

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

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

DATE: Tuesday, 9/5/2023
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**
 - a) PB23-4 2077 State Road Site Plan Review/Outdoor Day Nursery – No structures
 - b) PB23-14 41 Rogers Point Drive Permit Re-approval Shoreland Residential Structure
 - c) PB23-15 150 Harold L. Dow Hwy. Widi SPR Amendment Change of Use Mobile Vendor
- 6) **NEW BUSINESS**
- 7) **OLD BUSINESS**
 - a) 17 Levesque Drive (Map 29 Lot 26) PID# 029-026-000, PB23-01: Site plan review - Car Wash
 - b) 708 River Rd. (Map 50, Lot 29) PID# 050-029-000, PB23-07: Residential Subdivision (4 lots) – sketch plan review
- 8) **REVIEW AND APPROVE MINUTES/ OTHER BUSINESS / CORRESPONDENCE**
 - a) Minutes – June 6, 2023, August 15, 2023
 - b) Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Member
- 9) **SET AGENDA AND DATE FOR NEXT MEETING**
 - a) September 19, 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
- 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: **845 2940 6447**
 2. When prompted to enter Attendee ID
 3. When prompted enter meeting password: **658629**

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 time to allow for input. Please remember to state your name and address for the record.

- b) Press *9 to raise your virtual hand to speak


Christine Bennett Planning Board Chair

POSTED
9/5/23

TOWN OF ELIOT, MAINE

PLANNING BOARD NOTICE OF DECISION

CASE #: **PB23-4 - SITE PLAN**

**REVIEW/OUTDOOR DAY NURSERY – NO
STRUCTURES**

MAP/LOT: **87/1**

2077 STATE ROAD

DATE OF DECISION: **06-06-2023**

8/21/2023

DRAFT

Village Nest Cooperative
c/o Jessica Labbe
PO Box 117
Eliot, Maine 03903

Raitt Farm Homestead Museum
c/o Lisa Raitt
2077 State Road
Eliot, Maine 03903

To: Ms. Labbe
Ms. Raitt

This letter is to inform you that the Planning Board has acted on your application for a Site Plan Review for an **Outdoor Day Nursery – No Structures (Village Nest Cooperative) on the Raitt Homestead Farm Museum Property.**

APPLICATION DOCUMENTS AND SUPPORTING MATERIAL SUBMITTED:

SUBMITTED FOR APRIL 18, 2023:

1. Application for site plan review, dated March 16, 2023.
 - Warranty Deed, BK 17002/PG 633-634, registered at the York County Registry of Deeds, April 21, 2015.
 - Site Sketch Plan for Village Nest Cooperative, Land of Raitt Homestead Farm Museum, showing leased portion of land and direct abutters, dated March 10, 2023.
 - Lease between Raitt Homestead Farm Museum (Lessor/Officer Lisa Raitt) to Village Nest Cooperative, LLC (Lessee – Jesse Labbe) for 10 acres of wooded land, dated October 18, 2022.
 - Correspondence from Department of Health and Human Services regarding the need for Town approval, dated April 18, 2023.
 - Correspondence from State Fire Marshall's Office stating that because there are no structures involved there is no need for plan review/inspection by the Fire Marshall's Office, dated March 15, 2023. April 18, 2023.
 - i. Confirmation from Daryen J. Granata, Public Safety Inspector, Fire Marshall's Office that no plan review/inspection is required. Received by the Town Code Enforcement Officer, dated April 18, 2023.
2. Memo from SMPDC staff, dated April 14, 2023.

SUBMITTED FOR MAY 16, 2023:

1. Public Notice of Site Walk, dated May 3, 2023, and held May 13, 2023.
2. Waiver request.

SUBMITTED FOR JUNE 6, 2023:

1. Memo by Jeff Brubaker, Town Planner, dated May 31, 2023.
2. Legal Public Hearing Notice published in The Weekly Sentinel, dated May 26, 2023.
3. Notice to the Town of Eliot of Public Hearing, dated May 26, 2023.

3. 500-foot Abutter's List Report, dated May 30, 2023.

FINDINGS OF FACT:

1. The owner of the property is: Raitt Homestead Farm Museum (Lisa Raitt) (mailing address: 2077 State Road, Eliot, ME 03903).
2. The applicant is Village Nest Cooperative, LLC (Jessica Labbe) (mailing address: P.O. Box 117, Eliot, Maine 03903).
3. The property is located at 2077 State Road in the Rural Zoning District, identified as Map 87/Lot 5, and is 10 acres.
4. The applicant proposes to operate an Outdoor Day Nursery – No Structures on 10 acres of forested, leased land owned by the Raitt Homestead Farm Museum.
5. State Pilot Program: 'Outdoor Day Nursery – No Structures'. Will be fully licensed by the Department of Health and Human Services (DHHS). DHHS will conduct a site visit/inspection subject to Planning Board approval. Copy of State license will be submitted to the Planning Department once received by applicant.
6. Department of Environmental Health (DEH) gave verbal approval for the composting toileting process, which was in the form of a voicemail heard by the Planning Board. A written letter of approval will be submitted to the Planning Department once received by the applicant.
7. Safety protocols are in place, such as security cameras, fencing, 'brightwheel' app for daily parent communication, emergency sheltering in place on-site, walkie talkies, hourly head counts, daily site checks for hazards. The program follows the MSAD #35 school closing protocol.
8. The application was received March 16, 2023.
9. Staff: Five (5) staff, including applicant. All staff have three (3) background checks per year and are required to complete four (4) hours of active supervision training three (3) times a year.
10. Hours of operation: 7:30 AM to 5:00 PM, Monday through Friday. Proposed project is open year-round.
11. Number of children: There will be eight (8) to twenty-four (24) students. The State maximum is forty-two (42) students. Applicant has asked for approval for up to 24 students.
12. Parking Space Requirement (§45-495): five (5) are required, ten (10) are provided.
13. No dumpster is proposed. Everything is carry-in, carry-out. This is a 'leave no trace' program.
14. Signage: None is proposed.
15. Stormwater: Not necessary due to lack of site changes and no proposed construction.
16. Buffering and screening: Property is forested in the proposed area of the project and is well-buffered and screened.
17. There is a designated porta-potty for staff use and portable potties for students. The student portable potties use bio-gel composting bags that are carried out and disposed of each day.
18. Applicant carries liability insurance. Liability waivers are signed by all parents. Applicant will share liability insurance coverage with abutters.
19. Three storage sheds: for outside hammocks, children's sleeping bags, extra clothes, art supplies, extra water, first aid supplies, and the like. Students provide their own food.
20. The proposed use is listed as "Day Nursery" in Sec. 45-290 (Table of Land Uses).
21. The Planning Board reviewed the application at regular meeting(s) held on:
 - April 18, 2023 (Sketch Plan Review)
 - May 16, 2023 (Site Plan Review/Completeness)
 - June 6, 2023 (Public Hearing/Approval)
22. Copies of the application and supporting materials were provided to the Code Enforcement, Public Works, Police and Fire Departments for review and comment. There were no comments submitted.
23. On May 13, 2023, the Planning Board conducted a site walk of the property.
24. Waiver action: Due to lack of any site changes for this project, the Planning Board waived §§4.1.1, 4.1.2, 4.1.4, 4.1.6, 4.1.9, 4.1.10, 4.1.11, 4.1.13, 4.1.14, 4.1.16. Waiver for §4.1.1 requires that a north arrow be placed on the survey plan. Waiver for §4.1.14 is subject to DHHS granting a waiver for indoor toileting facilities and Code Enforcement Officer approval.
25. The Planning Board accepted the application as complete on May 16, 2023.
26. Public Hearing Notice was posted to the Town of Eliot May 3, 2023

27. In accordance with Sec. 33-128 & 129, a public hearing was advertised in The Weekly Sentinel on May 26, 2023 and held on June 6, 2023. Public comments/concerns: Need to clarify physical boundaries of daycare operations, concern for children going into neighboring properties and potential safety/liability, portable potties & waste disposal procedures, scope of operation, noise, number of potential students. All who spoke were supportive of the project. All concerns were addressed by the applicant.
28. The following application fees have been paid by the applicant, in accordance with §1-25:
- Site Plan Review Application Fee: \$100 (dated April 13, 2023).
 - Change of Use Fee: \$25 (dated April 13, 2023).
 - Public Hearing Fee: \$175.00 (dated April 13, 2023).

CONCLUSIONS:

1. 'Day Nursery' is a permitted use in the Suburban Zoning District under the Town of Eliot Zoning Ordinances with Site Plan Review (SPR) by the Eliot Planning Board, per Sec. 45-290.
2. The standards of Section 45-405 (Dimensional standards) of the Zoning Ordinance (Chapter 45) have or will be met.
3. Performance criteria and/or ordinance requirements have been addressed by the Planning Board in accordance with Chapter 33, Article III, Division 3 during review of this application.
4. All concerns for this Maine pilot program outdoor nursery were adequately addressed.

DECISION:

Based on the above facts and conclusions, on **June 6, 2023** the Planning Board voted to approve your application for an **Outdoor Day Nursery – No Structures (Village Nest Cooperative) on the Raitt Homestead Farm Museum Property.**

CONDITIONS OF APPROVAL:

In order 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.
2. The permit is approved on the basis of information provided by the applicant in the record regarding ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.
3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
4. If required by the Code Enforcement Officer or the State Childcare License, the applicant shall install a place on the property toilet facilities to be used by the daycare participants or identify or upgrade existing toilet facilities on the property for the same use. The facility placement, design, and operation shall be reviewed by the Code Enforcement Officer under applicable permitting procedures.

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 **June 6, 2023** 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 **June 6, 2023** by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Eliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Eliot Municipal Code of Ordinances, section 1-2.

Sincerely,

Christine Bennett, Chair

This letter reviewed and approved by the Planning Board on _____, 2023.

CC: Michael Sullivan, Interim Public Works Director
Elliott Moya, Eliot Police Chief
Jay Muzeroll, Eliot Fire Chief
Shelly Bishop, Code Enforcement Officer
Donald Ferrara, Tax Assessor

TOWN OF ELIOT, MAINE

PLANNING BOARD NOTICE OF DECISION

CASE #: PB23-14 – RE-APPROVAL REQUEST FOR SITE PLAN REVIEW/SHORELAND ZONING PERMIT APPLICATION/REPLACEMENT OF NON- CONFORMING RESIDENTIAL STRUCTURE/REQUEST FOR RE-APPROVAL OF EXPIRED PERMIT	MAP/LOT: 32/2 41 ROGERS POINT DRIVE	DATE OF DECISION: 08/15/2023
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8/21/2023

DRAFT

Chris and Jennifer Wilber
PO Box 90
Eliot, Maine 03903

Jane E. and John C. Fantry
PO Box 897
Scarborough, Maine 04070-0897

To: Mr. & Mrs. Wilber
Mr. & Mrs. Fantry

This **Notice of Decision** is to inform you that the Planning Board has acted on your **Shoreland Zoning Permit Application/Site Plan Review Request for Planning Board Action – Re-Approval of Expired Permit (PB20-19) for the replacement/expansion of an existing, non-conforming residential structure further away from the Piscataqua River with a 1½ -story, 1¾ -bath, 1-bedroom residence and a single-pitch roof.**

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

Submitted for August 1, 2023:

1. Request for Planning Board Action, received May 23, 2023.
 - Drawing of proposed Cottage.
 - Site Plan, prepared for Jane E. and John C. Fantry, showing existing and proposed structures, prepared by Christen Wilber, PLS., dated May 23, 2023.
2. Purchase & Sales Agreement, to be conveyed as a Warranty Deed, dated April 14, 2023.
3. Memo from Chris Wilbur, PLS, listing abutters and their signatures supporting re-approval of the application originally approved as PB20-19, dated June 30, 2023.
4. Letter from Chris Wibur, PLS, Agent for Jane E. and John C. Fantry, re-approval of permit, reasons for delay in completion, and work completed to date.
5. Memo from Jeff Brubaker, Town Planner, dated July 25, 2023.

Submitted for August 15, 2023:

1. Public Hearing Notice to the Town of Eliot, posted August 6, 2020.
2. Legal Notice of Public Hearing, advertised in the Portsmouth Herald August 6, 2023.
3. 500-foot Abutters List Report, dated August 9, 2023.
4. Memo from Jeff Brubaker, Town Planner, dated August 9, 2023.

FINDINGS OF FACT:

1. The owners agent for the applicants of the property is Chris and Jennifer Wilber, PLS (mailing address: PO Box 90, Eliot, Maine 03903).
2. The applicants/owners are: Jane E. and John C. Fantry (mailing address: PO Box 90897, Scarborough, Maine 04070).
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, seasonal non-conforming 1-story, $\frac{3}{4}$ bath residential structure (cottage) further away from the Piscataqua River with a year-round 1½ -story, 1¾ -bath, 1-bedroom residence. Roof design changed from cape-style to single-pitch. Modification of 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) has been completed.
 - Newly enacted §33-141 outlines process for requesting reapproval when a site plan review has expired.
 - The applicant is requesting reapproval for both Site Review and Shoreland, as the Shoreland portion of the approval has already expired and the Site Review portion will expire December 2023, which does not allow time for substantial completeness. COVID supply and contractor availability affected construction timing of cottage replacement.
 - Septic System, designed by Joseph Noel (Site Evaluator), is currently approved for two (2) bedrooms and is in good working order.
 - Letter of approval from the DEP for a variance for the septic system distance to the water body.
6. Copies of the application and supporting materials were provided to the Police Chief, Public Works, Fire Department, Conservation Commission, and Code Enforcement. No comments were submitted.
7. The Planning Board reviewed the application at the following regular meetings:
 - August 1, 2023 (Sketch Plan Review/Completeness)
 - August 15, 2023 (Site Plan Review/Shoreland Zoning/Public Hearing/Re-approval)
8. In accordance with §33-130, a public hearing was advertised in the Portsmouth Herald/Seacoast Online on August 6, 2023 and held on August 15, 2023. Abutting land owners were notified via certified mail.
9. Abutters submitted a signed letter supporting the project and forgoing the public hearing. 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 ____ 2023.
 - Non-conforming structure in Shoreland Overlay \$75.00, paid ____ 2023.
 - Public Hearing Fee: \$175.00, paid ____ 2023.
11. The Planning Board did not hold a site walk.
12. The Planning Board accepted the application as complete on August 1, 2023.
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 currently 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. Existing structures are allowed to expand by 30% under §44-32(c)(1) C.1.:
 - 30% expansion: 742 square feet to 920 square feet or 24%.
 - Shoreland Lot Coverage: 2%

- Shoreland Structure Height: proposed is to be no more than 20 feet.
 - Septic System, designed by Joseph Noel (Site Evaluator), is currently approved for two (2) bedrooms and is in good working order.
 - Parking area (driveway) will remain the same.
20. Applicant has re-applied for a ME DEP NRPA Permit May 24, 2023. A copy will be submitted to the Planning Department.
 21. Four large trees, delineated on the Site Plan, have been removed and will be replaced by oak, birch, or the like.
 22. 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.
 23. The driveway is, and will remain, gravel.
 24. The existing property is accessed through a deeded, private gravel right-of-way of the land known as “Rogers Point”.

CONCLUSIONS:

1. This Shoreland Zoning Permit Application is for PB23-14 for the replacement of a residence at 41 Rogers Point Drive, and to grant site plan re-approval pursuant to §33-141, with the intent of the approval being a renewal of the same Shoreland Zoning Permit and Site Plan approval in PB20-19, decided December 15, 2020 – except for changes to the style of the residence and the omission of the boathouse/garage and new septic system, which are already completed.
2. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44), Shoreland Zoning Permit Application, Chapter 33 Site Plan Review 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 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 non-conforming 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 requirements for the residential structure and its foundation to the greatest practical extent.
4. This Shoreland Zoning Permit Application is for PB23-14 for the replacement of a residence at 41 Rogers Point Drive, and to grant site plan re-approval pursuant to §33-141, with the intent of the approval being a renewal of the same Shoreland Zoning Permit and Site Plan approval in PB20-19, decided December 15, 2020 – except for changes to the style of the residence and the omission of the boathouse/garage and new septic system, which are already completed.

DECISION:

Based on the above facts and conclusions, on **August 15, 2023**, the Planning Board voted to approve your request to re-approve the permit, PB20-19, approved on December 15, 2020 application to replace existing non-conforming residential structure (cottage) further away from the Piscataqua River with a 1½ -story, 1¾ -bath, 1-bedroom residence. Roof design changed from cape-style to single-pitch. . Modification of 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) has been completed.

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

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:

Site Plan expiration §33-59:

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.

Shoreland expiration §44-45:

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

The holder of an approved permit should take care to ensure that the approval granted on **August 15, 2023** 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 **August 15, 2023** by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Eliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Eliot Municipal Code of Ordinances, section 1-2.

Sincerely,

Christine Bennett, Chair

This letter reviewed and approved by the Planning Board on _____, 2023.

- CC: Mike Sullivan, Public Works Director
Elliott Moya, Police Chief
Jay Muzeroll, Fire Chief
Donald Ferrara, Tax Assessor
Shelly Bishop, Code Enforcement Officer
Kari Moore, Conservation Commission

DRAFT

TOWN OF ELIOT, MAINE

PLANNING BOARD NOTICE OF DECISION

CASE #: PB23-15 - SITE PLAN	MAP/LOT: 30/3	DATE OF DECISION: 08-01-2023
AMENDMENT/CHANGE OF USE TO ADD	150 HAROLD L. DOW	
MOBILE VENDOR TO SITE/MINOR	HIGHWAY	
AMENDMENT		

8/15/2023

DRAFT

Mr. William Widi
34 Sandy Hill Lane
Eliot, Maine 03903

Ms. Nancy Shapleigh
28 Sandy Hill Lane
Eliot, Maine 03903

To: Mr. Widi
Ms. Shapleigh

This letter is to inform you that the Planning Board has acted on your **Application for Site Plan Amendment/Review and Change of Use – Mobile Vendor Site**. **There will be no change to the existing approved residential use on the second floor or commercial use on the first floor of the existing building on the site.**

APPLICATION DOCUMENTS AND SUPPORTING MATERIAL SUBMITTED:

SUBMITTED FOR AUGUST 1, 2023:

1. Application for Site Plan Review/Amendment/Change of Use, received May 31, 2023.
 - Town of Eliot Assessor Vision Property Card.
 - Location map.
 - Drawing showing location of proposed project and full layout of property.
 - List of proposed changes to be made.
 - Detailed drawing of proposed mobile vendor project.
 - Revised drawing of parking orientation.
2. Property owner signature on application, signed May 28, 2023.
3. Memo from Jeff Brubaker, Town Planner, dated August 1, 2023.

FINDINGS OF FACT:

1. The owner of the property is: Nancy Shapleigh (mailing address: 28 Sandy Hill Lane, Eliot, Maine 03903).
2. The applicant is: William Widi (mailing address: 34 Sandy Hill Lane, Eliot, Maine 03903).
3. The property is located at: 150 Harold L. Dow Highway and is 2.86 acre.
4. Property can be identified as: Assessor's Map 30/Lot 3 and is located in the Commercial/Industrial Zoning District.
5. The applicant proposes to amend a previously-approved Site Plan to add a 'Mobile Vendor site' on the southeast portion of the parcel. Permeable gravel will be laid throughout the vendor site over already-disturbed soils.
6. Project is allowed under §45-290 "Mobile Vendor" and is SPR in the Commercial/Industrial District.
7. Current approved uses on the property, both commercial and residential, shall remain.
8. Traffic: Flow will be to the left of the vendor site, utilizing the current driveway, with parking behind the customer/food truck area. Parking area will be oriented north/south to increase safety of vehicle movement.

- A traffic study was discussed as this use was newly-approved in June 2023 and is the first application for this use. The Planning Board suggested, and the applicant agreed, to provide a 3-month traffic pattern analysis as additional reference information.
9. Parking: There is sufficient parking on-site, per the sketch plan. Parking attendants will be utilized.
 10. Signage: There is currently an existing single, free-standing sign on property
 11. Lighting: Lighting will be placed within the customer area, to include parking area, picnic tables, and food trucks. Currently, there is lighting on the existing building, which will be increased. Lighting will be added to the existing sign to enhance driveway ingress and egress at night.
 12. Planters will be placed between Route 236 and vendor site, per §45-417 (screening). Additional planters will be placed between the parking area and food trucks as a physical safety barrier between the driveway access and the picnic table/waiting areas.
 13. Site is served by private septic and well.
 14. Hours of operation will be 11AM to 9PM seven days a week.
 15. Portable toilets and picnic tables will be available for customers.
 16. A dumpster is located on the property for over-flow trash. Food truck vendors are required by the State to supply trash cans and manage trash for their customers.
 17. Vendors will be licensed by the State. In addition, a business license is required through the Select Board, per §5-6.
 18. Applicant shows room for up to four vendor trucks on site drawing.
 19. The Planning Board reviewed the application at the following regular meeting:
 - August 1, 2023.
 20. On August 1, 2023, the Planning Board agreed by consensus that the proposed revisions to the previously approved Site Plan were minor, did not result in any substantial changes to the approved development, or further impact abutters and, therefore, did not require full site plan review §33-140(b).
 21. There was no site walk or public hearing held.
 22. The following fees have been paid by the applicant:
 - Change of Use Fee: \$25.00 paid
 23. Copies of the application and supporting materials were sent to the Code Enforcement Office, Public Works, Police Department and Fire Department. There were no written comments submitted.

CONCLUSIONS:

1. Revisions to previously approved Site Plans are allowed with Planning Board approval under Section 33-140 (Revisions to final Site Plans after Planning Board approval).
2. 'Mobile Vendor' is an approved use, listed in §45-290 with Site Plan Review (SPR), in the Commercial/Industrial District.
3. All applicable criteria and/or ordinance requirements of Chapter 45 and Chapter 33 have been addressed by the Planning Board during review of this application.
4. The Planning Board determined that the proposed revision to the approved site plan was minor and did not result in any substantial changes to the approved development or further impact abutters and, therefore, did not require full site plan review.

DECISION:

Based on the above facts and conclusions, on **August 1, 2023**, the Planning Board voted to approve your application to amend a previously-approved site plan to add a change of use 'Mobile Vendor site' to the existing commercial and residential uses on the property.

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.

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.

APPEALS:

This decision can be appealed to the Board of Appeals within 30 days after **August 1, 2023** by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Eliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Eliot Municipal Code of Ordinances, section 1-2.

Sincerely,

Christine Bennett, Chair

This letter reviewed and approved by the Planning Board on _____, 2023.

CC: Donald Ferrara, Tax Assessor
Shelly Bishop, Code Enforcement Officer
Jay Muzeroll, Fire Chief
Elliott Moya, Police Chief
Mike Sullivan, Interim Public Works Director



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

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Kenneth A. Wood, PE, Attar Engineering, Applicant’s Representative
 Wyatt Page, Attar Engineering, Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Kim Tackett, Land Use Administrative Assistant
 Date: August 29, 2023 (report date)
 September 5, 2023 (meeting date)
 Re: PB23-1: 17 Levesque Dr. (Map 29/Lot 26): Site Plan Amendment/Review – Car Wash

Application Details/Checklist Documentation	
✓ Address:	17 Levesque Dr.
✓ Map/Lot:	29/26
✓ Zoning:	Commercial/Industrial (C/I)
✓ Shoreland Zoning:	None
✓ Owner Name:	York Hospital
✓ Applicant Name:	Shawn Moore; Agent: Attar Engineering, Inc.
✓ Proposed Project:	Car Wash Building
✓ Application Received by Staff:	January 3, 2023
✓ Application Fee Paid and Date:	\$300 (\$100 SPR; \$25 change of use; \$175 public hearing) May 4, 2023
Application Sent to Staff Reviewers:	Reviewers contacted individually (e.g. Town of Kittery wastewater, Kittery Water District)
✓ Application Heard by PB Found Complete by PB	February 21, July 25, and September 5 (scheduled), 2023 TBD
Site Walk	Not held
Site Walk Publication	N/A
Public Hearing	TBD
Public Hearing Publication	TBD
✓ Reason for PB Review:	Site Plan Amendment, Change of Use, SPR uses

Overview

Applicant seeks site plan review and approval to construct a 4-bay, 3,300 sq. ft. auto wash facility with 2 vacuum islands and associated parking at 17 Levesque Dr., within Eliot Commons. The 4/27/23 cover letter describes the lot as follows: “The 1.1-acre plat designated as Unit 4 within the larger 4.47-acre parcel located at 17 Levesque Drive, is currently undeveloped aside from existing paved driveway and parking shared by the family dental and State Farm buildings.”

The applicant has indicated that the car wash would be open 24 hours a day, 7 days a week, as it can operate unattended. (From a 7/26 email from Jeff Arimento, in packet: “these types of locations are typically open 24/7 with no full time employee”). My notes say that they would plan to have an

attendant there the first few weeks to ensure everything is running smoothly, and then only occasionally after that but on-call and nearby 24/7.

Type of review needed

Full site plan review: ask questions of the applicant; comment on site plan review and zoning compliance; review waiver requests; consider a completeness motion and setting of a public hearing.

Use

The use listed in the Site Plan Review application is *auto service station*. Recommendation: review as “use similar to” *auto repair garage*.

Right, title, and interest (33-106)

Town records show an approximately 4.4-acre parcel (Map 29, Lot 26) running from Route 236 to the Post Office lot line, owned by Guys Realty LLC, which includes the bank, dental office, and State Farm building. The latter building also includes a marijuana/medical marijuana testing facility. The lot is part of Eliot Commons, which has condominium lot lines for various units within the overall parcel. That is reflected in the 2006 quitclaim deed to York Hospital included in the submittal.

The submittal includes a purchase agreement between York Hospital and the applicant (specifying the condo lot size as “approximately 1 ± acres”), with an extension clause based on the timing of the Town’s site plan and code review; as-built plans from 1986; and a 2020 condominium plat showing an approved but not built York Hospital two-story professional office building. The 1986 as-builts show the site to be developed as vacant but with an 8” sanitary sewer line running across it.

Dimensional requirements (45-405)

Dimension	Standard	Met?
Min lot size	3 acres	Met for Eliot Commons overall and Map 29, Lot 26.
Lot line setbacks (ft)	30/20/30 front/side/rear	Appears to be met
Building height (ft)	55	Presumed to be met and can be confirmed during full SPR. At the time of this report, elevation drawings are expected on 8/30.
Lot coverage	50%	Appears to be met. See Note 5 on site plan; along with 2 existing buildings, car wash increases coverage from 7.4% to 9.8%.
Min street frontage (ft)	300	Met
Max sign area (sf)	Max. 50 sf for wall-mounted, 100 sf for common freestanding	Signs will need a sign permit from the Code Enforcement Officer and will need to accord with Ch. 45, Art. XI standards. Currently, application package only shows 32 sf (4’ x 8’) illuminated drive-through menu showing wash options. PB also requested more info on signage at 7/25 review.
Building separation (C/I district)	Min. 20 ft. for multiple principal structures on a single lot	Met with respect to distance from existing adjacent red building.

Stormwater

The lot is currently vacant with grass cover. Sheet 1, Note 7 reports a total proposed new impervious surface of 17,650 sq. ft. Total disturbed area is reported as 0.73 acres. The amount of disturbed area is under the amount needed for a DEP Stormwater Management Permit. The project is individually under the 1-acre disturbed area threshold for Town post-construction stormwater management requirements (Ch. 35) and erosion and sedimentation control plan (Ch. 34) requirements, but is part of a larger common plan of development (i.e. Eliot Commons) that may warrant these requirements.

Sheet 1 shows a stormwater detention pond located in the rear of the parcel. A stormwater management plan is included in the application package. The plan states that the detention pond “outlets to a level spreader that returns channelized flow to sheet flow” and then to a wooded buffer before leaving the site to a wetland. Sheet 7 includes erosion/sedimentation control notes and details. The stormwater pre- and post-construction analysis with HydroCAD modeling results shows reductions in peak stormwater flows for all three analysis points.

- AP1: -1.29 cubic feet per second (cfs)
- AP2: -0.11 cfs
- AP3: -0.96 cfs

Another smaller stormwater management area is also shown to the south of the building.

Parking

Four diagonal employee spaces are provided in the front of the site, and four are provided at the vacuum islands. This part of the lot appears contiguous with the parking pool for the real estate/marijuana testing facility building and dental office, which accords with Note 6 reporting a total of 12 spaces on site. Note 6 estimates 2 employees at the largest shift, though as noted elsewhere in this report, the car wash will often be unattended.

Traffic (45-406)

A single driveway enters onto Levesque Dr., which is a private drive within Eliot Commons. A one-way loop of 12 ft. in width loops around to the wash bays, two with auto payment kiosks, one self-serve bay, and one detailing bay. There is also an auxiliary exit in the rear of the lot behind the back of the real estate/marijuana testing facility building.

Water service and use

The cover letter notes that the site is served by public water. The applicant estimates that average daily water use for the two (2) automatic bays will be 2,700 gallons per day (gpd), though daily usage will vary based on customer volume. The self-serve unit would use additional water. The applicant estimates that peak daily usage will be 11,000 gpd. Kittery Water District (KWD) staff have been contacted and any review comments they have will be provided or summarized at the meeting.

Wastewater and disposal of wash water

Proposed sewer connections

A 7/28 letter from Ken Wood (in packet) states that Eliot Commons owner Sea Dog Realty will be able to approve the private sewer connection to Levesque Dr. after PB approval, before building permitting. The private Eliot Commons wastewater system pumps from a pump station next to The

Residences at Eliot Commons, out to Route 236 via a forcemain, southeast down Route 236, and then southwest down Bolt Hill Rd., into the public sewer system. Sheet 3 shows a proposed new 8” sewer lateral from the car wash building to a private gravity line on Levesque Dr., with a manhole near the parking spaces. That gravity line appears to flow to the pump station. The existing forcemain sending sewerage from the pump station out to Route 236 is also shown crossing the car wash site. General note 1 on Sheet 3 speaks to the PVC (SDR 35) sewer lines meeting Kittery Sewer District standards.

The cover letter and 7/25 meeting addressed the Town’s Route 236 Water-Sewer Extension Project. The project (estimated to be complete in 2025) will extend a gravity sewer line down Levesque Dr. to allow for a connection from the car wash (see attached project plan sheet). The Town holds an easement for a future public gravity sewer line down Levesque Dr., with the approximate easement lines shown on the plan. Based on review discussions, and depending on timing of construction, if approved, it is understood the building would start with the private system connection and switch to the public sewer system when available.

Wash water disposal and reuse/recycling

Wash water disposal has been discussed in previous reviews. Chapter 18, regulating sewer connections, Chapter 31, regulating non-stormwater discharges, and Sections 45-419 and -420, prohibit or restrict treated or hazardous wastewater and wastes into surface waters, ground waters, the public sewer system, or the Town’s storm sewer system. Ch. 31 exempts only “individual residential car washing”. In their stormwater management plan, the applicant states: “The carwash operation system includes exterior drains that are routed to the sanitary sewer system, therefore carwash operations are separate from, and will not adversely affect, the stormwater management system.”

Per a PB question, the applicant described how each bay will have a sediment pit with filter and oil-water separator for treating wash water before going into the sewer system. In my 7/25 meeting notes and a subsequent email communication, the applicant indicated that a wash water reuse system is a possibility but it is not something that the applicant plans to install due to their expense.

The 7/28 letter from Ken Wood, Attar Engineering, (in packet) somewhat changes course and indicates that there would be 20% reuse and recycling.

The car wash will discharge approximately 2,700 GPD to the municipal system. The facility will use both touch-free and friction type wash systems in 2 different bays. Approximately 20% of the wash water will be reused and recycled through a reverse osmosis system. The car wash facility will discharge all other wash-water to the municipal system, minimizing particulate and soluble pollutants which would otherwise be generated by a typical vehicle being washed in a driveway. The requested 2,700 GPD capacity is the equivalent of 10-3, bedroom dwelling units.

Sewer allocation and capacity

In 2021, Town of Eliot staff began formal discussions with the Town of Kittery about increasing our reserve capacity at the Kittery treatment plant. The Intermunicipal Agreement (IMA) was updated to increase the reserve capacity by 200,000 gpd, to a total of 400,000 gpd. The IMA is included in the packet. The Town’s Route 236 Water-Sewer Project consultant, Underwood Engineers, had estimated in 2020 that the existing annual average sewer flow from Eliot was 120,000 gpd, with another 26,300 gpd in “unrealized allocations” – related to approved projects that had not yet been built or generated

PB23-1: 17 Levesque Dr. (Map 29/Lot 26): Site Plan Amendment/Review – Car Wash

wastewater. Assuming current use of between 125,000 and 150,000 gpd, the Town would have 250,000 to 275,000 in remaining reserve capacity, though the IMA also includes peak daily and one-hour limits.

The process for applicants to request sewer allocation for the Town of Eliot is in the packet. This is a Public Works document. More information is in Chapter 18 of the Town Code and here: <https://www.eliotmaine.org/public-works/pages/sewer-application-process>.

Per a PB 7/25 comment, I contacted the Kittery Sewer Department on the phone on 8/29. They indicated that for a car wash they would typically ask for a sediment filter and oil-water separator, which the applicant has already committed to providing.

Tree buffer

The plans show the existing woods in the rear of the parcel, where Eliot Commons abuts 155 HL Dow. There are a few existing trees between the parcel and the Post Office, and the plans show the addition of two new shade trees in the front of the car wash.

Solid waste

A dumpster with 6' stockade fence screening is shown in the rear of the lot.

Recommendation

After accounting for any waivers, deem the application complete and set a public hearing.

Motion templates

Complete application

Motion to deem the application in PB23-1 – 17 Levesque Dr. car wash – complete. A public hearing is set for _____.

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner



ATTAR

ENGINEERING, INC

CIVIL ♦ STRUCTURAL ♦ MARINE

Michael Sullivan, Town Manager
Richard Donhauser, Chair-Board of Selectmen
Town of Eliot, Maine
1333 State Road
Eliot, Maine 03903

July 28, 2023
Project No. C381-22

**RE: Sewage Capacity
Eliot Commons Car Wash (Tax Map 29, Lot 26)
17 Levesque Drive, Eliot, Maine**

Dear Mr. Sullivan & Mr. Donhauser:

We are currently designing & permitting a Car Wash at Eliot Commons adjacent to the Post Office (plan, attached).

The car wash will discharge approximately 2,700 GPD to the municipal system. The facility will use both touch-free and friction type wash systems in 2 different bays. Approximately 20% of the wash water will be reused and recycled through a reverse osmosis system. The car wash facility will discharge all other wash-water to the municipal system, minimizing particulate and soluble pollutants which would otherwise be generated by a typical vehicle being washed in a driveway. The requested 2,700 GPD capacity is the equivalent of 10-3, bedroom dwelling units.

I have also spoken with Fred Forsley, President of Sea Dog Realty, as a very small portion of the sewer line extends under Levesque Drive to the main gravity line. We will be able to obtain written approval for the connection after plan approval and prior to application of the Building Permit.

We look forward to discussing this project with the Board at their next available meeting. Please contact me for any additional information or clarifications required.

Sincerely;

Kenneth A. Wood, P.E.
President

From: [Planner](#)
To: [Kim Tackett](#)
Subject: FW: Eliot Commons Car Wash Information Needed
Date: Tuesday, August 29, 2023 4:08:52 PM

Kim,

Can you include the email string below for the 17 Levesque Dr. item in the packet?

Thanks,
Jeff

Jeff Brubaker, AICP
(207) 439-1813 x112

From: Jeff Arimento <jarimento@tcwpros.com>
Sent: Wednesday, July 26, 2023 7:51 AM
To: Shawn Moore <smoore@RCMoore.com>; Wyatt <wyatt@attarengineering.com>; Planner <jbrubaker@eliotme.org>
Subject: RE: Eliot Commons Car Wash Information Needed

I didn't get the sense it would be denied... I think the biggest concern that had was whether or not the water usage/waste would significantly impact the towns 'allocation'... if there even is any. They seemed to really have no concept at all of how much water/waste this represented in terms of what the town already uses and/or has.

See my notes below in RED

Let me know if you need my help on anything.

Jeff Arimento
The Car Wash Pro's
978-429-1056

From: Shawn Moore <smoore@RCMoore.com>
Sent: Tuesday, July 25, 2023 7:40 PM
To: Wyatt <wyatt@attarengineering.com>; Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Jeff Arimento <jarimento@tcwpros.com>
Subject: RE: Eliot Commons Car Wash Information Needed

Wyatt,

What is the next step once we provide the requested information?

Is there an indication the project will be denied?

Shawn

----- Original message -----

From: Wyatt <wyatt@attarengineering.com>

Date: 7/25/23 7:11 PM (GMT-05:00)

To: Jeff Brubaker <jbrubaker@eliotme.org>

Cc: Shawn Moore <smoore@RCMoore.com>, Jeff Arimento <jarimento@tcwpros.com>

Subject: Eliot Commons Car Wash Information Needed

Jeff,

Just following up about the points of information requested by the board at the tonight's (7/25/23) meeting.

My notes indicate they are requesting:

- Confirmation from Kittery Sewer District about a sewer allocation for our project, specifically pertaining to how it impacts the allocation for the town and or an allocation for Elliot Commons
- Confirmation from Kittery Water District that there is enough water available to service the car wash

The water seemed to be their biggest item that they need more info on... they don't really seem to know whether this is a concern or not. Included in the packet was my original email from last year detailing out rough water usage for two friction units, before the self serve and with no reclaim. If we are now doing a touchfree and friction, the real water usage is more likely to be an average of 55 gallons per car (not 40)... if we use the same 18K cars per year, then we are looking at just under 1MM gallons per year. Mathematically that divides out to 2700 gallons per day, but the reality is that you will have days that you use almost nothing and peak days that will get up to 11K. These numbers are for the two in-bay units... doesn't include the self serve. They were asking about reclaim systems and I told them that they do exist, they are very expensive and most car washes do not have them.... They may ask you to do one so we need to make sure that (if that comes up) we just stay vague on the amount of re-use. These systems can be very expensive.

- Elevation drawings of the proposed facility
- Hours of operation for the business
- Whether or not an employee will be present full time during hours of operation

– They seemed to want an attendant and possibly limited operating hours... these types of locations are typically open 24/7 with no full time employee... it's up to you what you want to do, but I'm thinking they will at least want to hear that an employee will be available if not on site.

- A mock-up of front signage for the business

Please at your nearest convenience confirm, refute, or add expand upon these requests and the language thereof.

Thank you for your consideration,

-Wyatt Page

Project Engineer



ATTAR
ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

1284 State Road
Eliot, ME 03903

INTER-MUNICIPAL AGREEMENT
Between the TOWN of KITTERY and the TOWN of ELIOT
For RECEPTION, TREATMENT, and DISPOSAL of WASTEWATER
From ELIOT's SEWERAGE SYSTEM

AMENDMENT No. 1

This Amendment No. 1 to the Inter-Municipal Agreement between the between the Town of Eliot, Maine, and the Town of Kittery, Maine (dated July 1, 2013), is made and entered into this 10 day of March 2022, by and between the Town of Eliot, Maine, and the Town of Kittery, Maine, in accordance with Article 11 of the agreement:

Article 3 – Technical Provisions

Add the following after Section 3.1.4 of the existing agreement:

3.1.4.1 Within 90 days of the effective date of this agreement, Eliot will purchase an additional reserved capacity of 200,000 gallons per day ADF in Kittery's WWTF. Eliot shall pay Kittery a total payment of \$669,000 and must be paid in full within 90 days of the effective date of this agreement.

	Annual Average Daily Flow (ADF)	Maximum 24 Hour Flow	Peak One Hour Rate of Flow
	Gallons per day	Gallons per day	Gallons per day
Total	400,000	1,000,000	1,584,000 (or 1,050 gpm)

Note 1: Maximum day peaking factor = 2.5

Note 2: Peak hour peaking factor = 4.0

3.1.4.2 Eliot will make necessary improvements in Eliot's existing collection system, including the portion located in Kittery that is owned by Eliot, to accommodate the flows, if needed.

3.1.4.3 Eliot will work with Kittery to evaluate the feasibility of pumping Eliot's flow directly to the WWTF and bypass Kittery Pumping Station #7 and its force main to the WWTF. Eliot's Current Allocated Capacity stated in Section 3.1.4 of the existing agreement remains unchanged with respect to Kittery Pumping Station #7. When Eliot's average daily flow meets or exceeds 80% of the ADF limit for a 90 day period Eliot shall provide Kittery with a written plan detailing how Eliot will prevent exceedance of the average daily flow limit.

Article 4 – Cost Allocations

Delete Item 4.3.1 and **Replace** with the following:

4.3.1 Treatment Plant (WWTF)—Eliot shall be responsible to pay its proportionate share of ^{Capital} ~~Capitol~~ Costs or ~~Capitol~~ Improvement Costs (not including operating budget replacement costs) of the Treatment Plant (WWTF). ^{Capital} ~~Capitol~~ Costs (see Definition) will be necessary from time to time to meet existing or new effluent limitations; and/or replace equipment and other assets to maintain or expand the capacities of the WWTF. During the design state for each project, Eliot is to be given the opportunity to review and comment on the design drawings which Eliot is

Capital

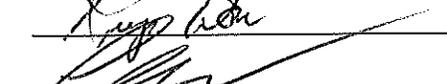
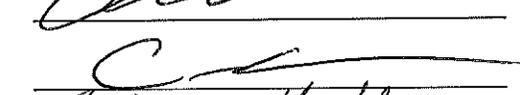
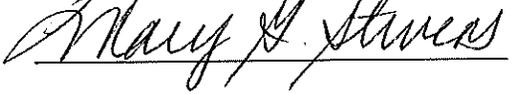
responsible to pay its share. Eliot's proportionate share of costs for each project is the ratio of Eliot's Annual Average Allocated Daily Capacity (**400,000 gpd**) (see Section 3.1.4.1) to the Treatment Plant (WWTF) Annual Average Design Capacity per day (2,400,000 gpd) (see Section 3.1.3), and its costs are in accordance with the following formula.

$$\text{Eliot's Capital Improvement Cost Share}_{\text{WWTF}} = \frac{400,000 \text{ gpd}}{2,400,000 \text{ gpd}} \times \text{Total Project Cost WWTF}$$

IN WITNESS WHEREOF, the parties hereto have executed this amendment as of the day and year first above written.

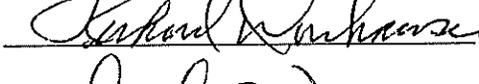
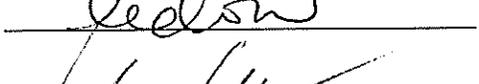
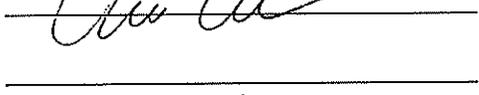
TOWN of KITTERY, MAINE
by its Town Council





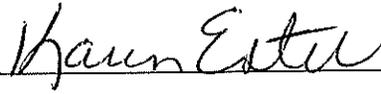
TOWN of ELIOT, MAINE
by its Board of Selectmen



CERTIFICATE

I certify that I am the Town Clerk of the Town below named in the foregoing contract and that the Selectmen or Council members who signed said contract on behalf of the said Town were then Members of the Town Council or Board of Selectmen in said Town by authority of its governing body and is within the scope of its corporate powers.

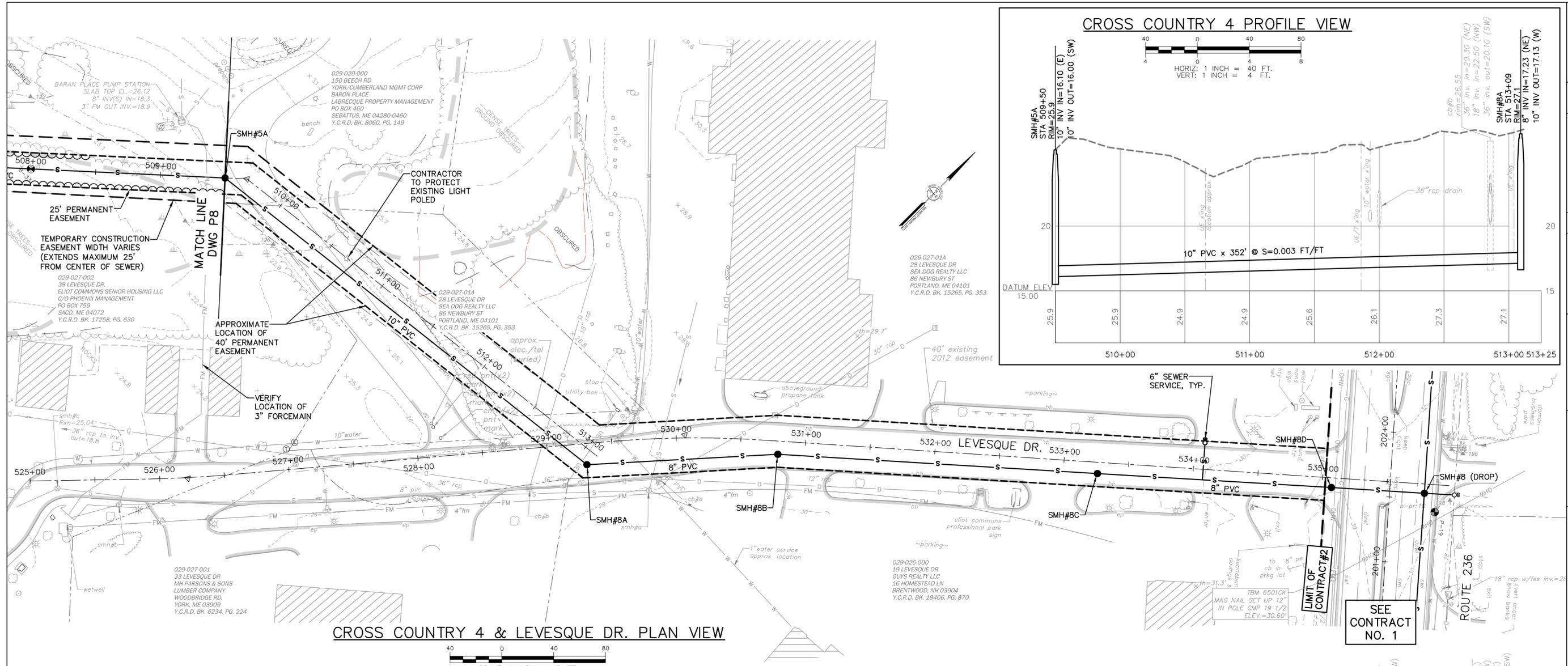


Town Clerk, Kittery, Maine

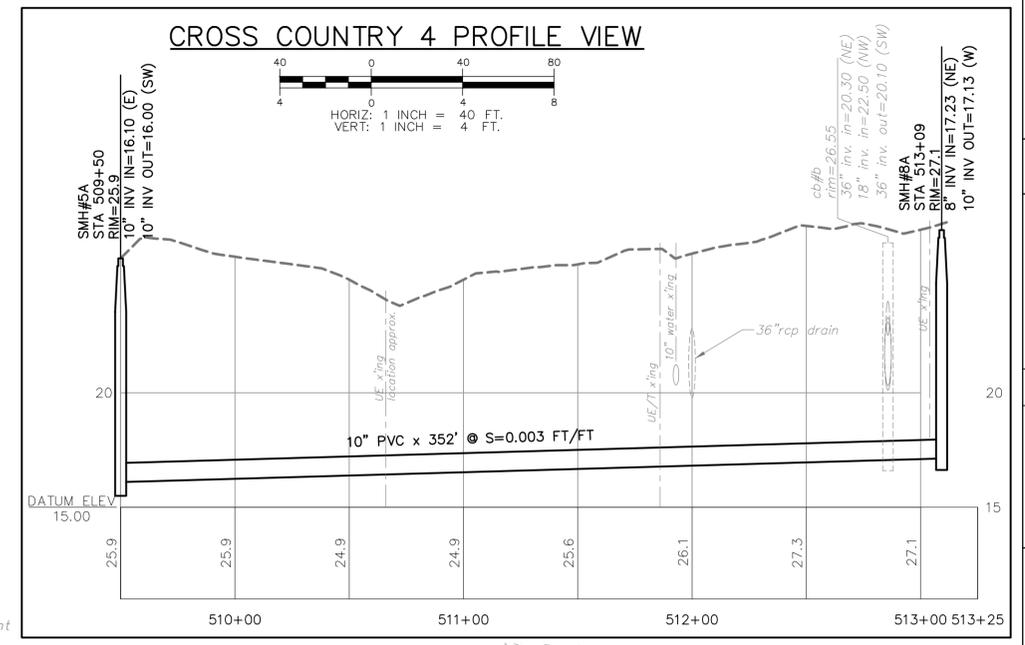
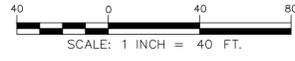
Town Clerk, Eliot, Maine

(TOWN SEAL)

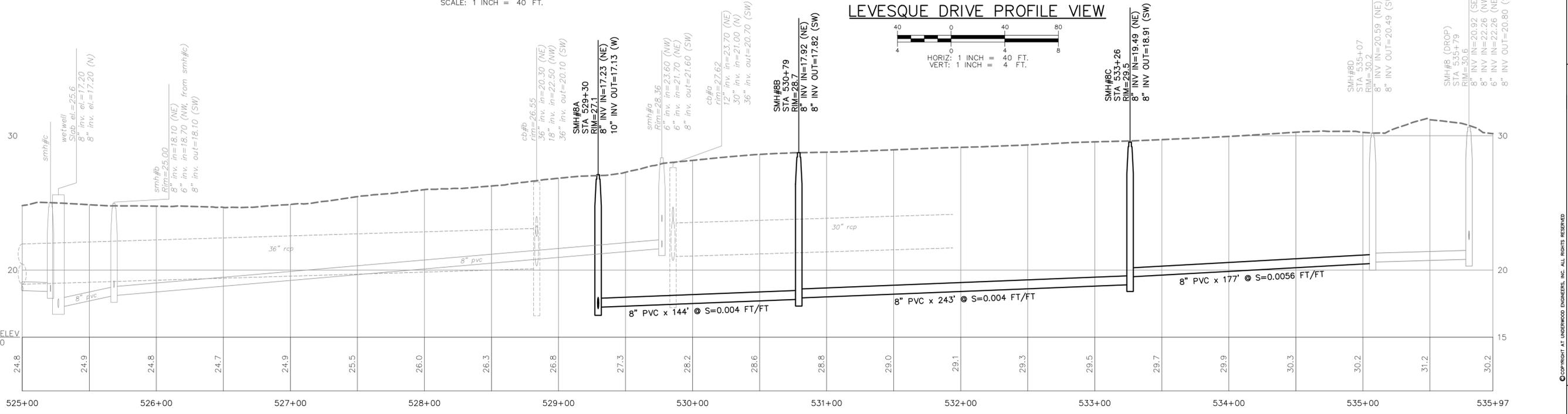
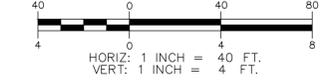
(TOWN SEAL)



CROSS COUNTRY 4 & LEVESQUE DR. PLAN VIEW

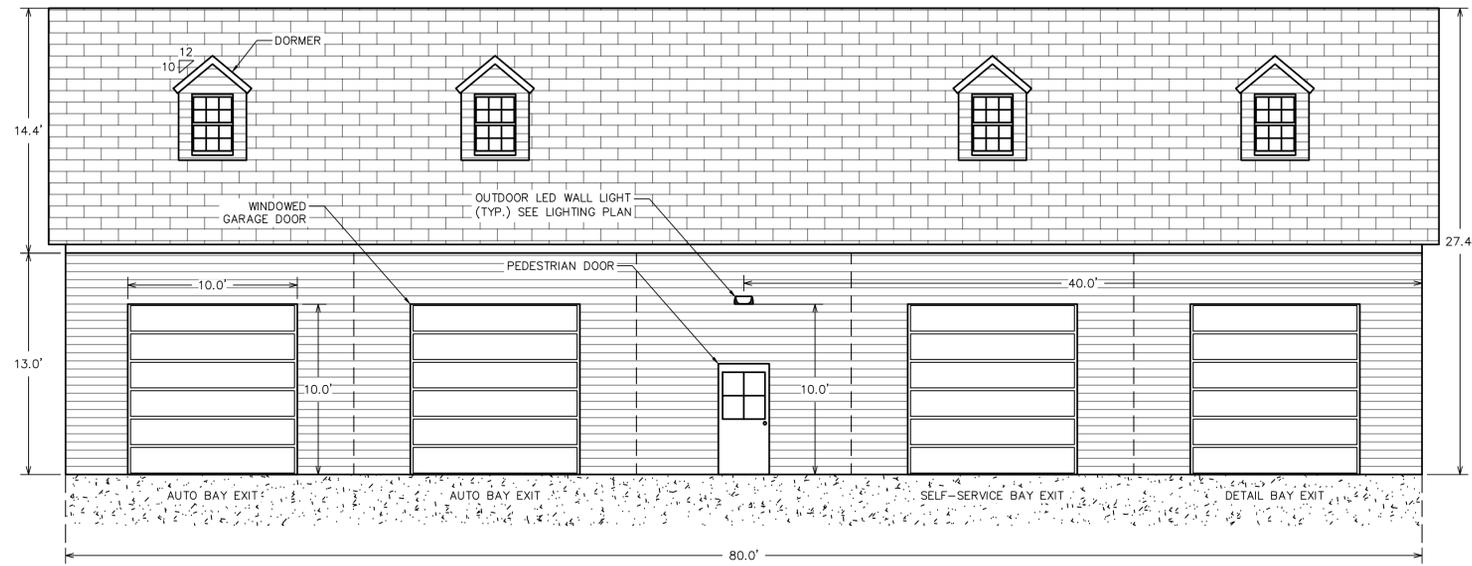


LEVESQUE DRIVE PROFILE VIEW

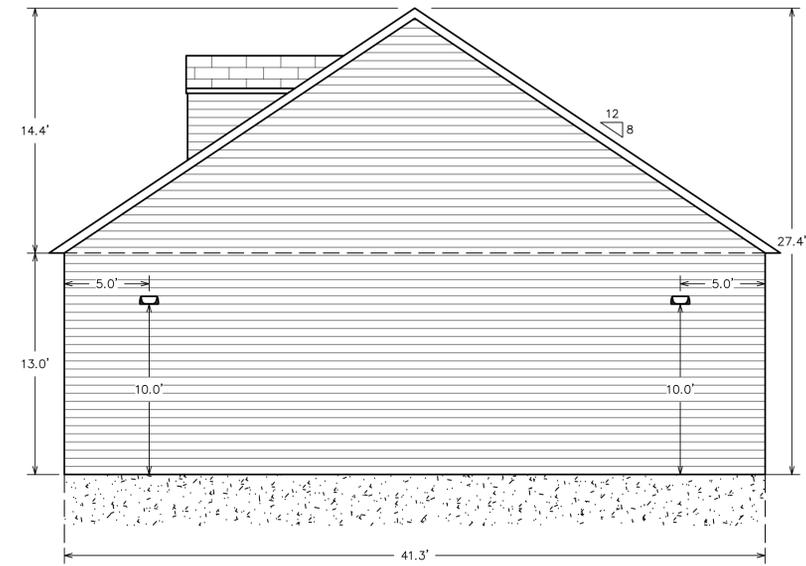


Drawn/Chk. RMG Designed PPM Checked Approved Date: 3/13/23 Book No. 2552 Project No. 19522_P_Shibi.2 Scale		NO. REVISIONS APPD	ISSUE FOR APPROVAL Date By CONSTRUCTION Date By RECORD DRAWING Date By
90% DESIGN DWGS MARCH 2023 NOT FOR CONSTRUCTION			
UNDERWOOD engineers		25 Vaughan Mall, Portsmouth, N.H. 03801 Tel. 603-436-6192 Fax. 603-431-4733	
PLAN & PROFILE CROSS COUNTRY 4 & LEVESQUE DR. RTE 236 TIF AREA (CONTRACT#2) SEWER & WATER EXTENSION ELIOT, MAINE		DWG NO Pg	SHEET 16 OF 22

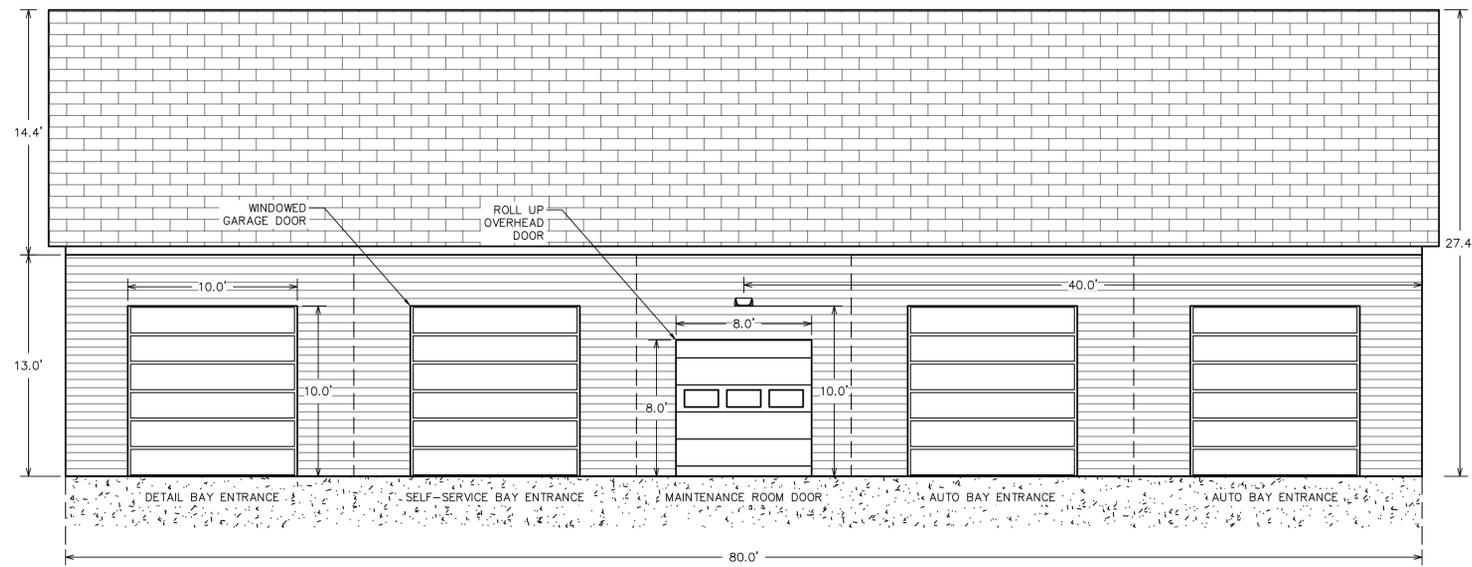
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FRONT VIEW



SIDE VIEW

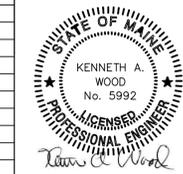


REAR VIEW



NO.	DESCRIPTION	DATE

TAX MAP 029, LOT 26



BUILDING ELEVATION PLAN
 ELIOT COMMONS CAR WASH
 17 LEVESQUE DRIVE, ELIOT, ME 03903

FOR: SHAWN MOORE
 28 SCHOONER RD
 SCARBOROUGH, ME 04074

ATTAR ENGINEERING, INC.
 CIVIL ♦ STRUCTURAL ♦ MARINE ♦ SURVEYING
 1284 STATE ROAD - ELIOT, MAINE 03903
 PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 20'
 DATE: 8/30/2023

APPROVED BY: _____
 DRAWN BY: WRP
 REVISION DATE: - : -

JOB NO: C381-22 FILE: ELIOT COMMONS CAR WASH.DWG SHEET: 1

From: [Planner](#)
To: [Kim Tackett](#)
Subject: FW: Car Wash
Date: Wednesday, August 30, 2023 12:59:06 PM

Jeff Brubaker, AICP
(207) 439-1813 x112

From: Michael Rogers <mrogerskwd@gmail.com>
Sent: Wednesday, August 30, 2023 11:01 AM
To: Planner <jbrubaker@eliotme.org>
Subject: Re: Car Wash

You're very welcome Jeff!
Mike

Michael S. Rogers, Superintendent
Kittery Water District
17 State Road
Kittery, ME 03904
TEL 207-439-1128
FAX 207-439-8549
CELL 207-451-8316
Email mrogerskwd@gmail.com
(please note, the mikerkwd@comcast.net email address is no longer in use)

On Wed, Aug 30, 2023 at 10:52 AM Planner <jbrubaker@eliotme.org> wrote:

Thank you Mike!

Jeff Brubaker, AICP
(207) 439-1813 x112

From: Michael Rogers <mrogerskwd@gmail.com>
Sent: Tuesday, August 29, 2023 5:20 PM
To: Planner <jbrubaker@eliotme.org>
Subject: Re: Car Wash

Hi Jeff,

I have no issues whatsoever with the proposed car wash at Eliot Commons! I appreciate you checking in.

Thank you.

Mike

Michael S. Rogers, Superintendent

Kittery Water District

17 State Road

Kittery, ME 03904

TEL 207-439-1128

FAX 207-439-8549

CELL 207-451-8316

Email mrogerskwd@gmail.com

(please note, the mikerkwd@comcast.net email address is no longer in use)

On Tue, Aug 29, 2023 at 2:58 PM Planner <jbrubaker@eliotme.org> wrote:

Mike,

Our Planning Board is reviewing a car wash proposed in Eliot Commons. Are there any special considerations or issues for a car wash to obtain water service from KWD? The applicant has estimated that the anticipated average daily use will be 2,700 gpd with a potential peak use of 11,000 gpd.

Thanks for any input you could provide.

Jeff

Jeff Brubaker, AICP

Town Planner

Town of Eliot

(207) 439-1813 x112

Office Hours: Mon-Thurs, 7:00am-5:00pm by appointment

Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business

are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

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TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Kenneth A. Wood, PE, Attar Engineering, Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Date: August 30, 2023 (report date)
 September 5, 2023 (meeting date)
 Re: PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **sketch plan**

Application Details/Checklist Documentation	
Address	708 River Rd.
Map/Lot	50/29
PB Case#	23-07
Zoning District(s)	Suburban
Shoreland Zoning District(s)	None
Property Owner(s)	Alan and Frances Newson
Applicant Name(s)	Alan and Frances Newson; Agent: Attar Engineering, Inc.
Proposed Project	4-lot conventional residential subdivision
Sketch Plan	
✓ Application Received by Staff	March 16, 2023
Application Sent to Staff Reviewers	Not yet sent
✓ Application Reviewed By PB	May 16 and September 5 (scheduled), 2023
Site Walk	
Site Walk Publication	
Sketch Plan Approval	
Preliminary Plan	
Application Received by Staff	
Fee Paid and Date	
Application Sent to Staff Reviewers	
Notice Mailed to Abutters	
Application Reviewed by PB	
Application Found Complete by PB	
Public Hearing	
Public Hearing Publication	
Preliminary Plan Approval	

Final Plan	
Application Received by Staff	
Fee Paid and Date	
Application Reviewed by PB	
Public Hearing (if any)	
Public Hearing Publication	

Overview

Applicants seek to subdivide the 17.1-acre parcel at the subject address into four (4) residential lots. As noted in the 3/14/23 cover letter, one lot will contain “the existing dwelling and barn, and the remaining three will have proposed single[-]family houses and accompanying driveways and features”. The existing parcel is located on the inside of the curve of River Rd. as it turns eastward to State Rd.

Previously I had summarized this subdivision as involving 6 lots – the 4 residential lots plus an open space and a remainder lot. However, the 5/18 applicant letter clarifies that the preference now from the applicant is not to divide out a separate open space lot (more on that below) and also clarified that what I described as the “remainder lot” was already separately conveyed in 2021 to another property owner, though the Town’s GIS map has not yet been updated.

Affidavit of ownership

Warranty deed from Patsy White to Frances Newson, dated 9/1/22 (in 5/16/23 packet)

Zoning

Suburban; no shoreland zoning

Dimensional requirements

Standard	Planner review
Min. lot size: 2 acres [41-255; 41-218(e); 45-405]	Met. Lot 1 is ~4.8 ac. and Lots 2-4 are ~4.1 ac.
Min. street frontage: 150 ft.	Met. Lot 1: 215 ft. Lots 2-4: 150 ft.
Min. street frontage waiver/modification	N/A
Setbacks: appropriate for location of subdivision and type of development/use contemplated [41-255]. 45-405 setbacks: 30’ front/20’ side/30’ rear	Met. Setback lines and dimensions shown on sketch plan.

Ch. 41, Art. IV – General Requirements

Section	Standard/ summary	Planner review
41-212	Air quality	No comments currently
41-213	Water quality	No comments currently
41-214	Soil quality and erosion-sedimentation control	Soil test pit results in 5/16/23 packet. No other comments currently. Erosion & sedimentation control information expected with preliminary plan.

41-215	Preservation of natural resources and scenic beauty	Lot is largely wooded with forested wetlands delineated on the plan. The 3 new house lots appear to need some tree clearing for the new houses/driveways. However, the lots are larger than the min. lot size, and trees and open space appear to be preserved for most of the rear of the lots, with a designated open space lot shown in the rear.
41-216	Preservation of historical features and traditional land use pattern	No comments currently
41-217	Water supply	No comments currently
41-218	Sewage disposal	New lots will need to be served by septic systems located in appropriate soils. Soils report in 5/16/23 packet shows Class C and D soils with groundwater depth between 10 and 24” for 13 test pits. Test pit locations and delineated wetlands shown on sketch plan. <i>9/5/23 update:</i> 5/18 applicant letter summarizes the test pit results showing all depths to the restrictive layer exceed the State’s Subsurface Wastewater Disposal Rules (10-144 CMR 241)
41-220	Relationship of subdivision to community services	Sketch plan shows 10% open space being provided via open space lot (74,730 sf), per 41-220(c). <i>9/5/23 update:</i> 5/18 applicant letter notes that the sketch plan has been updated to remove the open space lot – that being the preference of the applicant, who is “agreeable to paying on off-set fee if the Board sees fit”. Per 41-220(c), the 10% open space is at the option of the PB – “may require”. There is no in-lieu fee articulated in this section, as there is for parks/rec land in 41-256(c). The PB should therefore determine if you believe a 10% open space requirement is warranted. Another potential option to discuss with the applicant, if the PB believes it is warranted but the applicant prefers to not create an actual open space lot, is a conservation easement. The wetlands on the property present a potential rationale for open space reservation.
41-221	Traffic and streets	No comments currently, as the subdivision does not propose any new streets but rather 3 additional driveways onto River Rd.
41-222	Public health and safety	No comments currently
41-223	Local/state/federal land use policies	No comments currently

Subdivision Design Standards

Section 41-255 – Lots

Subsection (a) states:

The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated and shall conform to the requirements of section 41-218(e).

The proposed lots are larger than the minimum lot size, addressing 41-218(e), which pertains to lots with private septic systems. The lots are narrow and deep, not unlike some other lots in the vicinity. It is possible that this configuration will promote more conserved land than other possible configurations.

Section 41-256 – Reservation of land

The PB may require reservation of land for parks and/or recreational purposes, or may waive the requirement. If the latter, the PB may require a cash payment-in-lieu (PIL). One public park, William Murray-Rowe Park, is within a half-mile of the lot to be subdivided. Currently, the Town is seeking to make improvements to the park. Due to the small size of the subdivision and proximity of Murray-Rowe Park, the PB may wish to consider the payment-in-lieu (PIL) option. A PIL analysis was done by Town staff for 771-787 Main St. – Clover Farm Subdivision (PB22-09) and might serve as a model for this review.

Other notes

- Property is not in a flood zone

Recommendation

Provide review/opinion on the 10% open space requirement [41-220(c)] and parks/rec PIL [41-256].

Approve the sketch plan



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

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

May 18th, 2023
Project No. C368-22

**RE: Sketch Plan Application for Site Plan Amendment
708 River Road (Tax Map 50, Lot 29)**

Dear Mr. Brubaker:

In response to comments raised by the Board at last night's meeting regarding the sketch plan review of this project please consider the following.

- 1) Adequate soils for wastewater disposal – The Sketch Plan application submitted on March 14, 2023 provides Test Pit Logs and a Sketch Plan noting the locations of all test pits. A summary follows;

Lot No.	Test Pit No.	Depth to Restrictive Layer
1	1	18"
1	2	12"
1	6	15"
2	13	20"
2	5	24"
2	9	10"
2	7	22"
2	8	11"
3	3	14"
3	4	10"
3	10	12"
4	11	12"
4	12	18"

The *State of Maine Subsurface Wastewater Disposal Rules (10-144 CMR 241)* requires a minimum depth of 9" to the restrictive layer or bedrock – All test pits exceed this depth. Supporting information is attached.

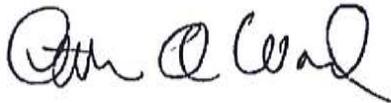
- 2) Open Space – Section 41-220 (c), "Subdivisions" of *Eliot's Zoning Ordinance* requires that "The planning board may require the subdivider to provide up to ten percent of the total area for open space and other public sites. It is desirable that areas reserved for recreation be at least two acres in area and accessible from all lots within the subdivision." The open space shown on the plan generally meets these requirements. However, the parcel is currently owned by Frances Newson, who is also the developer. Fran prefers to have larger lots which are similar to other lots in the vicinity with no open space; she is agreeable to paying an off-set fee if the Board sees fit. I have also attached a plan showing this subdivision for comparison.

- 3) Six Acre Parcel – The parcel's boundaries are shown on the Sketch Plan, it's a 17.1-acre portion of Map 50/Lot 29 which Frances Newson purchased from Allan and Patsy White on September 1, 2022 (YCRD 19104/Pg 932). The 10-acre remainder of the original parcel was previously conveyed to the Cole Family Trust on 2/11/2021 (YCRD Book 18553/Pg 143). It appears that the GIS Map hasn't been updated even though the two owners are noted in the GIS database. Please note the attached GIS Map with the current boundary between the two parcels noted in red.

I believe the original application met the Sketch Plan requirements of Sec 33-105 of the subdivision ordinance. Hopefully this additional information responds to all outstanding items.

We look forward to discussing this project with the Planning Board at their next available meeting. Please contact me for any additional information or clarifications required.

Sincerely;

A handwritten signature in black ink, appearing to read "Ken A. Wood". The signature is written in a cursive, flowing style.

Kenneth A. Wood, P.E.
President

10-144

Chapter 241

STATE OF MAINE

SUBSURFACE WASTEWATER DISPOSAL RULES



**DEPARTMENT OF HEALTH & HUMAN SERVICES
MAINE CENTER FOR DISEASE CONTROL & PREVENTION
DIVISION OF ENVIRONMENTAL HEALTH
11 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

EFFECTIVE DATE: August 3, 2015

Appropriation 014-10A-2426-012-2658

10-144 CMR 241

**SECTION 4
DESIGN CRITERIA**

A. SITE EVALUATION REQUIREMENTS

1. General: The selection of a site for each system is based upon a licensed site evaluator's evaluation of those site characteristics that may affect the location and functioning of the system. Each system (and every part thereof) must be sited and designed so that, with adequate installation and maintenance, it will function in a satisfactory manner and will not create a nuisance or source of foulness, pose a threat to public health or safety or to the environment, or otherwise adversely affect the quality of surface water or groundwater.
2. When a site evaluation is required: The completion of a HHE-200 Form is required in order to obtain a permit for the following:
 - (a) All first-time subsurface wastewater disposal systems;
 - (b) All replacement subsurface wastewater disposal systems;
 - (c) All expanded subsurface wastewater disposal systems;
 - (d) The installation of any new subsurface wastewater disposal system component; or
 - (e) The replacement or modification of any components of an existing subsurface wastewater disposal area. Treatment tanks and other system components located outside the disposal area may be replaced in kind without a site evaluation, upon approval of page one of an HHE-200 (and all other applicable forms) by the LPI.
3. Suitable soil conditions: A disposal field must be located upon soils with the following minimum depths to limiting factors:
 - (a) All systems located outside the shoreland area of major water bodies/courses must be located on soils with a minimum depth to seasonal groundwater table or hydraulically restrictive horizon of 9 inches and a minimum depth to bedrock of 9 inches.
 - (b) All systems located within the shoreland area of major water bodies/courses must be located on soils with a minimum depth to seasonal groundwater table or hydraulically restrictive horizon of 15 inches and a minimum depth to bedrock of 15 inches, except as allowed in Sections 7(B) and 7(C).
4. Setback distances: For disposal system setback distances, see Sections 7 and 8, for first-time and replacement systems.
5. Soil profile and condition: The soil profile and condition used for the design of a disposal field must be based upon original soils at the site, except when the fill is considered as equivalent to original soils, as provided for in Sections 4(B)(4) and 4(B)(5). The soil profile and condition used for the design of a disposal field must be representative of the most limiting conditions beneath all disposal fields. In addition, the soil conditions beneath the down slope fill material extensions for engineered disposal areas must be evaluated and reported.
6. Location of the system: A system must be located entirely on property owned or controlled by the owner of the system.
 - (a) Private property: The owner of a system may locate the system or components partially or completely on other private property, provided the property owners execute an easement in perpetuity for the construction, operation, replacement, and maintenance of the system, giving the system's owner authorization to cross any land or right-of-way between the two parcels. The easement must be filed and cross-referenced in the Registry of Deeds and the municipality's office prior to issuance of a disposal system permit. The easement must provide sufficient buffer around the disposal field and fill material extensions for future replacement and maintenance of the system.

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Dept. Health & Human Services
 Division of Environmental Health
 (207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation
Eliot

Street, Road, Subdivision
708 River Road

Owner's Name
Alan Newson

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole one Test Pit Boring
3 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	
10	fine sandy loam	friable	yellowish brown	yes
20			light yellowish brown	
30			olive brown	no
40		firm	olive brown	
50				

Soil Classification Profile <u>3</u> Condition <u>C</u>	Slope <u>3-8</u> %	Limiting Factor <u>18</u> "	<input checked="" type="checkbox"/> Ground Water <input type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
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Observation Hole Two Test Pit Boring
1 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	
10	silt loam	friable	yellowish brown	no
20			Lt. Ol. Br.	
30	silty clay loam	firm	olive gray	yes
40				
50				

Soil Classification Profile <u>9</u> Condition <u>D</u>	Slope <u>3-8</u> %	Limiting Factor <u>12</u> "	<input checked="" type="checkbox"/> Ground Water <input type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
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SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole Three Test Pit Boring
1 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	
10	silt loam	friable	Yl. Br.	no
20			Lt. Yl. Br.	
30	stratified fine sand and silt	firm	light olive brown	yes
40				
50			Possible Bedrock	

Soil Classification Profile <u>8</u> Condition <u>D/AI</u>	Slope <u>3-8</u> %	Limiting Factor <u>14</u> "	<input checked="" type="checkbox"/> Ground Water <input type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
--	--------------------	-----------------------------	--

Observation Hole Four Test Pit Boring
2 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	
10	silt loam	friable	Yl. Br.	no
20			Lt. Ol. Br.	
30	silty clay loam	firm	olive	yes
40				
50				

Soil Classification Profile <u>9</u> Condition <u>D</u>	Slope <u>3-8</u> %	Limiting Factor <u>10</u> "	<input checked="" type="checkbox"/> Ground Water <input type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
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Michael Curran

211

7 November 2022

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 HHE-200 Rev. 05/08

Site Evaluator Signature

SE #

Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Dept. Health & Human Services
 Division of Environmental Health
 (207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation
Eliot

Street, Road, Subdivision
708 River Road

Owner's Name
Alan Newson

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole Five Test Pit Boring
3 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0	loamy sand		dark brown	
10		friable	yellowish brown	no
20	fine sand		Lt. Yl. Br.	
30				
40	fine sandy loam	firm	olive brown	yes
50				

Soil Classification Profile <u>3</u>	Slope <u>3-8%</u>	Limiting Factor <u>24</u>	<input checked="" type="checkbox"/> Ground Water Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
Condition <u>C</u>			

Observation Hole Six Test Pit Boring
2 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0	loamy sand		dark brown	
10		friable	yellowish brown	no
20	silt loam		Lt. Yl. Br. Lt. Ol. Br.	
30				
40	silty clay loam	firm	olive brown	yes
50				

Soil Classification Profile <u>7</u>	Slope <u>3-8%</u>	Limiting Factor <u>15</u>	<input checked="" type="checkbox"/> Ground Water Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
Condition <u>C</u>			

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole Seven Test Pit Boring
3 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	
10	loamy sand	friable	yellowish brown	no
20			Lt. Yl. Br.	
30	silty clay loam	firm	olive gray	yes
40				
50				

Soil Classification Profile <u>7</u>	Slope <u>3-8%</u>	Limiting Factor <u>22</u>	<input checked="" type="checkbox"/> Ground Water Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
Condition <u>C</u>			

Observation Hole Eight Test Pit Boring
2 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0	fine sandy loam		dark brown	no
10		friable	Yl. Br. Lt. Yl. Br.	
20	silt loam		Ol. Br.	
30				yes
40	silty clay loam	firm	olive gray	
50				

Soil Classification Profile <u>7</u>	Slope <u>3-8%</u>	Limiting Factor <u>11</u>	<input checked="" type="checkbox"/> Ground Water Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
Condition <u>D</u>			

Michael Curran

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7 November 2022

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 HHE-200 Rev. 05/08

Site Evaluator Signature

SE #

Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Dept. Health & Human Services
 Division of Environmental Health
 (207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation
Eliot

Street, Road, Subdivision
708 River Road

Owner's Name
Alan Newson

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole Nine Test Pit Boring
3 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	no
0-10	silt loam	friable	Yl.Br.	
10-20			Lt.Yl.Br.	
20-30			Lt.Ol.Br.	
30-40	silty clay loam	firm	olive gray	yes
40-50				

Soil Classification	Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water
<u>9</u> <u>D</u>	<u>3-8</u> %	<u>10</u>	<input type="checkbox"/> Restrictive Layer
Profile Condition		"	<input type="checkbox"/> Bedrock
			<input type="checkbox"/> Pit Depth

Observation Hole Ten Test Pit Boring
4 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	no
0-10	silt loam	friable	Yl.Br.	
10-20			Lt.Yl.Br.	
20-30			Lt.Ol.Br.	
30-40	silty clay loam	firm	olive gray	yes
40-50				

Soil Classification	Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water
<u>9</u> <u>D</u>	<u>3-8</u> %	<u>12</u>	<input type="checkbox"/> Restrictive Layer
Profile Condition		"	<input type="checkbox"/> Bedrock
			<input type="checkbox"/> Pit Depth

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole Eleven Test Pit Boring
1 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0	very fine sandy loam		dark brown	no
0-10			Yl.Br.	
10-20	silt loam	friable	light yellowish brown	
20-30				
30-40	fine sandy loam	firm	olive brown	yes
40-50				

Soil Classification	Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water
<u>8</u> <u>D</u>	<u>3-8</u> %	<u>12</u>	<input type="checkbox"/> Restrictive Layer
Profile Condition		"	<input type="checkbox"/> Bedrock
			<input type="checkbox"/> Pit Depth

Observation Hole Twelve Test Pit Boring
1 " Depth of Organic Horizon Above Mineral Soil

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			dark brown	
0-10	very fine sandy loam	friable	yellowish brown	no
10-20			Lt.Yl.Br.	
20-30				
30-40	fine sandy loam	firm	olive brown	yes
40-50				

Soil Classification	Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water
<u>3</u> <u>C</u>	<u>3-8</u> %	<u>18</u>	<input type="checkbox"/> Restrictive Layer
Profile Condition		"	<input type="checkbox"/> Bedrock
			<input type="checkbox"/> Pit Depth

Michael Curran

211

7 November 2022

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Site Evaluator Signature

SE #

Date

and 31 January 2023

HHE-200 Rev. 05/08

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Dept. Health & Human Services
 Division of Environmental Health
 (207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation
 Eliot

Street, Road, Subdivision
 708 River Road

Owner's Name
 Alan Newson

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole Thirteen Test Pit Boring
 1 " Depth of Organic Horizon Above Mineral Soil

Texture	Consistency	Color	Mottling
0	fine	dark	
5	sandy	brown	
10	loam		
15		yellowish	no
20	loamy	brown	
25	sand	dark	
30		yellowish	
35		brown	
40	silt	light	yes
45	loam	gray	
50	firm	olive	
55	loam	gray	

Soil Classification	Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water
7	3-8 %	20	<input type="checkbox"/> Restrictive Layer
C			<input type="checkbox"/> Bedrock
Profile Condition			<input type="checkbox"/> Pit Depth

Observation Hole _____ Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

Texture	Consistency	Color	Mottling
0			
10			
20			
30			
40			
50			

Soil Classification	Slope	Limiting Factor	<input type="checkbox"/> Ground Water
	%		<input type="checkbox"/> Restrictive Layer
			<input type="checkbox"/> Bedrock
Profile Condition			<input type="checkbox"/> Pit Depth

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole _____ Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

Texture	Consistency	Color	Mottling
0			
10			
20			
30			
40			
50			

Soil Classification	Slope	Limiting Factor	<input type="checkbox"/> Ground Water
	%		<input type="checkbox"/> Restrictive Layer
			<input type="checkbox"/> Bedrock
Profile Condition			<input type="checkbox"/> Pit Depth

Observation Hole _____ Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

Texture	Consistency	Color	Mottling
0			
10			
20			
30			
40			
50			

Soil Classification	Slope	Limiting Factor	<input type="checkbox"/> Ground Water
	%		<input type="checkbox"/> Restrictive Layer
			<input type="checkbox"/> Bedrock
Profile Condition			<input type="checkbox"/> Pit Depth

Michael Crows

211

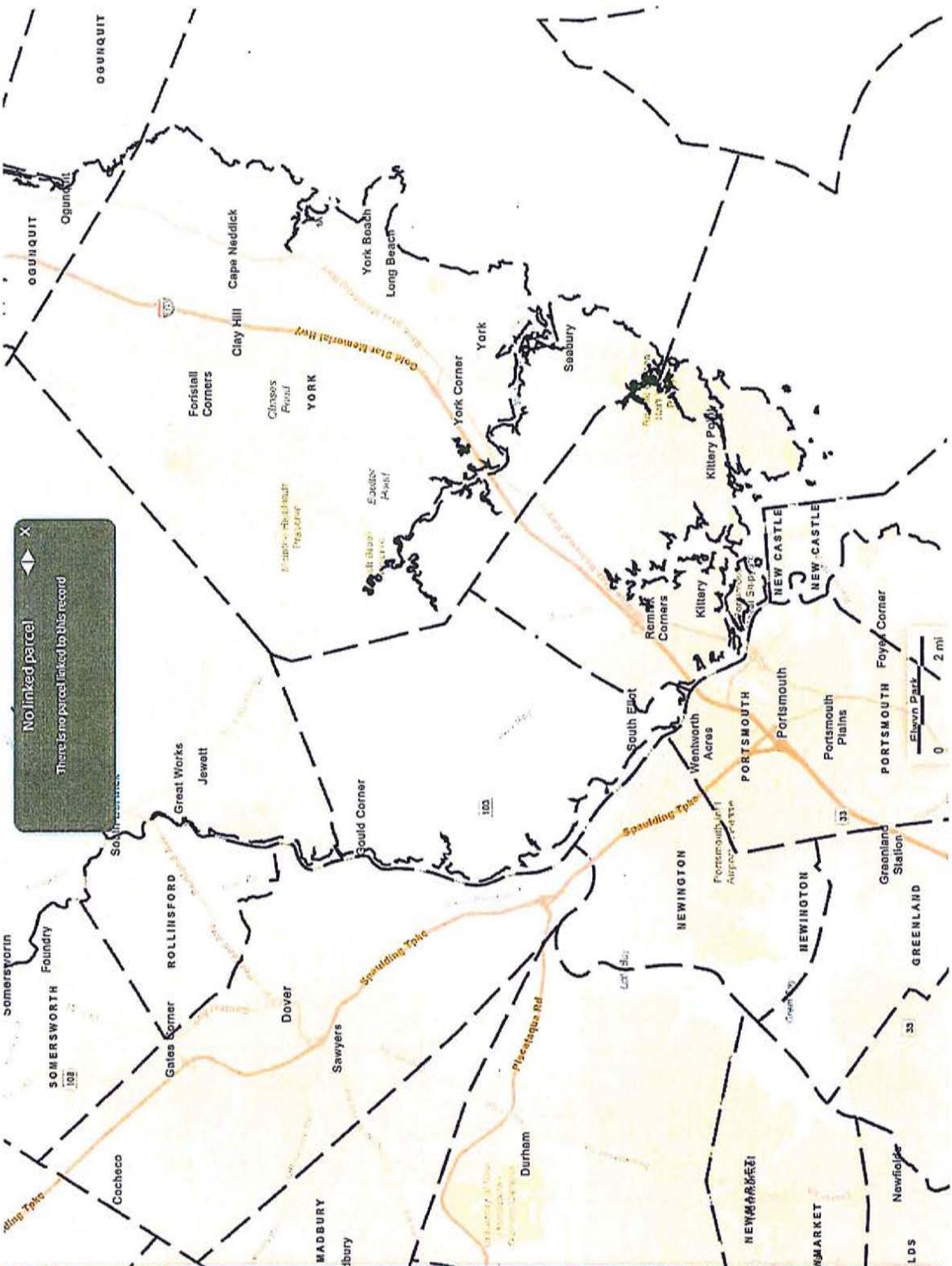
31 January 2023

Page 4 of 4
 HHE-200 Rev. 05/08

Site Evaluator Signature

SE #

Date



Town of Eliot, ME
 COLE FAMILY 2020 T

Parcel #: 050-031-000



Documents

- Vision Online Property Records
- Vision Property Card
- CAM Property Card
- Building Photo

Assessment Sales Permits Building Data

ID : 576
 Property Address : 638 RIVER RD
 Property Street : RIVER RD
 Map Sheet : 50

Owner Name : COLE FAMILY 2020 TRUST
 Co-Owner Name : LEON A COLE, TTEE
 Owner Address : 638 RIVER ROAD
 Owner Address 2 :

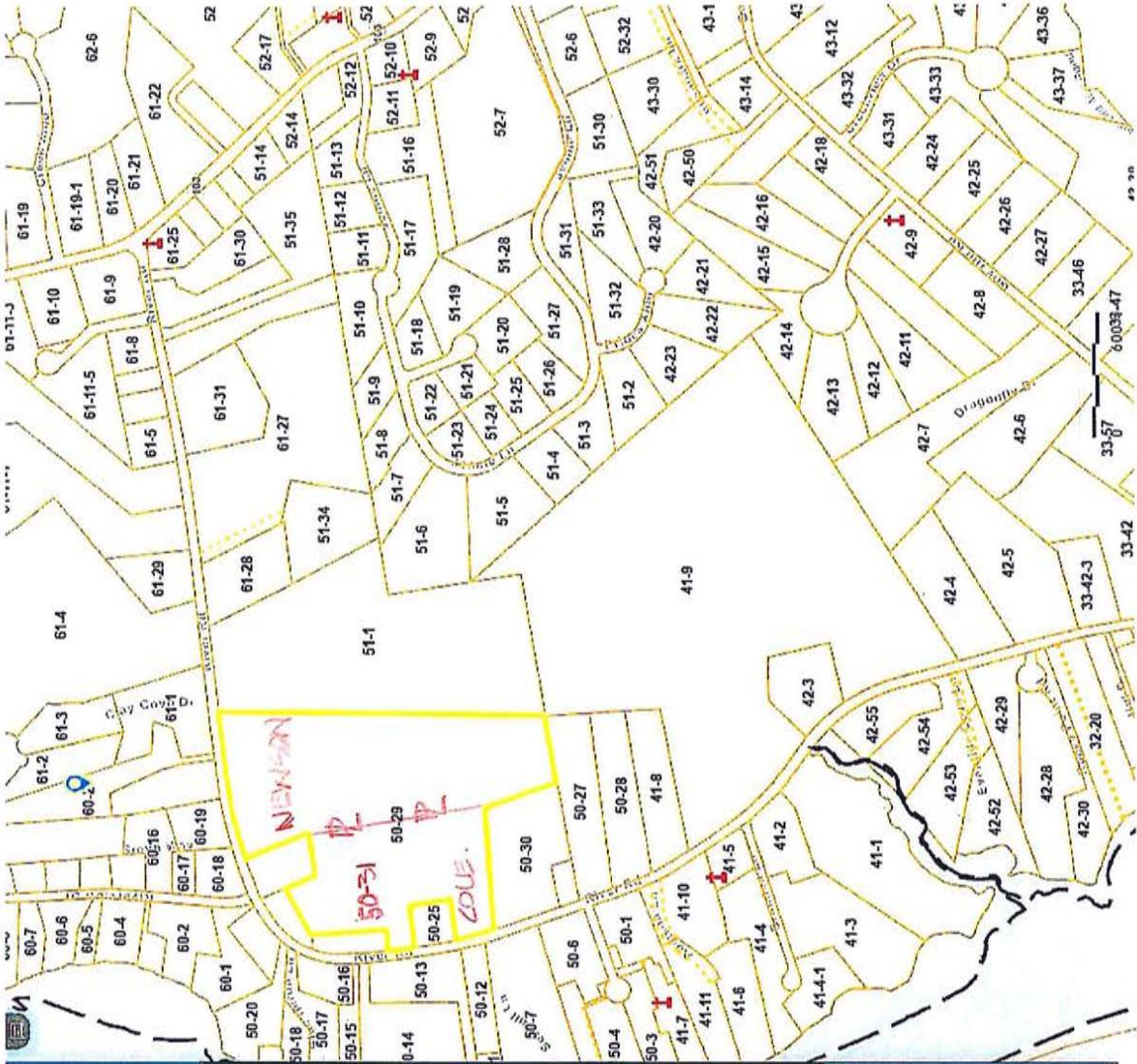
Owner City : ELIOT
 Owner State : ME
 Owner Zip : 03903

Parcel Number : 050-031-000
 GIS Full Number : 050-031-000
 Cam Full Number : 050-031-000

PID : 104782
 AV PID : 104782
 Nap : 50
 Block : 31
 Lot :

Unit :

GIS ID :
 Location : 638 RIVER RD
 Street Name : RIVER RD

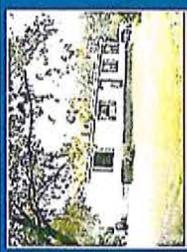




Town of Eliot, ME

search results

Parcel #: 050-029-000



Documents

- [Vision Online Property Records](#)
- [Vision Property Card](#)
- [CAI Property Card](#)

Assessment

ID : 1248

PropertyAddress : 708 RIVER RD

PropertyStreet : RIVER RD

MapSheet : 50

OwnerName : WHITE, ALLAN R

CoOwnerName : WHITE, PATSY

OwnerAddress : 708 RIVER RD

OwnerAddress2 :

OwnerCity : ELIOT

OwnerState : ME

OwnerZip : 03903

ParcelNumber : 050-029-000

GisFullNumber : 050-029-000

CamaFullNumber : 050-029-000

PID : 1664

AV_PID : 1664

Map : 50

Block : 29

Lot :

Unit :

Gis_ID : 50-29

Location : 708 RIVER RD

Street_Name : RIVER RD

Owner_Full_Name : WHITE, ALLAN R

Sales

Permits

BuildingData

CURRENT OWNER		TOPO		UTILITIES		STRT/ROAD		LOCATION		CURRENT ASSESSMENT			
COLE FAMILY 2020 TRUST		1 Level	5 Well	1 Paved	2 Suburban					Code	Assessed	Assessed	4509
LEON A COLE, TTEE		4 Rolling	6 Septic							1010	330,300	330,300	
638 RIVER ROAD		SUPPLEMENTAL DATA								1010	175,800	175,800	
ELIOT ME 03903		Alt Prcl ID 0505031	PRECINC HEART TIF										ELIOT, ME
		GROSS EFFEC											VISION
		PHOTO											
		GIS ID	Assoc Pld#										

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	QU	VI	SALE PRICE	VC
COLE FAMILY 2020 TRUST		18558 143	02-11-2021	U	V	70,000	1

EXEMPTIONS		OTHER ASSESSMENTS	
Year	Code	Description	Amount
2022	H1	HOMESTEAD EXEMPTION	25000.00
Total			25,000.00

ASSESSING NEIGHBORHOOD	
Nbhd	0001
Nbhd Name	B
Tracing	
Batch	

sale date incorrect frm mp; chng to 2021
 REV: LOWER DUTO 2.37 WETLANDS, POTENTIAL FOR 2ND LOT LOW DUTO SLOPE WETLANDS, AND SHAPE OF PARCEL W/AWKWARD FRONTAGE OTHERWISE, GOOD SITUS FOR HOUSE ALONG PUBLIC ROAD. VALUE SIM TO 708,

NOTES
 POSS UNDERGROUND POWER
 INHOME SALON IN FRONT LEFT
 XTRA SINK IN BATH AND SALON

BUILDING PERMIT RECORD		LAND LINE VALUATION SECTION	
Permit Id	Issue Date	Type	Description
		Amount	Insp Date
			% Comp
		Date Comp	Comments

VISIT / CHANGE HISTORY		LAND LINE VALUATION SECTION	
Date	Id	Type	Is
			Cd
			Purpost/Result

BUILDING PERMIT RECORD		LAND LINE VALUATION SECTION	
Permit Id	Issue Date	Type	Description
		Amount	Insp Date
			% Comp
		Date Comp	Comments

ASSESSING NEIGHBORHOOD		LAND LINE VALUATION SECTION	
Year	Code	Description	Amount
2022	H1	HOMESTEAD EXEMPTION	25000.00
Total			25,000.00

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Year	Code	Description	Amount
2022	H1	HOMESTEAD EXEMPTION	25000.00
Total			25,000.00

ASSESSING NEIGHBORHOOD		LAND LINE VALUATION SECTION	
------------------------	--	-----------------------------	--

CURRENT OWNER		TOPO		UTILITIES		STRT/ROAD		LOCATION		CURRENT ASSESSMENT	
WHITE, ALLAN R		1 Level		5 Well		1 Paved		2 Suburban		Assessed	
WHITE, PATSY		4 Rolling		6 Septic						68,900	
708 RIVER RD										191,900	
										22,400	
ELIOT ME 03903		Alt Prcd ID		PRECINC						283,200	
		STYLE		HEART						283,200	
		GROSS		TIF						283,200	
		EFFEC								283,200	
		PHOTO								283,200	
		GIS ID 50-29		Assoc Pld#						283,200	

RECORD OF OWNERSHIP										
WHITE, ALLAN R		BK-VOL/PAGE	4868 0171	SALE DATE	10-07-1988	Q/U	V	SALE PRICE	0	VC

EXEMPTIONS										
Year	Code	Description	Amount	Code	Description	Number	Amount	Comm Int		
1998	H1	HOMESTEAD EXEMPTION	25000.00							
2012	V2R	WW2/KOREA/VN/PG RESIDEN	6000.00							
Total		31,000.00								

ASSESSING NEIGHBORHOOD										
Nbhd	Nbhd Name		B		Tracing		Batch			
0001										

NOTES									
TAN									
APPRaised VALUE SUMMARY									
Appraised Bldg. Value (Card) 68,900									
Appraised Xf (B) Value (Bldg) 0									
Appraised Ob (B) Value (Bldg) 22,400									
Appraised Land Value (Bldg) 191,900									
Special Land Value 0									
Total Appraised Parcel Value 283,200									
Valuation Method C									

BUILDING PERMIT RECORD										
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments		
00-69	05-24-2000	NC	24X24 GARAG	9,300	06-01-2001	100	06-01-2001			

LAND LINE VALUATION SECTION														
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Location Adjustment	Adj Unit P	Land Value
1	1030	Mobile Horn MD	SD		43,560 SF	2.45	1.25000	7	1.00		1,000	1.0000	3.06	133,400
1	1030	Mobile Horn MD	SD		16,060 AC	8,000	1.00000	0	0.50		1,000	1.0000	3,640	58,500
Total Card Land Units 43,560 SF										Parcel Total Land Area 17.0600		Total Land Value		191,900

VISION

Sec. 41-220. - Relationship of subdivision to community services.

- (a) *List of items borne by subdivider or town.* The planning board shall review any proposed subdivision with respect to its effect upon existing services and facilities. The final plan shall include a list of the construction items that the subdivider shall complete prior to or during the sale of lots; and the list of construction and maintenance items that must be borne by the town, which shall include, but not be limited to:
- (1) Schools, including busing.
 - (2) Road maintenance and snow removal.
 - (3) Police and fire protection.
 - (4) Recreation facilities.
 - (5) Solid waste disposal.
 - (6) Runoff water disposal drainageways and/or storm sewer enlargement with sediment traps.
- The planning board shall further require the subdivider to provide accurate cost estimates to the town for the above and other services, and the expected tax revenue of the subdivision.
- (b) *Utilities.* The planning board shall approve the size, type and location of public utilities, such as streetlights, electricity, telephones, cable television, gas lines, fire hydrants, etc. Except as the planning board permits otherwise, the subdivider shall install utilities underground and shall complete their installation prior to paving when they are located below proposed streets. Underground utilities are not required for mobile home park subdivisions.
- (c) *Open space.* The planning board may require the subdivider to provide up to ten percent of the total area for open space and other public sites. It is desirable that areas reserved for recreation be at least two acres in size and easily accessible from all lots within the subdivision. Mobile home park subdivision open space requirements are covered in division 2 of article V of this chapter.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 809))

Sec. 41-221. - Traffic and streets.

- (a) *Traffic.* The proposed subdivision shall provide safe access for vehicles and pedestrians to and from public and private roads.
- (1) The street giving access to the subdivision, as well as off-site, neighboring streets and intersections which reasonably can be expected to carry traffic to and from the subdivision shall have adequate traffic-carrying capacity according to the traffic impact analysis submitted by the applicant, or shall be suitably improved, so the proposed subdivision does not result in unreasonable congestion or unsafe traffic conditions, according to the following criteria:

1 **ITEM 1 - ROLL CALL**

2
3 Present: Carmela Braun – Chair, Jeff Leathe – Vice Chair, Christine Bennett – Secretary,
4 Jim Latter, Suzanne O’Connor, and Paul Shiner.

5
6 Also Present: Jeff Brubaker, Town Planner.

7
8 Voting members: Carmela Braun, Jeff Leathe, Christine Bennett, Jim Latter, and Suzanne
9 O’Connor.

10
11 **ITEM 2 – PLEDGE OF ALLEGIANCE**

12
13 **ITEM 3 – MOMENT OF SILENCE**

14
15 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

16
17 There was no public input.

18
19 **ITEM 5 – REVIEW AND APPROVE MINUTES**

20
21 Mr. Latter moved, second by Ms. Bennett, to approve the minutes of October 4, 2022, as
22 amended.

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

26
27 Ms. Bennett moved, second by Ms. O’Connor, to approve the minutes of November 15,
28 2022, as amended.

29 **VOTE**
30 **5-0**
31 **Motion approved**

32
33 **ITEM 6 – NOTICE OF DECISION**

34
35 There were no Notices of Decision.

36
37 **ITEM 7 – PUBLIC HEARING**

38
39 **A. 18 Cole Street (Map 1/Lot143) PB23-06: Shoreland Zoning Permit Application**
40 **Seasonal Float Expansion. Applicants/owners: Kenneth & Jacqueline Scarpetti.**

41
42 **Received: March 22, 2023**
43 **1st Heard: May 16, 2023 (sketch plan review/completeness)**
44 **2nd Heard: June 6, 2023 (site review/approval)**
45 **Public Hearing: June 6, 2023**
46 **Site Walk: N/A**

47 **Approval: June 6, 2023**

48
49 Ms. (Kuerstin) Fordham, Construction Administrator, was present for this application.

50
51 **6:27 PM Public Hearing opened.**

52
53 Mr. Brubaker said that there's not too much new information. This is a Shoreland Zoning
54 Application for a permanent residential float, an extension onto the existing pier system
55 and float to allow the vessel to be moored better than currently. The NRPA and ACOE
56 permits have been submitted, as previously discussed with the PB and applicant. My pier
57 standards review is in the staff report and all applicable standards appear to be met. One
58 question was just to confirm the reflectors will be placed on the floats and the pier system
59 in accordance with our code.

60
61 Ms. Fordham said that we are going to install reflectors on the existing pier, on the
62 existing float, and on the new float.

63
64 Ms. Braun asked that that be added to the plan.

65
66 Ms. Fordham said that I will absolutely add them to the plan. Mr. Scarpetti would like to
67 expand his system so he can moor his boat with the current to stop the damage to the
68 existing float and to his vessel.

69
70 There was no public comment.

71
72 **6:29 PM Public Hearing closed.**

73
74 **Mr. Latter moved, second by Mr. Leathe, that the Planning Board approve the**
75 **Shoreland Zoning Permit Application for PB23-06 for a Seasonal Float Expansion**
76 **at 18 Cole Street, with the following findings of fact (in addition to other applicable**
77 **findings of fact to be included in the Notice of Decision):**

- 78 **1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and**
79 **Shoreland Zoning Permit Application have been or will be met.**
80 **2. Based on the information provided by the applicant and in accordance with §44-**
81 **44, the Planning Board finds that the proposed use:**
82 **(1) Will maintain safe and healthful conditions;**
83 **(2) Will not result in water pollution, erosion, or sedimentation to surface**
84 **waters;**
85 **(3) Will adequately provide for the disposal of all wastewater;**
86 **(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird**
87 **or other wildlife habitat;**
88 **(5) Will conserve shore cover and visual, as well as actual, points of access to**
89 **inland and coastal waters;**
90 **(6) Will protect archaeological and historic resources as designated in the**
91 **comprehensive plan;**
92 **(7) Will avoid problems associated with floodplain development and use; and**

139 **3rd Heard: June 6, 2023 (continued review/approval)**
140 **Public Hearing: June 6, 2023**
141 **Site Walk: May 13, 2023**
142 **Approval: June 6, 2023**
143

144 Ms. (Jessica) Labbe, applicant, was present of this application.
145

146 **6:32 PM Public Hearing opened.**
147

148 Mr. Brubaker said that my staff report is pretty brief. It summarizes abutter comments
149 from the May 16 meeting. You have previously received the SMPDC staff report. I
150 haven't been involved with the start of this application so there is no Planner
151 recommendation but there are motion templates in the staff report. I think they did one
152 thing that I can think of to suggest for discussion between the PB and the applicant would
153 be that, in talking with our CEO today, I know there's been some discussion about
154 bathrooms, and I think she believes bathroom facilities will be needed. If the applicant
155 could add that to the discussions, that would be helpful. If the PB is interested, I have a
156 suggestion language about a potential condition that you can use.
157

158 Ms. Labbe approached the PB with the corrected maps, showing them the placement of
159 the north arrow, as requested by the PB. Additionally, I do not have a letter but I have a
160 voicemail from the State Environmental Health Department (DEH) approving our
161 composting toilet bags the way we are disposing of them currently. He's going to give us
162 a letter by the end of the week. He has been on vacation the last two weeks and was
163 scrambling to get this done but he did leave me a voicemail, if you would like to hear it.
164

165 The PB agreed they wanted to hear the voicemail.
166

167 Ms. Labbe said that the voicemail is from Brett Lawson (DEH). The voicemail confirmed
168 DEH approval of her composting process. He is going to email us by the end of the week
169 for DHHS and the Town.
170

171 Ms. Braun asked if Ms. Labbe thought DHHS would accept that.
172

173 Ms. Labbe said yes. They were actually waiting for his recommendation. I spoke with
174 them last week at length. I don't have anything further except what we've talked about.
175

176 Ms. Braun clarified that this is a public hearing and the applicant should give a brief
177 summary so that the public and anyone who would want to comment has an opportunity
178 to do so.
179

180 Ms. Labbe said that we are just looking to add a use to Raitt Homestead Farm Museum;
181 a day nursery on the property. We rent a little over 10 acres from Lisa and Tom Raitt in
182 the back area of their property where the forest is and that is the area that we use.
183

184 Ms. Braun asked if anyone from the public wished to speak to this application.

185
186 Ms. (Valerie) Romoser, Worster Road, said that your (applicant) website indicates that
187 you are purchasing 19 acres in Eliot. I am wondering where that is.
188
189 Ms. Braun said that that is not relevant to this discussion. You can have that discussion
190 with her after.
191
192 Ms. Romoser said that, if that's the case, then all this time spent on this application might
193 not be necessary or does it have to be repeated is the question.
194
195 Ms. Braun said that that all depends on what the outcome is going to be. We are
196 concentrating on what is presented to us.
197
198 Mr. (Davis) Whitesell, Worster Road, said that I have a couple questions to try to
199 understand the scope of the operation plan and the implications for its approval by the
200 PB. I did review the application. I know it's 10 acres back in the stand and would be
201 operations and the approval of the operations restricted to that area and is there any
202 restriction on the size of number of enrollees that can be there. The reason I ask that, I
203 think it's an interesting idea and I have no issue with an outdoor daycare center of a
204 reasonable size, but the worst-case scenario for me would be that it becomes a hot ticket
205 and Bright Horizons is running an operation with 2,500 enrollees across the street from
206 me in two years. That and a concern for noise and will there be permitted loud speakers
207 or mega-phone usage. That would be kind of a nuisance during the day. Then, I guess the
208 last one is that, if this is approved for the duration of the lease ending June 2024 or. Once
209 this application is approved as a daycare center, can it be used as a daycare center by
210 anybody under any circumstances. I'm just trying to understand that and my concerns for
211 the scope of operations and will there be any limit placed on the approval.
212
213 Ms. Braun said that, if this operation moves out of the farm, anyone who wanted to go in
214 a do a similar project, they would have to come to the PB. This is not a blanket approval
215 for that section of property. It's just for this operation.
216
217 Mr. Whitesell asked if there was any limitation on the number of students. I understand
218 that, if it was in a building, the building would have an occupancy limit but, obviously, a
219 10-acre forest doesn't, at least not to my knowledge. Is there proposed to be some limit or
220 will one be imposed.
221
222 Ms. Braun said that I believe that the State would regulate the number of children
223 allowed. Ms. Labbe is in the process of getting licensed by the State of Maine so they
224 would control the number of enrollees in her sessions.
225
226 Mr. Whitesell asked if Ms. Labbe has any idea of what the State will permit or what she
227 is seeking.
228
229 Ms. Labbe said that it sounds like it would be a maximum of 42 students. We asked for
230 24.

231
232 Mr. Whitesell said that that was fine.

233
234 Ms. Labbe said that it's a very small operation.

235
236 Mr. Whitesell said that I assumed as much but I wanted to ask the question.

237
238 Ms. Labbe said that I can assure you that there won't be any megaphones, either.

239
240 **6:47 PM Public Hearing closed.**

241
242 Ms. Bennett said that I would like to hear more from Ms. Labbe just about the toileting, a
243 full explanation to us because I'm not sure I'm completely clear. We did do the site walk
244 and saw the facilities but you referred to composting. If you could just give us an
245 explanation about that.

246
247 Ms. Labbe said that we have portable toilet units and inside the portable toilet units goes
248 a bag. Inside the bag is bio-gel, which is a composting gel that breaks down the matter
249 put into the bag. Bowel movements, urine, toilet paper, anything like that gets broken
250 down inside this bag. You then tie the bag and zip it closed, which then decomposes on
251 its own and approved for disposal just like a diaper. So, it would go in a bag in the
252 dumpster at the end of the day. It breaks down over time and then, when it goes to the
253 landfill, it actually helps decompose everything else quicker because it has the bio-gel in
254 it and it's human compost, essentially. We've done a lot of research on these bags; that
255 I'm kind of a climate change freak so we wanted to make sure we weren't making things
256 worse for the environment in our decision to go this way. In talking to Mr. Lawson, we
257 found out we could also put composting toilets on-site or a pit privy. So, we do have
258 other options providing the State doesn't approve this method but it sounds like they are
259 going to approve this method, currently.

260
261 Ms. Braun said that I would like to hear Mr. Brubaker's language on alternatives that we
262 could probably put in the conditions in case the State doesn't approve this and you are
263 required to build a building rather than have you come back to us. I'm just not sure what
264 the State is going to do, and you admitted that you are the first, so you are a trial case.

265
266 Mr. Brubaker said that this actually provides flexibility for the review. It says: "If
267 required by the Code Enforcement Officer or their State Childcare License, the applicant
268 shall install or place on the property bathroom facilities to be used by the daycare
269 participants or identify or upgrade existing bathroom facilities on the property for the
270 same use. The facility placement, design, and operation shall be reviewed by the Code
271 Enforcement Officer under applicable permitting procedures."

272
273 Ms. Braun said that I think that is a little bit better for all concerned. It gives you options
274 just in case. What does the PB feel about that.

275

276 Mr. Shiner said that using the word ‘bathrooms’ implies a larger facility with a tub but
277 we’re actually just talking about toilet facilities.

278
279 The PB was in agreement with Mr. Shiner’s suggestion to change the wording to toilet
280 facilities.

281
282 Ms. Braun asked if the PB was ready for approval.

283
284 Mr. Latter said I’ve wrestled with this from the very beginning. Ultimately, I believe that
285 a conforming pre-school could be built here under all our current land use ordinances.
286 We’re not trying to decide whether an outdoor nursery is a good idea, we’re just trying to
287 decide if a nursery is a good idea. We defer to the State whether the intriguing plan you
288 have gets approved. All we’re really doing here is approving a daycare center.

289
290 Ms. Braun said that’s right. Are you okay with that.

291
292 Mr. Latter said yes, I am okay with that.

293
294 The other PB members were in agreement.

295
296 Ms. Braun said that, in that case, the Chair will accept a motion but I would like that
297 condition added to the conditions of approval, please.

298
299 **Mr. Latter moved, second by Ms. Bennett, that the Planning Board approve PB23-5,**
300 **Site Review Plan Application and Change of Use to allow operation of an outdoor**
301 **day nursery at 2077 State Road, with the following conditions:**

- 302 1. **The property may be developed and used only in accordance with the plans,**
303 **documents, material submitted, and representations of the applicant made**
304 **to the Planning Board. All elements and features of the use as presented to**
305 **the Planning Board are conditions of approval and no changes in any of**
306 **those elements or features are permitted unless such changes are first**
307 **submitted to and approved by the Eliot Planning Board. Copies of approved**
308 **permits from Maine DEP, Army Corps of Engineers, if applicable, and State**
309 **shall be provided to the CEO before construction on this project may begin.**
- 310 2. **The permit is approved on the basis of information provided by the**
311 **applicant in the record regarding the ownership of the property and**
312 **boundary location. The applicant has the burden of ensuring that they have**
313 **the legal right to use the property and that they are measuring required**
314 **setbacks from the legal boundary lines of the lot. The approval of this**
315 **permit in no way relieves the applicant of this burden. Nor does this permit**
316 **approval constitute a resolution in favor of the applicant of any issues**
317 **regarding the property boundaries, ownership, or similar title issues. The**
318 **permit holder would be well-advised to resolve any such title problems**
319 **before expending money in reliance on this permit.**

366 the PB and applicant would navigate this piece of the legislation as far as what's allowed.
367 We're going to write something for the next PB meeting on June 27th I hope to get in
368 front of the Department of Economic & Community Development (DECD) for some
369 possible feedback. They have seen one or two full ordinance revisions from some other
370 communities so there may be some explanatory language that they've seen that they can
371 recommend. Or possibly Southern Maine Regional and Development (SMPDC) might be
372 able to weigh in and give us a little guidance of whether we're on the right track. In an
373 ideal world, we'll get something written in the next two weeks and we'll get some
374 feedback on it before it comes before the PB on the 27th. Regarding the Affordable
375 Housing Development piece, most of what I wrote down in this outline I'm going to
376 bring to the PB in the form of an ordinance. Under the Affordable Housing Development
377 subsection, I have a bullet point around safety. I was able to have a conversation with our
378 Code Enforcement Officer (CEO) around the NFPA (National Fire Protection
379 Association) Standards as they relate to a multi-family unit, which would be affordable
380 housing developments. She said that we should be requiring, per NFPA, sprinklers in
381 such developments, that we can require that there be on-site water storage or a detention
382 pond and it could be integrated into a stormwater management plan. We routinely talk
383 about the commercial developments. Where is the waste going to be. Where dumpsters
384 are going to be located and sort of the waste storage pieces. I want to get back with our
385 CEO and get her to give us an outline where we could reference NFPA and then put that
386 into our ordinance so that, when it comes time that someone wants to build an affordable
387 housing development, it's clearly in our ordinance what standards we will be holding
388 them to. That's another piece to be written but I was relieved to hear that our CEO will be
389 able to integrate that into our ordinance. We're going to need septic and engineered
390 systems. I've started to go through and create a comparative table between what
391 definitions have been laid out in rule-making for LD2003 by the DECD and then what
392 our definitions are within our ordinance, where we may need to tweak our definitions. As
393 I've said multiple times, we really do need to update our wastewater sewerage disposal
394 ordinance. So, we'll need to put in a definition of a comparable wastewater system,
395 which is currently an engineered system with the State of Maine. In the future there may
396 be others coming and I think that's why the State, with the legislation is written, is so
397 vague. These systems, though they will not be reviewed here by our local plumbing
398 inspector (CEO), like a standard septic system, the actual permitting will be reviewed by
399 the Department of Health and Human Services (DHHS) who will then issue a green light
400 for the local plumbing inspector to issue a permit. They clearly state in their rules that the
401 DHHS will just review the materials provided to them regarding site conditions. The
402 location of the test pits, veracity of the soil survey, all of that stuff they just assume will
403 be correct when it comes to them. So, I believe we should, with any of these engineered
404 systems, ask for a third-party technical review for any of them so that we know that a
405 third objective party vouched to us because the State rules say that basically we're on the
406 hook if the information is provided to the DHHS and it actually is not correct.

407
408 Mr. Shiner said that we would have a pre-qualification.
409

410 Ms. Bennett said yes, exactly. So, a third-party agreement. Also, part of what a proposer
411 or designer would be submitting to the State would be a management agreement, a whole

412 inspection and maintenance manual, and I think that our ordinance should delineate that
413 requirement, as well, just to be specific and have some language about actually adhering
414 to that inspection and maintenance schedule. Through that point, through the septic
415 engineered system, that's some work that needs to be done, to write some ordinance, for
416 you to digest and comment on, then work to amend. I've identified five items that I really
417 think are issues that we can discuss. There are some discretionary pieces that we can
418 incorporate into our treatment into LD2003. One of which is the revised language, the
419 amendment to LD2003, which we believe is going to be heard by the legislature
420 tomorrow. It is some slight revisions to the statute, also to the extension of the deadline.
421 As written, and in rule-making, with the affordable housing developments what they find
422 is that at least 50% of the units need to meet the affordability criteria within the statute
423 but we do have the discretion to go higher and require higher than 50 %. In the Town of
424 York, their affordable housing developments require 100% of the units meet the income
425 eligibilities. I am putting that out there just as something to consider, form an opinion,
426 maybe have a dialogue on. Another piece sort of along this line, as far as the composition
427 and how much of this is affordable and how much of it is meeting the needs for
428 affordable housing in our community, when I met with our Planner this afternoon, I
429 believe we have the discretion to require a diversity of housing amenities. For instance,
430 the number of bedrooms. I think there should be a mix, not a full-on development of 500-
431 square-foot studio apartments, that there should be a mix of units where there are two-
432 bedrooms, maybe three bedrooms, to be able to meet the needs of people that aren't
433 straight out of college or retirees but the people in the middle who might have families. I
434 put that out there for consideration. The other discretionary piece we have is that we can
435 put in some delineation about architectural styles of the building. In my mind these, fall
436 under the heading of type of siding, the type of roof structure – does it have a pitch, does
437 it not have a pitch. A common entryway with a porch overhang. If there are rooftop
438 utilities, like compressors or air handlers, that they be screened from view from the
439 surface. And I know, Mr. Leathe that you've had some thoughts about how we should be
440 maybe incorporating some architectural design standards within our ordinances. I think
441 this is an opportunity for us to start that conversation here with these units because this is
442 a brand-new type of housing in our ordinance. I tried to look for some examples in other
443 communities. I'm sure they are out there. The only one I came to is that Kittery has a full-
444 on design document of possibly 80 pages and a lot of pictures. I hesitate to go to that
445 depth but it might be something we could review because there is some conversation
446 about screening functional utilities for the building, lots of conversation about design
447 styles. Maybe you would like to discuss that.

448
449 Mr. Leathe said that I was just reading old minutes. It might have been one of these two
450 sets, and it talked about the water and sewer on Route 236 and how we would have the
451 opportunity to change the zoning and, within that, to do some mixed Village zoning and
452 have some architectural control. That was an interesting thing to read about.

453
454 Ms. Bennett said that we could look at that as the first iteration of doing that.

455

456 Mr. Leathe said that I think that Mr. Brubaker pointed out in the minutes that this was a
457 direction, an idea, at the time, that will come to more fruition when the sewer and water is
458 in place.

459
460 Mr. Brubaker said that that's a good point because timing is important here. I do think
461 that we should begin to craft those changes. I think about even June 2024 or the
462 November 2024 elections to have that in place. It will take time. We do have the SMPDC
463 analysis that provides us with a good starting point but the intention was to already take
464 advantage of infrastructure provided by the water and sewer project to look at
465 opportunities to change the zoning to allow for a finer-grained and perhaps better-looking
466 development pattern on Route 236 where the water and sewer is going in, .knowing that
467 those properties now don't need to be on septic and well. So, I do think it's time to start
468 parceling out which administrative **leads (1:05:30)** the PB wants to do that. It's kind of
469 exciting, too, because the zoning hasn't changed much. We've had Rural, Suburban,
470 Village, plus C/I for many, many years and, so, this would obviously be a combination,
471 creating a new zone combination of a map amendment and text amendment. It would
472 really be an opportunity to take another step in terms of land use for the community and
473 address some of those aesthetic and design standards.

474
475 Mr. Leathe said that I think it's a bigger picture. I think it's potentially a very big step to
476 make our section of Route 236 more diverse, more habitable, less of a thru-way. It's
477 going to be years but it starts to open up the window a little bit for mixed use
478 development out there, I think, which could lead to a more community feeling.

479
480 Mr. Brubaker agreed. One thing to note is that it should be consistent with the Comp
481 Plan so we could be tying this up with the passing of the torch from the 2009 plan to the
482 new, updated plan.

483
484 Ms. Bennett commented that each one layers on the other.

485
486 Ms. O'Connor said that I was wondering about the intersection with the Comp Plan,
487 which one went first or would we wait to start to see what the Comp Plan suggests, or
488 would we make suggestions to the Comp Plan.

489
490 Ms. Bennett said that, ideally, what we're hoping to do is to get a draft of our updated
491 Comp Plan by the end of this calendar year. Then, ideally if we could, get that on the
492 June 2024 ballot.

493
494 Ms. O'Connor asked if the thinking is to get both things on June.

495
496 Ms. Bennett said that I don't think so. We could but that is a lot to put before voters and
497 any big changes, like changing our zoning, it really benefits us to point to the rationale
498 laid out in an adopted Comp Plan. We can change zoning. It's somewhat of a high bar but
499 without having had that comprehensive look and having it being well thought out and
500 having a rationale that's adopted by the citizens, it's a riskier proposition.

501

502 Ms. O'Connor said that, to your point, we would need to have a draft of something to get
503 to the Comp Plan so that the official Comp Plan reflected what we think is good. People
504 could review and vote on that at whatever time and, subsequent to that, we would have
505 re-written the ordinances. So, that is our draft to the Comp Plan, vote on the Comp Plan,
506 have official ordinances ready. I'm just trying to understand the process because they are
507 sort of six-month chunks and that's not a lot of time.

508
509 Ms. Bennett agreed it is not a lot of time. If we could take a first stab at this architectural
510 style with our affordable housing developments and this could then be something that,
511 again, would be incorporated into the Comp Plan process. Then it could be down the line,
512 as we are proceeding a zoning amendment for mixed use areas or possibly different
513 housing styles, like cottage clusters, or some of these other exciting ideas that we'd like
514 to implement. It can build on it.

515
516 Ms. O'Connor said that I think you have enough of a plan, even if it's just a verbal
517 understanding of how these things could fit together, it is really good and really exciting.

518
519 Mr. Latter said a couple of points. Great job. I see this as there are three basic pieces. The
520 State has passed an ordinance (statute) to try to prevent communities from de-
521 incentivizing growth. The devil is in the details and I don't agree with all the details but
522 not a bad thing overall. What do we need to do to mitigate exposure to unintended
523 consequences. The second piece is what are we doing that is just best practice. I look at
524 the septic engineered system and that stuff. That would be good to do even if LD2003
525 didn't exist. Then we get to a couple of points, and you spoke to it, which are really
526 policy decisions. We're writing an ordinance that sets policy. I look especially at the
527 optional, per DECD, of allowing additional dwellings on lots that can't be legally
528 subdivided is one. The other one that jumped out at me was going to 100% affordable
529 housing. If we go to 100% affordable housing, is that de-incentivizing that. If you keep it
530 at 50%, is it more feasible. And the one-, two-, three-bedroom thing jumped out at me.
531 Do we have any idea what the school system capacity is.

532
533 Ms. Bennett said that we're fine. It used to be an issue. It's in our previous Comp Plan.
534 It's been talked about. We have plenty of capacity within our schools.

535
536 Mr. Latter said that there is physical space left. There's a budgetary impact to schools
537 even if you have the space. 80% of the school budget is people. Before we start
538 incentivizing three-bedroom units, are we looking at a school district on the cusp of
539 needing a big capital improvement plan or a small one, and I have no idea what that is off
540 the top of my head. It just jumped out and I've done things like this in the past; that
541 school capacity was always something we had to take into account.

542
543 Mr. Brubaker said that school capacity is one that is one allowable purpose for an impact
544 fee. I did request in our budget an impact fee study but I don't believe that budget request
545 was honored. If the Town is concerned about that type of growth of backing up in the
546 schools, that is a potential tool in the tool box to mitigate that.

547

548 Mr. Latter asked if it was as simple as making an inquiry to the school district about this
549 and get their take on it. It's weird because we don't really interact with them. But, 60% or
550 more of our taxes go to the schools. We should understand the impact before we do things
551 to incentivize particular kinds of growth. That was the only point I was making.

552
553 Ms. Bennett said that I think the trend, in the past decade, has been declining enrollment.

554
555 Mr. Shiner said that even if you look at the census data that was in the Comp Plan, it's
556 waning with regard to school-age children coming into the system according to the
557 census. Granted, if you have development and other facilities that bring them back in,
558 that could change. But, on its own naturally, right now it's on a decline.

559
560 Ms. Lemire said that one of the reasons we have students who can pay tuition into our
561 school system is because it was suffering so much lack from students.

562
563 Mr. Shiner said that another capital expense I was thinking about was with regard to fire
564 and safety. How, in addition to being sprinklered and big water may be needed in
565 probably fire hydrants, depending on the density and what's going on, there are some
566 other capital expenditures for that infrastructure to support that kind of density.

567
568 Ms. Bennett said that the fact is that the majority of the area where these will be allowed
569 does not have public water. These will be on wells. Whether a proposal comes in these
570 places without public water, we don't know. Currently, we have infrastructure needs. We
571 have a very ancient infrastructure within our Town. We know that the current public
572 water system servicing our growth zone can't support new hydrants because it was built
573 in 1930 and it's too small. The hydrants we have can't even fight fires that we could have
574 right now much less a multi-family unit in the suburban zone.

575
576 Mr. Shiner said that I think the fact that the position has to be, if you are going to be on
577 septic and well, there is a class of structure that you can do that's going to end quickly as
578 opposed to public sewer and water where you can do a lot more. That's going to put you
579 into two different classes of projects, I think.

580
581 Ms. Bennett said that I think we have to give a density bonus to an affordable housing
582 development regardless of whether or not there is water and sewer. It's the same density
583 bonus either way, though, what had been discussed last summer by Mr. Brubaker, Mr.
584 Leathe, and I on the ordinance review was of actually decreasing the minimum lot size
585 within the Village where there is water and sewer. We had written it into our table at the
586 time and then there was some hesitancy. This was before rule-making came out; that we
587 didn't even have that really vague guidance document. So, we felt hesitant to deploy that
588 but it was a recommendation of the original Comp Plan. Mr. Brubaker and I have actually
589 talked about, at this time, that we feel we are ready to adjust our table or bringing it up
590 for conversation with the PB. We could go down to a minimum lot size with water and
591 sewer of 20,000 square feet (1/2 acre). Right now we are at a 40,000-square-foot (1 acre)
592 minimum in the Village District. So, there are just some general things about
593 landscaping. We have landscaping requirements under site plan review (SPR). Would

594 there be some nuanced things we would like to see happen with an affordable housing
595 development regarding, maybe, open space requirements, what kind of open space or
596 community space. I wanted to put that out there. Plant the seed for you all to think about
597 those things so we can have a conversation about that. The other piece for me is that we
598 have an affordable housing development definition that we will need to put that into the
599 affordable housing definition, as written by the State. The definition that we've had for a
600 long time doesn't directly sync with the income requirements for eligibility under
601 LD2003.

602
603 Mr. Latter asked if they break that up workforce housing, extremely low affordable, etc.;
604 all that stratified affordable housing stuff.

605
606 Ms. Bennett said that they didn't but there are a couple of bills that will be talked about
607 next session that create a definition for workforce housing, which is exactly the same as
608 affordable housing.

609
610 Mr. Latter said that, in my mind, workforce housing is like 80% of the mean income of
611 the area, overall; whatever that number is.

612
613 Ms. Bennett said that we could adjust our affordable housing definition, not affordable
614 housing development, but affordable housing definition to be at that 80% AMI and
615 below, with 80% at the top. Right now, our definition is that it's "80% of the median
616 household income in non-metropolitan York County".

617
618 Ms. Braun asked how long ago was that definition.

619
620 Ms. Bennett said that she didn't have that date. It says it was established by the U.S.
621 Department of Housing and Urban Development. We're supposed to be publishing that
622 number is the Annual Report (Town). I have not seen one in the last 10 years. What I did
623 is that I went to the Census and basically got the gist of the median household income for
624 York County. That comes in around \$72,000 - \$74,000 a year. The AMI for our Town,
625 which includes South Berwick, Eliot, Kittery, and York, is \$89,000. So, what we have
626 written right now is actually a lower threshold. Actually a little more affordable than
627 what we will be putting forward with affordable housing developments. So, de we leave
628 this sitting there or do we actually make it conform with affordable housing development.
629 We haven't had an affordable housing proposal since Baran Place (mid-2000s).

630
631 Mr. Shiner said that we need to be careful speaking about it out loud.

632
633 Ms. Bennett said that I would welcome it. We actually incentivize it with our Growth
634 Management.

635
636 Mr. Brubaker asked if it was appropriate to give a refresher on those LD2003 affordable
637 housing definitions, where it's 80% of median income for rental housing and 120% for
638 owner-occupied.

639

640 Ms. Bennett said that the income threshold is 80% but, then, the affordability also has to
641 incorporate that that person not have more than 30% of their income be spent on their
642 housing. For renters, there are different costs that get attached. Then with owners, of
643 course there is a mortgage, you have PMI, taxes, those sorts of things.

644
645 Mr. Shiner said that it's a 30-year look forward on the rentals to maintain the status.

646
647 Ms. Bennett said yes. Whatever is built, has to be provided affordable housing for 30
648 years. Affordability is determined at the initial purchase or rental. It is not an annual
649 renewal.

650
651 Mr. Shiner said, but, any time it changes, you have to make the test.

652
653 Mr. Latter asked who administers oversight of affordable housing.

654
655 Ms. Bennett said that this is something that is totally vague and the DECD, SMPDC, or
656 someone should be giving us some guidance on. We should engage a third party to
657 enforce the affordability covenant on the document. Just like we've done with
658 performance guarantees, we can have a third party come in that helps us draft the binding
659 agreement to maintain that affordability because this is something that the SB will sign
660 off on.

661
662 Ms. Braun said that that would be a constant, not a temporary, thing. A salaried Town
663 employee.

664
665 Ms. Bennett said no. It would be a third party to help us draft a legal document and then
666 probably require something like a site manager. We'd reach out to the other party that is
667 in agreement with the Town to make sure that they can verify that they are still providing
668 affordable housing; that they are conforming to the requirements of the legal agreement.

669
670 Ms. Braun asked if that wouldn't have to be reviewed periodically.

671
672 Ms. Bennett said yes, annually. The review would have a fee borne by the applicant.

673
674 Mr. Brubaker said that I would assume they would be checking, if it's rental housing, for
675 rent advertisements to see what the advertised rent is. They would have access to
676 residents to ask what they pay for rent, whether there are any hidden fees.

677
678 Ms. Braun asked if the residents would have to supply them with their taxes to prove they
679 qualify for low-income housing. There has to be something like that that they have to
680 supply.

681
682 Ms. Bennett said that, initially, they do in order to get it but they won't have to continue
683 to do that.

684
685 Ms. Braun said that I would think every couple of years they would have to.

686
687 Ms. Bennett said that they do not. There is no refresh in the statute. The statute is only on
688 initial rental or purchase.

689
690 Ms. Braun said that, technically, their salary could go up 25%, or 30%, and they could
691 still maintain it.

692
693 Mr. Shiner said that that is very much like rent control.

694
695 Ms. Braun asked the PB members what they thought we could accomplish by August 15th
696 for public hearing on these ordinances for November.

697
698 Ms. Bennett said that I won't be here on the 27th but I can get you a draft ordinance, the
699 nuts and bolts that need to be done to satisfy LD2003. Then, if the PB can come back
700 with some thoughts about these discretionary pieces that we would incorporate in that.
701 We can get an outline of that together and ideally, in July, we can put these before our
702 legal counsel for review so that we can come to, what was it August 13th.

703
704 Ms. Braun said that we have a meeting July 25th. We are on hiatus after the last meeting
705 in June (27), then a meeting August 1. We have public hearing on the 15th. So, there are
706 two or three meetings before the public hearing. We have to be realistic with all of this
707 what is humanly possible to do within that short timeframe. Once we have the public
708 hearing on the 15th, then they would go to the SB for them to do what they need to do.

709
710 Ms. Lemire asked if we are going to have a third meeting on the 29th of August.

711
712 Ms. Braun said that that is a question. If the ordinance public hearings don't take up a lot
713 of time and with minimum changes, we might be able to get in a simple application in
714 that same meeting. The que is starting to fill up.

715
716 Ms. Bennett said that I think that, if there is some initial draft ordinance review on June
717 27th, then the draft gets sent for legal review in July, we could bring it before the PB on
718 the 25th or the 1st with the understanding that we are going to conduct a public hearing on
719 the 15th. It doesn't have to be perfect at that time because it is not uncommon for us to go
720 through public hearing and then bring it back. So, there is baked with that, what we set as
721 our public hearing deadline is also the opportunity to make some revisions before it goes
722 to the SB.

723
724 Mr. Brubaker said that I think we have, if needed and if everyone was amendable, the
725 22nd a spill-over additional meeting.

726
727 Ms. Braun said yes, we could have three meetings in August because there's an extra
728 week.

729

730 Mr. Latter said that something that crossed my mind was regarding the elections and a
731 letter from the Town on the elections. We also make recommendations. Do we put
732 forward a letter that goes out to the citizens.

733
734 Ms. Braun said that we've never done that. It's something to consider.

735
736 Mr. Brubaker said that we have the background and rationale.

737
738 Ms. Bennett said that we do but that was why we asked for a joint meeting with the SB so
739 that we could jointly put forward the rationale for these ordinance changes in some shape
740 or form. Maybe a printed mailer.

741
742 Ms. Braun said that, to Mr. Latter's point, not many people come to the public hearings
743 and/or comment on the ordinances. So, there are a lot of folks in Town that don't know.
744 All it says on the ballot is 'shall we enact a stormwater management plan', for instance.

745
746 Mr. Shiner said that they would have no prior knowledge of what's going on.

747
748 Ms. Braun agreed. So, if they have something mailed to them or somehow put on the
749 website that explains everything to them in layman's language.

750
751 Mr. Shiner said that in the PB section, that would be an appropriate place to post the plain
752 language.

753
754 Ms. Braun said that the problem with that is that there are many people in Town that do
755 not have internet access.

756
757 Mr. Shiner said that it is one point of coverage. It doesn't replace mail or other avenues.

758
759 Ms. Bennett said that we would have time before the ballot is finalized to have some
760 public meetings or an information session or get some information out through a variety
761 of mechanisms. Hopefully with the support and cooperation of the SB.

762
763 Ms. Braun said that I would still like to have a citizen's information meeting on the
764 LD2003 so they know what the State has mandated and that we really have no choice.

765
766 Mr. Latter said that I just thought it would be very effective to send a mailer to the
767 '5,000', not the '500'. There are 500 people in Town that pay attention to this, that they
768 know about it, they know that there is a PB, a SB, a Budget Committee. The '5,000' have
769 no idea. I thought the letter that was sent out (Annual Town Meeting) was an effective
770 way to communicate with the entire community.

771
772 The PB agreed.

773
774 Ms. Braun said that, with an insert in that type of mailer, it would give us some space to
775 write our piece.

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There was further discussion of how to reach people. Concern that things will pass and then there backlash or vote no and be out of sync with State statute. There was a strong desire to have citizens understand the nuances of a no vote, to have an informed electorate.

Ms. Bennett said that I think picking up this piece about architectural design, the look of these affordable housing developments, could be a crucial piece. This is something not being mandated by the State but something we are looking to tailor what is a requirement to fit our community. A lot of the negative comments I've heard about 76 Dennett Road, by the highway, is its massiveness, which is something we're not going to be having, but also the aesthetics of it. It's rather modern, a different looking building, and we have some criteria that will allow these developments to filter into our community without feeling really jarring, visually. I think that people will have a much greater acceptance of them and, honestly, we're not talking about Section 8 housing.

Ms. O'Connor said that that is what I mean by the headline. People are going to have a picture in their head and that's what the picture is going to be. So, we have the opportunity to craft the next level of discussion.

Mr. Latter said, to that point, we have Eliot families who have the next generation of younger families that need that kind of help if they want to stay in Eliot.

Ms. O'Connor agreed. The next generation of Eliot families can't afford to live here.

Ms. Braun said that they can use the vouchers but the building doesn't have to look like that.

Mr. Brubaker said that I think it's a good point to say that LD2003 kind of ties together a community's multi-family housing, in general, and this concept of affordable housing . So, communities are only required to allow affordable housing developments in zones that currently allow multi-family housing. I think that's hopeful based on DECD _____ (1:46:45).

Ms. Bennett said exactly. And that's something we should probably lean on, that this is something that has already been approved.

Mr. Brubaker said jumping over to the aesthetics of design side of things, 76 Dennett is an example of non-affordable housing, an apartment complex with some concern about the aesthetics. So, I think it's important to note that, when you are pondering additional aesthetic controls in design performance standards, do you zoom out and apply them to all multi-family, or a wider class of development, so that they are not too narrow.

Ms. Bennett agreed that I think that's important because we don't want to be discriminating with our code against apartment complexes.

822 Mr. Brubaker added that multi-family is currently allowed by SPR use in Suburban and
823 Village.

824
825 Ms. Bennett commented that, with permission, we could take a couple pictures but there
826 are some multi-families and triplexes out there that quietly look almost like a single
827 family as a good example of good design that is in character with our community.

828
829 There were several more examples discussed of multi-family dwellings and converted
830 single-family structures.

831
832 Ms. Braun asked if we are all in agreement with the timeframe.

833
834 The PB was.

835
836 Ms. Braun asked about a third meeting in August. The PB agreed to have a third meeting
837 on the 29th for applications.

838
839 *****

840
841 Ms. Braun said that SMPDC's annual meeting is the 20th. Mr. Shiner has said that he
842 wanted to go and I want to go, as well as Jeff (which Jeff). It's at 5 PM in Saco. Does
843 anyone else wish to go. They have opened it up to PB and SB members this year.
844 Additionally, the SB did approve our change to the by-laws.

845
846 Ms. Braun said that I wanted to try something new. I wanted to see if any other member
847 of the Board has anything they want to bring to the PB in the form of an update or
848 something that concerns them, at this point, so we can talk about it.

849
850 Mr. Latter said that, off the top of my head, there was a Supreme Court decision last
851 week that very much put into question the jurisdiction of Clean Water. Even though it
852 passed 9-0, the majority opinion called into question what are the waters of the United
853 States. What's the downstream impact on the kind of stuff we do.

854
855 Ms. O'Connor said that it changes what qualifies as wetlands that are in scope for the
856 Clean Water Act.

857
858 Mr. Latter said that people before us make the argument that you are talking about things
859 that used to be your purview to talk about but, because of the Supreme Court decision,
860 aren't your purview to talk about now.

861
862 Ms. O'Connor said that the federal says that we are narrowing our definition; that we're
863 only going to define it as actual moving water. Can the State say that they would like to
864 be 'this' – all the things the federal government does plus because it's important to the
865 State. Then, it would need to be a challenge on a state-by-state basis. That's the way I
866 understand it. Someone would have to come in and say that they want to build or fill in

867 their swampy area because there's no free moving water on it so the federal laws don't
868 apply. But the State law applies and they would challenge the State law.

869
870 Mr. Brubaker said that I was at that Maine Association of Planners on Friday and this
871 came up. Kind of to your point, Ms. O'Connor, some of the environmental experts did
872 point out that Maine retains NRPA jurisdiction to regulate alterations to wetlands. What
873 they said is that is just might mean that certain activities, instead of getting both a NRPA
874 permit and a US Army Corps authorization, you might not need the Army Corps
875 authorization. It is a lesser protection.

876
877 Mr. Latter said another one I caught wind of but I don't know if it's the State of
878 Massachusetts or federal. There's talk about access to aquifer water. Access to the aquifer
879 by the property owner. Does your property go down to the water. Potential water rights;
880 that someone should be able to drop a well, of course, but what if you want to drop a 16-
881 foot-wide pipe in a cistern and empty the aquifer.

882
883 Ms. Bennett clarified that there is an aquifer over on Cutt's Ridge in Kittery and just over
884 our border, a very well-defined one. In my occasional walks with the Kittery PB Chair
885 through Roger's Park he said that that is on their radar to put in some protective
886 measures. I think it's off Remick Lane. It does extend a little into Eliot.

887
888 Ms. O'Connor asked, as I am now a voting member, should I be on a committee. How
889 does that happen.

890
891 Ms. Braun said that the PB has only one sub-committee and it can only be two members
892 to avoid a quorum.

893
894 Ms. Bennett added that, when we embarked on the updated Comp Plan, each PB member
895 was asked to be part of a Comp Plan subcommittee.

896
897 Mr. Latter asked, if you wanted to have more than two members on a committee, would
898 you post it as a committee of the whole. It would basically be a subcommittee of the
899 whole committee that is the whole committee. So, if you wanted to do detail work on
900 something, you could post a committee of the whole meeting, they would do their work.
901 They would make a recommendation to the full committee and then sit as the full
902 committee. This would be for something where you needed more than two on a
903 committee.

904
905 Ms. O'Connor suggested it might be if there was something that was big; as an example,
906 LD2003 was determined to be sizeable enough needing three brains, or four brains, that
907 kind of thing.

908
909 Ms. Braun thanked all the members for all their hard work and willingness to put in the
910 extra time.

911
912

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

914

915

916 The next regular Planning Board Meeting is scheduled for June 27, 2023 at 7PM.

917

918 **ITEM 13 – ADJOURN**

919

920 **Mr. Latter moved, second by Ms. Bennett, that the Planning Board adjourn.**

921

VOTE

922

5-0

923

Motion approved

924

925

926 The meeting adjourned at 8:10 PM.

927

928

929

930

Suzanne O’Connor, Secretary

931

932

Date approved: _____

933

934

935

936 **Respectfully submitted,**

937

938 **Ellen Lemire, Recording Secretary**

939

940

941

1 **ITEM 1 - ROLL CALL**

2
3 Present: Christine Bennett – Chair, Carmela Braun – Vice Chair, Suzanne O’Connor –
4 Secretary, Jeff Leathe (Zoom – in late), Paul Shiner, and Jim Latter - Alternate (Zoom).

5
6 Also Present: Jeff Brubaker, Town Planner.

7
8 Voting members: Christine Bennett, Carmela Braun, Suzanne O’Connor, Paul Shiner,
9 and Jim Latter (appointed).

10
11 NOTE: Mr. Leathe has a conflict and will be present later in the meeting. The Chair
12 appointed Mr. Latter as a voting member for tonight’s meeting.

13
14 **ITEM 2 – PLEDGE OF ALLEGIANCE**

15
16 **ITEM 3 – MOMENT OF SILENCE**

17
18 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

19
20 There was no public input.

21
22 **ITEM 6 – NOTICE OF DECISION**

23
24 There were no Notices.

25
26 **ITEM 7 – PUBLIC HEARING**

27
28 **A. 857 Main Street (Map 10/Lot 2), PB23-2: Site Plan Amendment/Review and**
29 **Shoreland Zoning Permit Application – Boatyard Expansion.**

30
31 **Received: January 25, 2023**

32 **1st Heard: March 7, 2023 (sketch plan review)**

33 **2nd Heard: July 25, 2023 (site plan review/shoreland review/completeness)**

34 **3rd Heard: August 15, 2023 (cont’d review/approval)**

35 **Public Hearing: August 15, 2023**

36 **Site Walk: March 28, 2023**

37 **Approval: August 15, 2023**

38
39
40 Mr. (Geoff) Aleva, PE (Civil Consultants), Mr. (Tom) Allen (Owner/General
41 Manager/Safe Harbor), and Mr. (Brett) Patten (General Contractor/H.L. Patten) were
42 present for this application.

43
44 **6:05 PM Public Hearing opened.**

45

46 Mr. Brubaker said that this project involves the demolition of a few buildings currently
47 existing, along with the construction of a new, large metal building for the uses that are
48 current on the site. The application was deemed complete on July 25th and that included a
49 high intensity soil survey waiver. The plan now shows solar panels on the roof and
50 translucent panels on the north wall of the building for interior natural light. Other than
51 that, there are no openings or large doors on that north side of the building, which is the
52 side facing the Clark Road properties, except for a few egress doors for emergency
53 egress. Those will have motion sensor lighting so those lights will off most of the time.
54 With stormwater, there's no changes. I just did want to note that in your motion templates
55 there is a pretty standard condition for developments of this size for a post-construction
56 stormwater maintenance agreement to be completed before construction is finished.
57 Between the last meeting and this one I did have one question from an abutter on Clark
58 Road (Mr. Lamberti) and it involves what the height of the retaining wall would be. I
59 know the that the detail and the site plan set says that the height varied. So, perhaps the
60 applicant's representative could give more information of that as well as more
61 information about the proposed native vegetation behind it. Certainly, if the PB wants to
62 hear from Mr. Lamberti, he's on Zoom. I did come across, in Comp Plan update-related
63 work, and old DEP listing about a proposed underground fuel tank on the property but
64 Mr. Allen and Mr. Aleva got back to me to confirm that was proposed and never actually
65 built; that it wasn't approved by the owners. There is more in my staff report. My
66 recommendation is approval with conditions.

67
68 Mr. Aleva said that the project continues to be the same. It's an update to the facility
69 where we're going to eliminate a couple of the buildings that are non-conforming wood-
70 frame structures, combine that into a larger addition to be able to move operations under
71 cover to have that be better weather-protected, reduce noise on abutting properties. The,
72 the other impact of the property is to really take care, make some site improvements,
73 address drainage concerns, look at areas that are gravel pavement now, convert that into
74 bituminous pavement for easier access, less sediment transfer, less stormwater potential
75 for sediment getting down into the river, updating utilities involved with the project, new
76 water and sewer. The new buildings will be sprinkled for fire protection. We can address
77 other questions – that area down by the water that's going to be used for additional work
78 area. The retaining wall height varies. Where you approach the sides, it's a low wall. At
79 the highest, it's going to be 12½ feet on the back side. What we are proposing, and
80 indicate on our plan for native plantings, for that disturbed area is that there are some
81 invasive species in there, now, and we'll do what we can to get rid of that. Then, the
82 intent is to have it be tall grasses. Most of that area is low groundcover in there currently.
83 We would do some tall grasses, some shrubs, and let that come back up. They will be all
84 native plants. We are looking at an overall improvement in the property with these site
85 updates, building updates, that will address stormwater and combine and reduce noise for
86 moving operations inside where we can.

87
88 Mr. (Leonard) Lamberti, Gerrys Lane, asked where the highest measurement of the
89 retaining wall is taken from. There is a slope that starts at a plateau area then goes down
90 to the water area where there is a current work space. Is the 12½ feet taken from the
91 elevation of the work space. Is it taken at some point up the hill.

92
93 Mr. Aleva asked Mr. Brubaker to share Sheet L-2 showing the retaining wall. The light
94 grey shade is the existing paved area. The darker grey is the section of the expansion of
95 the work area down along the river. What we need to do is to be able to cut into the slope
96 to make that area work. So, we've got a situation where, as you approach into the new
97 work area, the retaining wall is low and, then, as you get to the back end of the area, the
98 back longer section of wall, that wall height is going to range from on the left-hand side
99 where it says London Block Retaining Wall at about 12½ feet and going along the length
100 to 10 ½ feet along the right-hand side. The plan indicates the top of the wall and bottom
101 of the wall and that height is measured from the paved surface to the top of the concrete
102 block. Then, the land will be tapered back at a natural grade to match existing and then
103 re-planted back behind that side.

104
105 Mr. Lamberti said that, on the map we are looking at, we don't see the large storage
106 facility but there's a large storage facility, then there's a flat area. Then, there's the
107 beginning of that hill and there are several evergreens now on the plateau area. Where
108 would they be on that map; that I'm just trying to get a sense of scale.

109
110 Mr. Aleva said that those evergreens will stay. Mr. Brubaker pointed to the area on the
111 plan where the evergreens are located. The bubbled line indicates the area of tree growth
112 section along the slope.

113
114 Mr. Lamberti said that I can see that. My concern is how my view may be affected by the
115 expansion of the work area and the construction of the retaining wall. It seems to me that
116 it won't be impacted by what you're proposing as best as I can determine.

117
118 Mr. Aleva said that it should not.

119
120 Mr. Lamberti said that that was helpful. Thank you very much.

121
122 There were no other public comments.

123
124 **6:17 PM Public Hearing closed.**

125
126 Ms. Bennett said that we have an updated Planner's synopsis review of this application.
127 Are there any questions raised in this public hearing that the PB would like to follow up
128 on with the applicant.

129
130 Mr. Shiner said thank you very much for the elevations with the solar panels. It was the
131 height we were looking for. All good.

132
133 Ms. Bennett said that there were a couple of pieces in the Planner's report about the
134 application fitting cleanly and clearly within our ordinance. One of which is had to do
135 about how we treat this. Whether it's a limited marina, or not, and how that fits in with
136 our Shoreland Zoning. The suggestion from the Planner is that, within the Shoreland
137 Zone on this property, we use a 'use that is similar to' a commercial pier, generic

138 industrial limited marina. The, within the non-shoreland Village Zone, because there are
139 multipole zones on this property. As we discussed during the sketch plan, the PB should
140 review as a continuance/potential expansion of a presumptive legally non-conforming
141 use. Is everyone in agreement with those recommendations from the Planner.
142

143 PB members were in agreement.
144

145 Ms. Bennett said that, in regard to the potential expansion of this use, the Planner
146 dedicated a lot of time in clarifying, according to the applicant's request, what this,
147 because this is a conversion of basically a gravel yard where there are boars stored and
148 worked upon, that this would be a conversion from an outdoor to an indoor use. That is
149 an expansion of buildings but that this is just going to be a continuation of current work
150 being done as a nonconforming use on the property. You also attested, in our review, that
151 you would possibly be adding some additional employees, possibly up to three (3) in
152 addition to the twenty (20) you have; that there would be allowance for allowing this to
153 be throughout the year instead of spiking seasonally. As the Planner noted, §45-192(a)
154 does allow up to a 25% expansion within any 10-year period that this doesn't seem to be
155 exceeding that, at all, with the increase of possible employees. Is everyone in agreement
156 that this would still conform to the current code regarding expansion of a non-conforming
157 use.
158

159 The PB members were in agreement.
160

161 Ms. Bennett asked if any PB members had any items within the Planner's review that you
162 would like to raise and discuss.
163

164 No PB members had anything more to discuss.
165

166 Ms. Bennett said that, if there is nothing more, I would accept a motion.
167

168 **Ms. Braun moved, second by Ms. O'Connor, that the Planning Board approve the**
169 **Site Plan Review Application and Shoreland Zoning Permit Application for PB23-2**
170 **for a Boatyard Expansion at 857 Main Street, with the following findings of fact (in**
171 **addition to other applicable findings of fact to be included in the Notice of Decision):**

- 172 1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and
173 the Shoreland Zoning Permit Application have been or will be met.
- 174 2. Based on the information presented by the applicant and in accordance with
175 Sec. 44-44, the Planning Board finds that the proposed use:
 - 176 a. Will maintain safe and healthful conditions;
 - 177 b. Will not result in water pollution, erosion, or sedimentation to surface
178 waters;
 - 179 c. Will adequately provide for the disposal of all wastewater;
 - 180 d. Will not have an adverse impact on spawning grounds, fish, aquatic life,
181 bird, or other wildlife habitat;
 - 182 e. Will conserve shore cover and visual, as well as actual, points of access
183 to inland and coastal waters;

- 184 f. Will protect archaeological and historic resources as designated in the
185 comprehensive plan;
186 g. Will avoid problems associated with floodplain development and use;
187 and
188 h. Is in conformance with the provisions of § 44-35, land use standards.
189 3. The Planning Board finds that the proposed project is a use similar to SPR
190 uses (commercial pier, generic industrial, limited marina) in the General
191 Development Shoreland Zone, and, as proposed, is a legally, non-conforming
192 industrial, commercial, and warehouse use in the Village zone that is
193 allowable pursuant to §45-192.
194

195 **The approval includes the following conditions:**

- 196 1. The property may be developed and used only in accordance with the plans,
197 documents, material submitted, and representations of the applicant made
198 to the Planning Board. All elements and features of the use as presented to
199 the Planning Board are conditions of approval and no changes in any of
200 those elements or features are permitted unless such changes are first
201 submitted to and approved by the Eliot Planning Board. Copies of approved
202 permits from Maine DEP, Army Corps of Engineers, if applicable, and State
203 shall be provided to the CEO before construction on this project may begin.
204 2. The permit is approved on the basis of information provided by the
205 applicant in the record regarding the ownership of the property and
206 boundary location. The applicant has the burden of ensuring that they have
207 the legal right to use the property and that they are measuring required
208 setbacks from the legal boundary lines of the lot. The approval of this
209 permit in no way relieves the applicant of this burden. Nor does this permit
210 approval constitute a resolution in favor of the applicant of any issues
211 regarding the property boundaries, ownership, or similar title issues. The
212 permit holder would be well-advised to resolve any such title problems
213 before expending money in reliance on this permit.
214 3. The applicant authorizes inspection of premises by the Code Enforcement
215 Officer during the term of the permit for the purposes of permit
216 compliance.
217 4. No later than 20 days after completion of the development, the applicant
218 shall provide to the Code Enforcement Officer post-construction
219 photographs of the shoreline vegetation and developed site.
220 5. Before completing construction of the project, the applicant shall enter into
221 a Post-Construction Stormwater Management Maintenance Agreement
222 with the Town, pursuant to Chapter 35 of the Town Code.
223 6. Before commencing construction on any work permitted by the MaineDEP
224 or the U.S. Army Corps of Engineers, the applicant shall provide the Code
225 Enforcement Officer with copies of such permits.
226

227 **VOTE**
228 **5-0**
229 **Motion approved**

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

Mr. Allen thanked everyone on the PB for helping sustain this parcel in its current use as Eliot’s only remaining working waterfront boatyard. Thank you very much to the Planner for his help, as well.

B. 41 Rogers Point Drive (Map 32/Lot2), PB2314: Shoreland Zoning Permit Application and Site Plan Review (Request for Planning Board Re-approval) – Replace and expand existing non-conforming residential structure.

Received: May 23, 2023
1st Heard: August 1, 2023 (re-approval review/completeness)
2nd Heard: August 15, 2023 (cont’d site review/re-approval)
Public Hearing: August 15, 2023
Site Walk: N/A
Approval: August 15, 2023

Mr. (Chris) Wilbur (owner representative) was present for this application.

6:28 PM Public Hearing opened.

Mr. Brubaker said that this is a request for re-approval of PB20-19 approved by the PB on December 15, 2020, generally involving the replacement and expansion of an existing, non-conforming residential structure. The Shoreland Zoning Permit has expired and it was noted by our PB Chair and the applicant that Site Plan approval will expire three years after approval in December 2023. Therefore, it would be needed for the applicant to get an extension of that approval. This is a public hearing and there is a modified motion template included in your staff report that has both Shoreland and Site Plan re-approval. My recommendation is approval with conditions.

Mr. Wilbur said that I am the former owner of the property. The property has now been conveyed to Jane and Jack Fantry. I’m also a professional surveyor and representing them this evening. The only thing that I would like to add is that my wife and I were able to complete the demolition of the second story of the boathouse and we were able to build a 1-bedroom ADU there. That is going into an existing approved septic system. The re-application that we’re doing does not change the footprint of this structure at all. That footprint is exactly the same. However, the elevations, which I believe are in the packet have changed. Looking for a style that more resembles what we did with the boathouse, a single pitched roof. With that structure, they are looking at just having a single bedroom. So, the existing septic system is for a 2-bedroom design. In this case, they will have a 1-bedroom in the year-round residence and there will be a 1-bedroom in the ADU. The other thing is that part of our previous condition had the removal of several trees around the property. There were some big pine trees that were a danger plus a fairly significant

276 old oak tree, which presented a problem with the new structure, and all of those have
277 been removed. I certainly understand in the previous condition or a re-approval of the re-
278 planting of trees to replace those. I guess the oak tree was hollow so that was a good
279 reason for it coming down. Other than that, if you have any questions of me, I'd be happy
280 to answer.

281
282 Ms. Bennett asked if there was anyone who wished to speak to, for, or against this
283 application.

284
285 There was no public comment.

286
287 **6:33 PM Public Hearing closed.**

288
289 Ms. Bennett asked what was the pleasure of the PB with this application.

290
291 NOTE: Ms. Braun said that I am going to abstain from this as I was not here for the last
292 meeting.

293
294 Mr. Shiner said that the only change, as I understand it, is the elevation change.

295
296 Ms. Bennett clarified that it is the design of the building that has changed the elevation
297 drawings.

298
299 Mr. Wilbur said that that is correct. Where it was before more of a cape style, what we
300 did with the boathouse is to put on a single-pitch roof, fairly modern-looking, and the
301 new owners were looking for that same type of structure for the year-round residence. It
302 still meets the 20-foot height restrictions so it isn't going to be any higher than the peak
303 of the roof was previously. It's just that the design has changed.

304
305 Ms. Bennett asked the Planner, in the time since this was approved, have there been any
306 ordinance changes within the Shoreland, or anything else, since the approval was granted.

307
308 Mr. Brubaker said that I don't know of any changes that would substantively affect this.

309
310 Ms. Bennett said, just for my own curiosity, you said that you have an approved septic
311 system. Was this a replacement system or is it a system you've had for a number of years.

312
313 Mr. Wilbur said that it has been there from the prior owners. Mr. (Joe) Noel designed it. I
314 thought I had a copy of it but it is certainly in the Town record. It's been functioning
315 quite well. It's a modern design. We had Morgridge come out at the end of the summer to
316 check everything out and he said that everything was working fine.

317
318 Ms. Bennett said that I just recall in reviewing what happened with the original
319 application that there was some discussion, at the time in 2020, about the state of the
320 septic system. It was deemed that the existing septic system was satisfactory in meeting
321 the State codes.

322
323 Mr. Wilbur said yes. Part of it was that, when I originally purchased the property, I
324 purchased it ‘as is’, and I think that was one of the changes. I don’t think that now you
325 can purchase a property in the Shoreland Zone without having the septic inspected. Part
326 of this transfer was that they had to have the septic inspected and, as I said, Morgridge
327 came out and went through everything, and that everything was fine. The original septic
328 was designed in April 2000. They went through it, scoped it, and everything was
329 functioning as it should.

330
331 Mr. Brubaker noted that, in the December 15, 2020 review, there was a letter of approval
332 for a variance for the septic system distance to the water body from the DEP.

333
334 Ms. Bennett said that, not hearing any more questions from the PB, I will entertain a
335 motion.

336
337 **Mr. Shiner moved, second by Ms. O’Connor, that the Planning Board approve the**
338 **Shoreland Zoning Permit Application for PB23-14 for the replacement of a**
339 **residence at 41 Rogers Point Drive, and to grant site plan re-approval pursuant to**
340 **§33-141, with the intent of the approval being a renewal of the same Shoreland**
341 **Zoning Permit and Site Plan approval in PB20-19, decided December 15, 2020 –**
342 **except for changes to the style of the residence and the omission of the**
343 **boathouse/garage and new septic system (which are already completed) – with the**
344 **following findings of fact in addition to other applicable findings of fact to be**
345 **included in the Notice of Decision:**

- 346 **2. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and**
347 **the Shoreland Zoning Permit Application have been or will be met.**
348 **2. Based on the information presented by the applicant and in accordance with**
349 **Sec. 44-44, the Planning Board finds that the proposed use:**
350 **i. Will maintain safe and healthful conditions;**
351 **j. Will not result in water pollution, erosion, or sedimentation to surface**
352 **waters;**
353 **k. Will adequately provide for the disposal of all wastewater;**
354 **l. Will not have an adverse impact on spawning grounds, fish, aquatic life,**
355 **bird, or other wildlife habitat;**
356 **m. Will conserve shore cover and visual, as well as actual, points of access**
357 **to inland and coastal waters;**
358 **n. Will protect archaeological and historic resources as designated in the**
359 **comprehensive plan;**
360 **o. Will avoid problems associated with floodplain development and use;**
361 **and**
362 **p. Is in conformance with the provisions of § 44-35, land use standards.**
363 **4. Applicant has met §44-32 – Nonconformance. Without limiting the**
364 **generality of this finding, the Planning Board also specifically finds that the**
365 **new residential structure and foundation will substantially reduce the area of**
366 **encroachment in the river setback compared to the previous residential**
367 **structure, from 58 square feet to 9 square feet, while continuing to meet the**

368 existing Rogers Point Drive setback. This non-conforming lot of record is
369 narrow and creates a challenging building envelope. Therefore, working
370 within a significantly constrained site, the applicant has met the river
371 setback requirements for the residential structure and its foundation to the
372 greatest practical extent.

373

374 The approval includes the following conditions:

375 7. The property may be developed and used only in accordance with the plans,
376 documents, material submitted, and representations of the applicant made
377 to the Planning Board. All elements and features of the use as presented to
378 the Planning Board are conditions of approval and no changes in any of
379 those elements or features are permitted unless such changes are first
380 submitted to and approved by the Eliot Planning Board. Copies of approved
381 permits from Maine DEP, Army Corps of Engineers, if applicable, and State
382 shall be provided to the CEO before construction on this project may begin.

383 8. The permit is approved on the basis of information provided by the
384 applicant in the record regarding the ownership of the property and
385 boundary location. The applicant has the burden of ensuring that they have
386 the legal right to use the property and that they are measuring required
387 setbacks from the legal boundary lines of the lot. The approval of this
388 permit in no way relieves the applicant of this burden. Nor does this permit
389 approval constitute a resolution in favor of the applicant of any issues
390 regarding the property boundaries, ownership, or similar title issues. The
391 permit holder would be well-advised to resolve any such title problems
392 before expending money in reliance on this permit.

393 9. The applicant authorizes inspection of premises by the Code Enforcement
394 Officer during the term of the permit for the purposes of permit
395 compliance.

396 10. An approved plan for expansion of a non-conforming structure must be
397 recorded by the applicant with the York County Registry of Deeds within 90
398 days of approval. The recorded plan must show the existing and proposed
399 footprint of the non-conforming structure, the existing and proposed
400 structure height, the footprint of any other structures on the parcel, the
401 shoreland zoning boundary, and evidence of approval by the Eliot Planning
402 Board. The applicant may make minor informational or formatting changes
403 to the site plan, relative to the plan presented for approval, to address the
404 information required for the recorded plan. The Planning Board's approval
405 authorizes (and the recorded plan must have) a signature from the Planning
406 Board Chair.

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

410

411

412

413

VOTE
4-0-1 (Ms. Braun abstained)
Motion approved

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

417
418 NOTE: Mr. Leathe entered the meeting by Zoom at 6:42 PM.

419
420 Ms. Bennett said that your voting role has been assigned to Mr. Latter this evening but
421 we welcome all of your input on the discussions.

422
423 **C. November 2023 Ordinance Amendments**

424 **1. Compliance with State Statutes on Increasing Housing Opportunities by**
425 **Changing Zoning and Land Use Regulations**

426 **2. Public Park-and-Ride Lots**

427 **3. Grocery Stores**

428
429 NOTE: Mr. Leathe entered the meeting via Zoom at this time.

430
431 **6:43 PM Public Hearing for Item 1., Affordable Housing, opened.**

432
433 Mr. Brubaker said that I do recommend a motion for each proposed amendment after the
434 public hearing is held. Just as a reminder, per our Charter, the PB shall make
435 recommendation for all warrant articles having to do with land use. The vote that the PB
436 takes is put on the ballot. We expect that the SB will review at their August 24th meeting.
437 We did publish two public hearing notices – one in the York Weekly Sentinel and one in
438 the Portsmouth Herald/Seacoast Online.

439
440 Mr. Brubaker discussed Item 1. I did want to note a few late-breaking considerations.
441 There's been significant discussion about what to do about ADUs in the Shoreland Zone.
442 'This' is the Shoreland Zoning Land Use Table (§44-34). After our discussion with Ben
443 and Hillary on July 18th, I think that was an impetus to add ADU as a row in the land use
444 table. We started by having the exact same allowability across all Shoreland Zoning
445 Districts as 1- and 2-family residential up in the table. Since then, there have been
446 discussions specifically about the Resource Protection District (RPD) and the Stream
447 Protection District (SPD). I think we talked about how we are now prohibiting ADUs in
448 the RPD because that seems to be the way to comply with the DEP and the Chapter 1000
449 Shoreland Zoning guidelines that we must follow. There was a question about what to do
450 about ADUs in the SPD, that we don't deal with too often, that protects various streams
451 around Town, including the York River, Cutts Ridge Brook, ___ Brook (coughing), and
452 Sturgeon Creek. There are other streams that currently do not have SP in Shoreland
453 Zoning. It was a SPR use and, based on discussion we had with the DEP and with our
454 legal counsel, although we do feel that making ADUs allowable in the SPD would seem
455 to be logical, for now I have recommended a change to prohibit that in the SPD to
456 comply with the DEP's reference here and initial review. This is certainly open to
457 discussion. I won't say that it happens often where somebody seeks to build a residence
458 in the SPD but it certainly could happen. Already, if you look at the footnotes, you can
459 see that if you want to build a 1- or 2-family dwelling in the SPD, you do need to go

460 through PB SPR after getting a variance from the Board of Appeals (BOA). So, I do think
461 this would be a rare occasion.

462
463 Mr. Shiner said that I think it's good to be explicit.

464
465 Mr. Brubaker said that we are being very explicit in saying no. As you recall from our
466 discussion on the 18th, LD1706 bats the ball back in the other direction and says you can't
467 categorically prohibit in the Shoreland Zone. We're trying to find that middle ground.

468
469 Ms. Bennett said that it's interesting. Mr. Brubaker and I had a little conversation about
470 this prior to tonight's meeting. He's definitely given a Reader's Digest version of what's
471 been going on behind the scenes for him between what our attorney has suggested and
472 mostly the DECD has suggested in regards to 1706. But then, there's a different opinion
473 coming from the Maine DEP. So, I feel like that, at this time, there's no clear path on
474 how this is supposed to be navigated, but I think it's a good and prudent position to
475 follow the DEP's lead on this since they have purview over Shoreland Zoning. We are
476 allowing them in some parts of Shoreland but not all.

477
478 Mr. Brubaker said that you'll notice that the ADU section is back in the ordinance
479 amendments, primarily for technical corrections. In the discussion about ADUs in the
480 SPD with our legal counsel, I realized that we had this section for ADUs that says that
481 you can convert a single-family house with an ADU into a multiple-family dwelling as
482 long as current zoning requirements are met within the conversion. I realized that what it
483 was talking about is converting a single-family dwelling and an ADU into a 3 or more
484 unit dwelling as that is what a multi-family dwelling is defined as. So, I felt that there
485 needed to be a technical correction stating that adding 2-family dwelling or multiple-
486 family dwelling for this section and then, at the end, it does say 2-family dwelling and
487 multi-family dwellings shall not put in ADUs. The idea there is that if you have a 2-
488 family dwelling, you can't then put an ADU on that. If you have a single-family
489 dwelling, you can do an ADU. Or, if you have a 2-family dwelling and you want to build
490 another unit, you could seek to do that as a multiple-family dwelling. This is really a
491 technical correction that came to mind in the course of the discussion with our legal
492 counsel in regard with what to do about the SP Shoreland Zoning. It's certainly open for
493 discussion with the PB. If it's adopted, it would mean that it would establish explicitly
494 what I think what we already implicitly think about ADUs; that they can be for single-
495 family dwellings and not for 2-family or multiple-family dwellings.

496
497 Ms. Bennett said that I think it reflects a good change, a change that reflects all
498 conversations we've had and the spirit and intent of the creation of an ADU. Just so you
499 know, the stuff Mr. Brubaker is showing us did not make it into our printed materials.

500
501 Ms. O'Connor said that, essentially, the language change is, where it says 'multi-family
502 dwellings', to append '2-family' to that so it's both.

503
504 Mr. Brubaker said yes. Other than that, I will leave it there. I think we've talked about
505 everything else.

506
507 Ms. Braun thanked Mr. Brubaker for writing it in language the public can understand. It's
508 clear and concise and absolutely no questions as to what it means. It made me stop and it
509 may be confusing to our readers.

510
511 Mr. Shiner had a comment. Just as a matter of style is the use between fractional and
512 decimal units. As an example, it says 2.5 in one section and 2½ in another. I think
513 keeping continuity so that, as you are reading through, you are using the same measures.

514
515 Mr. Brubaker agreed that that was a good point. I'm happy to make those changes for the
516 version that goes to the SB.

517
518 Ms. Bennett agreed it would be good to have a final edit by our Planner.

519
520 Mr. Brubaker said that we had a table for affordable housing density and our legal
521 counsel recommended the text you see there. He also recommended we add that footnote
522 to affordable housing developments in the Suburban Zone just reflecting the LD2003
523 requirement that they need to show that they have connections to a centrally-managed
524 water system and sewer system. Then, based on my conversation with him, the duplex
525 incentive , we think it needs more work. Potentially an additional change that could be
526 prepared by the PB for next June. We are staying with the 20% lot coverage for water and
527 sewer lots in the Village. With the PB comments on some of the affordable housing
528 standards, I've tried to add those. Requiring an implementation plan for keeping the units
529 affordable and prohibition on leasing, subletting, a short-term rental is in there, now. I
530 think Ms. O'Connor had a question about whether short-term rentals would affect the
531 ability for someone to come in and build transitional housing and I feel there is mutually
532 exclusivity there so that transitional housing would not be affected by short-term rentals.

533
534 Ms. O'Connor said that I thought the leasing, subletting and the enforcement violations
535 and penalties were really good.

536
537 Mr. Latter said that I just want to make sure that any action taken is as it was presented,
538 not as it is printed.

539
540 Mr. Brubaker said that I baked that into the motion template.

541
542 There was no other discussion on this.

543
544 **7:01 PM Public Hearing closed.**

545
546 **Ms. O'Connor moved, second by Ms. Braun, that the Planning Board recommend**
547 **the approval of the proposed Town Code Amendments Related to Compliance with**
548 **State Statutes on Increasing Housing Opportunities by Changing Zoning and Land**
549 **Use Regulations at the Town Special Referendum Election on November 7, 2023, as**
550 **amended. Minor formatting changes and revisions to the Background and Rationale**

551 **section may be made prior to presenting the amendments to the Select Board on**
552 **August 24, 2023.**

553 **VOTE**

554
555 **Ms. O'Connor – Yes**

556 **Ms. Braun – Yes**

557 **Mr. Shiner – Yes**

558 **Mr. Latter – Yes**

559 **Ms. Bennett – Yes**

560
561 **Motion approved**

562
563 **7:03 PM Public Hearing for Item 2., Public Park and Ride Lots, opened.**

564
565 Mr. Brubaker said that the only change is a suggestion from the SB. Selectman Widi felt
566 that it would be good to have public park and ride facilities allowable not just in the C/I
567 Zone but on lots abutting Route 236 in the Rural and Suburban Districts. You can see that
568 change, although it's not in your printed version, on the screen. That would certainly
569 open for PB discussion, whether you want to do that or not, but I did put it in there. I
570 don't believe I have any further points on this except to add that this amendment has been
571 cleared with our legal counsel. The specific addition has not but I believe it's minor
572 enough that it wouldn't warrant a different opinion. The language is the standard "Use is
573 prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR"
574 and must be visually screened from abutting (same street side) non-commercial
575 properties."

576
577 Ms. Lemire asked if there was enough property in that area (northern end of Rt. 236)
578 where it would protect the water, the environment. I'm thinking in terms of stormwater
579 protection and that sort of thing. We're talking pavement that is huge.

580
581 Mr. Brubaker said that the facility would have to go through site plan review and show
582 that they are meeting all the stormwater standards; that if an acre or more was disturbed,
583 they would have to submit and erosion and sediment control plan.

584
585 Ms. Lemire agreed that there would be those requirements but I don't even know where
586 they could put it.

587
588 Mr. Shiner said that I understand that Mr. Widi was discussing anywhere in the
589 residential or Rural District providing it had Route 236 frontage. What wasn't discussed
590 the amount of frontage and dimensional standards. For example, if there is an easement
591 or ROW through a driveway from Route 236 into a lot that's behind, would that be an
592 allowable use. My point is that I think that, if we want to entertain anything that has
593 Route 236 frontage, we specifically state the frontage requirement is not just an access to
594 Route 236 to a lot that would be 'inland', if you will, from Route 236.

595
596 Ms. O'Connor asked if it is 'has Route 236 frontage' or it 'abuts Route 236'.

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Mr. Brubaker said that it is ‘abuts’.

Mr. Shiner asked by how much an abutment and is this sufficient. In other words, if you had a pie-shaped lot where you had 20 or 30 feet on Route 236, is that a sufficient dimensional standard for a park and ride that may be behind other abutters that are actually on Route 236.

Mr. Brubaker said that it would be one of those where the applicant could make the case to the PB that their property abuts if there is, for whatever reason, a gray area as to that question. Then, the PB could find that they successfully made the case, or not. I would say that if there is a lot, like a ‘flag lot’, that just kind of touches Route 236, the applicant could make a pretty good case that, according to the letter of this definition, they do abut Route 236. There may be issues with non-conformance if it is a flag lot and the lot does not meet the road frontage standards.

Mr. Shiner said that that’s what I was after, the dimensional standards that touches Route 236.

Mr. Brubaker said that I think that, in a flag lot case, they could make a case that, yes, they do abut Route 236. We’re in the Rural or Suburban Zone, so we should have allowability for building a park and ride. So, I’m only presenting this as a discussion. Just passing it along that it was the SB suggestion.

Mr. Shiner said that it is my personal opinion that I’m willing to entertain it but we need to dig into it, first, because there could be other implications with lot configurations in those zones.

Ms. Bennett said that I think you raise a really valid point. I think that, as this is written, we’re treating park and ride equitably in regards to other commercial uses allowed in the same manner along Route 236. Even though we don’t extend our C/I Zone as a definitive area on our zoning, we do allow for similar commercial uses beyond that zone if it is directly abutting Route 236. That’s why you see some restaurants and gas stations and things that are not allowed in the Rural Zone along the arterial.

Mr. Brubaker said that one suggestion would be, if the PB wants to go this direction, that you could add “if the property abuts Route 236 and has street frontage consistent with §45-405.

Mr. Shiner said that that gives the dimensional standard that I’m looking for.

Mr. Brubaker said that that would mean that, if it’s in the Rural District, it would be 200 feet. Suburban is 150 feet.

Ms. Bennett asked what was the sentiment of the PB.

643 Ms. Braun said that I think we should add that language.
644

645 Ms. O'Connor asked what was the reason to be that specific in wanting the frontage
646 measurement to be really explicit.
647

648 Mr. Shiner said because you're allowing a use that's associated with the Commercial
649 District in additional districts as an abutter 'by right' to Route 236 and you should
650 consider including dimensional standards in those zones so that there isn't almost a kind
651 of gerrymandering of a lot in order to get approval because you meet a standard just to be
652 an abutter. It has to be a dimensional standard on how much you abut.
653

654 Ms. O'Connor said that there are like 10 footnotes that allow uses if you abut Route 236
655 and there's no specific language. If you look on page 10, footnotes 13-18 I think just say
656 if you abut Route 236 you can have this additional usage if you're not C/I. I wondered if
657 you had a really particular interest because this was about traffic. I was actually thinking
658 that, if you were really specific, you were thinking that that might alleviate the fact that
659 the park and ride traffic would likely access the parking lot from the rural side as opposed
660 to from the Route 236 side.
661

662 Mr. Shiner said that that's part of it, too, and I think it's about dimensional standards. If
663 you're going to have buses, you're going to have to have swing-turn radius, a bunch of
664 stuff going on, which gets you in and out of the lot. But, to have somebody, perhaps, in
665 front of you on part of that lot who also abuts Route 236, to have that kind of parking lot
666 behind them, that was my point about dimensional standards. Not just a driveway with
667 access but you are on Route 236 for the area of use.
668

669 Mr. Brubaker said that one thing to clarify, too, is that for all those other footnotes that
670 Ms. O'Connor mentioned that are like the one you see on the screen now, you wouldn't
671 be able to do a lot line adjustment where you kind of create a new flag lot because you
672 would be creating an illegally, non-conforming lot. A flag lot would only be potentially
673 developable for any of these non-residential uses if it can demonstrate legally non-
674 conforming lots of record. I do want to clarify that somebody couldn't engineer a flag lot
675 and have a park and ride parking lot with a long, long driveway deep into the Suburban or
676 Rural District.
677

678 Ms. Bennett asked how we feel about Mr. Shiner's proposal.
679

680 Ms. Braun said that I think we should add the language for dimensional standards just to
681 be clear so there's no question.
682

683 Ms. Bennett said that we will hold only eligible properties that can exercise this right
684 would be the ones that have adequate frontage as defined in §45-405.
685

686 Mr. Latter said that my question is that, even given the worst-case scenario, if we don't
687 add the dimensional standards what are we trying to inhibit, and is it worth the effort of

688 trying to define this and is there an unintentional consequence to defining those standards
689 and not allowing this where we might want to otherwise allow it.

690

691 Mr. Shiner said that I would work the other way and I would suggest to you that use
692 prescribes specifically what's required, up front, and if somebody has something that
693 doesn't adhere to those requirements, then they can come before the Board and see if it's
694 allowable, for whatever reason.

695

696 Mr. Latter said that it's just been floating through my head the whole conversation.

697

698 Mr. Brubaker said that I think the idea, here, is to try to prevent a certain lot from hosting
699 a park and ride where the shape of the lot allows a park and ride to be embedded deeper
700 back from Route 236 and behind or in the midst of residences. I think the street frontage
701 addition would be an imperfect tool to lessen the likelihood of the situation. I do think it
702 would be possible for certain lots that have adequate street frontage to still have a park
703 and ride that might have an affect on abutting residential properties. We do have this
704 visual screening requirement for all of these types of non-C/I commercial uses. But, I do
705 think that either way without any change to this language, here, then you're pretty good
706 with adding that language to probably rule out a few more lots that could otherwise have
707 that kind of proximity impact that you're talking about.

708

709 Ms. Bennett asked would we like to instead entertain, not knowing how we would word
710 this or what the mechanism would be, but let the park and ride be sited within sight of
711 Route 236. A lot of times, my perception is that park and rides for safety, and just public
712 awareness, are often sited within the visual travel way. You're traveling the road, you see
713 this park and ride, and know that it exists. The other piece is that having an isolated park
714 and ride can make an attractive nuisance, in a way; that other things besides parking and
715 riding can happen there that are not, perhaps, appropriate or desirable. It may bring in
716 some things to the Suburban and Rural Districts that our ordinance clearly wants to
717 prevent. That's just a thought.

718

719 Mr. Shiner said that we could envision that there will be some sort of light stanchions and
720 parking lighting in a bus shed. you know, you have your car and wait at the little
721 enclosure. Those are logical paths of developments. Again, to the point, if you go deep
722 into that territory off Route 236 and you start putting up light stanchions, and so forth,
723 you could very well run into issues with abutters. That's why I think the dimensional
724 standard of frontage on Route 236 is an appropriate ask.

725

726 Ms. O'Connor said that I think that's a reasonable proxy without being super duper
727 specific in trying to name and enunciate every possible thing, which we don't want to do.

728

729 Mr. Shiner said that it qualifies that you've got the right kind of lot.

730

731 Ms. Bennett said that, as the Planner stated, it is an imperfect tool. Someone could use
732 adequate frontage and still propose, for whatever reason. Maybe there's a lot of wetlands
733 withing the first 600 feet, as an example, of the 'L'-shaped property.

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Mr. Brubaker said that we also have our other tools in the toolbox, like glare and no parking in the setbacks.

7:25 PM Public Hearing closed.

Ms. Bennett said that the Chair would request a motion.

Ms. Braun moved, second by Mr. Shiner, that the Planning Board recommend approval of the proposed Town Code Amendments Related to Park-and-Ride Lots at the Town Special Referendum Election on November 7, 2023, as amended. Minor formatting changes and revisions to the Background and Rationale section may be made prior to presenting the amendments to the Select Board on August 24, 2023.

VOTE

**Ms. O'Connor – Yes
Ms. Braun – Yes
Mr. Shiner – Yes
Mr. Latter – Yes
Ms. Bennett – Yes**

Motion approved

7:27 PM Public Hearing for Item 3., Grocery Stores, opened.

Mr. Brubaker said that there are no changes. Our legal counsel has reviewed and is amenable to it.

There was no public comment.

7:28 Public Hearing closed.

Ms. Bennett asked if there were any thoughts or suggestions or are we prepared to make a motion.

Ms. Braun moved, second by Ms. O'Connor, that the Planning Board recommend approval of the proposed Town Code Amendments Related to Grocery Stores at the Town Special Referendum Election on November 7, 2023. Minor formatting changes and revisions to the Background and Rationale section may be made prior to presenting the amendments to the Select Board on August 24, 2023.

VOTE

**Ms. O'Connor – Yes
Ms. Braun – Yes**

780 **Mr. Shiner – Yes**
781 **Mr. Latter – Yes**
782 **Ms. Bennett – Yes**

783
784 **Motion approved**

785
786 **ITEM 8 – OLD BUSINESS**

787
788 **A. Community Outreach – Proposed Ordinance Amendments for November Ballot.**
789

790 Ms. Bennett said that we have discussed, at various points along the way, in crafting the
791 ordinance relating to compliance with State statute on housing doing some community
792 outreach about these amendments on the November ballot. The last we left the
793 conversation we were talking about having a public information session, developing
794 some materials and talking points to convey to the public that we were going to be having
795 a public information session and, then, to convey what is in translating this background
796 and rationale that we've developed into succinct and digestible materials and talking
797 points for them. I reached out to the Town Manager to ask if there was an opportunity to
798 meet and discuss this public information session and any outreach that might be
799 happening from the Town regarding ballot issues in November. He was not able to meet
800 because there's so much going on in Town right now, most particularly, all of the road
801 work and the sewer expansion that is demanding a lot of his time and energy. Mr.
802 Brubaker and I had an opportunity to speak briefly about this and what we discussed, and
803 this is just for further PB discussion, is perhaps we add at least a half hour prior to the
804 scheduled meeting where we would dedicate having a public information session. Start at
805 5:30 PM and maybe do this for our first meeting in October. So, the first question is
806 whether that structure would work instead of having a stand-alone meeting at another
807 time, which is time-consuming for everyone involved.

808
809 Ms. O'Connor said that she was supportive of the idea. Have you thought about how you
810 would advertise or invite people to this in a way that is different.

811
812 Ms. Bennett said that I would like to brainstorm that, as a group. One thing is that we do
813 have somewhat of a budget; that there is the prospect of being reimbursed by the State of
814 Maine for implementing this band-aided changes to our ordinance. One of the qualified,
815 reimbursable items is related to public education around the ordinance amendments. We
816 talked about the possibility of sending a postcard mailer to every household in our Town
817 to let them know we were having a public information session, that there is information
818 on our website, and which ordinance we will be talking about; that we will open it up to
819 all three ordinance amendments we are proposing.

820
821 Ms. Braun said that that is a lot to pack into a half hour.

822
823 Ms. Bennett agreed. So, we'll have to allow for the possibility that this will go on beyond
824 the usual start of our meeting at 6 PM.
825

826 Ms. Braun said that I think we should include the text of these ordinances on our website
827 so they have the information before they come and they can develop their questions
828 before they come.

829
830 The PB agreed that they should point to the website.

831
832 Mr. Shiner said that, having pointed them to the website, it's important to have the cliff
833 note version so that we don't lose them through too much text.

834
835 Mr. Latter commented the executive summary. I would speculate that, if we send a post
836 card, it will get attendance to the meeting just because it's something nobody has ever
837 seen before.

838
839 Mr. Shiner said that I would hope that there is great attendance and even more attendance
840 on Zoom.

841
842 Ms. Bennett said that that Zoom link could be put on the website.

843
844 Ms. O'Connor asked if we would also put information in a few public places, like the
845 Transfer Station, Town Hall, where we normally post things, and then maybe post it in
846 places where we don't normally post things.

847
848 The PB agreed that they could, such as the Maine Market.

849
850 Mr. Shiner asked how do we address social media.

851
852 Suggestions were Eliot Community Page and Eliot Online as possibilities.

853
854 Mr. Shiner said, regarding that from a narrative standpoint, we have the opportunity to
855 put up things that we want to make sure are communicated on social media outlets,
856 whereas to help minimize some of the hearsay.

857
858 Ms. O'Connor agreed. If we do nothing and only send postcards, there will be loads of
859 conversation on those two or three platforms without anything official; that whoever
860 sounds like they know the most will be the one who gets repeated, whether it's right or
861 wrong. It would be great to have a copy of the postcard be posted on the social media
862 sites.

863
864 Ms. Bennett added with a hyperlink to the website.

865
866 Ms. Lemire said that 'mandate' needs to be emphasized, too.

867
868 Mr. Shiner said yes, but it starts with a 'did you know?' approach because I'm sure a lot
869 of people don't know and this is going to be their first introduction to what's going to be
870 on the ballot.

871

872 Mr. Brubaker said to just remember that, when you are engaging in dialogue on this on
873 social media, to add the appropriate caveat. As an example, something is posted as a link
874 to the Town website and that link goes to what the official Town information is. If you
875 then engage in a comment section, just make sure you are aware that you would be
876 speaking as an individual, not on behalf of the Town.

877
878 It was suggested that ‘questions happen at the session’ be included.

879
880 Ms. Bennett said that I think it would be interesting to observe what the conversation is
881 on social media. But Mr. Brubaker just made a good point about us engaging in that
882 conversation in an online forum. There could be potential pitfalls and stepping out side
883 our roles.

884
885 Mr. Brubaker said that the only thing I can think of , and I’m not legal counsel, is
886 ensuring that people won’t get the impression you are giving the Town’s official position.
887 But, you have every First Amendment right, as a citizen, to say what you want to say.

888
889 Mr. Latter said that I’m sure we can come up with a response to let people know that we
890 can’t deliberate this with them online and are just giving them the information.

891
892 Ms. O’Connor suggested ‘We encourage everyone to attend the session and bring your
893 questions there.’

894
895 Ms. Bennett added that, if we develop this executive summary (the cliff note version),
896 then we can drive them back to that. Have it robust enough to capture the spirit, the
897 requirement. This is a compliance with law but the fact is that it is not a turn-key, take the
898 State’s rules, and put it into our ordinance; that I has been crafted and adapted to our
899 current ordinance.

900
901 Ms. O’Connor added that, because we know that there are some folks who will not come
902 to the website, we could also say that a full text version of all these materials is available
903 at the Town Hall and the library. We could print it out in a binder for people to take a
904 look at.

905
906 Ms. Bennett said that, in talking with Ms. Tackett, from ger recollection the Comp Plan
907 mailer cost about \$3,000 to have printed and mailed. It took about a week to 10 days,
908 once the copy was created, for the print house to print and actually get mailed and
909 received by the households. Working back, we want this to land in mailboxes at least a
910 week before the October 3rd meeting. We could set the public information meeting on the
911 second meeting of October to give us a little more time. That makes it three weeks before
912 the election. If we want this to get to voters by the third week in September, we basically
913 have to have finalized this on the 5th, everything that needs to be done.

914
915 Discussion of creating a draft of the postcard for finalization at the September 5th
916 meeting: Mr. Shiner and Ms. O’Connor volunteered to do that. Mr. Latter volunteered to
917 help with formatting, etc.

918
919 Ms. Bennett will follow up with Ms. Tackett as to exactly what deliverable needs to go to
920 the printer/mail house on that.

921
922 Mr. Latter added that he has some experience doing direct mail election pieces so I can
923 give it a stab (developing graphics, etc.).

924
925 Discussion finalized how the three members would create and bring a draft postcard to
926 the September 5th meeting, without needing to meet in person together, that would then
927 be reviewed and approved by the whole PB.

928
929 It was agreed that the public information session would be held October 3rd at 5:30 PM,
930 prior to the regular PB meeting.

931

932 **ITEM 9 –OTHER BUSINESS/CORRESPONDENCE**

933

934 **A. Review and approve minutes**

935

936 Minutes of June 6 were deferred until the next regular meeting.

937

938 **B. Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town
939 Planner, Board Member.**

940

941 Mr. Brubaker asked if everyone got the new schedule. Several members did not so he
942 will have it emailed out again.

943

944 Ms. Bennett said that Mr. Shiner did take the FOAA training through MMA about a week
945 ago and he passed along the materials that he received from that meeting. Including a
946 Certificate of Completion. You did include a question to me ‘Did you know that all PB
947 members are required to take FOAA training within 120 days of a new term?’.

948

949 Mr. Shiner said that it’s either the official training or you can go through the website they
950 have and self-certify.

951

952 Ms. Bennet said that, if you go to the Maine Attorney General FOAA site, there’s an
953 FAQ that you can go through and self-certify. This is something that should really be
954 provided to our Town Clerk so that we are all compliant. I was going to propose creating
955 a Board manual, over time, that is digital so that we can start to accumulate these
956 documents. In addition, I will send out what was presented in Mr. Shiner’s training, the
957 Attorney General FOAA FAQ page, and the April 5, 2022 minutes that contain the
958 FOAA training we had with our Attorney to all members.

959

960 **ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**

961

962 June 6 minutes

963 Postcard finalization

964 Car wash continued review
965 Notices of Decision

966
967

968 The next regular Planning Board Meeting is scheduled for September 5, 2023 at 7PM.

969

970 **ITEM 11 – ADJOURN**

971

972 **Ms. Braun moved, second by Ms. O’Connor, that the Planning Board adjourn.**

973

VOTE

974

5-0

975

Motion approved

976

977

978 The meeting adjourned at 8:13 PM.

979

980

981

982

983

Suzanne O’Connor, Secretary

984

Date approved: _____

985

986

987 **Respectfully submitted,**

988

989 **Ellen Lemire, Recording Secretary**

990

991

992