> Heard: May 16, 2023 (sketch plan review/completeness)**

**2<sup>nd</sup> Heard: \_\_\_\_\_, 2023**

**Public Hearing: \_\_\_\_\_, 2023**

**Site Walk: N/A**

**Approval: \_\_\_\_\_, 2023**

Ms. (Kuerstin) Fordham, Construction Administrator, was present for this application.

Mr. Brubaker said that there is an existing pier system there so it's actually a 6'X24' extension on the existing float to allow for the existing vessel to be moored with the current to eliminate damage from the vessel banging up against the existing float with the current perpendicular. The NRPA application and Army Corps application have been submitted and these are both in your packet. The type of review needed is an initial review but the PB may consider a completeness determination tonight. I do my usual pier performance standard review in my staff report and it appears that all applicable standards are met. My recommendation is to deem the application complete and set a public hearing and waive the site walk.

Ms. Fordham said that the only thing I have to add is that I did have to reply to the State with a request for more information. I did that and made copies for you folks. I had to put in the pile driving (construction sequence) agreement which is going to locate the new float and two more least-impacting (post-construction) supporting statements. Copies were given to the PB and I will add them to the attachment page. The drawing has not changed.

Mr. Leathe asked for the status of the NRPA and Army Corps applications.

Ms. Fordham said that the DEP NRPA application is in review. We just turned the amendments to it in last week. The Army Corps, from what I understand, was accepted as complete.

Ms. Braun asked if the applicant is anticipating any problems because they are asking for additional information.

Ms. Fordham said no. I think they just wanted me to give them two more reasons why it's least impacting, to be honest with you.

Ms. Bennett commented that it makes logical sense with the ripping tide that we have.

Ms. Braun asked if we are ready to say this is complete.

The PB agreed that they were.

**Ms. Bennet moved, second by Mr. Leathe, that the Planning Board find PB23-06, Shoreland Zoning Permit Application - seasonal float expansion, 18 Cole Street, complete.**

**VOTE**

**5-0**

**Motion approved**

The PB set the Public Hearing for June 6, 2023.

**B. PB23-07: 708 River Road (M50/29), Residential Subdivision (4 Lots) – Sketch Plan**

**Received: March 16, 2023**

**1<sup>st</sup> Heard: May 16, 2023 (sketch plan review)**

**2<sup>nd</sup> Heard: \_\_\_\_\_, 2023**

**Public Hearing: \_\_\_\_\_, 2023**

**Site Walk: N/A**

**Approval: \_\_\_\_\_, 2023**

NOTE: Mr. Latter said that I don't actually have a relationship with Mr. Newsom. He represented the seller when I bought my home. I just wanted to disclose that to you, as a Board.

Ms. Braun asked Mr. Latter if he felt he could be unbiased in the discussion and decision with this application.

Mr. Latter said absolutely. I didn't recognize it until I sat here and recognized the face.

Ms. Braun thanked him for disclosing that.

Mr. (Wyatt) Page, Attar Engineering, Inc., and Mr. Newsom were present for this application.

Mr. Brubaker said that this is a 17.1-acre parcel proposed to be divided into four residential lots. One lot would contain the existing dwelling unit and barn. There would be three new residential lots created with single-family homes. Shown on the sketch plan,



there would also be a 1.7-acre open space lot. Then, the remainder of the land would essentially serve as a sixth resultant lot. The minimum lot size has been met for the proposed residential lots. Actually, a little bit bigger than two acres. The open space lot is less than two acres and would not be buildable. The minimum street frontage is met for the four residential lots. It's 150 feet in that zoning district. The sketch plan has the setback line and dimensions shown and there are soil test results in your packet. By the way, I think there might be two sketch plans in your packet. One is a more updated version so, if there is any confusion there, just look for the one that is more updated in terms of the date. Since the new lots would be served by a septic system, the soils report show, I believe, Class C and D soils, with ground water depth at 10" to 24", there may be a discussion the PB may want to have with the applicant about soil suitability for septic on the proposed lots. There are forested wetlands in the interior of the parcel but the three new house sites with three new lots are proposed to be up front by the road, each with their own driveway onto Goodwin Road. The location maps are in your packet. This is right at the northern bend of Goodwin Road. Regarding reservation of land, we did this with Clover Farm Subdivision. It doesn't need to be decided tonight but it is something to think about. The PB can require reservation of parks and recreation land on-site of the subdivision or waive that with payment-in-lieu. I would just note that there should be an E in there – Murray Rowe Park and is within a ½ mile aerial distance of this. The proposed lots are larger than the minimum lots size, and they are kind of narrow and deep, but there are some other lots along River Road that are similar to that, with regard to the standard in §41-255. The property is not in a flood zone.

Mr. Page said that I don't have anything to add. Mr. Brubaker covered it.

Ms. Braun said that the sketch plan that I have is dated April 27<sup>th</sup> and asked if that was the most recent sketch plan.

Mr. Page said that I believe it would be 4/27.

Ms. Bennett said that what was attached to the Attar submission is 2/16, which we should disregard, right. And what was attached to the application is the 4/27.

Mr. Page said yes.

Ms. Bennett said that one of my first questions has to do with the configuration of the lots, that they are very long and thin and, for the three new lots, a majority of it is wetlands. I'm wondering what led to that configuration.

Mr. Page said that the general shape of the lots was contingent on the frontage, that we have to meet 150-foot frontage. If you look at the one marked Lot 1, there is also a barn, which is very close to the setback, and we had to keep the width of the lot fairly narrow to make sure that lot had room to retain that barn. Then, as I understand it, the applicants wanted to keep the size of the lots as large as possible; that I believe had a proposition that was mentioned in Mr. Brubaker's slides about the open space, as well.

Mr. Leathe said that the HHE220 in my packet from Mr. Cuomo doesn't seem to have a date.

Ms. Braun added that there is no data in it, at all.

Mr. Page commented that that's interesting. I did bring one that does have the data on it. He shared it with the PB.

Copies were made for the PB.

Mr. Leathe said that my question was regarding Class C soils under §41-218, ground water depth is 10" to 24" in the thirteen test pits. It does bring up the question of soil suitability.

Mr. Page said that I can't speak much to Mr. Cuomo's determination on suitability of the soils for subsurface wastewater disposal systems. As far as we're concerned, the prerequisite that he holds the test pits to, they all passed. I'm afraid I can't really speak on it much further than that. Is there any particular metric that we should be looking at.

Mr. Leathe said that it might be helpful to hear from Mr. Cuomo; that it is a wet area that's close to the river and it seems like the land water level is relatively high there.

Mr. Page said that he could look into that.

Ms. O'Connor said that I am curious about the other piece of land that isn't spoken to, the sixth lot. That isn't part of the subdivision.

Mr. Page said that that is not part of the subdivision.

Mr. Newsom said that there is no sixth parcel.

A brief recess was taken.

Mr. Page said that, in our first submission, we had indicated that that parcel was not owned by the applicant. Through some back-and-forth we circled back that it is and Mr. Newsom is here to clarify that that parcel is, in fact, owned by the previous owner.

Mr. Newsom agreed, saying that Mrs. White owned the property. She had sold 10 acres to Mr. Cole, who is there now, and I bought the 17 remaining acres. So there was never a sixth parcel. What we're proposing is our 4 lot and the additional open space of 1.7.

Ms. Braun said that the open space is in the back part of the property.

Mr. Newsom agreed. That other parcel has nothing to do with us. The Town GIS shows it all as one lot, currently.

231 Mr. Brubaker said that the other lot is Map 50/Lot29, which was sold off.

232  
233 Mr. Newsom said yes. 10.96 acres that he purchased.

234  
235 Ms. Bennett said that Mrs. White retained the 17 acres that she then conveyed to you.

236  
237 Mr. Newsom said that we purchased the 17 acres.

238  
239 Mr. Page said that, currently according to the GIS, they are the same lot.

240  
241 Ms. O'Connor said that, in the overview, it does say "the remainder of the land resulting  
242 in a sixth resultant lot." So, that language needs to be updated in the summary (Planner's  
243 memo).

244  
245 Mr. Page said that this proposal is the primary residential lot with the house and barn,  
246 three additional residential lots, and the open space lot.

247  
248 Ms. O'Connor said that that utilizes the full property owned by you.

249  
250 Mr. Newsom said that it does.

251  
252 Mr. Shiner said that I am looking at the numbers from the subsurface wastewater disposal  
253 application (HHE220) and the groundwater heights that were mentioned. Is there any  
254 guidance you can give us in terms of what you're planning on doing with septic.

255  
256 Mr. Page said that we don't have any proposals for this at this current time. As we  
257 mentioned earlier, we're going to get more of a statement on the suitability from Mr.  
258 Cuomo, who would be able to speak to this more fully. As far as what we plan to do with  
259 subsurface wastewater disposal, we don't currently have anything; that that will be  
260 coming further in the preliminary stage.

261  
262 Ms. Bennett asked about what the intention is regarding the reserved open space at the  
263 rear of the property.

264  
265 Mr. Newsom said that my understanding is that that was going to be required of the PB.  
266 If the PB chooses not to do that, we would like to go back into the parcels, which then  
267 become a little over 4 acres each.

268  
269 Mr. Shiner asked if there was access to that parcel.

270  
271 Mr. Newsom said that it is landlocked, behind the four lots.

272  
273 Mr. Latter asked who that lot would be owned by.

Mr. Newsom said it would be the four lots, in common. Our preference would be not to do that and have four lots of 4+ acres each but it was my understanding that that was going to be a requirement of the PB as had been done at the property on Main Street.

Mr. Leathe said that, when you look at this diagram, what is to the east of that.

Mr. Newsom said that it is mostly woods. It doesn't go all the way to the road on the far side.

Ms. Braun asked if there were any more questions.

There were none.

Ms. Braun said that you have some work to do and you know, pretty much, what we need. As soon as you get all of that, contact Ms. Tackett and we will get you back on the schedule for a continued sketch plan review.

Mr. Page said that, if this is a continued sketch plan review, I'm a little unclear on what you are looking for.

Ms. Braun said that we need the additional information on soil suitability and we have to look further at this open space business. I will point out that we are following the submission deadlines that are posted on the web site, so, be aware. We will accept nothing last minute.

## ITEM 9 – OLD BUSINESS

### A. PB23-4: 2077 State Road, Raitt Farm Museum (M87/L1), Site Plan Review – Day Nursery

**Received: March 16, 2023**

**1<sup>st</sup> Heard: April 18, 2023 (sketch plan review)**

**2<sup>nd</sup> Heard: May 16, 2023**

**3<sup>rd</sup> Heard: \_\_\_\_\_, 2023**

**Public Hearing: \_\_\_\_\_, 2023**

**Site Walk: N/A**

**Approval: \_\_\_\_\_, 2023**

Ms. (Jessica) Labbe, applicant, was present for this application.

Ms. Braun said that we did have a site walk on Saturday. Ms. Bennett was kind enough to take the minutes and asked that she read them for the record.

Ms. Bennett said that the PB held a site walk on May 13<sup>th</sup> at 8AM at 2077 State Road, the Raitt Farm Homestead Museum. In attendance were PB members Ms. Braun, Mr. Leathe, myself, Ms. O'Connor, and Mr. Shiner; the applicant, Ms. Labbe of Village Nest Co-op,

LLC and one of our staff members, Sebastian Dubois, along with Ryan Fowler, who is the vice president of the Raitt Homestead Farm Museum. An abutter, Mr. Devito was present and he was representing the related owners of three contiguous properties to the applicant's subject parcel. The site walk started at the parking lot on State Road and followed a path along the fenced field to the location to where the applicant has storage structures and sanitary facilities for the children, which comprised toileting and hand-washing. The staff use a rented chemical port-o-potty adjacent to the farmhouse. The applicant and her staff member described what the children bring with them – food, water, extra clothing – and what the program provides - extra clothing, first aid equipment, and materials for activities. They demonstrated where the children nap and do activities as well as point out the trails into the wooded area where other activities take place. They discussed safety protocols, daily site check for hazards, use of walkie talkies, and hourly head counts, and emergency plans in the event of threatening weather. They also offered that the staff were required to complete four hours of active supervision training three times per year. The applicant shared that the Maine Department of Health and Human Services (DHHS) will be conducting a site visit and inspection subject to PB approval of her application. The applicant described how the program is run, student-to-staff ratios, typically ten students per two staff, and activities for different ages. Very young children do not go further into the forest for activities. Weather-related cancellations follow the SAD35 decisions. Everyone present walked to the furthest point of the applicant's ten-acre leasehold in the west-northwest portion of the property to inspect the boundary with abutters. Mr. Devito related concerns that his relatives have about children leaving the Raitt property; that there is a pond and beehives, and other features, beyond the tree line which could be an attractive and hazardous nuisance. There was discussion about the existing fence on the property line, supervision of the children, and the request that the program not bring the children to within sight of the adjacent property. The site walk adjourned at approximately 8:40AM. If anyone has anything they want to add to that, please let me know.

Ms. Braun asked if anyone had any questions for Ms. Labbe. Are we all set with everything. We do have a number of waivers to address. Based on the activities that will go on, I think they are warranted. How does everyone feel about that.

Ms. Bennett asked if we want to entertain the notion of public comment at this point.

The PB said yes.

Ms. Bennett said that they were submitted to us in writing at the last meeting.

7PM - There was a 2-minute recess as copies were made.

Ms. Braun asked if the PB would like to discuss the waiver requests after the PB review the abutter submissions.

Ms. Bennett said that I think it would be fine to discuss the waivers at this time. She suggested the PB go through each one.

367  
368 §4.1.1 (larger scale sketch plan provided)  
369

370 Ms. Bennett said that I think that is fine. She commented that it looks like the applicant  
371 took an existing survey and then delineated the area that represents the applicant's lease.  
372

373 Ms. Labbe agreed.  
374

375 Ms. Bennett said that this somewhat relates to the next request for waiver - §4.1.2 (not  
376 provided survey plan). You kind of did, which to my mind, is better. It's easy for us to  
377 read and understand. The one thing I would love, if you could do to that plan, is put a  
378 north arrow on it because, when I was trying to write up the site walk, it was difficult to  
379 orient the property.  
380

381 Ms. Labbe said that she would add that.  
382

383 §4.1.4 (did not provide contours)  
384

385 Ms. Bennett said that I think this one would be appropriate to waive because they aren't  
386 proposing any construction so it doesn't seem that contours are relevant to the proposal.  
387

388 §4.1.6 (no stormwater drainage plan provided)  
389

390 Ms. Braun said that they are not doing anything that would necessitate doing that kind of  
391 thing. I personally feel that's valid to waive.  
392

393 The PB agreed.  
394

395 §4.1.9 (no soil erosion & sedimentation plan provided)  
396

397 Ms. Brain said, again, they are not doing anything to the land. They are just utilizing the  
398 land so I think that's appropriate to waive.  
399

400 The PB agreed.  
401

402 §4.1.10 (no high intensity soil report)  
403

404 Ms. Braun said that, for the same reason, they are not doing anything.  
405

406 §4.1.11 (no locations of culverts and drains provided)  
407

408 The PB agreed that this was appropriate to waive for the previously stated reasons.  
409

410 §4.1.13 (no sewer system plan provided)  
411

The PB agreed that this was appropriate to waive because they are not proposing a sewer system.

§4.1.14 ( no septic system plan provided)

Ms. Bennett said that you are not proposing to install a septic system but you are providing sanitary waste disposal for the children. This is a question more appropriate to our local plumbing inspector about the efficacy of what you're providing. I don't know if you have had that conversation with our CEO.

Ms. Labbe said that we have not.

Ms. Bennett asked if you have had this conversation with the DHHS.

Ms. Labbe said yes. They are very aware that we will have to apply for a waiver for that, as well.

Ms. Bennett said that I think with that information, because the DHHS is the one that does the permitting for the septic system, then we could waive this subject to the DHHS granting you a waiver for having indoor toileting facilities.

The PB agreed that Ms. Bennett's suggestion was appropriate.

§4.1.16 (no construction drawings provided)

The PB agreed that this was appropriate to waive for the previously stated reasons.

Ms. Braun said that the Chair will accept a motion if the PB is ready.

**Mr. Latter moved, second by Ms. O'Connor, that the Planning Board accept the waivers presented for PB23-4 2077 State Road, Raitt Farm Museum Site Plan Review for 'Day Nursery', as amended. The amendments being §4.1.2 in that they did provide a survey plan and that a north arrow be added to the submitted plan and §4.1.14, which is contingent on approval of the waiver by the Department of Health and Human Services and approval of the Code Enforcement Officer.**

**VOTE**

**5-0**

**Motion approved**

Ms. Braun asked if we have any more questions because I know there are folks here who want to speak.

There were none.

Mr. (Augusta) Manchester, here visiting her parents, Valerie Romoser and John Manchester, who have about the largest border of property against the Raitt Farm in area. I'd like to speak clearly, first, that we are very supportive of the idea of a forest school nursery. I think it's absolutely fabulous. It's a wonderful use of land for conservation. It also provides a great opportunity for neuro-divergent students and for students who can't necessarily learn well in a typical classroom environment. We are certain that the children involved in the program are getting useful skills and confidence as well as appreciation of nature and care for the earth. However, we have a little concern regarding the plan of this daycare. To our surprise, we found that it has been operating since October 2022. However, we did not become aware of its existence until April 29<sup>th</sup> when we received a certified letter regarding the application and site visit on May 13<sup>th</sup> last week. So, we're chiefly concerned with potential liability to which this outdoor daycare exposes us because we apparently have the largest border to the property in question. Our first question is what is the actual proposed border of land usage for this daycare. The map in the application shows the setback line (leased area) and it ranges from about 30' to 90' in different areas. However, during the site walk, it was indicated that the children were going almost to the edge of the border right up to the fence line. There is a small river that runs directly on our property and also right up to the Raitt Farm property, so, we want some clarification with that exactly. Just how far is the daycare moving. I know you can't obviously necessarily be super clear about where you are all the time. We have also found two "pond viewer" bottles on our property recently. Whether or not the children were actually infringing on our property is unclear but the bottles were found across the border on our side, which is just something to note. We're just wondering about any kind of guarantee or assurance that the children aren't going to go on our land in the future. And we also have a question about liability. We assume that when you send your child to an outdoor daycare, there is some kind of waiver you are signing, that the parents are apprised of all risks associated with being in the woods and weather all day, including poison ivy, ticks, cold and heat exposure, waterborne illnesses, injuries, and everything else. As some of you are aware, our family owns bees. The bees fly around in a two-mile radius and we also own a dog; that we like to let the dog run around our property. Since our borders are so close, it's not always a guarantee you can control exactly where the dog is going or exactly where the kids are going to go; that there is a potential risk with that. We were wondering if the waivers these parents are signing could be extended to what happens if the kids go off the leased land. What happens if they accidentally pass the border into other people's land. You can't always tell kids exactly where to stay. We currently have plans to post along our property line with staked signs and smaller blaze flags so that the children can have a better idea of exactly where the border is just so there is a very clear, distinct line of where school is and where it's not. We are hesitant to erect a fence because it interferes with wildlife movement in the area and there is also a fence on the Raitt side. You may have seen that, the barbed wire fence. We're also considering mounting trail cameras, as well, and will notify the daycare of any unusual activities. Aside from children wandering on to our land, we have also on occasion had to remove people from our woods who are out trespassing, walking their dogs and trying to hunt or fish. We have 'no trespassing' and no hunting' signs posted all along the edge of the property but, sometimes, people will violate those. Our final concern is that the woods in this general area are quite wet. You might have seen the



pond. There are a lot of little streams around there. A lot of the water in that area does drain into the pond. So, in the April 18<sup>th</sup> minutes it was mentioned that there was a port-a-potty for staff and little potties for the children that are dumped at the end of the night. The question we have is exactly where is that dumping occurring. Is it occurring at the edge of the woods or is it occurring directly in the port-a-potties so it is contained. Obviously, if it's dumped in the woods, there is an issue of run-off and contamination. So, just to conclude, we emphasize that we are supportive of these education efforts and that our concern, aside from the obvious question of safety, which I know is your top priority, is in our freedom from liability.

Ms. (Valerie) Romoser, Worster Road, said that she did that for me because I didn't know If I was going to get out of work on time. The main thing that I think she stated was that I'm not opposed to kids walking around my property, necessarily, I'm worried about liability. So, if a kid falls and splits their lip open on my side of the line, what is that risk for me. The bees are, as far as the attractive nuisance situation goes, they are fenced in with an electric fence that is four feet high and meshed. It was intended for bear repellent purposes but it would probably keep a four-year-old away. Direct contact with the bees I'm not really worried about. This is an interesting question I had never considered before. I mean, there are properties all around the Elementary School and I have no idea what kind of laws apply to those people and whether they have to take out extra insurance, or what, but that's kind of the level of concern. And, there's a lot of water, drownings and all that, and it's kind of scary to think about those kinds of things. So, that's just the concern that we have, the liability piece. The last piece she mentioned with the port-a-potties I think you've already addressed potentially with DHHS so that's kind of secondary. But all of that drains into a pond that we own along Worster Road and that eventually dumps into the Piscataqua. I have no idea, and I'm not a lawyer. I've done a little bit of investigating into some of what rules would apply. I understand this attractive nuisance thing and where the legal boundary is. The other thing is that Ms. Labbe and I have had email conversations about that we found the little pond viewers, super-cute little things they put in the water to look at the frogs, and stuff, and they were on our side. It was all circumstantial evidence because I didn't see you guys there. I just saw the stuff and that's not a big deal. I don't particularly like garbage in the words but I'll clean it up. The point being is that they were on our thing so, if something happened, there could be a concern for us. That's all.

Ms. Braun asked if Ms. Labbe would like to respond to the comments.

Ms. Labbe said, first and foremost, the waste goes in the port-a-potty or in the dumpster because we do have kids in diapers; that it's not being dumped in the water, near the water, or outside at all. We make sure it's disposed of appropriately. Per 'leave no trace', we carry everything in and out with us. Additionally, our families do sign quite a hefty liability waiver upon entrance into our program and our liability insurance would cover in the case of an incident anywhere that we are. We have what is called 'field trip liability' waivers so it goes with us wherever the program is. So, the coverage would extend if, for whatever reason, the children were on the other side of the fence line. Additionally, with the pond viewers, we found the milk jugs out there on the property line. They weren't

549 something we brought out there. We don't usually take things out that far. There were  
550 several of them and the ones that were on the Raitt side of the fence we took back and  
551 disposed of them. But we didn't cross the border onto your property to grab the other  
552 ones. We didn't want to do that so there were quite a few milk jugs that were left out  
553 there, at some point, and we took back what we could on our end. Did that cover all the  
554 issues.

555  
556 Ms. Romoser said that the other thing is that I try to control but I can't. There are people  
557 walking on my property, quite frankly, and they come out there. I don't know who they  
558 are and attempt to remove them. That's not necessarily your direct problem except it  
559 could be.

560  
561 Ms. Labbe said that it could be, yes.

562  
563 Ms. Romoser said that that person would be guilty of trespassing, amongst other things.

564  
565 Ms. Braun said that that doesn't have any bearing on this application.

566  
567 Ms. Labbe asked if that covered everything asked.

568  
569 Ms. Romoser said that I think so.

570  
571 Ms. Braun asked if anyone else had any questions for Ms. Labbe.

572  
573 Mr. Latter said that I'm knocking my head around this and the way that I understood it;  
574 that I apologize for not being at the site walk but I've been by your property a bunch of  
575 times; that that's my running and bike path. I'm looking at this as a daycare/nursery and  
576 we're just removing the building. So, what will we require for a daycare/nursery if the  
577 building was there and this was their recess yard or their outdoor space. Are there  
578 requirements for fences, security. I can't envision another young child facility that  
579 doesn't have some kind of containment.

580  
581 Ms. Labbe said that there are many and quite a few of them are right here in Eliot,  
582 including the Waldorf School. They do not have a fence around their property. There are  
583 other forest schools in the area that do similar things. We are the first fully outdoor  
584 program, for sure. And there is a fence and it goes almost all the way around.

585  
586 Mr. Latter said that I'm just trying to take the input from the abutters and just trying to  
587 understand what are the issues. I'm glad I'm not on the State agency granting a waiver  
588 for this. I think it's a great idea. It's just do I want to be the person responsible for  
589 making the decision to say "Go". I'm risk averse so I'm just trying to think this through.

590  
591 Mr. Leathe asked if Ms. Labbe could share her insurance coverage with the abutters and I  
592 guess the families, as well, so that everyone knows exactly what coverage you do have so  
593 they can compare it with their own policies.

Ms. Labbe said that I would be happy to do so.

Ms. Braun asked the PB what they would like to do with this application.

Another person asked to be able to speak to this application.

Ms. Braun invited her to speak.

Ms. (Katie) Young said that I live in Kittery on Hunter Avenue. I'm the mom of Ellie who goes to the Nest School. She's been there since she was 2½ and is 4½ now. We love this school. My job is to make TV content for children so, for me, that offsets my conscience to have children outside all day. Makes me feel good for all of the Paw Patrol out there. We feel very safe that Ellie is there. We love that it's a haven from the outside world and that not a lot of people know about it. With all the shootings and stuff it's really nice to know that not many people know that it's there, so that makes me feel extra safe. My daughters love to explore dirt and come home with scrapped knees and dirty hair. I've known Ms. Labbe since I think before the pandemic. Again, we've always felt safe that everybody is there. We are very thankful of the Raitt Farm for allowing the kids to have fun there. Everything always seems to be very clean and orderly and when we get there, they are clean as much as one can be playing in the dirt outside. Ellen really loves it. We are in favor of it and, of course, we want to make sure that there's no liability. I would totally understand if I had a house near a school and worrying about kids wandering over there. Four-year-olds have a mind of their own. I don't want any of that to happen. Ms. Labbe is very concerned and will be on top of it. With all the communication she has had with us, she emails the parents every week on updates of everything that's going on. I'm sure she will provide those to the Town and the neighbors.

Mr. (Tom) Raitt said that I am the fourth generation on the Farm. When Ms. Labbe approached us about having the school there, one of the first things we did is walk the property line with her. It's clearly marked where the property line is. I've worked hard since I was ten years old on that farm to maintain the fence line around that property. It has taken a beating this winter; that some of it is down. We've done that because I'm a firm believer that, if you lose your property line, you're looking at surveying costs and everything else. I've maintained that fence line just to maintain the property line. Getting to the school, that was something that we took them around from Day 1 and told them that no one is to cross that. We have it clearly posted. It's legally posted. If you are going to post your property, and you're worried about people coming onto it, you need to post it properly. There's a decorum on how to post your property and ours is posted properly. I can say for a fact that I've seen people walk onto your property from my shop during the day. Trespass on it then go down back, you know, teenage kids. I don't know what they're doing. It's none of my business. If it was on my property, I'd say something. If there is trash on your property, it's probably been put there by someone else, not these kids. I just wanted to clarify that. We maintain the property line, and it's been shown to these folks, and they're doing a good thing.

Ms. Braun asked if we are ready to go for completeness with this application. Is there anything else we need.

Mr. Latter said that I think the concerns that I have, if I was in a different position, I might address them differently. But I'm just trying to decide if this fits in where they are proposing. A bunch of my other questions are still my questions but they don't pertain to the decision I have to make.

The PB agreed they were ready for completeness.

Ms. Braun said that, in that case, the Chair will accept a motion.

**Ms. Bennett moved, second by Mr. Latter, that the Planning Board find that PB23-4 of the application for a day nursery at the Raitt Homestead Farm Museum complete.**

**VOTE**

**5-0**

**Motion approved**

The Public Hearing will be June 6, 2023.

#### **ITEM 10 – OTHER BUSINESS/CORRESPONDENCE**

##### **A. Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Discussion of By-laws.**

Ms. Braun said that we have a minor change to be made to the by-laws. The reason is that we were always led to believe that terms expire with the election that happens in the middle of June when, in fact, that is not accurate information. Terms expire on the 30<sup>th</sup> of June and the SB doesn't take up any re-appointments or new appointments until their July meeting. Our by-laws stated June so, in order to be in step with the SB we've made a request that we say that our terms end with the Town's fiscal year, which is the 30<sup>th</sup>. Then, nominations for officers would be after the SB has their meeting in July. In this case, because we are on hiatus in July, the nominations would be at the last meeting in July, the 25<sup>th</sup> of July. My goal tonight, if we agree on these and vote on these, is to present them to the SB at their next meeting. Has everyone read this and agree to the minor changes we made.

Mr. Latter asked if we could make another minor change. It occurred to me tonight that, when you recuse yourself from an issue, we have an alternate. Can we appoint the alternate to serve for that issue without appointing that member for the whole meeting.

Ms. Braun said that that would be a Mr. Brubaker question.

Mr. Latter added that it says you can appoint an alternate for the meeting but it doesn't prohibit it.

Mr. Brubaker said that, unless there is something else I'm missing, it looks like under 3e that that gives authority to the PB to have an alternate step in and vote on that item that somebody else has recused from.

Ms. Braun said that I could say that Mr. Shiner is appointed as a voting member for this particular application.

There was general agreement that she could.

Mr. Latter said that the point of having an alternate is to make sure that whoever has business before the PB has a full representation of people to help deliberate the issue.

Mr. Shiner said that it didn't say 'meeting', it just says 'sit for a member'. It's a member for just for a decision.

It was agreed that the language didn't need to be changed in order to accomplish this, as the PB understands the interpretation of this section.

Mr. Leathe said that, as an example, if we have someone on the PB whose term is expiring, now June 30, and they want to come back and serve again but technically they are not allowed to do that until the SB appoints them, which may not be until the end of July. So, that member is not involved for that month. One of the things I mentioned to the Town Manager is that the SB should be encouraged to meet sooner in order to avoid that occurring. For all committees, not just this committee. I think it's a problem in these by-laws, a problem with the SB, and I think it needs to be addressed.

Mr. Latter said that it shouldn't be a big deal to have an organizational meeting. The SB is sworn in at some point after Election Day. Are they sworn in at that next meeting or are they sworn in by the Clerk prior to.

Ms. Lemire said that, as soon as they are elected, they are supposed to come before Ms. Rawski to be sworn in.

Mr. Latter said that, if they meet in June after the election, they should be able to appoint people, as needed. You don't have to wait until someone's term expires to appoint them to the following term.

Ms. Bennett said that my conversation with the Town Manager around this and, perhaps, the logic behind this is that they wait for the term to expire to allow the opportunity for anyone from the public to apply for that now open seat; that there is a sort of democratic principle involved, here.

Mr. Leathe said that I think that's true but it's also true that a lot of these open seats are known, they're public; that they are published that a term is ending on June 30. It's obvious that the term is over and, if somebody is interested, they can go to the website to

733 see what terms are over and make an application for a position they are interested in. The  
734 fact that you can't, even though it's acknowledge that there's going to be an opening, you  
735 aren't allowed in this Town to submit an application for that opening until after that term  
736 is over, which I think is crazy.

737  
738 Ms. Bennett said that I think you can submit an application but they won't act on it.

739  
740 Mr. Leathe said that it leaves this one-month conundrum and makes no sense to me  
741 whatsoever. The reality is that the process is flawed and I'm not signing up for a change  
742 in this until it's fixed. What I recommended to the Town Manager was that the SB should  
743 meet the next morning after the election and make these appointments. That that would  
744 just be a standard procedure year after year.

745  
746 Mr. Latter suggested staggering the expiration date, such as July 30 or August 30.

747  
748 Mr. Leathe said that this has to be dealt with. This is proposal is a band-aid but it's not a  
749 solution.

750  
751 Ms. Bennett said that, unfortunately, I think it's the Charter that gives them a lot of  
752 latitude. The Charter says, under SB duties, appointments "The SB shall, by majority  
753 vote, at no later than their third regular meeting following the Annual Town Meeting,  
754 review, appoint, renew, or re-appoint all necessary Town officials as provided by general  
755 statute, this Charter, and Town ordinances."

756  
757 Ms. O'Connor said that, with that, they could wait six weeks, not just the one month. It  
758 could be August because they didn't have a quorum or people were on vacation.

759  
760 Ms. Bennett said that changing the Charter is an enormous lift. I agree that it needs to be  
761 fixed and the Town Manager is the one person who could influence SB behavior at this  
762 time, as far as how they implement.

763  
764 Mr. Leathe said that the broader point, too, is that if Charters are not kept up-to-date,  
765 become out-of-date. And our Charter, in numerous areas, is out-of-date.

766  
767 Mr. Latter asked if there was a mechanism for minor reviews of the Charter without re-  
768 creating a Charter Commission.

769  
770 Mr. Brubaker said that the Charter does speak to how to amend itself. There is a two-  
771 tiered system for minor amendments and major amendments. Don't quote me but I  
772 believe the Charter says that, for minor amendments, you don't need a Charter  
773 Commission. I think it's just by Town vote.

774  
775 Mr. Latter said that that would be the solution, to define the terms of the appointed boards  
776 so that they are staggered enough so that you're not in a position that you don't have  
777 members because you're waiting. If they want to wait, fine. I'm not trying to tell them  
778 what to do. I'm just trying to say move our terms so that there is no gap.

Ms. Bennett said that we could keep our terms at the fiscal year if the SB would commit to taking up this business at their second meeting in June and not giving them the 'no later than the third meeting after the Town Meeting'. That literally is the end of July.

Mr. Leathe said that this really is a simple fix. I would take this up soon with the SB. They can fix this easily. They can meet that week, take care of these appointments, and be done. This is not a huge lift. They could have a special meeting and do this.

Ms. Bennett said, to be very frank, my application for re-appointment has been at Town Hall since February.

Mr. Leathe said that that's my opinion, Madam Chair. I'm not in favor of making this change until we have more dialogue on the problem.

Ms. Bennett asked if we should send another memo to the SB.

Ms. O'Connor asked where did we land on that first one.

Ms. Braun said that, with my discussions with the Town Manager, the one about the joint workshop, he said that we could go to any SB meeting we wish and have a discussion. So, there's not necessarily going to be a separate meeting with just us. Rather than take a chance that they are not going to accept the idea of meeting right after the elections and doing the term renewal.

Ms. Bennett said that they have a regularly-scheduled meeting. They are scheduled for the 22<sup>nd</sup> of June. Our meeting is scheduled for June 20<sup>th</sup>.

Mr. Latter said that, if they don't meet until the 22<sup>nd</sup>, your term will expire on the 1<sup>st</sup>. This isn't something we can change on our own, or is it.

Ms. Braun said no. They have to approve this. That's why I wanted to do it tonight and present it to them at their next meeting, to cover ourselves in case they stick to what their current schedule is.

Mr. Latter said that I appreciate Mr. Leathe's position on this but, in the interest of having Ms. Bennett in our second June meeting.

Ms. O'Connor said that, if we do nothing and it stays so that the full term expires at the Town Meeting, that means that Ms. Bennett will not be at our meeting and/or anybody who is in that position.

Ms. Braun agreed, saying that I'm trying to cover that gap. That's the reason for this, to cover the gap. This is just a temporary band-aid but it's a band-aid that's going to cover us. It's up to the PB, whatever the PB would like to do with this. Whether you want to move forward or whether you want to table it.

Mr. Leathe said that the SB could also name Ms. Bennett an alternate at the next meeting.

Ms. Bennett agreed; that the alternate is an open position. I could sit in that.

Ms. Braun said that we still have to correct the dates in the by-laws. We can't let it stand that the term ends with the election. That language has to be changed.

Ms. Bennett agreed with Ms. Braun. We need to clean up what we can clean up and these are relatively minor changes to the by-laws. Especially the fiscal year, that the terms go with the fiscal year just makes logical sense. Then we deliver this to the SB as they need to be approving this change to our by-laws, along with my application for an alternate position so that I can stay on the PB through the month of July. They can then hopefully see the folly in not adhering to a process; that they have this latitude but they can actually put forward a procedure that says on the first meeting after Town Meeting we make appointments.

Ms. Braun said that, in light of that, do we want to go forward with approving these minor changes to the dates.

**Mr. Latter moved, second by Ms. O'Connor, that the Planning Board amend our by-laws, §2-5, striking "at Town Meeting" and adding "at the end of the Town's fiscal year (June 30<sup>th</sup>)" and §4 b) 1) , striking "after the annual Town meeting and the election shall follow immediately after." and inserting "after the Select Board has appointed members to positions with terms starting in the new fiscal year starting July 1<sup>st</sup>."**

**VOTE**

**4-1 (Mr. Leathe voted no)**

**Motion approved**

Ms. Braun asked Mr. Brubaker to prepare this formally and give it to the Town Manager for approval by the SB at their next possible meeting.

Mr. Brubaker said yes.

Ms. Bennett asked, if we have one more moment, do we want to propose changes to the Charter for the November ballot. Just a minor revision to the Charter that, within "at no later than their third regular meeting following the Annual Town Meeting, review, appoint, renew, or re-appoint all necessary Town officials" strikes out "at no later than their third meeting" and, in fact, inserts "at their first regular meeting".

Mr. Brubaker said, to clarify, it's addressed in 9.7 of the Charter: "Amendments are corrections of details to better accomplish the Charter's purpose with no fundamental change. Amendments do not require the establishment of a "Charter Commission." A



public hearing would be held 30 days prior to voting on amendments. So, certainly the PB could propose that that process be placed in order to amend.

Ms. Bennett added that you can do it by petition.

**Updates:**

Ms. Braun asked Mr. Brubaker if he had anything for us before I adjourn the meeting.

Mr. Brubaker said that the Conservation Commission did get a small grant to update an open space plan. The Climate Resilience Partnership grant has just opened up and we were planning to apply for that. We are looking at a public information session on Monday, June 26 from 6PM to 8PM to present the initial conceptual plans for walking and bicycling improvements on State and Beech Roads. I would remind folks, if they haven't already, to take a look at the new Town Hall proposal. Finally, we have gotten some questions from the community on how to find out more on the water and sewer project, which is under construction right now, and there's a lot of information that's being added to the website, a link that's being added to the website.

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

Administrative work

2 application public hearings

The next regular Planning Board Meeting is scheduled for June 6, 2023 at 7PM.

**ITEM 13 – ADJOURN**

The meeting adjourned at 8:03 PM.

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**Christine Bennett, Secretary**

**Date approved:** \_\_\_\_\_

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**