

# TOWN OF ELIOT, MAINE

## PLANNING BOARD AGENDA

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

DATE: Tuesday, October 3, 2023  
TIME: 5:30 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) **PUBLIC INFORMATION SESSION (5:35pm)**
  - a) Warrant Articles 13-15 on the November 7, 2023, Town Special Referendum Election: Ordinance Amendments related to:
    1. Grocery Stores
    2. Park-and-Ride Lots
    3. Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations
- 5) **10-MINUTE PUBLIC INPUT SESSION**
- 6) **PUBLIC HEARING**
  - a) 17 Levesque Drive (Map 29/Lot 26), PID# 029-026-000, PB23-1: Site Plan Amendment/Review – Car Wash
- 7) **NEW BUSINESS**
- 8) **OLD BUSINESS**
  - a) 76 Cedar Road (Map 71, Lot 25), PID# 071-025-000, PB23-16: Residential Subdivision (6 lots) – sketch plan review
  - b) 495-505 Harold L. Dow Highway (Map 53, Lots 6 & 7), PID# 053-006-000 & 053-007-000, PB23-18: Site Plan Amendment/Review and Change of Use – Marijuana Store – sketch plan review
- 9) **REVIEW AND APPROVE MINUTES**
  - a) March 28, 2023
- 10) **OTHER BUSINESS / CORRESPONDENCE**
  - a) Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Member
- 11) **SET AGENDA AND DATE FOR NEXT MEETING**
  - a) October 17, 2023
- 12) **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)**

- b) Go to [www.eliotme.org](http://www.eliotme.org)
- c) Click on “Meeting Videos” – Located in the second column, on the left-hand side of the screen.
- d) 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: **885 7287 4703**
  2. When prompted to enter Attendee ID
  3. When prompted enter meeting password: **620480**

Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.

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



Christine Bennett, Planning Board Chair



# 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 – **public hearing**

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	February 21, July 25, September 5, and October 3 (scheduled), 2023
✓ Found Complete by PB	September 5, 2023
Site Walk	Not held
Site Walk Publication	N/A
Public Hearing	October 3, 2023 (scheduled)
Public Hearing Publication	September 22, 2023 (Weekly Sentinel)
✓ 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.”

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

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)**

<b>Dimension</b>	<b>Standard</b>	<b>Met?</b>
Min lot size	3 acres	<b>Met</b> for Eliot Commons overall and Map 29, Lot 26.
Lot line setbacks (ft)	30/20/30 front/side/rear	<b>Appears to be met</b>
Building height (ft)	55	<b>Presumed to be met</b> and can be confirmed during full SPR. At the time of this report, elevation drawings are expected on 8/30.
Lot coverage	50%	<b>Appears to be met.</b> 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	<b>Met</b>
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.

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Building separation (C/I district)	Min. 20 ft. for multiple principal structures on a single lot	<b>Met</b> with respect to distance from existing adjacent red building.
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**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**

See, in the packet, my email to the Town Manager regarding water use and the requested sewer allocation. This will be discussed by the Select Board on September 28.

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

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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

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being washed in a driveway. The requested 2,700 GPD capacity is the equivalent of 10-3, bedroom dwelling units.

*Sewer allocation and capacity*

See, in the packet, my email to the Town Manager regarding water use and the requested sewer allocation. This will be discussed by the Select Board on September 28.

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 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**

*To be provided after September 28, 2023, Select Board meeting*

**Motion templates**

*To be provided after September 28, 2023, Select Board meeting*

\*\*\*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

**From:** [Planner](#)  
**To:** [Kim Tackett](#)  
**Subject:** FW: 17 Levesque Dr - Eliot Commons Car Wash - gray water system  
**Date:** Wednesday, September 27, 2023 4:21:18 PM

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Kim,

Can you include the below email in the PB packet? This should be all the info from me needed for the 10/3 packet.

Jeff

Jeff Brubaker, AICP  
(207) 439-1813 x112

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**From:** Planner  
**Sent:** Wednesday, September 20, 2023 2:20 PM  
**To:** Michael Sullivan <[msullivan@eliotme.org](mailto:msullivan@eliotme.org)>  
**Subject:** 17 Levesque Dr - Eliot Commons Car Wash - gray water system

Mike,

Per your question, I also think a gray water system and a greater percentage of wash water being recycled than currently proposed (20% cited in Attar's 7/28/23 letter) would be a prudent idea for this type of development; however, you focus on the important question, which is, can the PB or SB require such a system under the current Town Code?

The PB can require that:

- Site plans show the proposed development's connection to the sanitary sewer system [33-127(15)]
- An activity (as suggested by the site plan) not discharge or permit the discharge of liquids that contaminate groundwaters or surface waters [45-419]; or discharge of hazardous waste into water bodies [Ch. 31; 45-420]

When a proposed development will connect to the public sewer system, how much sewerage they can discharge into the system and what treatment they need to implement are primarily covered by Ch. 18. The SB is the authority for approving sewer allocations [18-43]. However, if there are any more restrictive provisions in the Code, statute, IMA, or NPDES permit, those shall prevail (18-6). So, if there are any requirements for certain uses to recycle their water in state statute, the IMA, or NPDES permit, those would control.

18-9(a) delegates to the Town Sewer Superintendent "control and general supervision of all public sewers and service connections" beginning 5 ft. outside the building footprint.

Among the wastewater discharges into the public sewer system prohibited or restricted by 18-35

and -36 are the following (summarizing/highlighting here to focus on those most pertinent):

- Flows exceeding the town's allocated capacity
- Unusual flow rates
- Wastewater containing fats, wax, grease, or oils concentrated above 100 mg/l, or may solidify or become viscous at certain temps (note that the 17 Levesque applicant has proposed an oil-water separator – see also 18-42 for grease/oil/sand interceptor requirements)
- Liquids that are sufficient to cause a fire or explosion, or otherwise injure the public sewer system (includes gasoline)
- Wastewater containing toxicity that might damage the wastewater treatment process, be toxic to WWTP receiving waters, be hazardous to humans or animals, or exceed pretreatment standards
- Wastewater with more than 25 mg/l of petroleum oil
- Solid or viscous substances that might obstruct flow, e.g. sand, lubricating oil and polishing waste residues
- The following non-domestic wastewater discharges (unless permitted by the Town Sewer Superintendent and Kittery WWTP):
  - Wastes with detergents, surface active agents, etc. which may cause excessive foaming
  - Acidic (<5.5 PH) or basic (>9.5 PH) wastewater
  - Wastes with excessive levels of certain heavy metals
  - Wastes with biochemical oxygen demand (BOD) or total suspended solids (TSS) >300 mg/l
  - Wastes not amenable to treatment, or not able to be treated enough to meet discharge standards

For any of the above or any others enumerated in 18-35 and -36, the Town's sewer superintendent and-or the Town of Kittery may [18-37]:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers; [the design and installation of pretreatment/equalization equipment is subject to Superintendent/Kittery review]
- (3) Require control over the quantities and rates of discharge;
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this chapter.

The Superintendent/Kittery can also require more information from an applicant to determine compliance with the above, including information on wastewater volume.

As we know, there can be no connections to a public sewer system until the SB approves the sewer allocation [18-44]. The Superintendent provides the recommendation to the SB on a sewer allocation application. That review can include consideration of flow volumes relative to capacity, and a third-party reviewer can be hired [18-45(b) and (c)].

The SB reviews on a first-come first-serve basis (though certain uses under 18-45(d)(1) can be prioritized). Table 18.2 has per-acre allowed flows for certain non-residential uses, mostly 500

gpd/acre but allowing 2000/acre for certain retail, service, and industrial uses – though car washes are not specifically called out. 18-46(c) provides for unique uses not listed in Table 18.2. A car wash might be seen to apply here. In that case, you have to look at flows from 3 similar uses in the region. If those aren't available, you can seek professional advice on what a typical flow rate would be; if that's not available, you would rely on the applicant engineer's documentation which Ken Wood has already provided.

**So in summary, in my interpretation of the Code:**

- **This question is primarily the authority of the Town Sewer Superintendent, Select Board, and Town of Kittery (Wastewater Dept, also the terms of the IMA)**
- **The Town's Sewer Superintendent and-or Select Board would have the authority to require a gray water system or a greater % of water recycling under 18-37 if you find that:**
  - **The proposed discharges fall under any of the enumerated categories in 18-35 or -36,**
  - **The Town of Kittery, the IMA, or the NPDES permit require this, or**
  - **The estimated average flow (2700 gpd + self-serve bay flow) or peak flow (10,000 gpd) is excessive compared to Table 18.2 or other car washes in the region under 18-46, and**
  - **You find that the gray water system/more water recycling would mitigate the above findings and its design could be approved by the Superintendent and Town of Kittery**

I know this is a long email, so let me know if you have any questions or need follow-up info.

Jeff

Jeff Brubaker, AICP  
Town Planner  
Town of Eliot  
(207) 439-1813 x112

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

# TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903



## PUBLIC HEARING NOTICE

**AUTHORITY:** Eliot, Maine Planning Board  
**PLACE:** Town Hall (1333 State Rd.) with Remote Option  
**DATE OF HEARING:** October 3, 2023  
**TIME:** 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, October 3, 2023 at 6:00 PM for the following application:

- **PB23-1: 17 Levesque Dr. (Map 29/Lot 26): Site Plan Amendment/Review – Car Wash**
  - Applicant: Shawn Moore
  - Property Owner: York Hospital

Interested persons may be heard and written communication received regarding the application at this public hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. The meeting agenda and information on how join the remote Zoom meeting will be posted on the web page at [eliotmaine.org/planning-board](http://eliotmaine.org/planning-board). Town Hall is accessible for persons with disabilities.

# ~ Classifieds ~

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## PUBLIC & LEGAL NOTICES

**Town of Ellot**  
**PUBLIC HEARING NOTICE**  
**AUTHORITY:** Ellot, Maine Planning Board  
**PLACE:** Town Hall (1333 State Rd.) with Remote Option  
**DATE OF HEARING:** October 3, 2023  
**TIME:** 6:00PM  
 Notice is hereby given that the Planning Board of the Town of Ellot,  
 Maine will hold a public hearing on Tuesday, October 3, 2023 at  
 6:00 PM for the following application:  
 PR23-1: 17 Levesque Dr. (Map 29/Lot 26); Site Plan Amendment/  
 Review - Car Wash. Applicant: Shawn Moore. Property Owner:  
 York Hospital.  
 Interested persons may be heard and written communication  
 received regarding the application at this public hearing. The  
 application is on file and available for review in the Planning Office  
 at Ellot Town Hall, 1333 State Road, Ellot, ME 03903. The meeting  
 agenda and information on how to join the remote Zoom meeting  
 will be posted on the web page at [ellotmaine.org/planning-board](http://ellotmaine.org/planning-board).  
 Town Hall is accessible for persons with disabilities.

**PUBLIC HEARING**  
 To: Marianne Goodine or Michele Sitvaletta-Noble, Cindy Appleby,  
 Mark Dupuis, Keely Lambert, Mike Livingston, resident of the  
 Town of Wells, County of York, and State of Maine; GREETINGS:  
 In the name of the State of Maine, you are hereby required to  
 notify and warn the voters of the Town of Wells that the Board of  
 Selectmen of said town will meet at the Municipal Building, 208  
 Sanford Road, Wells on **October 3 and October 17, 2023 at 8:00**  
**p.m.** in the evening.  
 The Board will conduct a public hearing on "An Ordinance to  
 Amend the Charter of the Town of Wells to Convert the Position of  
 the Town Clerk From an Elected to an Appointed Position".  
**SELECT BOARD OF THE TOWN OF WELLS**

**PUBLIC NOTICE: NOTICE OF INTENT TO FILE**  
 Please take notice that Eric Dyer, 15 Bowen Road, Kittery Point, ME 03904,  
 is intending to file a Natural Resources Protection Act permit application with the  
 Maine Department of Environmental Protection pursuant to the provisions of 38  
 M.R.S.A. §480-A thru 480-BB on or about September 25, 2023.  
 This application is for the stabilization of approximately 86 linear feet  
 of eroding shoreline, and the replacement of a residential timber pier,  
 gangway, and float that provides access to Spruce Creek at the following  
 location: 15 Bowen Road, Kittery Point, ME 03904 (Tax Map 17, Lot 6).  
 A request for a public hearing or a request that the Board of Environmental  
 Protection assume jurisdiction over this application must be received by the  
 Department in writing, no later than 20 days after the application is found by  
 the Department to be complete and is accepted for processing. A public hearing  
 may or may not be held at the discretion of the Commissioner or Board of  
 Environmental Protection. Public comment on the application will be accepted  
 throughout the processing of the application.  
 The application will be filed for public inspection at the Department of  
 Environmental Protection's office in Portland during normal working hours. A  
 copy of the application may also be seen at the municipal offices in Kittery,  
 Maine. Written public comments may be sent to the regional office in Portland  
 where the application is filed for public inspection: MDEP, Southern Maine  
 Regional Office, 312 Canco Road, Portland, ME 04103.

**HELP WANTED**  
 School Around Us in Arundel  
 is looking for a part-time,  
 year-round, **FACILITIES**  
**MANAGER** (10 hours/week)  
 to ensure ongoing campus  
 maintenance, repair, and  
 coordinate parent volunteers  
 and staff. Work on your own  
 schedule, \$20/hour. Skills  
 and qualifications: Carpentry,  
 painting (interior and exterior),  
 Google Docs, interpersonal  
 communication. Knowledge  
 of plumbing and electrical,  
 landscaping, and tree work a plus.  
 Send resume and 3 references to  
 hiring@schoolaroundus.org.

**STUMP GRINDING**  
**STUMP GRINDING**  
 Fully Insured  
 Green Firewood Available  
 207-432-6720

**HELP WANTED**  
**IT'S A DOG'S WORLD**  
 daycare program in York is  
 hiring. Our program runs 7am -  
 6pm, Mon. - Fri., flexible shifts,  
 P/T hours. If you enjoy dogs and  
 are comfortable handling groups  
 indoors and in fields, consider  
 joining our college-through-  
 retiree aged team. 207-363-0099,  
[info@itsadogsworld.me](mailto:info@itsadogsworld.me) or  
[www.itsadogsworld.me](http://www.itsadogsworld.me)

**EXPERIENCED**  
**CARPENTERS NEEDED**  
 Frame to Finish • Wages  
 commensurate with experience  
 and skill level. Contact Bill  
 Robinson & Son Bldg. Contrs.  
 207-252-0399 / 207-606-4295  
[billrob54@comcast.net](mailto:billrob54@comcast.net)

**TEACHER NEEDED**  
 at The Learning Place Day  
 School in Wells. 5 half days,  
 for kids Prek - 6th grade.  
 Call 207-646-3822 for  
 Georgann  
 Tusidco  
 and visit  
[www.thelearningplacewells.com](http://www.thelearningplacewells.com)

**KITTERY TRADING POST**  
  
**Join our Team!**  
**NOW HIRING!**  
 Certified Ski Tech • Retail  
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 Full Time • Part Time • Seasonal  
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 9:30am-6pm • Rte 1, Kittery  
**\$1,000 Sign-on Bonus!**  
 Store Discounts, Paid Time Off & More!  
 Apply Online! For more details  
 visit [ktp.com/employment](http://ktp.com/employment)  
 EOE. Submit application/resume to:  
 Kittery Trading Post, Attn: Paige Galkowski,  
 301 US Rte 1, Kittery, ME 03904 or  
[pgalkowski@ktp.com](mailto:pgalkowski@ktp.com), 207-752-4035

**PROPERTY MANAGER**  
 The Lookout Condo Association at 55 Israel Head Road, Ogunquit, is searching  
 for a Full-time Property Manager effective January 1, 2024. Candidates  
 should understand building systems including heating, plumbing, electrical,  
 security, and pool operations. Property Manager must be a self-starter with  
 conflict resolution skills. Training will be provided before start date.  
 Duties include enforcing rules, responding to emergency repairs, coordinating  
 contract bids, scheduling maintenance, cleaning common areas, and operating  
 a heated outdoor pool. Additional duties include overseeing landscaping,  
 enforcing parking, collecting fees, and managing projects and the budget.  
 Send resume to [thelookoutboard@gmail.com](mailto:thelookoutboard@gmail.com).

**Misty Harbor Resort**  
 60 Mile Road, Wells, ME 04090  
 Misty Harbor offers a great work environment! Year round and  
 seasonal, full and part time positions available. We offer top  
 wages, medical and dental for our full time employees.  
**Head Housekeeper, Housekeepers**  
**& Front Desk Attendants**  
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 one from our website: [www.mistyharborresort.com](http://www.mistyharborresort.com)

155 HDH LLC  
369 LAFAYETTE RD  
HAMPTON, NH 03842

PRIME STORAGE ELIOT LLC  
PO BOX 480  
SARATOGA SPRINGS, NY 12866

CFI PROPCO 2 LLC  
165 FLANDERS RD  
WESTBOROUGH, MA 01581

SEA DOG REALTY LLC  
86 NEWBURY ST  
PORTLAND, ME 04101

ELIOT COMMONS SENIOR HOUS  
C/O PHOENIX MANAGEMENT CO  
PO BOX 759  
SACO, ME 04072

SHAPLEIGH, NANCY E  
28 SANDY HILL LN  
ELIOT, ME 03903

GREEN, JONATHAN B  
GREEN, BRENDA  
235 HANSCOM RD  
ELIOT, ME 03903

YORK/CUMBERLAND MGMT CORP  
BARON PLACE  
LABRECQUE PROPERTY  
MANAGEMENT  
PO BOX 460  
SABATTUS, ME 04280-0460

GROGAN, MICHAEL F  
GROGAN, DONNA J  
PO BOX 482  
ELIOT, ME 03903

HATHEWAY, GREGORY R  
HATHEWAY, HANNAH M  
247 HANSCOM RD  
ELIOT, ME 03903

IRVING OIL LIMITED  
ATTN: CORPORATE REAL ESTA  
PO BOX 868  
CALAIS, ME 04619

J & J's PATHFINDER, LLC  
402 THE HILL  
PORTSMOUTH, NH 03801

LAWRENCE, DAVID  
PO BOX 273  
ELIOT, ME 03903

M H PARSONS & SONS LUMBER  
WOODBRIDGE RD  
YORK, ME 03909



# TOWN OF ELIOT MAINE

PLANNING OFFICE  
1333 State Road  
Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: Walter E. Pelkey, BH2M, Applicant’s Representative  
 Shelly Bishop, Code Enforcement Officer  
 Date: September 27, 2023 (report date)  
 October 3, 2023 (meeting date)  
 Re: PB23-16: 76 Cedar Rd. (Map 71, Lot 25) – Residential Subdivision (6 lots) – **sketch plan**

<b>Application Details/Checklist Documentation</b>	
Address	76 Cedar Rd.
Map/Lot	71/25
PB Case#	23-16
Zoning District(s)	Rural (not in Critical Rural Overlay)
Shoreland Zoning District(s)	Limited Residential
Property Owner(s)	David Springer
Applicant Name(s)	David Springer
Proposed Project	6-lot conventional residential subdivision
<b>Sketch Plan</b>	
✓ Application Received by Staff	May 4, 2023
✓ Application Sent to Staff Reviewers	August 22, 2023
✓ Application Reviewed By PB	September 19 and October 3 (scheduled), 2023
Site Walk	
Site Walk Publication	
Sketch Plan Approval	
<b>Preliminary Plan</b>	
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	
<b>Final Plan</b>	

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

**Overview**

Applicant seeks sketch plan review for a 6-lot conventional residential subdivision of the subject ~21.5-acre parcel, which is undeveloped.

**Affidavit of ownership**

Photo of the warranty deed signature page included in submittal

There was some question about whether the parcel was part of the adjacent conservation easement held by Great Works Land Trust (GWLT), but in communicating with GWLT, this parcel is not part of the easement. The applicant indicated that the property was taken out of the state’s Farmland Current Land Use tax program.

**Zoning**

Rural (outside of Critical Rural Overlay [CRO]); LR shoreland zoning in one corner of the lot

**Open Space Development**

On September 19, the PB suggested that the applicant consider an Open Space Development (OSD), which is optional for the applicant since the tract is outside of the CRO [45-467(B)]. Based on the September 19 discussion, a subsequent review call with the applicant’s representative, and the updated sketch plan submittal, I understand that they would prefer to proceed with the conventional large-lot subdivision; however, the PB may wish to delve into this further at the meeting.

**Dimensional requirements**

<b>Standard</b>	<b>Planner review</b>
Min. lot size: 3 acres [41-255; 41-218(e); 45-405]	<b>Met</b> , unless larger lots needed for subsurface wastewater systems based on soil characteristics
Min. street frontage: 200 ft.	<b>Appears to be met for Lots 1-4. Not met for Lot 5. Unclear for Lot 6.</b>

<p>Min. street frontage waiver/modification</p>	<p>Applicant can seek up to a 50% reduction per 41-255(g).</p> <ul style="list-style-type: none"> <li>• Lot 5: 109.96 ft. along the cul-de-sac ROW <ul style="list-style-type: none"> <li>○ <b>For PB review: 46% reduction (when rounded)</b></li> </ul> </li> <li>• Lot 6: A waiver has not been requested but I am seeking to clarify with the applicant. It appears that the frontage is achieved from the lot “annex” to the west and south of the cul-de-sac; however, it might be advisable for the applicant to request a waiver here, as that annex creates an irregular lot shape [see 41-255(a)], suggesting the lot should be “closed off” at the cul-de-sac.</li> <li>• <b>Alternatively, PB could grant up to a 50% reduction for both Lots 5-6. I recommend this as this being reasonable given the site context and orientation of the lots around the cul-de-sac.</b></li> </ul>
<p>Setbacks: appropriate for location of subdivision and type of development/use contemplated [41-255]. 45-405 setbacks: 30’ front/20’ side/30’ rear</p>	<p>Standard setbacks shown on sketch plan</p>

**House lot layouts**

Per PB September 19 review comment, the updated sketch plan shows typical house and septic locations, well exclusion zones around the septic locations, driveways, and (as shown previously) the wetland impact area related to the Lot 3 driveway.

**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	<p>Soil map and classifications included in application. Soils report will be needed at preliminary plan submittal, unless waived by the PB [41-150(11)]</p> <p>April 6, 2023, soil narrative report included in 10/3/23 submittal – “Class B-High Intensity Soil Survey (Minimum Standards)” – signed/sealed by Mark J. Hampton, certified Maine soil scientist. Soils:</p> <ul style="list-style-type: none"> <li>• Buxton – Group C – moderately well drained, test pits SS-4, SS-5, and SS-9</li> <li>• Lamoine – Group D – somewhat poorly drained, test pits SS-2 and SS-7</li> <li>• Scantic – Group D – poorly drained, test pits SS-1, SS-3, SS-6, and SS-8 located in wetland areas</li> </ul>
41-215	Preservation of natural resources and scenic beauty	<p>Lot is undeveloped with agricultural fields, woodlands, and wetlands. Per applicant, lot was taken out of the Maine Current Land Use (Farmland) Tax Program (corrected from previous report that cited Tree Growth). As noted above, it is not in the adjacent conservation easement.</p> <p>Per ECC and PB review comments, applicant’s 10/3/23 meeting submittal includes an April 7, 2023, letter from Mark J. Hampton, C.S.S., L.S.E. (Certified Soil Scientist #216, Licensed Site Evaluator #263) outlining his delineation, the flagging of wetlands and the transmittal of wetland flag locations to the applicant’s engineer, BH2M, for mapping. The letter notes that the wetlands “do not meet the definition of wetlands of special significance as defined by [DEP]”. The updated sketch plan (with house/septic locations) continues to show the avoidance of wetland impacts except for the Lot 3 driveway (3,900 sf).</p> <p>Also in the 10/3/23 meeting submittal is an April 8, 2023, letter from Mr. Hampton describing his vernal pool assessment, stating in part: “all the wetlands evaluated on the parcel do not have the parameters to support a vernal pool, there were no areas of ponded water of sufficient depth to support amphibian breeding environment.”</p>
41-216	Preservation of historical features and traditional land use pattern	No comments currently
41-217	Water supply	<p>The general location of individual wells shall be indicated on the subdivision plan by a Maine-licensed site evaluator [41-217(d)]. <b>This is a requirement but may be deferred to submittal of the preliminary subdivision plan.</b> The sketch plan shows well exclusion areas around the septic fields.</p>

41-218	Sewage disposal	The sketch plan shows septic locations, and the submittal includes soil test pit results [41-218(d)]. PB comment about nitrates by the wetlands was discussed by the applicant’s representative on September 19.
41-220	Relationship of subdivision to community services	Sketch plan does not show open space per 41-220[c] – up to 10% may be required by PB. Per September 19 discussion, the PB indicated that this open space may be warranted. One option for ensuring wetland protection may be to require deed restrictions for each lot prohibiting disturbance of the wetland areas (except for Lot 3’s driveway).
41-221	Traffic and streets	The applicant proposes a minor cul-de-sac street built to Town standards and proposed to be dedicated to the Town, with a 40 ft. right-of-way width and a length of 1,000 ft., the maximum allowed. The street would serve all six lots from Cedar 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 all meet the 3-acre minimum lot size, though 41-218(e) allows for the requirement of larger lots if warranted based on soil characteristics and environmental considerations.

#### *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). No public parks are located within 1 mile of the subdivision.

Options for the PB to consider:

- PB can deem the reservation of land to be appropriate and require it. The PB can then review the type of reservation to see if it complies with 41-256(a)’s design standards. This could potentially be:
  - A public park, pocket park, playground, or playfield
  - A walking trail along the road (which is proposed to be dedicated to the Town as a public road) with small public parking area
- PB can waive the requirement and not require payment-in-lieu – no further review would be needed on this topic.

- PB can waive the requirement and require payment-in-lieu – next step would be to request an analysis to determine the required payment-in-lieu from Town staff or a third-party consultant (if the latter, costs covered by the applicant)

### **Site Walk**

On September 19, the PB indicated you wanted to conduct one more sketch plan review, then potentially schedule a site walk after that. Consider scheduling the site walk at this meeting, allowing enough time for public/abutter notice. For a site walk, the applicant needs to stake the centerline of all proposed streets and entrances [33-64], and per PB review, it is suggested that approximate locations of houses be staked. However, the terrain and flora on parts of the property may limit where the walk can go.

### **Stormwater and erosion-sedimentation control plan**

Per the applicant, the application will need a stormwater permit-by-rule (PBR) from DEP. Per the Town Code, at preliminary plan submittal, a stormwater/drainage plan is required [41-150(9) and 41-213] as well as an erosion and sedimentation control plan [41-150(10), 41-214, and Ch. 34].

### **Other notes**

- Part of Lot 1 is in a flood zone, per 1989 FEMA FIRM map.
- Note ECC comments.



*Civil Engineering | Surveying*

September 27, 2023

Jeff Brubaker  
Town Planner  
1333 State Road  
Eliot, ME 03903

Re: Sketch Plan Review  
6 Lot Subdivision  
76 Cedar Road

Dear Jeff;

On behalf of the applicant, David Springer, we are submitting Sketch Plan revisions for a proposed 6-lot subdivision located at 76 Cedar Road. Enclosed are sketch plan revisions and supporting documents following the September 19, 2023 Planning Board meeting:

- High Intensity Soils narrative and test pit lots
- Sketch Plan - Subdivision
- Existing Conditions/High Intensity Soils Plan

The plans have been revised as requested by the Planning Board to depict typical house, septic and well exclusion zones. As part of this submission, we've included the High Intensity Soils Survey prepared by Mark Hampton Associates, Inc.

We'd ask for a waiver of 50% lot frontage along the cul-de-sac area as described Chapter 41, Subdivisions, Sec. 41-255(a).

We look forward to discussing this project at the Oct. 3, 2023 Planning Board meeting.

If you require any additional information, please feel free to contact me at (207)839-2771, ext. 201 or by email at [wpelkey@bh2m.com](mailto:wpelkey@bh2m.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Walter Pelkey", with a stylized flourish at the end.

Walter Pelkey  
Project Manager



*Civil Engineering | Surveying*

September 21, 2023

Jeff Brubaker  
Town Planner  
1333 State Road  
Eliot, ME 03903

Re: Sketch Plan Review  
6 Lot Subdivision  
76 Cedar Road

Dear Jeff;

On behalf of the applicant, David Springer, we are submitting Sketch Plan revisions for a proposed 6-lot subdivision located at 76 Cedar Road. Enclosed are sketch plan revisions and supporting documents following the September 19, 2023 Planning Board meeting:

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The plans have been revised as requested by the Planning Board to depict typical house, septic and well exclusion zones. As part of this submission, we've included the High Intensity Soils Survey prepared by Mark Hampton Associates, Inc.

We'd ask for a waiver of lot frontage in the cul-de-sac area as described Chapter 41, Subdivisions, Sec. 41-255(a).

We look forward to discussing this project at the Oct. 3, 2023 Planning Board meeting.

If you require any additional information, please feel free to contact me at (207)839-2771, ext. 201 or by email at [wpelkey@bh2m.com](mailto:wpelkey@bh2m.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Walter Pelkey", written over a circular scribble.

Walter Pelkey  
Project Manager



MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7414

April 7, 2023

Mr. David Springer  
12 White Pine Way  
North Berwick, ME 03906

Re: Wetland Delineation, 21+ acres on Cedar Road Eliot, ME

Dear David,

I have completed a delineation of wetlands on the 21+ acres located on Cedar Road in Eliot, ME. The wetland delineation was completed in accordance with the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual for the Northcentral and Northeast Regions dated January 2012. These manuals require the presence of three parameters for a wetland to be present, wetland hydrology, hydrophytic vegetation, and hydric soils.

The wetlands I found on the parcel were flagged with yellow flagging. The flagging was labeled in an alphanumeric sequence. The wetland flags were located by GPS equipment capable of locating a point to within three feet. The wetland data has been forwarded to BH2M. The wetlands found onsite are forested wetlands. The wetlands found onsite do not meet the definition of wetlands of special significance as defined by Maine Department of Environmental Protection.

If you have any questions or require additional information, please contact me.

Sincerely,

Mark J. Hampton C.S.S., L.S.E.  
Certified Soil Scientist #216  
Licensed Site Evaluator #263



MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7414

April 8, 2022

Mr. David Springer  
12 White Pine Way  
North Berwick, ME 03906

Re: Vernal pool assessment, 21+ acre parcel, Cedar Road Eliot, ME

Dear David,

I have completed a vernal pool assessment on the 21+ acre parcel located on Cedar Road Eliot, ME. The vernal pool assessment was conducted in accordance with Chapter 335 Significant Wildlife Habitat, Section 9 Significant Vernal Pools for the Maine Department of Environmental Protection. This section outlines the definition of a vernal pool as well as the requirements of a vernal pool to meet the definition of significance as related to the number of amphibian egg masses counted during the breeding season.

I recently completed a delineation of wetlands on the parcel and all the wetlands evaluated on the parcel do not have the parameters to support a vernal pool, there were no areas of ponded water of sufficient depth to support amphibian breeding environment.

If you have any questions or require additional information, please contact me.

Sincerely,

Mark J. Hampton C.S.S., L.S.E.  
Certified Soil Scientist #216  
Licensed Site Evaluator #263



MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7414

Cedar Road  
Eliot, ME  
David Springer

**Soil Narrative Report**

DATE: Soil Profiles observed on April 6, 2023

BASE MAP: Base plan provided by BH2M Scale 1 inch equals  
100 feet and two foot contours.

GROUND CONTROL: Soil survey boundaries located by Mark Hampton Associates,  
Inc. for Class B Soil Survey

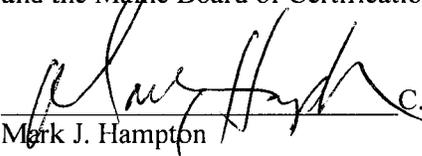
**Class B-High Intensity Soil Survey (Minimum Standards)**

Mapping units of 1 acre or less.  
Scale of 1"= 200 feet or larger.  
Up to 25% inclusions in mapping units of which no more than 15% may be dissimilar  
soils.  
Ground Control – test pits located by means of compass by chaining, pacing, or taping  
from known survey control points  
Base Map –5 foot contour intervals

**Provided:**

Mapping units of 1 acre or less  
Base map scale of 1"= 60 feet.  
Up to 25 percent inclusions in mapping units of which no more than 15 percent is  
dissimilar soils.  
Baseline information and test pits located by pacing and taping from know survey control  
points.  
Ground topographic survey with one foot contours and ground control provided.

The accompanying soil profile descriptions, soil map, and this soil narrative report were done in accordance with the standards adopted by the Maine Association of Professional Soil Scientists, and the Maine Board of Certification of Geologists and Soil Scientists.

 C.S.S. #216, L.S.E. #263 4/6/23  
Mark J. Hampton Date



## Legend for Soil Maps

### 1. Drainage Class

Excessively Well Drained	EWD
Well Drained	WD
Moderately Well Drained	MWD
Somewhat Poorly Drained	SPD
Poorly Drained	PD
Very Poorly Drained	VPD

### 2. Slope Designation

0-3%	A
3-8%	B
8-15%	C
15-25%	D
>25%	E

3. Note: High Intensity Soil Survey has been prepared by Mark Hampton Associates, Inc. in accordance with the standards adopted by the Maine Association of Professional Soil Scientists, and the Maine Board of Certification of Geologists and Soil Scientists.



# MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7414

Cedar Road  
Eliot, ME  
David Springer

**Buxton**  
(Aquic Dystric Eutrochrepts)

## SETTING

PARENT MATERIAL: Derived from glaciomarine or glaciolauustrine sediments  
LANDFORM: Coastal lowlands and river valleys  
POSITION IN LANDSCAPE: Intermediate positions on landform  
SLOPE GRADIENT RANGES: (B) 3-8%

## COMPOSITION AND SOIL CHARACTERISTICS

DRAINAGE CLASS: Moderately well drained with a perched watertable from 1.5 to 3.0 feet below the surface at some time from November to May or during periods of heavy precipitation.

TYPICAL PROFILE: Surface Layer: Dark Brown, fine sandy loam 0-7"  
Subsurface Layer: Olive brown, silt loam, 8-15"  
Subsoil Layer: Olive gray silty clay loam, 15-32"  
Substratum: Gray silty clay loam +32"

HYDROLOGIC GROUP: Group C  
SURFACE RUNOFF: Moderate to moderately slow  
PERMEABILITY: Slow to very slow  
DEPTH TO BEDROCK: Greater than 60 inches  
HAZARD TO FLOODING: None



## INCLUSIONS (Within Mapping Unit)

CONTRASTING: Scantic, Lamoine

## USE AND MANAGEMENT

Development: The limiting factor for building site development is wetness due to the presence of a high watertable for a portion of the year. Proper foundation drainage or site modification is recommended.



# MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7414

Cedar Road  
Eliot, ME  
David Springer

**Lamoine**  
(Aeric Haplaquepts)

## SETTING

PARENT MATERIAL: Derived from glaciomarine or glaciolaustrine sediments  
LANDFORM: Coastal lowlands and river valleys  
POSITION IN LANDSCAPE: Intermediate positions on landform  
SLOPE GRADIENT RANGES: (A) 0-3 %, (B) 3-8%

## COMPOSITION AND SOIL CHARACTERISTICS

DRAINAGE CLASS: Somewhat poorly drained with a perched watertable from 0.5 to 2.0 feet below the surface at some time from November to June or during periods of heavy precipitation.

TYPICAL PROFILE: Surface Layer: Dark Brown, fine sandy loam 0-7"  
Subsurface Layer: Lt. Olive brown silt loam, 7-14"  
Subsoil Layer: Olive silty clay loam, 14-21"  
Substratum: Olive, silty clay loam, 21-65"

HYDROLOGIC GROUP: Group D  
SURFACE RUNOFF: Moderate to moderately slow  
PERMEABILITY: Slow to very slow  
DEPTH TO BEDROCK: Greater than 65 inches  
HAZARD TO FLOODING: None

## INCLUSIONS (Within Mapping Unit)

CONTRASTING: Buxton, Scantic



## USE AND MANAGEMENT

Development: The limiting factor for building site development is wetness due to the presence of a high watertable for a portion of the year. Proper foundation drainage or site modification is recommended.



# MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7414

Cedar Road  
Eliot, ME  
David Springer

**Scantic**  
(Aquic Haplorthod)

## SETTING

PARENT MATERIAL: Derived from glaciomarine or glaciolaustrine sediments  
LANDFORM: Coastal lowlands and river valleys  
POSITION IN LANDSCAPE: Lower positions on landform  
SLOPE GRADIENT RANGES: (A) 0-3%, (B) 3-8%

## COMPOSITION AND SOIL CHARACTERISTICS

DRAINAGE CLASS: Poorly drained with a perched watertable from 0.0 to 1.0 feet below the surface at some time from October to May or during periods of heavy precipitation.

TYPICAL PROFILE:

<u>Surface Layer:</u>	Dark grayish brown, silt loam 0-9"
<u>Subsurface Layer:</u>	Olive gray silt loam, 9-16"
<u>Substratum:</u>	Gray silty clay loam, 16"+

HYDROLOGIC GROUP: Group D  
SURFACE RUNOFF: Moderate to moderately slow  
PERMEABILITY: Slow to very slow  
DEPTH TO BEDROCK: Greater than 65 inches  
HAZARD TO FLOODING: None

## INCLUSIONS (Within Mapping Unit)

CONTRASTING: Lamoine, Buxton

## USE AND MANAGEMENT

Development: The limiting factor for building site development is wetness due to the presence of a high watertable for a portion of the year. Proper foundation drainage or site modification is recommended.



### SOIL PROFILE / CLASSIFICATION INFORMATION

### SOIL SCIENTIST DESCRIPTION OF SOIL CONDITIONS AT PROJECT SITES

Project Name: Subdivision      Applicant Name: David Springer      Project Location (municipality): Eliot

Exploration Symbol # SS-9     Test Pit     Boring     Probe  
 \_\_\_\_\_ " Organic horizon thickness    Ground surface elev. \_\_\_\_\_  
 \_\_\_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
0	Ap	Black	F. Sandy Loam	Grand	Very Friable
10	Bg	Brown	F. Sandy Loam	Weak Sub Ang Blocky	Friable
20	Bg	Olive Brown	Silty Clay Loam	Fine Grandu	Firm
30					Common and Distinct
40	Cd	Olive Gray	Silty Clay Loam	Platy	Very Firm
50					
60					

Soil Series/Phase Name: Buxton      Limiting Factor 16     Groundwater  
 Restrictive Layer     Bedrock  
 Depth \_\_\_\_\_

Drainage Class:  ED     SED     WD     MWD     SPD     PD     VPD  
 Slope 6    Hydric Soil  No     Yes    Hydrologic \_\_\_\_\_  
 Percent

Exploration Symbol # \_\_\_\_\_     Test Pit     Boring     Probe  
 \_\_\_\_\_ " Organic horizon thickness    Ground surface elev. \_\_\_\_\_  
 \_\_\_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
0					
10					
20					
30					
40					
50					
60					

Soil Series/Phase Name: \_\_\_\_\_      Limiting Factor \_\_\_\_\_     Groundwater  
 Restrictive Layer     Bedrock  
 Depth \_\_\_\_\_

Drainage Class:  ED     SED     WD     MWD     SPD     PD     VPD  
 Slope \_\_\_\_\_    Hydric Soil  No     Yes    Hydrologic \_\_\_\_\_  
 Percent

Exploration Symbol # \_\_\_\_\_     Test Pit     Boring     Probe  
 \_\_\_\_\_ " Organic horizon thickness    Ground surface elev. \_\_\_\_\_  
 \_\_\_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
0					
10					
20					
30					
40					
50					
60					

Soil Series/Phase Name: \_\_\_\_\_      Limiting Factor \_\_\_\_\_     Groundwater  
 Restrictive Layer     Bedrock  
 Depth \_\_\_\_\_

Drainage Class:  ED     SED     WD     MWD     SPD     PD     VPD  
 Slope \_\_\_\_\_    Hydric Soil  No     Yes    Hydrologic \_\_\_\_\_  
 Percent

Exploration Symbol # \_\_\_\_\_     Test Pit     Boring     Probe  
 \_\_\_\_\_ " Organic horizon thickness    Ground surface elev. \_\_\_\_\_  
 \_\_\_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
0					
10					
20					
30					
40					
50					
60					

Soil Series/Phase Name: \_\_\_\_\_      Limiting Factor \_\_\_\_\_     Groundwater  
 Restrictive Layer     Bedrock  
 Depth \_\_\_\_\_

Drainage Class:  ED     SED     WD     MWD     SPD     PD     VPD  
 Slope \_\_\_\_\_    Hydric Soil  No     Yes    Hydrologic \_\_\_\_\_  
 Percent

### SOIL SCIENTIST INFORMATION AND SIGNATURE

Mark J. Hampton  
 Signature  
 Mark J. Hampton  
 Name Printed

4/6/2023  
 Date  
216  
 SS License No.



SOIL PROFILE / CLASSIFICATION INFORMATION

SOIL SCIENTIST DESCRIPTION OF SOIL CONDITIONS AT PROJECT SITES

Project Name: Subdivision Applicant Name: David Springer Project Location (municipality): Eliot

Exploration Symbol # SS-1 Exploration Symbol # SS-2 ... Soil Series/Phase Name: Scantic ... Limiting Factor: 6 ...

Exploration Symbol # SS-2 ... Soil Series/Phase Name: Lamoine ... Limiting Factor: 13 ...

Exploration Symbol # SS-3 ... Soil Series/Phase Name: Scantic ... Limiting Factor: 6 ...

Exploration Symbol # SS-4 ... Soil Series/Phase Name: Buxton ... Limiting Factor: 15 ...

SOIL SCIENTIST INFORMATION AND SIGNATURE

Signature: Mark J. Hampton Name Printed: Mark J. Hampton

Date: 4/6/2023 SS License No.: 216



### SOIL PROFILE / CLASSIFICATION INFORMATION

### SOIL SCIENTIST DESCRIPTION OF SOIL CONDITIONS AT PROJECT SITES

Project Name: **Subdivision**

Applicant Name: **David Springer**

Project Location (municipality): **Eliot**

Exploration Symbol # SS-5  Test Pit  Boring  Probe  
 \_\_\_ " Organic horizon thickness Ground surface elev. \_\_\_  
 \_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
Ap	Black	F. Sandy Loam	Grand	Very Friable	
Bg	Brown	F. Sandy Loam	Weak Sub Ang Blocky	Friable	
Bg	Olive Brown	Silty Clay Loam	Fine Grandu	Firm	Common and Distinct
Cd	Olive Gray	Silty Clay Loam	Platy	Very Firm	

Soil Series/Phase Name: **Buxton** Limiting Factor 16 "  Groundwater  Restrictive Layer  Bedrock  
 Depth  
 Drainage Class:  ED  SED  WD  MWD  SPD  PD  VPD  
 Slope 6 Percent  No  Yes Hydric Soil Hydrologic Soil Group

Exploration Symbol # SS-6  Test Pit  Boring  Probe  
 \_\_\_ " Organic horizon thickness Ground surface elev. \_\_\_  
 \_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
Ap	Black	F. Sandy Loam	Weak Angular	Very Friable	
Bg1	Gray	F. Sandy Loam	Sub Ang Blocky	Firm	Common and Distinct
Bg2	Olive Gray	Silty Clay Loam	Thin Platy	Firm	
Cg	Olive	Silty Clay Loam	Medium Platy	Very Firm	

Soil Series/Phase Name: **Scantic** Limiting Factor 6 "  Groundwater  Restrictive Layer  Bedrock  
 Depth  
 Drainage Class:  ED  SED  WD  MWD  SPD  PD  VPD  
 Slope 3 Percent  No  Yes Hydric Soil Hydrologic Soil Group

Exploration Symbol # SS-7  Test Pit  Boring  Probe  
 \_\_\_ " Organic horizon thickness Ground surface elev. \_\_\_  
 \_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
Ap	Black	Silt Loam	Fine Grandul	Friable	
Bg	Brown	Silt Loam	Weak Sub Ang Blocky	Friable	
Bg	Gray Brown	Silty Clay Loam	Thin Platy	Firm	Common and Distinct
Cd	Olive	Silty Clay Loam	Medium Platy	Very Firm	

Soil Series/Phase Name: **Lamoine** Limiting Factor 13 "  Groundwater  Restrictive Layer  Bedrock  
 Depth  
 Drainage Class:  ED  SED  WD  MWD  SPD  PD  VPD  
 Slope 4 Percent  No  Yes Hydric Soil Hydrologic Soil Group

Exploration Symbol # SS-8  Test Pit  Boring  Probe  
 \_\_\_ " Organic horizon thickness Ground surface elev. \_\_\_  
 \_\_\_ " Depth:  of exploration, or  to refusal

Horizon	Color	Texture	Structure	Consistence	Redox
Ap	Black	F. Sandy Loam	Grand	Friable	
Bg1	Gray	F. Sandy Loam	Fine Grandul	Firm	Common and Distinct
Bg2	Olive Brown	Silty Clay Loam	Fine Grandul	Firm	
Cg	Olive Gray	Silty Clay Loam	Platy	Very Firm	

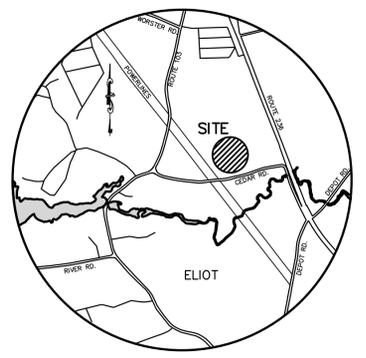
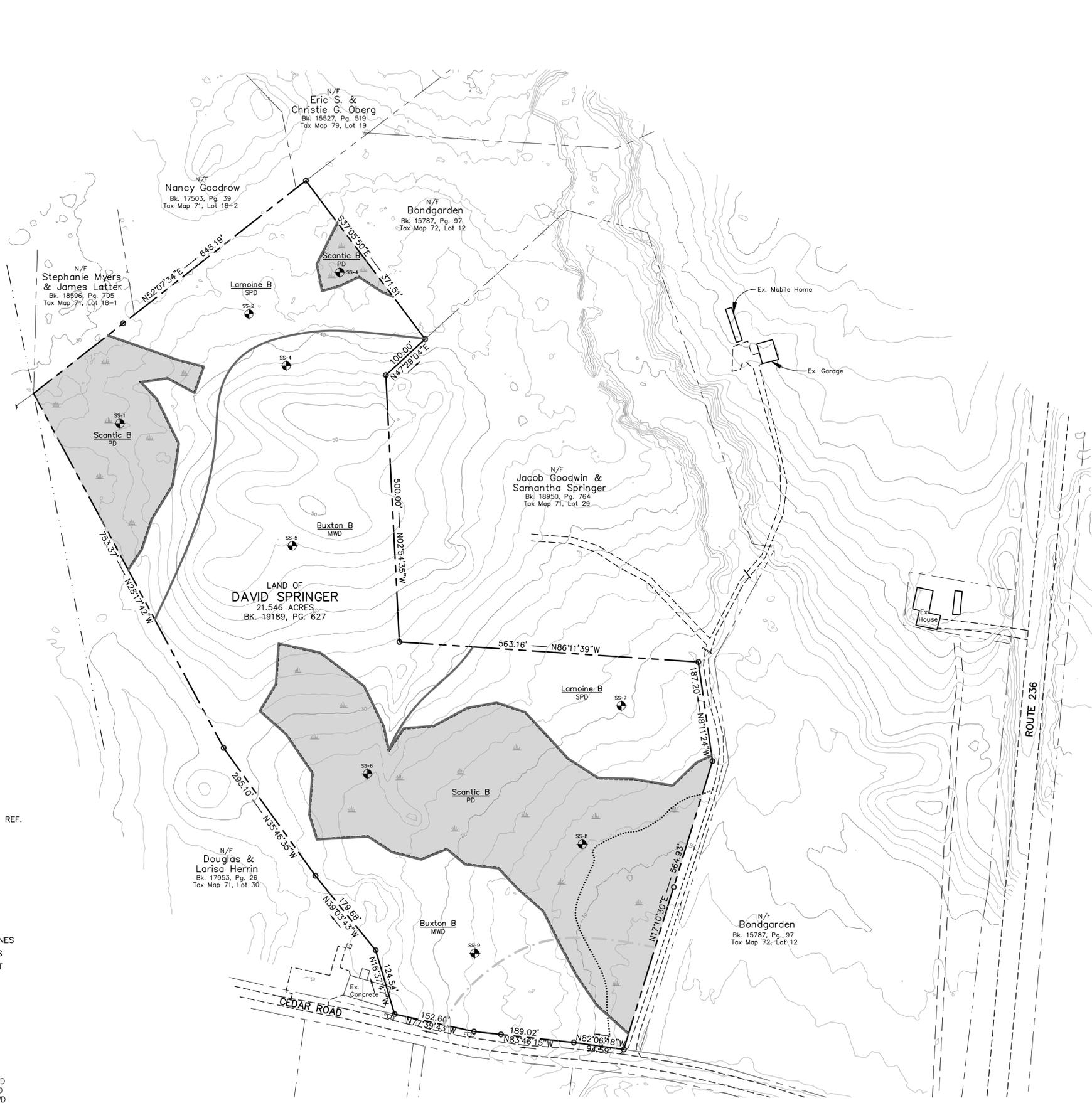
Soil Series/Phase Name: **Scantic** Limiting Factor 15 "  Groundwater  Restrictive Layer  Bedrock  
 Depth  
 Drainage Class:  ED  SED  WD  MWD  SPD  PD  VPD  
 Slope 6 Percent  No  Yes Hydric Soil Hydrologic Soil Group

### SOIL SCIENTIST INFORMATION AND SIGNATURE

*Mark J. Hampton*  
 Signature  
 Mark J. Hampton  
 Name Printed

4/6/2023  
 Date  
216  
 SS License No.





LOCATION MAP  
SCALE: 1" = 2000'

NOTES:

- OWNER/APPLICANT: DAVID SPRINGER  
12 WHITE PINE WAY  
NORTH BERWICK, MAINE
- SURVEYOR: ROBERT C. LIBBY, PLS#2190  
BH2M  
380B MAIN STREET  
GORHAM, MAINE
- HIGH INTENSITY SOILS: MARK HAMPTON ASSOCIATES, INC.  
WETLAND DELINEATION P.O. BOX 1931  
PORTLAND, MAINE
- DEED REFERENCE: BOOK 19189, PAGE 627
- TAX MAP REFERENCE: MAP 71, LOT 25
- ZONING: RURAL  
LIMITED RESIDENTIAL
- PARCEL AREA: 21.546 ACRES
- PLAN REFERENCE: DIVISION OF LAND, CEDAR ROAD, ELIOT,  
MAINE, FOR CHERYL L. GOODWIN, DATED  
AUGUST 22, 2005 BY ANDERSON  
LIVINGSTON ENGINEERS, INC..

**LEGEND**

SYMBOL	DESCRIPTION
○	3/4" IRON PIPE SET PER PLAN REF.
---	PROPERTY LINE
---	EDGE OF PAVEMENT
---	EXISTING CONTOUR
---	ABUTTER PROPERTY LINE
N/F	NOW OR FORMERLY
---	GRAVEL
⊙	UTILITY POLE

**SOILS LEGEND**

SYMBOL	DESCRIPTION
---	SOIL BOUNDARY LINES
---	LIMIT OF WETLANDS
⊙	H.I. SOILS TEST PIT

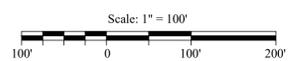
**SLOPE DESIGNATION**

A = 0 - 3%
B = 3 - 8%
C = 8 - 15%
D = 15 - 25%
E = > 25%

**DRAINAGE CLASS**

EXCESSIVELY WELL DRAINED	EWD
WELL DRAINED	WD
MODERATELY WELL DRAINED	MWD
SOMEWHAT POORLY DRAINED	SPD
POORLY DRAINED	PD
VERY POORLY DRAINED	VPD

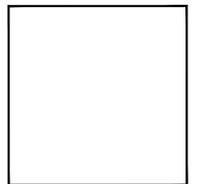
HIGH INTENSITY SOIL SURVEY HAS BEEN PREPARED BY MARK HAMPTON ASSOCIATES, INC. IN ACCORDANCE WITH THE STANDARDS ADOPTED BY THE MAINE ASSOCIATION OF PROFESSIONAL SOIL SCIENTISTS, AND THE MAINE BOARD OF CERTIFICATION OF GEOLOGISTS AND SOIL SCIENTISTS.



I CERTIFY THAT THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS TECHNICAL STANDARDS OF PRACTICE FOR A STANDARD BOUNDARY SURVEY WITH THE FOLLOWING EXCEPTIONS:

- NO SURVEYORS REPORT
- INTERIOR LOTS ONLY

NO.	DATE	REVISION DESCRIPTION
1	5/7/23	Sketch Plan Submission
2	9/27/23	Sketch Plan II Submission



**BH2M**  
Berry, Huff, McDonald, Miffigan Inc.  
Engineers, Surveyors  
380B Main Street  
Gorham, Maine 04038  
Tel: (207) 839-2771  
www.bh2m.com

FOR  
David Springer  
12 White Pine Way  
North Berwick, ME

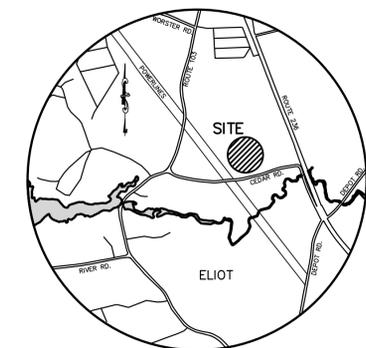
**EXISTING CONDITIONS**  
SUBDIVISION  
76 CEDAR ROAD  
ELIOT, MAINE

DESIGNED W. Peilkey	DATE February 2023
DRAWN B. Monsen	SCALE 1" = 100'
CHECKED R. Libby	JOB. NO. 23008

SHEET  
**2**

REPRODUCTION OR REUSE OF THIS DOCUMENT WITHOUT THE EXPRESSED WRITTEN CONSENT OF BH2M, INC. IS PROHIBITED.

G:\2023\23008\_CedarRoad\Drawings\9/27/2023\_6-4517PM\_DWG.plt



LOCATION MAP  
SCALE: 1" = 2000'

NO.	DATE	REVISION DESCRIPTION
1	5/17/23	Sketch Plan Submission
2	9/27/23	Sketch Plan II Submission



- NOTES:
- OWNER/APPLICANT: DAVID SPRINGER  
12 WHITE PINE WAY  
NORTH BERWICK, MAINE
  - ENGINEER: AUSTIN FAGAN, PE#16523  
BH2M  
380B MAIN STREET  
GORHAM, MAINE
  - SURVEYOR: ROBERT C. LIBBY, PLS#2190  
BH2M
  - HIGH INTENSITY SOILS: MARK HAMPTON ASSOCIATES, INC.  
WETLAND DELINEATION P.O. BOX 1931  
PORTLAND, ME
  - DEED REFERENCE: BOOK 19189, PAGE 627
  - TAX MAP REFERENCE: MAP 71, LOT 25
  - ZONING: RURAL LIMITED RESIDENTIAL
  - PROJECT AREA: 21.546 ACRES
  - PROPOSED USE: SINGLE FAMILY SUBDIVISION
  - MINIMUM STANDARDS: LOT SIZE - 3 ACRES  
FRONTAGE - 200'  
SETBACKS - 30' FRONT & REAR, 20' SIDE
  - SEWER SERVICE: INDIVIDUAL ON SITE SEPTIC SYSTEMS
  - WATER SERVICE: INDIVIDUAL DRILLED WELLS
  - ELECTRIC/TELEPHONE: UNDERGROUND FROM CEDAR ROAD
  - ALL CONSTRUCTION AND SITE ALTERATIONS SHALL BE DONE IN ACCORDANCE WITH THE EROSION PREVENTION PROVISIONS OUTLINED IN THE MAINE EROSION CONTROL AND SEDIMENTATION HANDBOOK FOR CONSTRUCTION: BEST MANAGEMENT PRACTICES, LATEST EDITION.
  - FAILURE TO COMMENCE SUBSTANTIAL CONSTRUCTION OF THE SUBDIVISION WITHIN TWO YEARS OF THE DATE OF APPROVAL AND SIGNING OF PLAN SHALL RENDER THE PLAN NULL AND VOID. "SUBSTANTIAL CONSTRUCTION" FOR THE APPROVED PLAN AS SHOWN SHALL MEAN THE COMPLETION OF THE ROADWAY BASE, PER ART. II, SEC. 41-36.
  - PLAN REFERENCE: DIVISION OF LAND, CEDAR ROAD, ELIOT, MAINE, FOR CHERYL L. GOODWIN, DATED AUGUST 22, 2005 BY ANDERSON LIVINGSTON ENGINEERS, INC..
  - WETLAND IMPACTS: 3,200 S.F. (LOT 3)

I CERTIFY THAT THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS TECHNICAL STANDARDS OF PRACTICE FOR A STANDARD BOUNDARY SURVEY WITH THE FOLLOWING EXCEPTIONS:

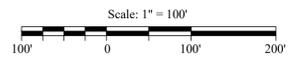
- NO SURVEYORS REPORT
- INTERIOR LOTS ONLY

PLAN REVIEWED AND APPROVED BY THE TOWN OF ELIOT PLANNING BOARD.

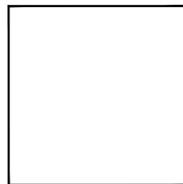
DATE \_\_\_\_\_

CHAIR \_\_\_\_\_

SYMBOL	DESCRIPTION
○	3/4" IRON PIPE SET PER PLAN REF.
---	PROPERTY LINE
---	ZONE LINE
---	FLOOD ZONE
---	EDGE OF PAVEMENT
---	ABUTTER PROPERTY LINE
N/F	NOW OR FORMERLY
---	GRAVEL
○	UTILITY POLE



ROBERT C. LIBBY JR. PLS #2190



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380B Main Street  
Gorham, Maine 04038  
Tel. (207) 839-2771  
www.bh2m.com

FOR  
David Springer  
12 White Pine Way  
North Berwick, ME

SKETCH PLAN  
6 LOT SUBDIVISION  
76 CEDAR ROAD  
ELIOT, MAINE

DESIGNED W. Pelkey	DATE April 2023
DRAWN Dept.	SCALE 1" = 100'
CHECKED R. Libby	JOB. NO. 23008

SHEET  
**1**

REPRODUCTION OR REUSE OF THIS DOCUMENT WITHOUT THE EXPRESSED WRITTEN CONSENT OF BH2M INC. IS PROHIBITED.

PB23-18: 495-505 Harold L. Dow Highway (Map 53, Lots 6 & 7): Site Plan Amendment/Review and Change of Use – Marijuana Store



# TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: Justice Rines, Esq., Sweet Dirt/NEK Assets, LLC, Applicant  
 Shelly Bishop, Code Enforcement Officer  
 Kim Tackett, Land Use Administrative Assistant  
 Date: September 27, 2023 (report date)  
 October 3, 2023 (meeting date)  
 Re: PB23-18: 495-505 Harold L. Dow Highway (Map 53, Lots 6 & 7): Site Plan Amendment/Review and Change of Use – Marijuana Store

<b>Application Details/Checklist Documentation</b>	
✓ Address:	495-505 Harold L. Dow Hwy.
✓ Map/Lot:	53/6&7
✓ PB Case#:	23-18
✓ Zoning:	Commercial/Industrial (C/I) District
✓ Shoreland Zoning:	Limited Commercial
✓ Owner Name:	PW ME Can RE SD, LLC (both lots)
✓ Applicant Name:	NEK Assets, LLC; Sweet Dirt 2, LLC
✓ Proposed Project:	Exchange/Conversion of Medical Marijuana Caregiver Retail Store to Marijuana Store (adult use)
✓ Application Received by Staff:	June 7, 2023; revised application on September 14, 2023
✓ Application Fee Paid and Date:	\$350 fee paid (\$100 Site Plan Amendment/Review; \$25 Change of Use; \$175 Public Hearing; surplus – refund may be due)
Application Sent to Staff Reviewers:	Not sent
✓ Application Heard by PB Found Complete by PB	September 19 and October 3 (scheduled), 2023 TBD
Site Walk	TBD
Site Walk Publication	TBD
Public Hearing	TBD
Public Hearing Publication	TBD
Deliberation	TBD
✓ Reason for PB Review:	Change of Use, SPR Use, Site Plan Amendment

## Overview

Applicant seeks approval of a Site Plan Amendment and Change of Use to convert their Medical Marijuana Caregiver Retail Store into a Marijuana Store (adult use marijuana retail) at 495 Harold L. Dow Hwy. Medical marijuana retail sales would be ended and replaced with adult use marijuana retail sales.

PB23-18: 495-505 Harold L. Dow Highway (Map 53, Lots 6 & 7): Site Plan Amendment/Review and Change of Use – Marijuana Store

The applicant notes in their cover letter that “there is *no construction or development required nor proposed on either the 495 or the 505 properties to accomplish this pivot to Adult Use Cannabis retail from Medical Cannabis retail*. The most that would be required from a State regulatory perspective to this end is possibly the addition of some security and surveillance equipment” (emphasis in original).

### **Section 45-194(b) – Contiguous nonconforming lots of record under single ownership**

495 Harold L. Dow Hwy. (Map 53, Lot 6), where the store conversion is proposed, and 505 Harold L. Dow Hwy. (Map 53, Lot 7) are legally nonconforming lots of record that are contiguous and under the same owner (PW ME Can RE SD, LLC). They are nonconforming with respect to street frontage, with 300 ft. required in the C/I district and less than 300 ft. for each lot.

Because of this, the two are considered a single parcel for the purposes of this review, subject to normal dimensional standards. In this case, no buildings or building additions are proposed, as the applicant notes in the above quote. However, there are some implications for review, e.g. driveway consolidation and access management on Route 236.

### **Uses**

Marijuana stores are SPR uses in the land use table (45-405). A small portion of 505 Harold L. Dow Hwy. has limited commercial (LC) shoreland zoning; however, no change is proposed to that portion, which is in the front lot line setback.

### **Section 45-406 – Traffic – and access management**

As noted in the cover letter, the applicant would like to consolidate the two driveway access points onto Route 236 into one, consistent with a condition of approval in PB20-21 for their marijuana products manufacturing facility on the property. That condition gave some flexibility for driveway consolidation because it was contingent on DEP approving an amendment to the applicant’s stormwater permitting, since the consolidation would require the relocation of a stormwater feature.

The cover letter describes an approach of temporarily closing one of the two entry points with a “no entry” sign, subject to Eliot Police/Fire review, “until such time that the DEP is able to process our amended environmental site plan (a timeline that we understand can take up to or more than three years as there is no statutory response timing requirement for DEP staff concerning amendments to preexisting approved plans) and permit the necessary changes to accommodate the Town’s wishes.”

The PB may wish to discuss this further with the applicant. In my opinion, less important than a temporary no entry sign would be to (subject to the DEP amendment) complete the 505 HL Dow driveway consolidation with cross access to 495 HL Dow and a vegetated 505 HL Dow frontage (per 33-175) with relocated stormwater feature. A no-entry sign alone may cause confusion.

### **Section 33-190 – Marijuana performance standards**

- Buffers and screening – both lots should have sufficient front vegetated buffer and screening, and partial foundation planting for the proposed marijuana store, per 33-175. New trees were installed at 505 HL Dow per PB21-20 approval.
- Parking requirement is 1 space per 100 sq. ft., min. 10 spaces (45-495) for an adult use retail store. The sketch plan has a calculation of 1 space per 200 sq. ft. which should be revised accordingly. The proposed retail is 800 sq. ft. so the minimum 10 are required. (The applicant

clarified that this would be their retail store size, not 2,800 sf which I reported in my previous staff report – based on Note 7 of their site plan.)

- Applicant proposes a marijuana retail store with presumptive indoor sales; no proposals for home delivery or curbside pickup are evident in the application, and the applicant confirmed this at the September 19 meeting.
- Security plan included in the application
- Separation from sensitive uses – applicant notes a waiver granted by the Eliot Board of Appeals in November 2017 to allow the medical marijuana caregiver retail store to operate closer than the required 500 ft. from a sensitive use, in this case a public facility (the Town Transfer Station). As amended by voters in June, 33-190(5) provides: “A variance or waiver previously granted to a medical marijuana caregiver retail store or medical marijuana dispensary shall be deemed to apply to the conversion of such establishment to a marijuana store, or the inclusion of a co-located marijuana store in such establishment.”
- Hours of operation – as noted in the submittal, the proposed hours are:
  - Monday: 9am-9pm
  - Tuesday: 9am-9pm
  - Wednesday: 9am-9pm
  - Thursday: 9am-9pm
  - Friday: 9am-9pm
  - Saturday: 9am-9pm
  - Sunday: 9am-9pm
- On September 19, the applicant reported that they currently have 5 employees at the medical marijuana caregiver retail store and that would not change with the conversion to adult use
- Sale of edible products – state licensing should be provided as needed
- Traffic impact assessment – required per 33-190(10) for a new marijuana store – the applicant made the case that there would not be a significant impact on traffic. The PB consensus on September 19 appears to be that if approved, a condition of approval addressing a traffic impact assessment could be appropriate [33-131(c)].

### **OMP Conditional Licenses**

Applicant has included these in their submittal

### **Recommendation**

Vote on the following waivers from the site plan information requirements of 33-127:

- (5) Temporary markers
  - (6) Contour lines
  - (9) Preliminary design of bridges or culverts
  - (11) Erosion-sedimentation control plan
  - (12) High intensity soils report
  - (13) Location and size of any existing sewers and water mains, culverts, and drains on the property
  - (16) Soil and groundwater test results for private sewage disposal system
  - (17) An estimated progress schedule
- Requirements under this paragraph that are clearly not applicable or were provided for previous Planning Board reviews that are unchanged

PB23-18: 495-505 Harold L. Dow Highway (Map 53, Lots 6 & 7): Site Plan Amendment/Review and Change of Use – Marijuana Store

Deem the application complete and set a public hearing.

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

1 **ITEM 1 - ROLL CALL**

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

5  
6 Excused: Jeff Brubaker, Town Planner, Jim Latter. Mr. Feldman sat in for Mr. Brubaker.

7  
8 Voting members: Carmela Braun, Jeff Leathe, Christine Bennett, and Suzanne O’Connor  
9 (appointed).

10  
11 Note: Ms. Braun welcomed the newest member of the PB – Alternate Paul Shiner. She  
12 asked him to introduce himself.

13  
14 Mr. Shiner said that I have been here in Eliot since April of 2021. My interest in coming  
15 to the PB has to do with my background in construction and design build, basically in the  
16 entertainment business to put in theaters, stadiums, arenas, and so forth. Even though  
17 there is nothing of that scale happening here, it’s all allied and similar. I find it interesting  
18 and I hope to make a contribution.

19  
20 Ms. Braun thanked Mr. Shiner and said we are glad to have you.

21  
22 **ITEM 2 – PLEDGE OF ALLEGIANCE**

23  
24 **ITEM 3 – MOMENT OF SILENCE**

25  
26 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

27  
28 There was no public input.

29  
30 **ITEM 5 – REVIEW AND APPROVE MINUTES**

31  
32 **Ms. Bennett moved, second by Ms. O’Connor, to approve the minutes of November**  
33 **1, 2022, as amended.**

34 **VOTE**  
35 **4-0**  
36 **Motion approved**

37  
38 **ITEM 6 – NOTICE OF DECISION**

39  
40 There were none tonight.

41  
42 **ITEM 7 – PUBLIC HEARING**

43  
44 **A. Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter**  
45 **44 – Shoreland Zoning and Chapter 45 – Zoning Related to Housing, Tiny**  
46 **Homes, and Accessory Dwelling Units.**

47  
48 Ms. Bennett said that this contains the objectives of which were to conform to two State  
49 statutes. One was passed in two pieces a couple years ago. This one relates to the  
50 allowability of Tiny Homes. First, Tiny Homes on wheels and, then, a statute called  
51 LD1530 that also made Tiny Homes allowable as either a principal structure or an  
52 accessory dwelling unit (ADU). So, we knew we needed to address that. At the same  
53 time, we've been beginning to review and adapt our ordinance in relationship to a piece  
54 of State statute that passed last April called LD2003, which is a major piece of legislation  
55 that affects zoning regarding housing. There are four parts of that legislation and we  
56 decided to take the ADU portion and assess how our ordinance is written and to modify it  
57 slightly to conform with this LD2003, which is slated to go into effect July 1 of this year.  
58 So, that is the reason we started this. The rationale was just to create conformity with  
59 State statute. At the same time, LD2003 for the first time created the allowability for  
60 communities to regulate short-term rentals via 'transient rental platforms', so these were  
61 two new definitions that now appear in State statutes. So we incorporated them into our  
62 proposed ordinance but just as definitions with no related rule-making around that, just so  
63 that we have those definitions on hand. What we have before us today we did discuss, as  
64 well as all the subsequent ones, at the last PB meeting and we didn't have any substantive  
65 comment on any of the proposed ordinance except for this one. The comments were well-  
66 thought and well-reasoned by a member of the public who is interested in having a Tiny  
67 Home and has looked into this in great detail. He alerted us to the fact that we just had  
68 gone to the definitions of Tiny Homes that are in State statute and that the initial and only  
69 definition of Tiny Homes is one that relates to Tiny Homes that are built on a chassis so  
70 that they are actually mobile and under the portion of State statute that governs motor  
71 vehicles. So, we had taken that definition and tried also then to create the allowability  
72 afforded by a subsequent legislation – LD1530 – and making it allowable as an ADU. It  
73 was called out that there are different construction standards and code for those two  
74 different types of Tiny Homes and that we were creating a conflict. We took another  
75 crack at this and decided to break out and create two different definitions for Tiny  
76 Homes. A Tiny Home on wheels, which is our interpretation of the initial State statute  
77 and then a Tiny Home that is built like a traditional home is built. The difference here is  
78 that the other conflict that we were recognizing was that in also trying to conform with  
79 the new legislation, LD2003, which just came out with rule-making, that rule-making  
80 was stating that there would be a minimum size for ADUs of 190 square feet. We had  
81 previously had our square footage for ADUs at 300 square feet. But a Tiny Home, by  
82 State statute, has no minimum size. So, there was the conflict. What we decided to do is  
83 give the Tiny Home on wheels its own line in the dimensional standard table and create  
84 the minimum size for ADU as 190 square feet but, then, we footnote for Tiny Homes that  
85 there is no minimum size. We felt it was the simplest solution to be able to conform to all  
86 these rules.

87  
88 **6:17 PM Public Hearing opened.**

89  
90 There was no public comment.

91  
92 **6:18 PM Public Hearing closed.**

93  
94 Ms. Bennett said that, although he didn't raise his hand, Mr. Alleva is on Zoom and he  
95 submitted, in writing, some comments to the PB in regards to this proposal. Everyone  
96 doesn't have these comments and, if you don't mind, I'll just paraphrase quickly. There  
97 were two comments he suggested we consider changes to. One was that we use the term  
98 sewerage where the more modern and common use is wastewater at this time. I related  
99 back to Mr. Alleva, regarding that comment, that we have already identified that we need  
100 to update our sewerage and wastewater ordinance; that it hasn't been touched since 1989;  
101 that we should do that. Personally, I don't have any qualms about making that minor  
102 revision in substituting wastewater where we refer to it as sewerage. The other one is that  
103 we have within our new section governing ADUs a criterion that Tiny Homes shall be  
104 designed to maintain architectural design styles, appearance, and character of the main  
105 building as a single-family residence. I think that Mr. Alleva also draws a good point that,  
106 in particular, a Tiny Home on wheels would rarely be in the same architectural style or  
107 design of the single-family homes that we have in our community. And so, he was asking  
108 if we might consider making an exception for Tiny Homes.

109  
110 Ms. Braun said that I don't have a problem changing that; that it's the same thing we did  
111 for the minimum size.

112  
113 Ms. Bennett said that we could add it to the footnote as an exception.

114  
115 Ms. Braun added that I don't have a problem changing to subsurface wastewater.

116  
117 The PB members agreed to both suggestions.

118  
119 Ms. Braun asked if everyone was ready to have this go to the SB for placing on the ballot.  
120 If so, the Chair would accept a motion.

121  
122 **Ms. Bennett moved, second by Mr. Leathe, that we forward to the Select Board the**  
123 **proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 –**  
124 **Shoreland Zoning and Chapter 45 – Zoning Related to Housing, Tiny Homes, and**  
125 **Accessory Dwelling Units, as amended, for their consideration on the June Ballot.**

126 **VOTE**

127 **4-0**

128 **Motion approved**

129  
130 **B. Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter**  
131 **33 – Planning and Development, and Chapter 45 – Zoning, Related to Childcare.**

132  
133 **6:21 PM Public Hearing opened.**

134  
135 Ms. Bennett said that the rationale behind this is that we have a very old definition of day  
136 nursery, which would catch all types of childcare provided in our community. When such  
137 proposals have come before the PB, for a number of years, we've struggled with the  
138 differences between them. Each one may have a different type of licensing requirement to

139 them and honestly puzzled over that terminology ‘day nursery’. This proposed ordinance  
140 has been in development for about a year. We are deleting that definition ‘day nursery’  
141 and we are adding definitions that directly align with the State licensing categories. We  
142 are adding a ‘family childcare provider’, a ‘youth camp’ definition, in addition to a  
143 ‘childcare facility’, ‘childcare center’, and a ‘small childcare facility’. We are also  
144 deleting the current definition of school and replacing it with two definitions, one being a  
145 ‘public school’ and one being a ‘private school’. Schools started to be a catch-all for  
146 types of instruction that didn’t fall within any of our Table of Permitted Uses. Instead,  
147 we’re creating a definition of a public school and private school; that those are also based  
148 on State law definitions. We’re adding in a definition for an ‘adult daycare’ but not  
149 making any associated site plan review or zoning changes for this use at this time. We’ve  
150 added an ‘outdoor education program’. It was a kind of comprehensive look at the types  
151 of activities that relate to education and children, in particular, to make some updated  
152 definitions.

153  
154 There was no public comment.

155  
156 **6:24 PM Public Hearing closed.**

157  
158 Ms. Braun asked if everyone was ready to have this go to the SB for placing on the ballot.  
159 If so, the Chair would accept a motion.

160  
161 **Ms. Bennett moved, second by Mr. Leathe, that the Planning Board send the**  
162 **Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 –**  
163 **Planning and Development, and Chapter 45 – Zoning, Related to Childcare to the**  
164 **Select Board for addition to the June Warrant.**

165 **VOTE**  
166 **4-0**  
167 **Motion approved**

168  
169 **C. Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments,**  
170 **Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to**  
171 **Marijuana Licensing and Performance Standards.**

172  
173 **6:25 PM Public Hearing opened.**

174  
175 Ms. Bennett said that this is a slight revision, or addition, to our marijuana establishments  
176 ordinance and it relates to a State statute, LD1827, that codified that Adult Use Marijuana  
177 Stores may be allowed to offer curbside pick-up and home deliveries services. Currently  
178 in our ordinances, these two activities are prohibited. We have made changes to allow for  
179 curbside pick-up and home delivery and established performance standards for those  
180 activities. We also amended our Chapter 11 to add licensing provisions specific to the  
181 curbside pick-up and home delivery and updated §45-405 to update the parking  
182 requirement accordingly. Another portion of this proposed amendment is that, when you  
183 put in a maximum number of permitted licenses for marijuana establishments, we were  
184 alerted to the fact that there was no provision for existing licensees to be able to transfer

185 their license or modify, perhaps, the category they are in, i.e., if a medical marijuana  
186 cultivation facility wanted to transition into being an adult use or vice versa. There was  
187 legitimate concern that they might lose their license in that transition. So, we put in a  
188 provision that allows that the current licensees can notify the SB of their intent to either  
189 change category or transfer the business and not lose their license in the interim during  
190 that transition period.

191  
192 There was no public comment.

193  
194 **6:28 PM Public Hearing closed.**

195  
196 Ms. Braun asked if everyone was ready to have this go to the SB for placing on the ballot.  
197 If so, the Chair would accept a motion.

198  
199 **Ms. Bennett moved, second by Mr. Leathe, that the Planning Board forward the**  
200 **Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 11 –**  
201 **Marijuana Establishments, Chapter 33 – Planning and Development, and Chapter**  
202 **45 – Zoning, Related to Marijuana Licensing and Performance Standards to the**  
203 **Select Board for their consideration on the June Ballot.**

204  
205 **VOTE**  
206 **4-0**  
207 **Motion approved**

208  
209 **D. Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter**  
210 **33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a**  
211 **New Chapter 5 – Business Licensing, Related to Mobile Vendors.**

212  
213 **6:29 PM Public Hearing opened.**

214  
215 Ms. Bennett said that this is an idea that started in the pandemic, with the idea of  
216 allowing outdoor mobile vendors. We took the time to create a definition of what a  
217 mobile vendor is and to create business licensing regulation around that, an application  
218 requirement with a temporary mobile vendor, with restrictions on location, operations,  
219 the whole gamut. We also put ‘mobile vendors’ into our Table of Permitted and  
220 Prohibited Uses.

221  
222 There was no public comment.

223  
224 **6:30 PM Public Hearing closed.**

225  
226 Ms. Braun asked if everyone was ready to have this go to the SB for placing on the ballot.  
227 If so, the Chair would accept a motion.

228

229 **Ms. Bennet moved, second by Ms. O'Connor, that the Planning Board forward the**  
230 **Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 –**  
231 **Planning and Development, and Chapter 45 – Zoning, and the Creation of a New**  
232 **Chapter 5 – Business Licensing, Related to Mobile Vendors to the Select Board for**  
233 **their consideration on the June Ballot.**

234 **VOTE**

235 **4-0**

236 **Motion approved**

237

238 **E. Proposed Town Code Amendments of Chapter 31 – Non-Stormwater**  
239 **Discharges, Related to Enforcement of Non-Stormwater Discharges.**

240

241 **6:31 PM Public Hearing opened.**

242

243 Ms. Bennett said that this is just a very small addition to our ordinance related to non-  
244 stormwater discharges alerted to us by the State that we should add to our section  
245 regarding enforcement and notice of violation. The elimination of non-stormwater  
246 discharges to the stormwater drainage system within 60 days of identification of a source.  
247 It identifies the period within which these violations need to be remedied.

248

249 There were no public comments.

250

251 **6:32 PM Public Hearing closed.**

252

253 Ms. Braun asked if everyone was ready to have this go to the SB for placing on the ballot.  
254 If so, the Chair would accept a motion.

255

256 **Ms. Bennett moved, second by Mr. Leathe, that the planning Board forward to the**  
257 **Select Board the Proposed Town Code Amendments of Chapter 31 – Non-**  
258 **Stormwater Discharges, Related to Enforcement of Non-Stormwater Discharges for**  
259 **their consideration on the June Ballot.**

260

261 **VOTE**

262 **4-0**

263 **Motion approved**

264

265 **F. Allocation of Maximum Growth Permits for new residential dwelling units for**  
266 **calendar year 2024.**

267

268 **6:34 PM Public Hearing opened.**

269

270 Ms. Bennett said that this is our annual review of the number of growth permits that have  
271 been issued in the last 10 years and a recommendation for a new maximum number of  
272 growth permits to be permitted under our Growth Management Act, which is regulated  
273 and governed by the State, Every year, we not only look back into the 10-year average of  
274 our growth permits issued but we also do a survey of Town department heads to get an

275 indication as to whether the current growth or a projected growth of substantial size  
276 would have a negative effect on their ability to perform their work. Mr. Brubaker said  
277 that he has gotten most of that survey completed. Every year it's a struggle to get all of  
278 the department heads to do this survey. We have done the calculation and we are  
279 proposing that the growth permit limit be 28.

280  
281 There was no public comment.

282  
283 **6:35 PM Public Hearing closed.**

284  
285 Ms. Braun asked if everyone was ready to have this go to the SB for placing on the ballot.  
286 If so, the Chair would accept a motion.

287  
288 **Ms. Bennett moved, second by Mr. Leathe, that the Planning Board forward to the**  
289 **Select Board for their consideration a warrant article setting the growth permit**  
290 **limit at twenty-eight (28) for the year 2023.**

291 **VOTE**  
292 **4-0**  
293 **Motion approved**

294  
295 **ITEM 8 – NEW BUSINESS**

296  
297 **A. 416 Main Street (Map1, Lot 83) PB23-03: Home Business Application Review –**  
298 **Auto Repair & Auto Detailing (owner: Nicholas Andrade)**

299  
300 **Received: February 2, 2023**  
301 **1<sup>st</sup> Heard: March 28, 2023 (sketch plan review)**  
302 **2<sup>nd</sup> Heard: \_\_\_\_\_, 2023**  
303 **3<sup>rd</sup> Heard: January 24, 2023**  
304 **Public Hearing: \_\_\_\_\_, 2023**  
305 **Site Walk: N/A**  
306 **Approval: \_\_\_\_\_, 2023**

307  
308 Mr. Nicholas Andrade, applicant/owner, was present for this application.

309  
310 Mr. Andrade said that I've been a resident of Eliot, now, for about four or five years. I'm  
311 looking to start a professional detailing business. Most of my clients are going to be  
312 mobile where I go to them but I'm also looking to fix up my garage a little bit and get it  
313 so I could also provide services out of my garage.

314  
315 Ms. Bennett asked the applicant if he could describe what that detailing is.

316  
317 Mr. Andrade said that it is deep-cleaning the interior and hand-washing and waxing, as  
318 well.

319  
320 Mr. Leathe asked about the hours of operation.

321  
322 Mr. Andrade said that it would be by appointment only. I currently work a 40-hour job  
323 with the Chevrolet Dealer detailing new vehicles to be sold. So, this would be like a side  
324 business looking to gain some extra revenue. Weekends would be by appointment only  
325 with maybe one or two clients a week. It is set up for a mobile operation where I go to the  
326 client. I currently do that outside.

327  
328 Mr. Shiner asked, regarding #6 on the application, how many others will be employed in  
329 the Home Business. You put N/A so am I to assume that is zero and it's just you.

330  
331 Mr. Andrade said yes, that is not applicable.

332  
333 Mr. Shiner said that the other question is on #7 about selling merchandise and products as  
334 part of the service. You have indicated that is not applicable. Am I to assume that the  
335 answer is no.

336  
337 Mr. Andrade said yes. This is the first time I've ever filled out an application.

338  
339 Mr. Shiner said that it's all just to make sure we understand what you meant to say.  
340 Regarding #9, you have no intention of posting a sign.

341  
342 Mr. Andrade said no.

343  
344 Ms. Braun asked how he would advertise his business.

345  
346 Mr. Andrade said by word of mouth.

347  
348 Mr. Shiner said that you're going to mostly be doing remote washing but occasionally  
349 wash at your residence. With the number of washes, I'm curious regarding wash water  
350 waste and your handling of that. I saw your site plan that indicates there is a drain system  
351 (barrier) that's in the drive.

352  
353 Mr. Andrade said that there is not a drain system in the driveway. If I needed to put a  
354 drain barrier, I could absolutely get a drain barrier to prohibit any water from flowing into  
355 the street but my driveway is very long. I can park three or four cars along the length and  
356 where I'd be washing a vehicle would be right in front of my garage. Any excess water  
357 from the wash would either evaporate or end up in my lawn as normal.

358  
359 Mr. Shiner said that you have sewer service at your address.

360  
361 Mr. Andrade said yes.

362  
363 Mr. Shiner added that there is no storm drain there, either so any water that went down to  
364 the street would go into the street.

365

366 Ms. Bennett said that it's not as formal along Main Street. There are some swales on  
367 either side that alternate back and forth, usually where the water is the worst. But, we  
368 don't have a stormwater collection system.

369  
370 Mr. Siner said that my initial impression is that that is something that any passerby on the  
371 street would see a lot of water running out from the drive.

372  
373 Mr. Andrade said that I understand exactly where you're coming from but maybe you  
374 don't know what my exact location looks like. There is 55 to 60 feet of driveway. As I  
375 said, I can fit three to four cars.

376  
377 Ms. Bennett said that, as a follow-up question, this portion of our Town is in the Village  
378 District that is part of a Stormwater Management Agreement mandated by the State. So,  
379 we would need to be able to think of some ways for you to be able to treat any of your  
380 non-stormwater, the wash water, on your site without allowing it to go down into the road  
381 to keep the pollutants contained and treated on the property. Just a drain barrier or,  
382 sometimes, people will create a hole in their driveway whereby water can collect then go  
383 off and filter across their lawn, which is kind of a low-impact design for treating the  
384 pollutants that are in the wash water. We could refer this to our Code Enforcement  
385 Officer (CEO) for some simple solutions for that.

386  
387 Mr. Andrade said that that was the impression I got; to just have a barrier there to divert  
388 out into my lawn and/or just evaporate.

389  
390 Ms. Bennett said that there are ways to slow the water down and keep it on your property.  
391 Gently diffuse instead of having it wash across your driveway.

392  
393 Mr. Andrade said that where I allocated where I would be doing the service, my driveway  
394 is not sloped downward so I can't see any type of wastewater, or wash water, going into  
395 the street. Plus, when you're washing a car, realistically, you use about 8 to 10 gallons of  
396 water and, with a pressure-washer it's probably even less.

397  
398 Ms. Bennett said that we do need to get some input from our CEO about this. But, I hear  
399 you in that it's not really a large-scale operation. As a comment to the PB, even though  
400 we don't have auto-detailing as an official land use, we do allow for an auto repair garage  
401 in the Village District, as long as it meets the standards; that I think we could consider  
402 this as a use 'similar to'.

403  
404 Mr. Leathe said that high pressure washing is noisy. Is this going to create a problem for  
405 your neighbors.

406  
407 Mr. Andrade said that I don't believe so. You're running a pressure washer for maybe  
408 seven minutes to really rinse off a vehicle. It wouldn't be running constantly. Most of the  
409 job of detailing is working with your hands. I would say that running a vacuum cleaner  
410 would be longer than running a pressure washer. One thing I was doing was to enclose  
411 my garage with plywood to keep the sound in so it wouldn't disturb the neighbors.

412  
413 Ms. Braun said that we are going to talk with the CEO to see if she can come up with any  
414 suggestions for a barrier of some sort and, then, either she or Ms. Tackett will get back to  
415 you, discuss it with you, and get you back on our schedule. That won't be until April 18<sup>th</sup>.  
416 She asked if the applicant had any questions for us.

417  
418 Mr. Andrade said that having the barrier, there, is more-or-less just to keep any water  
419 from dispersing from the driveway to the street.

420  
421 Ms. Braun said exactly; because of the fact that we are in the State Stormwater District –  
422 MS4 mandate. So, we have to be careful what goes into our system. So I just want to see  
423 what suggestions she might have. I'll have her call you and discuss it with you. I can't  
424 tell you when that will be as her schedule is busy, as well, but once she has all that  
425 information, she will relay it to us and we will get you back on the schedule.

426  
427 **ITEM 9 – OLD BUSINESS**

428  
429 NOTE: At this time, Ms. Braun recused herself and sat in the audience. Mr. Leathe was  
430 the Chair for this application.

431  
432 **A. 0 Bolt Hill Road (M17/L29), PB22-21: Village at Great Brook – Amendment to**  
433 **Existing Subdivision Plan – Hybrid Review.**

434  
435 **Received: October 17, 2022**  
436 **1<sup>st</sup> Heard: November 15, 2022 (sketch plan review)**  
437 **2<sup>nd</sup> Heard: December 13, 2022 (postponed by applicant request)**  
438 **3<sup>rd</sup> Heard: January 24, 2023 (postponed due to weather)**  
439 **4<sup>th</sup> Heard: February 7, 2023 (continued review)**  
440 **5<sup>th</sup> Heard: March 28, 2023 (continued review/approval)**  
441 **Public Hearing: February 21, 2023**  
442 **Site Walk: N/A**  
443 **Approval: March 28, 2023**

444  
445 Mr. (Michael) Sudak, E.I.T. (Attar Engineering, Inc.), Attorney (Sandra) Guay  
446 (applicant's representative) were present for this application.

447  
448 Mr. Leathe said that, before we get started, I need to read into the record the letter we  
449 received, the PB, the Planner, and the SB, from Sharon Goodwin of 11 Madison Street,  
450 Amesbury, Mass on March 21<sup>st</sup>. She writes:

451 "Re: The Village at Great Brook [VGB]  
452 I have waited patiently and watched closely as the Planning Board (PB) has  
453 reviewed the new application and the history of VGB beginning at the November 15,  
454 2022 PB meeting. At that meeting it was stated that the review would be a "hybrid"  
455 review, involving both the PB and the public, knowing that many of the current residents  
456 had been told that there would be five phases to the village as well as amenities, that have  
457 been revised.

458 At the February 7, 2023 meeting, the residents presented a list of issues that they  
459 wanted addressed by the applicant. All of the residents had signed onto the list of  
460 requests. In addition there were many discussions about the land retained by owner  
461 (LRO) and its potential future. A bankruptcy attorney for the applicant addressed the PB  
462 and the public, raising concerns about a potential bankruptcy filing by the applicant if the  
463 approvals didn't occur by March 1, 2023.

464 By February 21, 2023, the applicant, the *Village on Great Brook, LLC*, presented  
465 a performance agreement in the amount of a \$250,800 bond, to amend the roads and  
466 driveways of the village and meet the demands of the residents. As a result, all but two  
467 residents signed the approval of the performance agreement from the developers. After a  
468 snow storm cancellation, the Select Board met on February 27, 2023 and promptly  
469 approved the bond,, awaiting a third-party engineer review of the road work. The third-  
470 party engineer performed their review and proposed an additional \$200,000 of road work.  
471 It is my understanding that the developer's attorney was meeting on March 20 with Mr.  
472 Sullivan and Mr. Brubaker to incre4ase the performance bond to \$450,000 to cover the  
473 additional costs.

474 So, here we are, four months from the first meeting in November 2022. The PB  
475 has done their due diligence, under the expert guidance of Mr. Brubaker. The Select  
476 Board has acted promptly and professionally to approve the money and the road work.  
477 Ninety-seven percent of the residents of VGB had gotten what they proposed on February  
478 7, 2023. Chad Fitton and his partners of the *Village on Great Brook, LLC* have complied  
479 with every request presented by all parties, including the addition of almost double the  
480 amount of their performance bond.

481 I would hope that this should bring the PB to approve this application because I  
482 fear that we are almost 30 days past the March 1 deadline of a potential bankruptcy on  
483 the part of the developers. If that were to occur, who would have to pay for the \$450,00+  
484 of road work, swales, tree plantings, leveling, etc. that the developer is now paying for? I  
485 would guess it would be the burden of the residents of VGB. It would be totally unfair to  
486 them if this were to happen. And I would lose my house at 49 Village Drive, which has  
487 been under a stop-work order pending the application approval since last May. And what  
488 about the exposure the town could potentially face if lawsuits were to result from this  
489 project? I know the PB has tried to make things right for the residents throughout this  
490 whole process, but these delays could now cause very serious monetary harm to all of us.

491 I am writing to you to please finalize this project which has been stalled for over  
492 eight months. Many of us are losing money as well as the peace of mind that a home  
493 provides. Please let us all have a happy ending at the March 28 meeting!

494 Sincerely,  
495 Sharon Goodwin"

496  
497 Mr. Leathe said that she has her email and copied the Town Manager, the CEO, all  
498 members of the Select Board, and all the members of the PB. So with that, we will move  
499 on and hear from the representative for the VGB.

500  
501 Mr. Sudak, Attar Engineering, said I am here on behalf of Village on Great Brook, LLC.  
502 I have Roger Clement, one of the applicant's attorneys, here with me tonight. Thank you  
503 for having us and thank you for reading Ms. Goodwin's letter into the record. We were

504 last before you February 21<sup>st</sup> for the Public Hearing. Quite a list of comments since then  
505 that the revisions for which have been reflected in your packet. I'd be happy to go  
506 through those unless you have preliminary questions.

507  
508 Ms. Bennett said that I don't know about anyone else but I seek a logic behind all of the  
509 comments and additions to the notes, and they're appreciated. I think they reflect a lot of  
510 what we have discussed to-date.

511  
512 Mr. Sudak said that, because we don't have a staff letter, I'm going to go through, item  
513 by item, my cover letter from March 14<sup>th</sup>, if that's agreeable.

514  
515 The PB agreed.

516  
517 Mr. Sudak said, starting with the **first bullet**, this is a request by the Town Planner to be  
518 added to the recorded plan preserving, in perpetuity, passage rights for the Village at  
519 Great Brook residents to go along the extension of Village Drive and Quail Lane,  
520 effectively the travelway that goes through the 'LRO'. The **second item**: in addition to  
521 the conditions of approval notes package that Mr. Brubaker and I have been curating over  
522 the past couple meetings, also on the recorded plan: This would be Note #3 and is a  
523 request from Ms. Bennett at the last meeting for the as-built Plan & Profile sheets for the  
524 utility corridor for the whole development – the whole build out. My preference is that  
525 that's just something, just because there are a few more things we have to survey-locate,  
526 get a metal detector out there to make sure we've got everything, including the surface  
527 (service?) lines. The way I worded the condition of approval is to have that be done prior  
528 to the final, or wearing, course of asphalt, if that's agreeable to the PB, as I think that's  
529 the most reasonable way to move forward with it. It's something we can prepare pretty  
530 quickly. I just want to make sure we have everything. Just a couple days in the field with  
531 our surveyors and we should be able to turn that around for you.

532  
533 Ms. Bennett said that that's very logical.

534  
535 Mr. Sudak said okay. I'll move on, then. The **third bullet**: This is in response to a couple  
536 comments from the Public Hearing. Further delineation for the common land. A couple  
537 different areas for this. We have spoken at length the area behind Units #41-44, the  
538 northern end of Pheasant Lane. We've revised the 'LRO' division line and pushed it  
539 further north a couple times. Since the last meeting, we also pushed the gate further north.  
540 It's about 230 feet north from the intersection of Village and Pheasant, now, so there's  
541 adequate means for any residents that want to use that common recreational area. They  
542 don't have to walk between the two duplexes and through somebody's side yard to get  
543 back to that area. And then for the rest of Pheasant Lane, a couple other areas that were  
544 brought up by some of the residents – the area east of Unit #41 and across the street from  
545 Unit #27, so the area between Unit #41 and the segmented block retaining wall there by  
546 the wetland crossing. That one, and one further east down Pheasant Lane where Unit #30  
547 used to be, between Units #29 and 31. Just providing some dimensions to that, formally  
548 designating that this is what it's going to be used for. There's no specific use there  
549 because that's ultimately up to the association. Just wanted to provide some clarity there.

550 Moving on, the **fourth and final bullet on Sheet 1** is the most comprehensive that I  
551 could prepare, which is a summary of the project's history with the DEP. All the different  
552 orders, all the different amendments, all of our applications, in addition to the  
553 correspondence that I provided before the Public Hearing, for you. I know this was,  
554 maybe not something specifically pressing before this amendment, but just trying to  
555 supplement the Town's record, give a better snapshot of what's happened out there.  
556 Hopefully, that gives us as clear of a picture as can be given. I know there's something,  
557 once we get to conditions of approval, from the last order that's been carried through  
558 since the 2007 approval that we can talk about but I'll bring that up later. I'm moving on  
559 to **Sheet 2** now. **First bullet** in the middle of the page: This is the conditions of approval  
560 notes package, again. This is just a request to change from Mr. Brubaker. If there is a  
561 prospective application for the development of the 'LRO', it's being formally declared,  
562 now, that any Chapter 37 Street Design Standards waivers from that chapter that were  
563 granted to the original approval are going to be relinquished for any prospective  
564 application. So, they will be starting back at square one. They would have to negotiate  
565 their own waivers. The **second bullet**: This is the last note for the conditions of approval  
566 notes package. This is not your boiler-plate language but it's effectively just adopting, in  
567 your new Chapter 35 for post-construction stormwater management agreement, that this  
568 development will comply with that since I believe it was in your circuit prior to that  
569 chapter being adopted. So, just trying to keep everything current. The **third bullet**: This I  
570 touched on briefly. We've relocated the emergency access gate a little further north to  
571 support the 'LRO' division line being moved further north. I tried to keep the language  
572 consistent with how we've handled the Knox box, gated access for that. I know we've  
573 been in discussion that past couple meetings about the homeowners' association's interest  
574 in having their own method of access through the gate onto the emergency gravel drive.  
575 We're happy to comply with that but I just don't want to formally declare something that  
576 the Eliot Fire Chief wouldn't approve of. So, the way I've kept the language is just "to  
577 the satisfaction of Chief Muzeroll". I believe that's consistent with the conditions of  
578 approval document, as well, but we can get into that. The **last bullet** of Sheet 2: This is a  
579 comment from Mr. Leathe, I believe, at the last meeting, or a question from last meeting,  
580 just commenting on the traffic expectations for the emergency gravel drive. The question  
581 was whether or not any consideration is needed to be made both in it's current state and  
582 in any prospective developed state for any trip generation that would happen across the  
583 emergency gravel drive. A two-part answer. In regard to how it is now, under the  
584 assumption that that gravel drive stays an emergency gravel drive in perpetuity. That  
585 might not happen but, for the sake of this argument, the quick answer is that there would  
586 be no trips generated because it is assumed through the allowance for it to be the width  
587 that it is and the cover type that it is, based on the Eliot Fire Chief's sign-off, that it's  
588 going to be maintained in perpetuity as an emergency access. I understand that the  
589 residents may have their own access and there may be physical trips along it but for the  
590 way we've assumed that it's to be designed and maintained, it would not create any  
591 average daily trips (ADT). Through which you would need two of the **mass** trips in order  
592 to trip a traffic movement permit or something to that effect. If it's to be maintained like  
593 that, hypothetically in perpetuity, there really is no consideration. Putting aside that  
594 hypothetical, when it is prospectively approached with an application to be developed, in  
595 addition to the improvements that Mr. Brubaker specified in our other conditions of

596 approval notes, it has to be brought up to at least collector standards. It has to be paved, it  
597 has to be shouldered, side slopes, what have you. That would be the prospective  
598 developer would be on the hook for taking a look at their proposed development on  
599 whether or not they would need to provide a traffic impact assessment (TIA). And should  
600 they seek to utilize Village Drive as a second means of access, at that time they would  
601 negotiate with the association to say 'This' is what we want to do. Would you have any  
602 interest in this gate coming down and these trips coming through. The association, I  
603 assume, would have significant input at that time. They would come to the public  
604 hearing. They would probably be involved before the application even took place. So  
605 that's my statement on that. Any questions.

606  
607 Mr. Leathe said no.

608  
609 Mr. Sudak said that I will move to the **final bullet** item on page 3. This was a request, I  
610 believe, from Victoria Sullivan. She is at either #7 or #9 Pheasant Lane. I've spoken with  
611 her a couple of times. There was a request to have the intersection of Village Drive and  
612 Pheasant Lane be looked at with regards to turning radii. Effectively, safe passage for  
613 large vehicles. She's right on the corner so she has seen some of the large construction  
614 equipment and the problems they've had at that intersection. So, the attachment  
615 immediately after this cover letter shows results from my running the intersection through  
616 Autoturn, which is a turning module that sits on top of Autocad. I ran the largest vehicle,  
617 a combination fire ladder truck, and is 4 feet longer and has a wider wheel base than  
618 anything the Town of Eliot has. But if they seek to upgrade at some point, this  
619 demonstrates that it's safe entering Village taking a right onto Pheasant and leaving  
620 Pheasant and taking a left onto Village. That proves that both are satisfactory. They're  
621 tight but those people are professionals. It is manageable. Hopefully, that gives her a little  
622 bit of peace of mind. With that, that's everything I have from my cover letter. The one  
623 other thing I wanted to discuss; that I heard it being talked about a little bit before the  
624 meeting. There's been some conditions of approval templates that have been thrown  
625 around over the past couple days that have been worked on in Mr. Brubaker's stead with  
626 Attorney Guay and Mike Sullivan. Attorney Guay couldn't be here tonight because of  
627 another meeting so Mr. Sullivan and I talked probably an hour or so before this meeting,  
628 kind of pushing it through the finish line. I can go into that but, if you have any questions,  
629 I can handle those first.

630  
631 Ms. Bennett said that I don't think I have any questions. You've done a really good job  
632 and I thank you for explaining the model of fire truck.

633  
634 Mr. Sudak said that I could have picked from a list but decided to pick the largest one I  
635 could find.

636  
637 Ms. Bennett said that I don't have any direct questions at this time. Do you Mr. Chair.

638  
639 Mr. Leathe said that I don't.

640  
641 Ms. O'Connor did not, either.

642  
643 Mr. Sudak said that Mr. Sullivan was forwarding the template that you and he were in the  
644 process of preparing. I know that Attorney Guay had a separate one that we were kind of  
645 preparing in parallel. I don't know if Mr. Sullivan confirmed this with you but he gave  
646 me your last revision. I just corrected one thing because I think one of the chapters that  
647 you referenced was slightly incorrect. It was 35 instead of 37.

648  
649 Ms. Bennett said that I am not surprised and I take no offense at that.

650  
651 Mr. Sudak said that, besides that, we're good with it. I have it here with me. I can  
652 confirm to make sure that we're both looking at the same thing. It's up to you.

653  
654 Ms. Bennett asked if we want to work through the conditions of approval first.

655  
656 Mr. Leathe said that I have 'this' one but I don't have 'that' one.

657  
658 Ms. Bennett said that we can go through it. You have already touched on the first four  
659 conditions of approval in your summary and in your submission document for this  
660 meeting. I had suggested a little addition to the second condition of approval to add in the  
661 criteria for our street standards "side slopes no steeper than 3:1".

662  
663 Mr. Sudak said that we are in agreement with that.

664  
665 Ms. Bennett said great. Then the last condition that you had worked up previously and is  
666 on the plan set regarding stormwater management to add in "including the execution of a  
667 post-construction Stormwater Management Agreement."

668  
669 Mr. Sudak said that that was the chapter error – 35-4.

670  
671 Ms. Bennett said we could go into some of the ones I took the liberty of trying to draft.  
672 And I'm actually very appreciative that it was able to be shared with Mr. Sullivan to  
673 review and then to share with you. The whole idea was that we didn't have any surprises  
674 tonight.

675  
676 Mr. Sudak said right.

677  
678 Ms. Bennett said that the first one relates to the "Performance Assurance Agreement,  
679 Village of Great Brook" that was accepted by the SB on the 24<sup>th</sup>. That Performance  
680 Assurance Agreement, as you well know, covers a scope of work that addresses many of  
681 the items that we found weren't met by this after-the-fact amended subdivision plan. So,  
682 if you are amenable to it, we would like it to be, that scope of work, to be a condition of  
683 approval or at least the execution of that agreement.

684  
685 Mr. Sudak said that I'm assuming you've seen this, Attorney Clement.

686  
687 Attorney Clement said yes.

688  
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Mr. Sudak said that I am in agreement with it, as written.

Ms. Bennett said that, if you're reading it right now, is the "Execution of the "Performance Assurance Agreement, Village of Great Brook" accepted by the Eliot Select Board on 3/24/23, which includes a scope of work and technical standards that meet the Ordinance of the Town of Eliot ." That would be the condition.

Attorney Clement said that I think that's fine. The SB has accepted the agreement, as I understand it and Mr. Sullivan is working with Attorney Guay to get the final language done with the bond.

Ms. Bennett said that it includes our third-party technical review. I think it's a great resolution. The next condition of approval I would like to see included would be "Submission of an Erosion and Sedimentation Control Plan for the Land Retained by Owner (LRO) portion of the property consistent with Chapter 34 of the Town of Eliot Ordinances."

Mr. Sudak said that I'm agreeable to that. We're agreeable to that. The only questions I have regarding it is: Is the E&S plan for the 'LRO' under the assumption that this is a prospective application to develop the 'LRO' or it's just...

Ms. Bennett said no.

Mr. Sudak said that, then, I agree with it being in here.

Ms. Bennett said 'as-is' at this point.

Ms. Lemire clarified that this is an 'as-is' request.

Ms. Bennett said yes.

Mr. Sudak said that my only other question is do we need to make mention of the specific chapter, like an E&S plan for the 'LRO' portion of the property to the satisfaction of Chapter 31 of the Town Code. I don't know which chapter it is.

Ms. Bennett said that I think it's 34.

Mr. Sudak said yes, it is 34 because I couldn't find it in the E-Code but it's been referenced elsewhere.

Ms. Bennett said that it's new and hasn't been codified into the Municode.

Mr. Sudak asked if we want to append that, since it's a newly-adopted chapter.

733 Ms. Bennett said yes. With the last condition, I'd like to see a deed restriction reflecting  
734 the 'no-disturbance forested buffer language approved in the Maine DEP Environmental  
735 Protection Order, insert number and letters no-disturbance forested buffer language  
736 approved in the Maine Department of Environmental Protection Order #L-23147-26-A-  
737 N/L-23147-TC-B-N, including the appropriate wetland and stormwater buffer deed  
738 restrictions, shall be executed and recorded in a legal instrument with the York County  
739 Registry of Deeds Book\_\_\_\_\_, Page\_\_\_\_\_, depicted on the Final Plan, and transmitted to  
740 the Maine Department of Environmental Protection, Bureau of Land Resources for  
741 review.'

742  
743 Mr. Sudak said that, peeling back the curtain for the rest of the PB and people in the  
744 audience, this was a requirement from the original 2007 Site Location and Development  
745 Permit (SLDP). It was for the then-depicted deed-restricted areas – wetland buffers,  
746 stormwater easements – and that was supposed to be recorded within 60 days of the  
747 original SLDP and, to our knowledge, that never happened. The State agrees that it never  
748 happened because that alphabet soup for the order that's in Ms. Bennett's page is of the  
749 original order but that condition was carried through every subsequent amendment of the  
750 SLDP. So, the State is aware that it still hasn't been done and I'm completely fine with  
751 having it be in here. I have no concerns about how it's written. Nicely done.

752  
753 Ms. O'Connor asked where in the map is that buffer.

754  
755 Ms. Bennett said that we don't know. That's why we want it on the map. Only the  
756 engineers, the applicants to the Maine DEP under the Site Law of Development Act  
757 know exactly what the extent and the conditions of that restriction.

758  
759 Mr. Leathe asked if there were any other questions. There were none. He asked how we  
760 would like to proceed.

761  
762 Ms. Bennett asked if we should make a motion, findings of fact. Should we do a Findings  
763 of Fact.

764  
765 Mr. Leathe said no.

766  
767 Ms. Lemire said that I think you have it already, and most of it is incorporated in the  
768 motion.

769  
770 Ms. Bennet said okay. I started the findings of fact but, if I don't have to run through the  
771 findings of fact. I will pull it out of my magic folder – findings of fact and conditions of  
772 approval, if you want. I'm happy to run through this. It may just make it easier because  
773 Mr. Brubaker is going to be absent for another five weeks.

774  
775 Mr. Sudak said that that was all I was going to bring up.

776

777 Ms. Bennett said let's just run through. I know we won't do it as thoroughly as Mr.  
778 Brubaker would do it but anyone can chime in at any point. Let's just start with the  
779 findings of fact.

780  
781 Ms. O'Connor said, before you start, for those of us who are new, why is this important  
782 to be included in a motion like this. Is there a shorthand headline that could help me with  
783 that.

784  
785 Ms. Bennett said because all of the findings of fact are a synopsis of all the materials and  
786 issues that we've considered throughout the deliberation of the application. It does into a  
787 document after approval called a Notice of Decision. That is the precise and clear  
788 summary of the consideration of the Board, the decisions that were made, and becomes a  
789 working document.

790  
791 Ms. Lemire said that it tells the story of the whole process.

792  
793 Ms. Bennett said that it does, and in reference to code, as well, so it really becomes a  
794 roadmap for both the applicant and the Board and the Code Enforcement Officer. So, I'd  
795 like to take a stab at that and we can modify it when it comes to Notice of Decision.

796  
797 Mr. Sudak said yes, if need be.

798  
799 Ms. Bennett said that, as a prelude to this, we have to note that there was a mutual  
800 decision to treat this amendment as a hybrid. It was not a strict amendment to a  
801 subdivision plan. But it was also not going to be subject to a full, brand-new subdivision  
802 review. These are the general headings of items that we reviewed. The first was  
803 **'dimensional standards'**. We assessed setbacks, the minimum lot & street frontage, and  
804 the non-vegetated surfaces in the Shoreland Zone for conformance with our ordinance.  
805 We looked at side setbacks and noted that the side and rear setbacks after the revision of  
806 the line for the Land Retained by Owner was satisfied and met the standards for this  
807 zone. The front yard setbacks vary throughout the development and I think the average  
808 coming in around 14, 15 feet. That number may be wrong. But this is a result, to my  
809 mind, of the initial waivers that were granted to the subdivision in 2007 and the fact that  
810 this is an elderly housing development, which allows us to waive almost all standards.  
811 The one issue that had been noted and flagged by the Code Enforcement Officer was the  
812 setback at 49 Village Drive. After the performance of the Performance Guarantee, or the  
813 scope of work, that setback 14 shall be 14 feet, which satisfies our requirement, or is in  
814 conformance with the other units. For minimum lot & street frontage, we just looked at  
815 the entire development overall. The requirement in the C/I Zone is that it be three acres  
816 per unit. If you take all of the units then divide by the piece that will be the Villages at  
817 Great Brook, we feel that is met. So, even subtracting out the land for the 'LRO', we will  
818 be meeting the minimum lot and street frontage. The non-vegetated surfaces in the  
819 Shoreland Zone visually appears to be met at the 20% maximum threshold. Regarding  
820 **streets**, this was probably the lion's share of our consideration of this application. This  
821 §41-221(b)(2), which is part of our subdivision, requires streets meet minimum  
822 requirements of Chapter 37. When we reviewed the amended plan, we found the

823 following sections were not met but will be met upon completion of the scope of work  
824 outlined in the performance agreement accepted by the SB. These sections are §37-70  
825 Street Design Standards, §37-71 street construction standards, and §37-74 side slopes.  
826 §37-75 sidewalks and footpaths were waived in the original approval in 2007. §41-221  
827 Traffic & Streets (a) requires that the proposed subdivision provides safe access for  
828 vehicles and pedestrians to and from public and private roads. This subsection (a)(4)  
829 required sidewalks to be installed in subdivisions located in all growth areas. Because the  
830 proposed amended subdivision is not located in a growth area, we have not required the  
831 addition of sidewalks to this proposal. §41-221(b)(5) states that “The Planning Board  
832 may require that a subdivider reserve sufficient land for future rights-of-way where a  
833 proposed subdivision abuts undeveloped property.” The PB advises the current applicants  
834 that future applicants proposing development of the ‘LRO’ may be held to this section of  
835 the ordinance. That completes our street section. Regarding **Stormwater** Chapter 35,  
836 this is included in our conditions of approval and we feel that that will meet our current  
837 ordinance. We are also addressing **Erosion & Sedimentation Control** through our  
838 condition of approval that we just mentioned. §41-215 Preservation of natural resources  
839 and scenic beauty. This is being met within our performance agreement with the  
840 placement of landscaping features between the Villages at Great Brook and the ‘LRO’.  
841 **§41-256 Reservation of land.** This is being met by the addition of the plan notes for land  
842 to be conveyed to the homeowners of the Village at Great Brook. We found that **§41-176**  
843 **& §33-132** were met. (Performance Guarantee).

844  
845 Mr. Sudak said no concerns here.

846  
847 Ms. Bennett asked if there is anything else you think I might have missed in your  
848 encyclopedic knowledge of our ordinance and your thorough attention to this application.

849  
850 Mr. Sudak said that you brought up §41-215, which I believe is preservation of  
851 landscape.

852  
853 Ms. Bennet said yes, and I believe that one has been met by the scope of work within the  
854 performance agreement.

855  
856 Mr. Sudak said that I’m good if you are.

857  
858 Attorney Clement said yes. Thank you.

859  
860 Mr. Sudak said thank you very much for giving that a stab.

861  
862 **Ms. Bennett moved, second by Ms. O’Connor, that the Planning Board approve**  
863 **PB22-21, 0 Bolt Hill Road (Map 17/Lot 29) Village at Great Brook: amendment to**  
864 **an existing subdivision plan with the following conditions:**

865 **1. The property may be developed and used only in accordance with the plans,**  
866 **documents, material submitted, and representations of the applicant made to the**  
867 **Planning Board. All elements and features of the use as presented to the**  
868 **Planning Board are conditions of approval and no changes in any of those**

- 869 elements or features are permitted unless such changes are first submitted to  
870 and approved by the Eliot Planning Board.
- 871 2. The permit is approved on the basis of information provided by the applicant in  
872 the record regarding the ownership of the property and boundary location. The  
873 applicant has the burden of ensuring that they have the legal right to use the  
874 property and that they are measuring required setbacks from the legal  
875 boundary lines of the lot. The approval of this permit in no way relieves the  
876 applicant of this burden. Nor does this permit approval constitute a resolution in  
877 favor of the applicant of any issues regarding the property boundaries,  
878 ownership, or similar title issues. The permit holder would be well-advised to  
879 resolve any such title problems before expending money in reliance on this  
880 permit.
- 881 3. The applicant authorizes inspection of premises by the Code Enforcement  
882 Officer during the term of the permit for the purposes of permit compliance.
- 883 4. When an application is prepared to develop the land retained by owner (LRO),  
884 the applicant shall reserve a right of way of a minimum width of 50' for the  
885 travel way proposed to be developed (Village Drive/Quail Lane). Said right-of  
886 way shall satisfy the standards outlined in Town of Eliot Code of Ordinances  
887 §37-70 "Street Design Standards".
- 888 5. When an application is prepared to develop the land retained by owner (LRO),  
889 the applicant shall develop the proposed travel ways (Village Drive/Quail Lane)  
890 to at least Town of Eliot Collector Standards, having a minimum of 20 feet  
891 traveled way width and 3-foot shoulder widths, and a side slope no steeper than  
892 3:1. Until such time, a traveled way with a minimum width of 16 feet shall be  
893 maintained for emergency access/egress. All waivers granted from the original  
894 2007 approvals for Town of Eliot Code of Ordinances Chapter 37 shall be  
895 relinquished for any prospective travel way improvements subject to a new  
896 application for development of the LRO.
- 897 6. Prior to the wearing course of asphalt being paved on both Village Drive and  
898 Pheasant Lane, a Plan and Profile Sheet set shall be prepared with as-built  
899 locations of all utilities within the development.
- 900 7. All Stormwater Management elements of this development shall be maintained  
901 and documented in accordance with the guidelines of Town of Eliot Code of  
902 Ordinances §35-4(b) for post-construction stormwater management  
903 performance standards including the execution of a post-construction  
904 Stormwater Management Agreement per §35-4 (b)(6).
- 905 8. Execution of the "Performance Assurance Agreement, Village of Great Brook"  
906 accepted by the Eliot Select Board on March 24,2023, which includes a scope of  
907 work and technical standards that meet the Town of Eliot Code of Ordinance  
908 Chapter 37.
- 909 9. Submission of an Erosion and Sedimentation Control Plan for the Land  
910 Retained by Owner (LRO) portion of the property consistent with Chapter 34 of  
911 the Town of Eliot Ordinances.

912 **10. The deed restricted no-disturbance forested buffer language approved in the**  
913 **Maine Department of Environmental Protection Order #L-23147-26-A-N/L-**  
914 **23147-TC-B-N, including the appropriate wetland and stormwater buffer deed**  
915 **restrictions, shall be executed and recorded in a legal instrument with the York**  
916 **County Registry of Deeds Book\_\_\_\_, Page\_\_\_\_, depicted on the Final Plan,**  
917 **and transmitted to the Maine Department of Environmental Protection, Bureau**  
918 **of Land Resources for review.**

919 **VOTE**

920 **3-0**

921 **Motion approved**

922  
923 Ms. Bennett said that the application stands approved and there is a 30-day period from  
924 which the PB decision can be appealed by an aggrieved person or parties – move forward  
925 but move forward cautiously.

926  
927 Attorney Clement said that I want to thank you all. I'm glad that the reason I was  
928 potentially brought into this looks like it's not going to come to pass. I think this is a very  
929 good result for the Town, for my client, and the homeowners. Not everybody is perfectly  
930 happy. I appreciate that. That often is the sign of a pretty good compromise. I don't think  
931 the Board compromised. Frankly, I think you helped the ordinance. You did what you're  
932 not paid to do. You're volunteering. With cases like this you should be paid. But I do  
933 want to say just one thing in the interest of transparency, and to be perfectly candid, there  
934 still are two homeowners that haven't signed and that's critical to having this go forward.  
935 So, I think the more momentum we get, and having this approval in place is a big piece of  
936 that, having 38 of the 40 having signed is a big piece of that, my client being willing to  
937 post a bond is a big piece of that. We have about 99% of it in place, now. But I just want  
938 to say, just so that everybody is clear and I know this is a public proceeding with people  
939 watching, that we do need those other two to sign. I hope that their concerns will be  
940 overcome. Maybe partly by what happened tonight, and it will be a happy ending. So,  
941 thank you very much.

942  
943 Ms. Bennett said that I would just like to note that, perhaps, you and your client can  
944 consider also a hybrid approach to this. We found that, though there were reticence going  
945 this route, charting the middle course actually was the best.

946  
947 Mr. Sudak said thank you everyone. I appreciate your hard work.

948  
949 Ms. \_\_\_\_\_ said that I have a question. The 30-day thing. What does that mean.

950  
951 Ms. Bennett said that any decision by the PB can be appealed. There is a period where  
952 it's allowed that someone can come and appeal this decision. They have to give grounds,  
953 reasons, that are deemed acceptable by the Board of Appeals. You usually have to cite  
954 some ordinance that we didn't follow or something we overlooked; that we didn't do our  
955 job.

956

957 Ms. \_\_\_\_\_ asked if that means the stop-work order has to wait 30 days or can that be  
958 lifted.

959  
960 Ms. Braun said that I think it means waiting the 30 days. I'm not sure. We'll have to  
961 check with the CEO.

962  
963 Ms. Bennett said that really is a question for the CEO. I think that when the performance  
964 guarantee gets signed, that is when she can lift it. That means that the road is going to be  
965 realigned and the setback problem is going to be resolved, which is the subject of her  
966 stop-work order. So it's more the agreement rather than the 30-day appeal period. That's  
967 why we say you can proceed but cautiously.

968  
969 NOTE: At this time, Ms. Braun rejoined the PB as Chair.

970  
971 **ITEM 10 – OTHER BUSINESS/CORRESPONDENCE**

972  
973 Ms. Braun said that I would like you all to get your food requests for next week to Ms.  
974 Tackett as soon as possible. Also, I would like us to gather here at 5:30 to eat so we can  
975 have the meeting at 6. Mr. Feldman, will somebody be able to attend that meeting next  
976 week.

977  
978 Mr. Feldman said that I think that Mr. Schumacher is planning on attending.

979  
980 Ms. Braun said that what I am looking for is for him to give a brief overview of what  
981 SMPDC does for municipalities and what you might be able to help us with during Mr.  
982 Brubaker's absence.

983  
984 Mr. Feldman said that I will say that I believe the first time that I came down to assist  
985 Eliot was probably around 2015 and, watching the PB and the proceedings tonight, there  
986 have been huge strides made since the first time I was there. I was actually saying I don't  
987 know why they need me attending these meetings. They are doing fine without me. But,  
988 yes, we will certainly be providing some level of support in Mr. Brubaker's absence. We  
989 have talked with Mr. Brubaker several times about this.

990  
991 Ms. Braun said thank you; that we appreciate it.

992  
993 Ms. Braun said that we need to be finished eating by 6PM. I'm hoping that Attorney  
994 Saucier will make a presentation and, of course, someone from SMPDC. Then, we will  
995 have a roundtable discussion of what's facing us at the moment, what all of southern  
996 Maine is facing. Also, if there are any concerns that anyone has, then that would be the  
997 time to bring it up.

998  
999 Ms. Bennett said that I had some thoughts about the retreat and, if time allows, I was  
1000 wondering if we might consider creating a board manual for the PB. I just had some  
1001 thoughts about what should be in there, like our by-laws, the code of ethics for the Town.

1002 There are some guidance documents that I have gotten from SMPDC, some from the  
1003 MMA. It would be great to have it all in one place. Maybe even a digital folder for us.

1004  
1005 Ms. Braun agreed that that was a good idea.

1006  
1007 \*\*\*\*\*

1008  
1009 Ms. Bennett said that I am also wondering if we might discuss the possibility of having a  
1010 joint workshop with the SB to discuss some topics, most particularly LD2003. She said to  
1011 Mr. Feldman that we have put on our timeline to address LD2003 on the November  
1012 2024(3) ballot. We're trying to get it forward because the other two pieces – the  
1013 allowance for density and affordable housing developments could be very controversial. I  
1014 think we need to talk with our SB about the ramifications of LD2003, the possibilities  
1015 that we may want to make some changes to our ordinance in response to LD2003.  
1016 Specifically, we may want to get rid of our Growth Management Act Ordinance, our  
1017 growth permits; that we may want to get rid of the designated growth area. Frankly, we  
1018 don't have enough space in our designated growth area to grow. I thought those two  
1019 things are things I thought we might want to workshop with the SB. There's going to be a  
1020 need for a lot of education in the community about this legislation if we have any hope of  
1021 having it passed. It behooves us to have it passed because, otherwise, we get into a limbo  
1022 land where there is a State statute and our ordinance doesn't conform; that if we don't  
1023 adhere to our ordinances, our decisions can be appealed. If they don't conform to State  
1024 statutes, our decisions can be appealed.

1025  
1026 There was further discussion of the timeline as the official State guideline will most  
1027 likely not go beyond 2024. There was also mentioned that there may be two  
1028 informational meetings needed for the voters.

1029  
1030 Ms. O'Connor asked of any towns had made changes to their ordinances around LD2003.

1031  
1032 Mr. Feldman said that I've been working with a number of towns. Oquonquit has actually  
1033 gone through the public hearing process by both the PB and the SB and all of their  
1034 amendments will be on their warrant this year. But the advantage there is simply because  
1035 I'm their Town Planner so I was able to work through all of that fairly quickly for them  
1036 based on where we are at right now. Ms. Bonine from our office was actually covering  
1037 for me tonight, so I could be with you folks, up in Fryeburg. All of their ordinance  
1038 amendments are ready and they are having their public hearing in front of their PB  
1039 tonight. That's about it in our region that I'm aware of that are ready to go. I've been  
1040 working with some other towns. Arundel is in pretty good shape. The only thing we're  
1041 doing is modifying a little bit of their ADU ordinance but, beyond that, their ordinances  
1042 allow two homes on individual parcels. They don't have any sewer or water. No growth  
1043 area. No certified comprehensive plan. So, they can pass on the affordable housing  
1044 development and the four units per parcel. We are doing the PB public hearing on the 4<sup>th</sup>  
1045 and that's why I won't be with you folks. Again, that's about it in our region that I've  
1046 seen get ready to be on time for the July 1<sup>st</sup> deadline.

1047

1048 Ms. Bennett asked him if any of the communities he is working with considered  
1049 retracting the zones or retracting on multi-family dwelling units. That seems to be the real  
1050 concern that I have; that any zone where multi-family dwellings are allowed, this is  
1051 where you can put these housing developments.  
1052

1053 Mr. Feldman said that nobody has said that they are actually going to. In fact, that was  
1054 part of the discussion up in Fryeburg because they allow multi-family developments in  
1055 every one of their zones. They have some very rural areas in town and I suggested that  
1056 they might want to consider getting rid of multi-family developments in some of the rural  
1057 areas. They haven't moved forward on that as far as I know. So, I'm not aware of any  
1058 towns retracting their zoning before this becomes effective.  
1059

1060 Ms. Bennett said that, if it really becomes effective July 1, we've lost that window. It's  
1061 just occurred to me on a town of our size, which values its rural character and we have a  
1062 lot of open fields in our Suburban Zone, that those run a high risk of being utilized for  
1063 these affordable housing units. Frankly, all the developer has to do is propose one unit in  
1064 twenty and we have to give a 2½ times bonus,  
1065

1066 Mr. Feldman said that there is an amendment in the legislature that I saw today. There is  
1067 a proposal to change the wording to suggest that the developer has to have a majority of  
1068 the units be made affordable. There is an amended bill that went in.  
1069

1070 Ms. Bennett said that, in rule-making, they said it's a majority of a certain number, so,  
1071 it's a subset of a subset.  
1072

1073 Mr. Feldman said that the only problem I see right now is that, if we piecemeal all of  
1074 these changes to this law, what's going to happen. It would be nice to see, whether rule-  
1075 making, because a lot of you folks made some very good comments; that I can tell you  
1076 that one of the other law firms that I work with sat down and put an 8-page letter they  
1077 submitted, with a lot of holes and a lot of issues. Quite frankly, I'd be surprised if rule-  
1078 making is done by July 1.  
1079

1080 Ms. Bennett said that, just so you are aware, Mr. Brubaker and I worked together and  
1081 submitted a 5-page comment to the DECD regarding the proposed rule-making. I did  
1082 share it with SMPDC because I know that Mr. Schumacher is collecting them.  
1083

1084 \*\*\*\*\*  
1085

1086 Ms. Braun said that we had our Safe Harbor (Main Street) site walk today. Do we want to  
1087 defer the synopsis until they actually re-appear to us or would you like to hear it now.  
1088

1089 The PB agreed to wait until the applicant came back before the PB.  
1090

1091 **ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING**  
1092

1093 Retreat portion will start at 5:30PM

1094 Regular meeting will start at 6PM.

1095

1096

1097 The next Planning Board Meeting is a retreat and is scheduled for April 4, 2023 at 7PM.

1098

1099 **ITEM 13 – ADJOURN**

1100

1101

1102 The meeting adjourned at 8:00 PM.

1103

1104

1105

1106

1107 ~~Christine Bennett~~ Suzanne O'Connor,  
1108 Secretary

1109

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

1110

1111

1112 Respectfully submitted,

1113

1114 **Ellen Lemire, Recording Secretary**

1115

1116

1117