

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

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

DATE: Tuesday Jan. 23, 2024
TIME: 6:00 P.M.

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

1. **ROLL CALL**

Quorum, Alternate Members, Conflicts of Interest

2. **PLEDGE OF ALLEGIANCE**

3. **MOMENT OF SILENCE**

4. **10-MINUTE PUBLIC INPUT SESSION**

5. **PUBLIC HEARING**

a) 419 River Road (Map 25 / Lot7), PID# 025-007-000, PB23-11: Shoreland Zoning Permit Application-Building Expansion and Retaining Wall

6. **NEW BUSINESS**

a) 107 Littlebrook Lane (Map 46 / Lot 3), PID# 046-003-000, PB23-21: Site Plan Amendment/Review-Earth material removal > 100cy

b) 22 Quail Lane (Map 23 / Lot 5), PID# 023-005-000, PB23-23: Site Plan Amendment & Change of Use-Manufacturing (Food Processing)

c) 128 Stacy Lane (Map 78 / Lot 43), PID# 078-043-000, PB23-20: Shoreland Zoning Permit Application-Shoreline Stabilization

7. **OLD BUSINESS**

a) 708 River Road (Map 50 / Lot 29), PID# 050-029-000, PB 23-07: Preliminary Subdivision Plan Application-Residential Subdivision

8. **REVIEW AND APPROVE MINUTES**

9. **OTHER BUSINESS / CORRESPONDENCE**

Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Member

10. **SET AGENDA AND DATE FOR NEXT MEETING**

a) February 6, 2024

11. **ADJOURN**

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

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

a) Go to www.eliotme.org

b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.

c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 6:00pm (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.

a) Please call **1-646-558-8656**

1. When prompted enter meeting number ID: **813 1632 5182**

2. When prompted to enter Attendee ID

3. When prompted enter meeting password: **887509**

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

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



Christine Bennett, Planning Board Chair

PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**



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, P.E., Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Kim Tackett, Land Use Administrative Assistant
 Date: January 17, 2024 (report date)
 January 23, 2024 (meeting date)
 Re: PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

Application Details/Checklist	
✓ Address:	419 River Rd.
✓ Map/Lot:	25/7
✓ PB Case#:	23-11
✓ Zoning:	Suburban
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Anthony Warren
✓ Applicant/Agent Name:	Anthony Warren
✓ Application Received by Staff:	August 14, 2023
✓ Application Fee Paid and Date:	\$225 (\$75 – Shoreland Zoning Permit Application – non-conforming structures, uses and lots; \$175 – public hearing) August 14, 2023
Application Sent to Staff Reviewers:	Not yet sent
✓ Application Heard by PB	December 5, 2023
✓ Found Complete by PB	December 5, 2023
Site Walk	December 18, 2023 (PB site walk cancelled due to inclement weather; Town Planner conducted site walk – notes and photos in this report)
✓ Site Walk Notice Publication	December 8, 2023 (Weekly Sentinel)
Public Hearing	January 23, 2024 (scheduled)
✓ Public Hearing Publication	January 5, 2024 (Weekly Sentinel)
✓ Reason for PB Review:	SPR use in Resource Protection district, nonconformance expansion review

Overview

Applicant seeks review and approval of a Shoreland Zoning Permit Application to construct a retaining wall on their property and garage and deck additions to their house. The property is 9,236 sq. ft. (~0.2 acres), fronts on the Piscataqua River just north of Shapleigh Old Mill Pond, and is fully within Resource Protection and Limited Residential shoreland zoning.

PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

As noted in the application, the retaining wall is proposed “around back of the house to mitigate flooding issues”. The rear deck would be expanded over the new retaining wall. Overall impervious surface is proposed to be reduced by 4% through removal of the wraparound driveway (to be replaced by a shorter driveway to the new garage) and regrading of the rear yard. The garage would have a second story with storage space above it. Existing retaining walls would be removed. There is an existing gangway ramp and float on the property that would remain. The well connection, electrical service lines, and generator would be relocated.

Because the lot and existing house are presumptively legally nonconforming, several aspects of zoning and shoreland zoning dimensional standards and nonconformance provisions must be addressed.

Permitting history available in Town records

- Building permit, rebuild fire-damaged house – 8/18/87
- New plumbing permit – issued 1/24/94
- Replacement septic system (3 bedrooms) – issued 9/19/95

Extensive correspondence and photos are in the property file regarding the lot, in and around 1987, having a fire-damaged house and junk and debris, with the Code Enforcement Officer and Select Board issuing warnings to clean up the junk and replace the house before the lot lost its grandfathered status (presumably with respect to shoreland zoning). The house was issued its permit as listed above, and no violation document was found in the file.



Excerpt from Town’s 1989 mylars showing the house (River Rd. on the right)

Non-vegetated surface

Standard	Planner review
Total footprint area of all structures, driveways, parking areas and other non-vegetated surfaces within the shoreland zone: 20%, or, for a legally nonconforming situation, no increase in non-vegetated surface [44-35(b)(4)]	Appears to be met. Applicant proposes 3,474 sf (37.6%) of total non-vegetated surfaces, a net reduction of 441 sf from the existing 3,915 sf (42.4%). See application and site plan area calculations.

Building height

Standard	Planner review
<p>For structures <75 ft. from normal high-water line, max. 20 ft. or height of the existing structure, whichever is greater [44-32(c)(1)c1]</p> <p>The mean (or average) ground grade can be used for measuring height as provided by the Section 1-2 definition of “Height of a structure (within chapter 44, Shoreland Zoning)”.</p>	<p>Appears to be met. Shoreland application (question 21) lists a proposed building height of 22.5 ft. above elevation 9.0, reporting that the existing building’s peak is 27.8 ft. (1987 building permit application listed a height of 30 ft.).</p> <p>Sheet A005 has side profile elevation drawings. The “grade plane” elevation of 9.0 is shown. The addition is shown at 23’ 5” above the grade plane, representing a slight discrepancy between this elevation and that of the application. In any case, the 12/5/23 meeting cleared up my previous review of this section, in that the house’s existing gabled roof will not change and the garage addition will be well under that.</p>

Footprint within 25 ft. of the normal high-water line

Standard	Planner review
No expansion of any portion of structure within 25 ft. of normal high-water line, or an accessory structure that is closer than the principal structure to the normal high-water line [44-32(c)(1)a]	Met. Applicant’s site plan, dated 10/24/23, with Revision 5, 12/5/23, shows jacuzzi pad removed from within 25 ft. of river.

Allowable shoreland footprint expansion

Standard	Planner review
Maximum 30 percent building footprint expansion from 1989 footprint, or up to 1,000 sf, whichever is greater [44-32(c)(1)c1]	<p>Appears to be met. See updated calculations (“Lot Coverage Calculations”) provided by Attar, in packet. Building footprint would be expanded from 1,655 sf (presumptive 1989 footprint) to 2,150 sf, a 29.9% expansion. This essentially maxes out the allowable expansion, and no further footprint expansion could occur under the current shoreland regulations.</p> <p>Also of note, on my December 18 site visit (cancelled PB site walk), the condition of the existing front porch and side stairs appeared old enough to be part of the original house build. While I cannot verify their exact date of construction, it seems plausible from their appearance that they were built when the house was built, or by 1989. Unfortunately, I have not found definitive evidence either way. Including them in the baseline of this calculation is a reasonable assumption.</p>

Lot line setbacks

It appears that Sheet A003 is also at odds with the Site Plan in terms of the expansion of the porch/front entry and north wall of the building. There appears to be a slight increase in the area of nonconformance with respect to the front lot line. The garage addition appears on the plans to meet both front and side lot lines along with the 25 ft. structure setback to the normal high-water line.

The porch/front entry front setback issue was discussed on 12/5/23. Further clarification may be needed at this meeting.

Lot coverage

See my supplemental memo, previously emailed to the PB in advance of the 12/5/23 meeting and re-included in this packet. It appears that it is not possible on this lot to comply with the standard 15% lot coverage for the Suburban zone (45-405) and that Section 45-194(c)(1) is activated, allowing for a 25% lot coverage.

Attar Engineering has provided updated lot coverage calculations (in packet) that show a buildout lot coverage of 23% (2,150 sf building coverage, 9,236 sf lot area), under the 25% limit.

Retaining wall

Retaining wall will need to be shown to be for erosion control or otherwise meet the standards of 44-35(b)(5).

DEP permits

Included in packet

Floodplain

The existing and proposed replacement structure are presumptively partially within the special flood hazard area (1989), as shown in the Town’s online GIS, and will be subject to Ch. 25 – Floodplain Management Ordinance.

Recommendation

Approval with shoreland zoning findings and conditions

Motion templates

Approval with shoreland zoning findings and conditions (recommended)

Motion to approve the Shoreland Zoning Permit Application for PB23-11 for the expansion of a residence, retaining wall, and related site improvements at 419 River Rd., with the following findings of fact (in addition to other applicable findings of fact to be included in the Notice of Decision):

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and Shoreland Zoning Permit Application have been or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
 - a. Will maintain safe and healthful conditions;
 - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. Will adequately provide for the disposal of all wastewater;
 - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
 - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
 - g. Will avoid problems associated with floodplain development and use;
 - h. Is in conformance with the provisions of section 44-35, land use standards.
3. Applicant has met §44-32 – Nonconformance.
4. This lot of record is entitled to a maximum 25% lot coverage under Section 45-194(c)(1), and this standard has been met.

The approval includes the following conditions:

- 1-3. [Standard conditions]
5. The plan shall be recorded by the applicant with the York County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the Eliot Planning Board. The applicant may make minor informational or formatting changes to the site plan, relative to the plan presented for approval, to address the information required for the recorded plan. The Planning Board’s approval authorizes (and the recorded plan must have) a signature from the Planning Board Chair.

PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

6. The structure shall comply with Ch. 25 – Floodplain Management Ordinance and be constructed in accordance with Ch. 25, Article VI. The Town may enforce any violation of the construction requirement. The foregoing shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest, as well as the plan referenced in Condition #4 above. A flood hazard development permit application shall be submitted to the Code Enforcement Officer along with the building permit application.
7. Within 20 days of completion of the project, the applicant shall submit photos of the shoreland area and vegetation to the Code Enforcement Officer.

Denial

Motion to deny the Shoreland Zoning Permit Application for PB23-11, for the following reasons:

1. _____
2. _____
3. _____ [etc.]

Continuance

Motion to continue PB23-11 to the February 6 [or February 20], 2024, meeting.

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

Town Planner site inspection notes – December 18, 2023

Context: significant rain and winds canceled the official PB site walk, but I attended to meet with the applicant and Attar Engineering, and take notes and photos. One PB member elected to attend.

Present: Anthony Warren (property owner, applicant), Chris Wilber (Attar), Terry Thomas (neighbor), Pamela Mijal (neighbor), Jennifer Prescott (neighbor), Paul Shiner (PB), Jeff Brubaker (Town Planner)

Not planning on expanding patio with exception of roofline, applicant thinks the canopy had been there from beginning

Exterior stair appears to be original

Discussed location of retaining wall, elevation 9.7

Neighbor to the north had concern about garage roof runoff; this was discussed and addressed.

Photos

Front canopy



PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

Side exterior stair



Driveway looking back to River Rd.



PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

Paved area between garage and river



Garage door with temporary flood barricade



PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

Rear of house



PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Public Hearing**

Existing pier





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, P.E., Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Kim Tackett, Land Use Administrative Assistant
 Date: December 5, 2023 (report date)
 December 5, 2023 (meeting date)
 Re: PB23-11: 419 River Rd. (Map 25, Lot 7): Shoreland Zoning Permit Application – Building Expansion and Retaining Wall – **Supplemental memo**

Application Details/Checklist	
✓ Address:	419 River Rd.
✓ Map/Lot:	25/7
✓ PB Case#:	23-11
✓ Zoning:	Suburban
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Anthony Warren
✓ Applicant/Agent Name:	Anthony Warren
✓ Application Received by Staff:	August 14, 2023
✓ Application Fee Paid and Date:	\$225 (\$75 – Shoreland Zoning Permit Application – non-conforming structures, uses and lots; \$175 – public hearing) August 14, 2023
Application Sent to Staff Reviewers:	Not yet sent
Application Heard by PB	
Found Complete by PB	
Site Walk	
Site Walk Notice Publication	
Public Hearing	
Public Hearing Publication	
✓ Reason for PB Review:	SPR use in Resource Protection district, nonconformance expansion review

Lot coverage

In my previous report (December 4), I noted that the maximum lot coverage cited on the site plan (25%) is incorrect, and that the maximum lot coverage in the Suburban zone is 15% [45-405]. While 15% is indeed the standard for the Suburban zone, some additional clarifications are needed.

1. “In cases where it is not possible to comply with” lot coverage and other dimensional requirements, Section 45-194(c)(1) does allow the following for nonconforming lots of record:

“On lots smaller than 10,000 square feet, permitted lot coverage shall be at least 2,000 square feet or a maximum of 25 percent, whichever is greater in applicable cases.”

2. This lot is <10,000 sq. ft. and presumptively a legally nonconforming lot of record, so it appears to be able to exercise this relaxed lot coverage standard if the PB finds that “it is not possible to comply with” the 15% lot coverage standard.
3. The existing building footprint should be clarified. In 1987, a 24’ x 44’ house was permitted (nominally 1056 sf). Looking at a sketch plan in the file, including the overhangs drawn in the sketch, the approximate footprint is 1300 sf (about 14% lot coverage), but, per the application, the exterior stair and front entry canopy add 53 sf. 15% lot coverage is 1385 sf for this lot.
4. However, the application puts the existing total structural footprint at 1,730 sf (18.7% lot coverage), including a house footprint of 1469 sf (15.9%).
5. The applicant should follow up with a justification for why it is not possible to comply with the 15% lot coverage, for the Planning Board to review. With the calculations in the application and the permit information in the property file, it is ambiguous as to whether the 15% standard is currently exceeded, or should have been exceeded. A rough measurement of the roof area (including front entry canopy) in Google Earth yields about 1530 sf, or 16.5% lot coverage.
6. A PB finding of “not possible to comply with” 15% would then activate 45-194(c)(1)’s allowance of the greater 25% standard.

DEP permits

The applicant followed up with the approved DEP permit-by-rule, which will be furnished to the PB.

Some more history of the lot

Looking more into the property file, the PB did grant a shoreland zoning approval on October 7, 1986 to replace the fire-damaged house with a house of the same footprint dimensions (the current house). This was in conjunction with the cleanup of the junkyard situation identified by the CEO and Select Board, and after the Fire Chief urged demolition of the burned building, which apparently sat idle after the fire, and replacement with a new building. Cleanup of the junk appears to have occurred along with the new house construction.

Septic system

In my previous report, I did not have information about the septic system. The system is on an adjacent lot with access via a septic easement, which can be seen on the site plan. The system was permitted in 1995 according to the property file, and serves 3 bedrooms with a design flow of 270 gpd.

Recommendation

Superseding my previous recommendation, continue review to the January 23, 2024, meeting so the application be updated to clarify compliance with the various shoreland and base zoning dimensional requirements discussed here and my previous memo.

* * *

Respectfully submitted, Jeff Brubaker, AICP, Town Planner

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: January 23, 2024
TIME: 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, January 23, 2024 at 6:00 PM for the following application:

- **419 River Rd. (Map 25, Lot 7), PB23-11: Shoreland Zoning Permit Application – Building Expansion and Retaining Wall**
- **Applicant: Anthony Warren**
- **Property Owner: Anthony Warren**

Interested persons may be heard and written communication received regarding the proposed 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. Town Hall is accessible for persons with disabilities.



~ Classifieds & News ~

... HAVEN from page 14

the challenge.

Why a one-hour weekly commitment? Because cats flourish with routine. They like order and become accustomed to regu-

lar patterns of living. When the same person socializes with them at the same time daily, they learn to expect it, and the socializing sessions are more beneficial.

Shy cats do not like surprises. They need order and rou-

time, something they can rely on. Eventually, Lucy will get to know her humans and will expect them to show up on their designated day. Just get comfortable in her presence, talk to her, maybe read out loud to her, engage her with treats when she's comfortable, and eventually play with her. As the relationship develops, Lucy will give the "go ahead" using her body language. Cattail Manager Nancy will be on hand to provide her input as well.

The volunteers at Safe Haven hope everyone will consider becoming an official I Love Lucy Club member. They can recount the rewards of knowing how being a friend to a shy cat can change its world and its life. There is no better feeling than knowing one hour per week can have such great results!

The Cattail Shop at 1784 Post Road in Wells, is open 11 a.m.- 4 p.m., seven days a week, with the shop receiving donations on Saturdays from 12-3

p.m. Those who need other accommodations to donate can contact the shelter to make arrangements.

The shop is currently seeking small cupboards, side tables (no dining room sets), bookcases, antiques, anything vintage,

dressers, cozy linens with sizes marked, and craft items: knitting/crocheting, sewing, sketching, painting, jewelry making, fiber arts, pottery making, unique trims for creative designers, candle making. Thanks so much for the support!

PUBLIC & LEGAL NOTICES

Town of Eliot PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Town Hall, 1333 State Rd., with Remote Option
DATE OF HEARING: January 23, 2024
TIME: 6:00PM

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419 River Rd. (Map 25, Lot 7), PB23-11: Shoreland Zoning Permit Application - Building Expansion and Retaining Wall. Applicant: Anthony Warren. Property Owner: Anthony Warren.

Interested persons may be heard and written communication received regarding the proposed 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. Town Hall is accessible for persons with disabilities.

NOTICE OF INTENT TO MODIFY MAINE WASTE DISCHARGE LICENSE / MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4)

Please take note that, pursuant to 38 M.R.S., Sections 413 and 414-A, the Maine Department of Environmental Protection intends to limit the modification of the General Permit for the Discharge of Stormwater from Small MS4s #MER041000/WDL W009170-SY-C-R issued by the Department on October 15, 2020, to Part IV, Section C(5), Minimum Control Measure (MCM) 5 - Post-Construction Stormwater Management in New Development and Redevelopment.

Persons wishing to receive copies of draft permit modification and supporting documents, when available, may request them from the Department. Persons receiving a draft permit modification shall have 30 days in which to submit comments or to request a public hearing on the draft permit modification.

Public comment will be accepted until a final administrative action is taken on the permit modification. Written public comments or requests for information may be made to the attention of Gregg Wood, Division of Water Quality Management, Department of Environmental Protection, State House Station #17, Augusta, ME 04333-001; telephone (207) 287-7693; or email gregg.wood@maine.gov.

CLEANING

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LEGAL NOTICES

Town of Ogunquit NOTICE OF PUBLIC HEARING

This meeting is at the Dunaway Community Center, Recreation Room, Lower Level. Members of the public may attend in person or remotely via Zoom using the link below.

The Municipal Officers of the Town of Ogunquit will hold a Public Hearing at 9:00 am on Tuesday, January 16, 2024, in the Recreation Room, Lower Level of the Dunaway Community Center, 23 School Street, Ogunquit, Maine, to receive public input on the Petition submitted by the Petitioner's Committee to amend or revise the Ogunquit Charter. The petition language submitted by the Petitioners is shown below:

Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the municipal charter as set out below. Each of the undersigned voters further requests that if the municipal officers determine that the amendment set out below would, if adopted, constitute a revision of the Charter, then this petition shall be treated as a request for a Charter Commission.

Shall the Town vote to amend Charter Section 503.5? [Note: Language proposed to be inserted is indicated by underlining and bold. Language proposed to be removed is indicated by a ~~strikeout line~~.]

Article V - Financial Procedures

Section 503 Budget process.

503.5 Each budget warrant article presented shall be accompanied by recommendations a notation of from the Select Board's recommendation and vote on the article, and the Budget Review Committee, which shall be printed in the warrant for the Annual Town Meeting and on the Annual Budget Referendum ballot. If any item fails to pass, it shall be funded at the previous year's approved amount. A notation stating the prior year's appropriation shall be included on the warrant article. Each warrant article containing a budget item shall also be accompanied by a notation of both the Select Board's and the Budget Review Committee's recommendation and vote on the article.

A. On those articles where the recommendations of the Select Board and the Budget Review Committee are in agreement, the Warrant Article shall include their common recommendation and the previous fiscal year's budget as the two (2) voter choices. In the event a previously funded budget article is not approved by a majority vote, the appropriation for the previous fiscal year shall be construed as the appropriation for the current fiscal year.

B. For those articles where the recommendation of the Select Board and Budget Review Committee differ, the Warrant Article shall include the Select Board's recommendation and the Budget Review recommendation as the two (2) voter choices. In the event of a tie vote, and a previously funded budget article is not approved by a majority vote, the Select Board's appropriation will prevail.

Connecting by computer or mobile device: Register in advance or at the time of the meeting at: https://ogunquitpd-org.zoom.us/webinar/register/WN_KeqPns1IQkuTDU5fmy5auQ#registration
After registering, you will receive a confirmation e-mail with information to join the meeting.

Connecting by landline/telephone: If you want to call into the meeting, dial:
1-312-626-6799 or 1-929-436-2866

Webinar ID: 816 0835 9304 Password: 641577

The public portions of this meeting will be live-streamed on the Town website <https://ogunquitme.portal.civicclerk.com/> and recorded for future viewing.

Local Students Receive Recognition

Belmont University, Nashville, TN

The following students achieved the dean's list, earning a GPA of 3.5 with no grade below a C: Anna Dimmerling of South Berwick, Mae McDougald of Kennebunkport, and William Paradis of Lebanon.

Honor Society of Phi Kappa Phi, Baton Rouge, LA

Spencer Checkoway of Ogunquit was recently initiated into the Honor Society of Phi Kappa Phi, the nation's oldest and most selective all-discipline collegiate honor society. Checkoway was initiated at University of Michigan. Membership is by invitation only and requires nomination and approval by a chapter. Only the top 10 percent of seniors and 7.5 percent of

juniors are eligible.

Lee University, Cleveland, TN

Jack Edward Kelley, of York, graduated with a bachelor of science in business administration on December 9.

Saint Anselm College -National History Honor Society, Manchester, NH

Saint Anselm College students, Benson T. Furber of Kennebunk and Jillian Dorazio of York, both history majors in the class of 2024, have been accepted into the Sigma Omega Chapter of Phi Alpha Theta, a national history honor society, for the 2022-2023 academic year. Membership is by invitation only. Students must complete a minimum of 12 semester hours in history, achieve a minimum GPA of 3.1 in history, and a GPA of 3.0 or better overall.

Saint Anselm College - International Honor Society, Manchester, NH

York resident Mary Koccev is among select students from Saint Anselm College who have been inducted into the Epsilon Tau-at-Large Chapter of Sigma Theta Tau, the International Honor Society of Nursing. To be considered for induction, students must have completed at least half of the nursing curriculum in baccalaureate programs at accredited institutions of higher education, rank in the upper 35 percent of their graduating class, and have a minimum 3.0 GPA. She is expected to graduate in May 2024 with a bachelor of science in nursing.

REAL ESTATE WANTED

**WANTED TO BUY a camp,
cottage, or seasonal home:**
Liveable or repairable. On a lake or pond within 1 hour of Portland. Cash sale. No brokers. Please call (207) 749-1718 or email us at realvalue92@gmail.com.

HOME WANTED

First floor bedroom needed. Most conditions acceptable. Flexible on price. Compassionate buyer. Replies confidential. No commission. (207) 650-7297 or mainebuyers@gmail.com

YARD CARE

EAGLE LAWN SERVICE
Fall & Storm Clean Ups, Snow Removal, Tree Limb Removal, Lawn Repair & Seeding, Mowing, Trimming, Blowing, Moss Control & Removal.
Call 207-351-2887.

MUSIC LESSONS

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ROSE M CARPENTER TRUSTEE
401 RIVER RD
ELIOT, ME 03903

CARPENTER, ROSE M REVOCAB
JOHN B CARPENTER TRUSTEE
401 RIVER RD
ELIOT, ME 03903

COHEN, JENNIFER
51 ORCUTT DR
GUILFORD, CT 06437

COHEN, JOY E REVOCABLE TR
JOY E COHEN TRUSTEE
437 RIVER RD
ELIOT, ME 03903

MARTIN, FRED H
MARTIN, MARY VIRGINIA
409 RIVER RD
ELIOT, ME 03903

MCGEE FAMILY REVOCABLE TR
CAROLYN M & KENNETH A MCG
445 RIVER RD
ELIOT, ME 03903

MIJAL, PAMELA
423 RIVER RD
ELIOT, ME 03903

ROHDE, SHARON
413 RIVER RD
ELIOT, ME 03903

VALENTINE, JOHN C/SHAWN L
VALENTINE, JOHN C/SHAWN L
407 RIVER RD
ELIOT, ME 03903

WYMAN/WARBURG REALTY TRUS
J WARBURG/J WYMAN TRTS
402 RIVER RD
ELIOT, ME 03903



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Permit-by-Rule & Notice of Intent Review Form

Natural Resources Protection Act
Stormwater Management Law
Maine Construction General Permit

PBR # 78167
PBR #
NOI #

Applicant: Anthony Warren
Project Address: 419 River Road

Town: Eliot
Tax Map/Lot #: Map 25 Lot 7

NRPA PBR Sections – Ch. 305

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. 2 Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. 9 Utility Crossing | <input type="checkbox"/> Sec. 16 Coastal Sand Dune Project |
| <input type="checkbox"/> Sec. 3 Intake Pipes | <input type="checkbox"/> Sec. 10 Stream Crossing | <input type="checkbox"/> Sec. 17 Transfer/Permit Extension |
| <input type="checkbox"/> Sec. 4 Replacement of Structures | <input type="checkbox"/> Sec. 11 State Transport. Facilities | <input type="checkbox"/> Sec. 18 Maintenance Dredging |
| <input type="checkbox"/> Sec. 6 Movement of Rocks or Veg. | <input type="checkbox"/> Sec. 12 Restoration Natural Areas | <input type="checkbox"/> Sec. 19 Act. Near SVP Habitat |
| <input checked="" type="checkbox"/> Sec. 7 Outfall Pipes | <input type="checkbox"/> Sec. 13 F&W Creat./Water Quality | <input type="checkbox"/> Sec. 20 Act. Near Waterfowl/Bird Habitat |
| <input type="checkbox"/> Sec. 8 Shoreline Stabilization | <input type="checkbox"/> Sec. 15 Public Boat Ramps | |

Notes:

11/10/2023

- Question on whether a new seawall will be within 25 feet of the water. It appears these will all be located further back, but need to double check based on the wording in the description.

11/29/2023

- Steps to be replaced in kind.

Reviewer: Anna Smith
Reviewer: Anna Smith

Deficient Date: 11/10/2023 NRPA SW NOI
Accepted Date: 11/29/2023 NRPA SW NOI

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM**

(For use with DEP Regulation, Natural Resources Protection Act - Permit by Rule Standards, Chapter 305)

APPLICANT INFORMATION (Owner)				AGENT INFORMATION (If Applying on Behalf of Owner)			
Name:	Anthony Warren			Name:	Kenneth Wood - Attar Engineering Inc.		
Mailing Address:	419 River Road			Mailing Address:	1284 State Road		
Mailing Address:				Mailing Address:			
Town/State/Zip:	Eliot, ME 03903			Town/State/Zip:	Eliot, ME 03903		
Daytime Phone #:	(617) 721-6985	Ext:		Daytime Phone #:	(207) 439-6023	Ext:	
Email Address:	anthony.warren@northstar-pres.com			Email Address:	ken@attarengineering.com		
PROJECT INFORMATION							
Part of a larger project? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves work below mean low water? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Name of waterbody:	Piscataqua River
Project Town:	Eliot		Town Email Address:	jbrubaker@eliotme.org		Map and Lot Number:	Tax Map 25 Lot 7
Brief Project Description:	Improvements consisting of the removal of impervious surfaces, grading, and a retaining wall within 25 feet of the Piscataqua River. Zone 19T.						
Project Location & Brief Directions to Site:	Route 95S to Route 236 North to Beech Road to State Road to Old Road to River Road.						

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work that meets the requirements for Permit-by-Rule (PBR) under DEP Rules, Chapter 305. I and my agent(s), if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. (9) Utility Crossing | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (16-A) Beach Nourishment |
| <input type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (11) State Transportation Facilities | <input type="checkbox"/> Sec. (17) Transfer/Permit Extension |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Veg. | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input checked="" type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (13) F&W Creat./Water Qual. Improv. | <input type="checkbox"/> Sec. (19) Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. (8) Shoreline Stabilization | <input type="checkbox"/> Sec. (15) Public Boat Ramps | <input type="checkbox"/> Sec. (20) Act. Near Waterfowl/Bird Habitat |

NOTE: Municipal permits also may be required. Contact your local code enforcement office for information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS AND FEE

- Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
- Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
- Attach Proof of Legal Name** if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's registration information (available at <http://icrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>). Individuals and municipalities are not required to provide any proof of identity.

FEE: Pay by credit card at the [Payment Portal](#). The Permit-by-Rule fee may be found here <https://www.maine.gov/dep/feeschedule.pdf> and is currently \$288.

- Attach** payment confirmation from the Payment Portal when filing this notification form.

Signature & Certification: <ul style="list-style-type: none"> I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. I understand that this PBR becomes effective 14 calendar days after receipt by the Department of this completed form, the required submissions, and fee, <i>unless the Department approves or denies the PBR prior to that date.</i> 	
By signing this Notification Form, I represent that the project meets all applicability requirements and standards in Chapter 305 rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.	
Signature of Agent or Applicant (may be typed):	Date: 10/27/2023

Keep a copy as a record of permit. Email this completed form with attachments to DEP at: DEP.PBRNotification@maine.gov. DEP will send a copy to the Town Office as evidence of DEP's receipt of notification. No further authorization will be issued by DEP after receipt of notice. A PBR is valid for two years, except Section 4, "Replacement of Structures," are valid for three years. Work carried out in violation of the Natural Resources Protection Act or any provision in Chapter 305 is subject to enforcement.

419 RIVER ROAD, ELIOT, MAINE
LOT COVERAGE CALCULATIONS

EXISTING LOT COVERAGE:

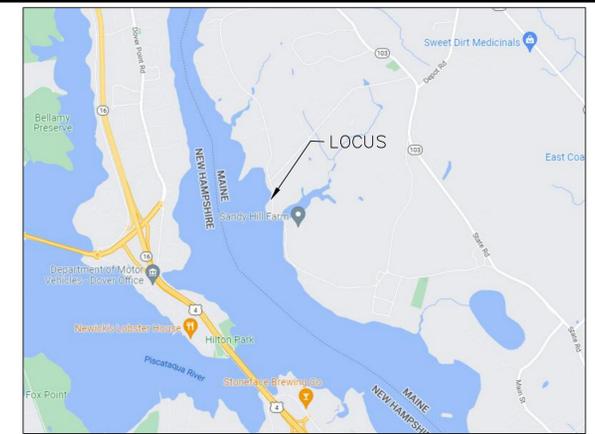
- + EXISTING HOUSE: 1,469 SF
- + EXISTING REAR GARAGE ENTRY: 133 SF
- + EXISTING ENTRY CANOPY: 32 SF
- + EXISTING EXTERIOR STAIR: 21 SF
- TOTAL: 1,655 SF

$1,655 / 9,236 = 18\% \text{ LOT COVERAGE}$

PROPOSED LOT COVERAGE:

- + EXISTING HOUSE: 1,469 SF
- + PROPOSED GARAGE ADDITION: 536 SF
- + PROPOSED DECK EXPANSION: 103 SF
- + PROPOSED ENTRY CANOPY: 42 SF
- TOTAL: 2,150 SF

$2,150 / 9,236 = 23\% \text{ LOT COVERAGE}$
(UNDER THE 25% LIMIT)



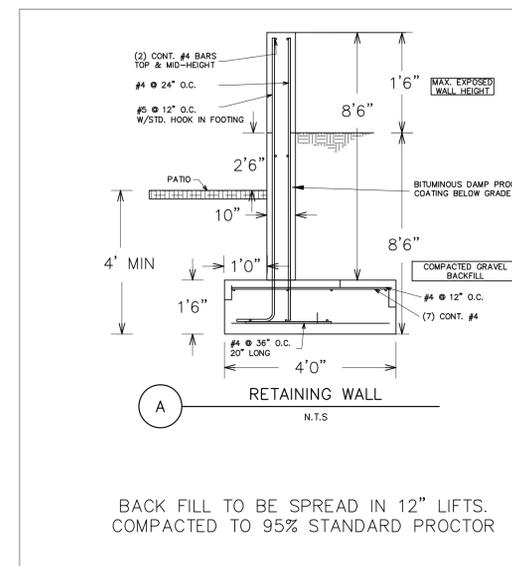
LOCATION PLAN NTS

CONSTRUCTION NOTES:

1. THE CONTRACTOR MUST CONTACT DIG SAFE AND ALL LOCAL UTILITIES PRIOR TO THE START OF CONSTRUCTION TO VERIFY THE LOCATION OF EXISTING SUBSURFACE UTILITIES AND CONDITIONS. LOCATING AND PROTECTING ANY UNDERGROUND OR ABOVE GROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
2. ALL INTERFACES WITH EXISTING CONCRETE FOUNDATION SHALL BE CLEAN SURFACE, BARE CONCRETE WITH #5 REBAR, DRILLED AND EPOXIED EVERY 12" VERTICALLY. FINAL JOINT SHALL BE COATED WITH BITUMINOUS DAMP PROOFING OR EQUAL.
3. ALL BACK FILL SHALL BE CLEAN GRAVEL INSTALLED IN 12" LIFTS COMPACTED TO 95% STANDARD PROCTOR.

EROSION & SEDIMENTATION CONTROL NOTES:

1. SILTATION FENCE OR HAY BALE BARRIERS WILL BE INSTALLED DOWNSLOPE OF ALL STRIPPING OR CONSTRUCTION OPERATIONS. A DOUBLE SILT FENCE BARRIER SHALL BE INSTALLED DOWNSLOPE OF ANY SOIL MATERIAL STOCKPILES. SILT FENCES SHALL BE INSPECTED AFTER EACH RAIN EVENT AND DAILY DURING PROLONGED RAIN. SILT AND SOIL PARTICLES ACCUMULATING BEHIND THE FENCE SHALL BE REMOVED AFTER EACH SIGNIFICANT RAIN EVENT AND IN NO INSTANCE SHOULD ACCUMULATION EXCEED 1/2 THE HEIGHT OF THE FENCE. TORN OR DAMAGED AREAS SHALL BE REPAIRED.
2. TEMPORARY AND PERMANENT VEGETATION AND MULCHING IS AN INTEGRAL COMPONENT OF THE EROSION AND SEDIMENTATION CONTROL PLAN. ALL AREAS SHALL BE INSPECTED AND MAINTAINED UNTIL THE DESIRED VEGETATIVE COVER IS ESTABLISHED. THESE CONTROL MEASURES ARE ESSENTIAL TO EROSION PREVENTION AND ALSO REDUCE COSTLY REWORK OF GRADED AND SHAPED AREAS.
3. SEEDING, FERTILIZER AND LIME RATES AND TIME OF APPLICATION WILL BE DEPENDENT ON SOIL REQUIREMENTS. TEMPORARY VEGETATION SHALL BE MAINTAINED IN THESE AREAS UNTIL PERMANENT SEEDING IS APPLIED. ADDITIONALLY, EROSION AND SEDIMENTATION MEASURES SHALL BE MAINTAINED UNTIL PERMANENT VEGETATION IS ESTABLISHED.
4. REMOVE ANY TEMPORARY CONTROL MEASURES, SUCH AS SILTATION FENCE, WITHIN 30 DAYS AFTER PERMANENT STABILIZATION IS ATTAINED. REMOVE ANY ACCUMULATED SEDIMENTS AND STABILIZE.
5. IF THE AREA WILL NOT BE WORKED FOR MORE THAN ONE YEAR OR HAS BEEN BROUGHT TO FINAL GRADE, THEN PERMANENTLY STABILIZE THE AREA WITHIN 7 DAYS BY PLANTING VEGETATION, SEEDING, SOD, OR THROUGH THE USE OF PERMANENT MULCH, OR RIPRAP, OR ROAD SUB-BASE. IF USING VEGETATION FOR STABILIZATION, SELECT THE PROPER VEGETATION FOR THE LIGHT, MOISTURE, AND SOIL CONDITIONS; AMEND AREAS OF DISTURBED SUBSOILS WITH TOPSOIL, COMPOST, OR FERTILIZERS; PROTECT SEEDING AREAS WITH MULCH OR, IF NECESSARY, EROSION CONTROL BLANKETS; AND SCHEDULE SODDING, PLANTING, AND SEEDING SO TO AVOID DIE-OFF FROM SUMMER DROUGHT AND FALL FROSTS. NEWLY SEEDED OR SODDED AREAS MUST BE PROTECTED FROM VEHICLE TRAFFIC, EXCESSIVE PEDESTRIAN TRAFFIC, AND CONCENTRATED RUNOFF UNTIL THE VEGETATION IS WELL-ESTABLISHED WITH 90% COVER BY HEALTHY VEGETATION. IF NECESSARY, AREAS MUST BE REWORKED AND RESTABILIZED IF GERMINATION IS SPARSE, PLANT COVERAGE IS SPOTTY, OR TOPSOIL EROSION IS EVIDENT. ONE OR MORE OF THE FOLLOWING MAY APPLY TO A PARTICULAR SITE.
6. FOR SEEDING AREAS, PERMANENT STABILIZATION MEANS A 90% COVER OF THE DISTURBED AREA WITH MATURE, HEALTHY PLANTS WITH NO EVIDENCE OF WASHING OR RILLING OF THE TOPSOIL.
7. FOR SODDED AREAS, PERMANENT STABILIZATION MEANS THE COMPLETE BINDING OF THE SOD ROOTS INTO THE UNDERLYING SOIL WITH NO SLUMPING OF THE SOD OR DIE-OFF.
8. FOR MULCHED AREAS, PERMANENT MULCHING MEANS TOTAL COVERAGE OF THE EXPOSED AREA WITH AN APPROVED MULCH MATERIAL. EROSION CONTROL MIX MAY BE USED AS MULCH FOR PERMANENT STABILIZATION ACCORDING TO THE APPROVED APPLICATION RATES AND LIMITATIONS.
9. FOR AREAS STABILIZED WITH RIPRAP, PERMANENT STABILIZATION MEANS THAT SLOPES STABILIZED WITH RIPRAP HAVE ADEQUATE BACKING OF A WELL-GRADED GRAVEL OR APPROVED GEOTEXTILE TO PREVENT SOIL MOVEMENT FROM BEHIND THE RIPRAP. STONE MUST BE SIZED APPROPRIATELY. IT IS RECOMMENDED THAT ANGULAR STONE BE USED.
10. FOR PAVED AREAS, PERMANENT STABILIZATION MEANS THE PLACEMENT OF THE COMPACTED GRAVEL SUBBASE IS COMPLETED, PROVIDED IT IS FREE OF FINE MATERIALS THAT MAY RUNOFF WITH A RAIN EVENT.
11. ALL AREAS WITHIN 75 FEET OF A PROTECTED NATURAL RESOURCE SHALL BE PROTECTED WITH A DOUBLE ROW OF SEDIMENT BARRIERS.
12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ADEQUATE HOUSEKEEPING PRACTICES DURING THE CONSTRUCTION OF THE PROJECT. THESE STANDARDS CAN BE FOUND IN THE FOLLOWING DOCUMENT: MDEP CHAPTER 500 (STORMWATER MANAGEMENT), APPENDIX C, HOUSEKEEPING. HOUSEKEEPING PRACTICES INCLUDE, BUT ARE NOT LIMITED TO, SPILL PREVENTION, GROUNDWATER PROTECTION, FUGITIVE SEDIMENT AND DUST, DEBRIS AND OTHER MATERIALS, EXCAVATION DEWATERING, AUTHORIZED NON-STORMWATER DISCHARGES AND UNAUTHORIZED NON-STORMWATER DISCHARGES (DETAILED BELOW).



BACK FILL TO BE SPREAD IN 12" LIFTS. COMPACTED TO 95% STANDARD PROCTOR

PERMITTING PRINT -NOT FOR CONSTRUCTION
TAX MAP 25, LOT 7

SITE PLAN FOR ANTHONY & STEPHANIE WARREN GARAGE, RETAINING WALL & GRADING

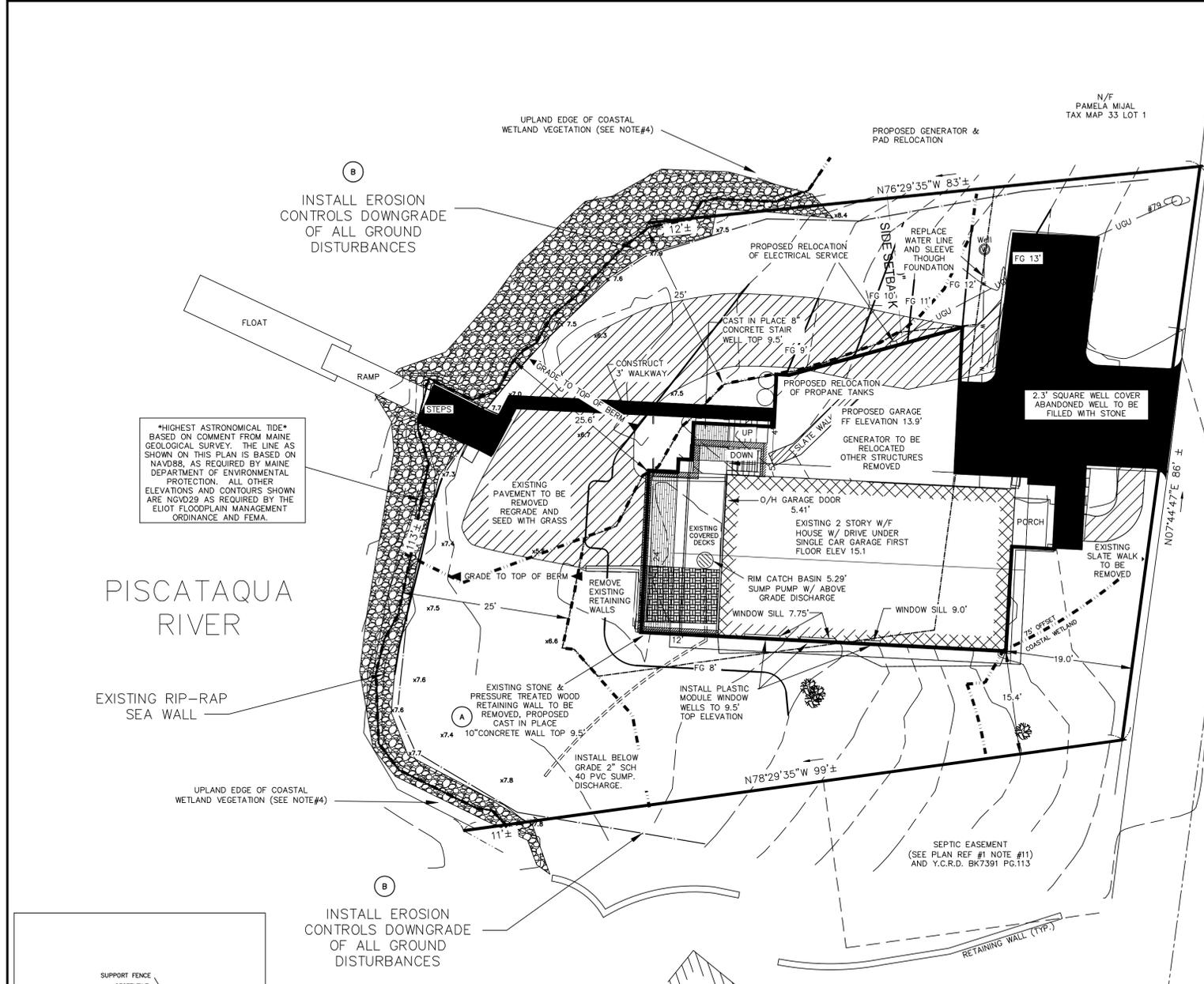
FOR: ANTHONY & STEPHANIE WARREN
419 RIVER RD
ELIOT, ME, 03903

ATTAR ENGINEERING, INC.

CIVIL • STRUCTURAL • MARINE • SURVEYING
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 10'
DATE: 10/24/2023
APPROVED BY: [Signature]
DRAWN BY: CBW
REVISION DATE: 1 : 09/22/2022

JOB NO: C317-22FLE: RIVER ROAD- WARREN 080123.DWG SHEET: 1 OF 1



N/F WYMAN/WARBURG REALTY TRUST JOHN WARBURG & J WYMAN TRUSTEES TAX MAP 25 LOT 8

N/F SHARON ROHDE TAX MAP 25 LOT 6 Y.C.R.D. BOOK 14505 PAGE 776

AREA CALCULATIONS:

TOTAL LOT AREA:	9236± S.F.
EXISTING NON VEGETATED AREA	3915 S.F. (42±%)
NET REDUCTION IN NON VEGETATED AREA	490 S.F.
PROPOSED COMPLETED NON VEGETATED AREA	3425 S.F. (37±%)

AREAS BASED ON PLAN BY BRIBURN ARCHITECTURE	
EXISTING PRE-1989 FLOOR AREA	1730 S.F.
PROPOSED FLOOR AREA	2213 S.F.
PROPOSED INCREASE IN FLOOR AREA	483 S.F.

% INCREASE 28%

PLAN REFERENCES:

1. EXISTING CONDITIONS PLAN FOR PROPERTY AT 419 RIVER ROAD, ELIOT YORK COUNTY, MAINE, OWNED BY ANTHONY M. WARREN, STEPHANIE WARREN, BY EASTERLY SURVEYING, INC. DATED 11/18/19, UNRECORDED
2. ELIOT RIVER HOUSE RENO, 419 RIVER ROAD, ELIOT, ME. 08/08/2023 PREPARED BY BRIBURN, PORTLAND, ME.

ZONING:

SUBURBAN DISTRICT- SHORELAND ZONE OVERLAY

PRE-EXISTING (NON-CONFORMING) LOT OF RECORD
MIN FRONT SET BACK: 30'
MIN SIDE SET BACK: 20'
MIN REAR SETBACK: 30'
MAX LOT COVERAGE: 15%
MAX IMPERVIOUS AREA 20%
MIN LOT SIZE 2 AC.

NOTES:

1. BEARINGS ARE BASED ON GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83. ELEVATIONS ARE BASED ON NAVD 1929, EXCEPT AS NOTED, RELATING TO THE HIGHEST ASTRONOMICAL TIDE, WHICH IS BASED ON NAVD88, PER MAINE GEOLOGICAL SURVEY.
2. THE BOUNDARY INFORMATION, AS SHOWN ON THIS PLAN IS FROM PLAN REFERENCE #1 ONLY. NO FURTHER BOUNDARY RELATED WORK HAS BEEN PERFORMED AS PART OF THIS PROJECT.
3. THIS PLAN PROVIDES DETAILS FOR IMPROVEMENTS AT 419 RIVER ROAD ELIOT, MAINE CONSISTING OF A NEW GARAGE, RETAINING WALL, AND GRADING.
4. BASED ON SITE SPECIFIC OBSERVATIONS OF WATER (TIDAL) LEVELS AND COASTAL WETLAND VEGETATION.

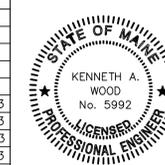
LEGEND:

- RIP FOUND IRON PIPE, AS NOTED
- FIR FOUND IRON ROD, AS NOTED
- WELL
- UTILITY POLE
- STONE WALL
- N/F LAND, NOW OR FORMERLY, OF
- YCRD YORK COUNTY REGISTRY OF DEEDS
- 7654/321 VOLUME/PAGE OF RECORDED DOCUMENT
- IRON ROD TO BE SET, 5/8" INCH Ø, WITH IDENTIFICATION CAP SCRIBED ATTAR ENG INC MEPLS1311

SIGNATURE	DATE
CHAIR	



NO.	DESCRIPTION	DATE
5	TYPO	12/05/23
4	REMOVED HOT TUB AND PAD	10/24/23
3	BUILDING FOOT PRINT	08/03/23
2	H.A.T. PER MDEP	02/17/23
1	COASTAL WETLAND SETBACK	09/22/22
NO.	DESCRIPTION	DATE



From: [Planner](#)
To: [Ken Wood](#)
Cc: [Kim Tackett](#); [Shelly Bishop](#); [Anthony Warren](#); [Sam Day](#); [Chris Wilber](#)
Subject: RE: 419 River Road - 12/5/23 Agenda
Date: Tuesday, December 5, 2023 1:05:00 PM
Attachments: [PB23-11 - 419 River Rd - SLZ expansion - 12-5-23 - supplemental.pdf](#)

Ken/all,

I have provided a supplemental memo attached. Admittedly, my previous report cited the 15% suburban zone lot coverage maximum, but omitted the provision in 45-194(c)(1) that allows lots <10,000 sf to go up to 25% lot coverage where it is not possible to comply with the base zone's lot coverage or other dimensional standards.

So, my previous report's recommendation is superseded by the one in the attached memo. In summary, I am no longer recommending disapproval tonight, rather (keeping tonight's review but also) continuance of review until January so these points can be clarified in the application package.

A key here is what exactly is the existing lot coverage. The building permit information in the property file suggests that the 1987-permitted house (24' x 44', but slightly bigger when including overhangs) would fall under the 15% lot coverage, but – consistent with your application – the actual footprint potentially edges over the 15% standard. So that affects whether it is “possible to comply with” the 15% standard. I want you to make the case for the PB to review, and depending on the finding, that would “activate” the 25% lot coverage standard.

Beyond that, the building height error (not measuring to the peak of the roof) needs to be corrected. And it needs to be clarified that you are not (slightly) increasing the area of nonconformance with regard to the front setback by expanding somewhat around the front entry canopy.

Thank you for updating the plans to remove the proposed footprint expansion within the 25 ft. setback.

Finally, while you have the 30% expansion standard in 44-32(c)(1)c1 to avail yourself of, that doesn't obviate the base zoning lot coverage requirements. But to my memo yesterday, you should remove the dock from your calculations and clarify just what is the garage entry. Maybe I need to visit the site to better wrap my head around this.

So, a lot of wrinkles here that need to be smoothed here to make it easier for the PB to review.

Jeff

Jeff Brubaker, AICP
(207) 439-1813 x112

From: Ken Wood <Ken@attarengineering.com>
Sent: Tuesday, December 5, 2023 4:15 AM
To: Planner <jbrubaker@eliotme.org>

Cc: Kim Tackett <ktackett@eliotme.org>; Shelly Bishop <sbishop@eliotme.org>; Anthony Warren <anthony.warren@northstar-pres.com>; Sam Day <sday@briburn.com>; Chris Wilber <cwilber@attarengineering.com>

Subject: RE: 419 River Road - 12/5/23 Agenda

Good Morning Jeff - I forwarded the MDEP permit separately. I agree that the Lot Coverage requirement noted on the plan should be 15%; however I'm confused that the comment also refers to the need for a variance. It appears that the existing structure is legally non-comforming as of January 1, 1989 - therefore shouldn't the 30% expansion should be allowed regardless of lot coverage (Sec 44-32 c (1))?

I believe the other comments can be easily addressed at tonight's presentation. We have also removed the spa which was the only structure within the 25" setback to the NHWL in order to receive approval of the MDEP NRPA permit - that plan is attached.

Any clarification on the lot coverage issue prior to tonight's meeting is appreciated. Thank you Jeff

Best.

Ken

Sent from my T-Mobile 5G Device

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

From: Planner <jbrubaker@eliotme.org>

Date: 12/4/23 2:57 PM (GMT-05:00)

To: Sammie Goddard <sammie@attarengineering.com>

Cc: Kim Tackett <ktackett@eliotme.org>, Ken Wood <Ken@attarengineering.com>, Shelly Bishop <sbishop@eliotme.org>

Subject: RE: 419 River Road - 12/5/23 Agenda

Hi Sammie and Ken,

Here is the staff report for tomorrow night. Apologies for not getting this to you sooner.

There are a few issues with the application. The big ones are lot coverage – the proposed lot coverage appears to be well over 15%, the Suburban standard in 45-405, and the site plan incorrectly states that lot coverage is 25%. There may be a nonconforming situation that allows about 19% lot coverage (based on existing structure footprint calcs) but the proposed of roughly 24% exceeds this. A variance would be needed.

Building height. The elevation drawings are unclear and don't measure from the grade plane (9 ft elevation) to the top of the proposed gabled roof peak, rather to the bottom (gable ends).

I could be wrong but I thought Shelly and I went over these things with Briburn when we had a videoconference meeting with them earlier this year.

Jeff

Jeff Brubaker, AICP
(207) 439-1813 x112

From: Sammie Goddard <sammie@attarengineering.com>
Sent: Friday, December 1, 2023 2:44 PM
To: Planner <jbrubaker@eliotme.org>
Cc: Kim Tackett <ktackett@eliotme.org>; Ken Wood <Ken@attarengineering.com>
Subject: 419 River Road - 12/5/23 Agenda

Hey Jeff!

I was just looking through the Agenda for Tuesday and was wondering if you had any comments on 419 River Road, I found them for 293 River Road but didn't see anything on 419. Hope you had a wonderful weekend!!

Best Regards,

Sammie Goddard
Office Manager



**1284 State Road
Eliot, ME 03903
Tel. 207-439-6023**

Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

PB23-21: 107 Littlebrook Ln. (Map 46, Lot 3): Site Plan Amendment/Review – Earth material removal \geq 100 cy



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Mike Devine, Applicant's Representative
Shelly Bishop, Code Enforcement Officer
Kim Tackett, Land Use Administrative Assistant
Date: January 17, 2023 (report date)
January 23, 2023 (meeting date)
Re: PB23-21: 107 Littlebrook Ln. (Map 46, Lot 3): Site Plan Amendment/Review – Earth material removal \geq 100 cy

Application Details/Checklist Documentation	
✓ Address:	107 Littlebrook Ln. (listed as 100 Littlebrook Ln. on application)
✓ Map/Lot:	46/3
✓ Zoning:	Suburban, Commercial/Industrial (C/I)
✓ Shoreland Zoning:	Stream Protection (not in area of proposed activity)
✓ Owner Name:	Shamrock Aviation / Thomas Shaughnessy
✓ Applicant Name:	Mike Devine
✓ Proposed Project:	Remove trees & overgrowth; grade area 41,000 sf
✓ Reason for PB Review:	SPR use

Overview

Applicant seeks to remove trees, overgrowth, and stumps from, and grade, a 40 ft. by 1000 ft. area adjacent to the runway at Seacoast Airfield. The area (on the north side of the runway) is shown in a sketch plan submitted by the applicant's representative prior to the SPR application; both are in the packet. The applicant has described that this is related to airplane landing safety with more clearance for airplanes landing that may get blown off the tarmac by the wind.

Earth material removal, 100 cubic yds or greater is an SPR use in the Suburban zone. Section 33-181 covers earth material removal performance standards. Subsection (a) has exemptions from these standards, including: "Movement of earth materials from one portion of a parcel to another location on the same parcel or to a contiguous parcel of the same owner". This is the case with this application. There is Stream Protection shoreland zoning on the south side of the runway. The activity is outside of shoreland zoning.

The application was submitted on or about July 28, and includes a \$100 fee payment for Site Plan Amendment. It was agendaized for the December 13, 2023, Planning Board meeting, but postponed at the request of the applicant. At this meeting, a member of the public furnished hard copies of a report from ACORN Engineering to the PB members in relation to this item. This person did not provide a PDF copy of the same to the Planning Office. A PDF of what we believe is the same report from ACORN Engineering is included in the PDF packet. This was received on or about May 2023

PB23-21: 107 Littlebrook Ln. (Map 46, Lot 3): Site Plan Amendment/Review – Earth material removal ≥100 cy

by the Code Enforcement Officer from Attorney Tyler Smith with Libby, O'Brien, Kingsley & Champion LLC, Kennebunk, Maine, and includes a cover letter from Attorney Smith.

The applicant also plans to provide a PDF and hard copies of additional information he would like to share with the PB as regards this item. At the time of the writing of this staff report, that information had not yet been received, but copies will be provided in the packet or separately, as available.

Recommendation

Approval as a minor site plan amendment/revision, with conditions

Motion templates

Approval with conditions (recommended)

Motion to approve PB23-21 as a Minor Site Plan Amendment/Revision, as provided in Section 33-140(b) for earth material removal, 100 cubic yards or greater, on Map 46, Lot 3, related to removal of trees, overgrowth, and stumps, and grading, an approximately 40 ft. by 1000 ft. area just north of the runway at Seacoast Airfield.

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

1. [Standard conditions]
2. _____
3. _____
4. _____[Other conditions if warranted]

Disapproval

Motion to disapprove PB23-21 – for the following reason(s) related to noncompliance with land use regulations:

1. _____
2. _____
3. _____

Continuance/Major amendment

Motion to continue PB23-21 to the February 6, 2024, meeting.

Motion to deem PB23-21 a major amendment. The applicant must submit a site plan review application consistent with Ch. 33.

Respectfully submitted,
Jeff Brubaker, AICP
Town Planner

	Case No. _____
	Site review? Yes No

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

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

Tax Map _____ Lot# _____ Lot Size _____ Zoning District: _____

Your Name MIKE DEVINE Your mailing address MAYNARD MA 116 Powdermill Rd 01754

City/Town MAYNARD State: MA Zip: 01754 Telephone: 781-645-9339

Who owns the property now? SHAM ROCK AVIATION / T. SHAGNASSY

Address (Location) of the property 100 Littlebrook Ln

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

Step 2 (establish your legal interest in the property)

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

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

What SPECIFIC land use are you applying for? Grading
(You MUST make this selection from Section 45-290 of the Zoning Ordinance)

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

REMOVE TREES & OVERGROWTH

GRADE AREA 41,000 S/F

Case No. _____
Site review? Yes No

- Step 4 Attach ten (10) copies of a sketch plan, showing in approximate dimensions the following:**
 - All zoning districts
 - The location of all existing and/or proposed buildings
 - The setbacks of all existing and proposed structures or uses.

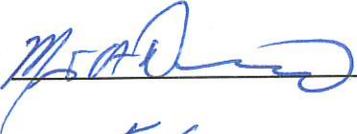
 - The location of proposed signs, their size, and direction of illumination.

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

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

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

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

Applicant  Date JULY 1 23

Property Owner  Date JULY 1 23

Step 6 Application received by Planning Assistant

Date received by the PA _____ PA initials _____

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

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

PART 1 - THE PROCEDURE

Case No. _____
Site review? Yes No

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

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

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

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

(STEP 5) Board visits site with applicant.

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

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

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

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

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

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

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

PART 2

Case No. _____
Site review? Yes No

DETAILED ORDINANCE REFERENCES FOR EACH SITE REVIEW EVENT

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

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

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

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

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

Case No. _____
Site review? Yes No

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

Chapter 33 required information

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

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

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

Other Chapter 33 Site Review Ordinance Requirements.

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

	Case No. _____		
	Site review?	Yes	No

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

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

Chapter 35 Post-Construction Stormwater Management

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

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

- 4.9. Dimensional Standards (Section 45-405)
- 4.10. Traffic (Section 45-406)
- 4.11. Noise (Section 45-407)
- 4.12. Dust, Fumes, Vapors and Gases (Section 45-408)
- 4.13. Odor (Section 45-409)
- 4.14. Glare (Section 45-410)
- 4.15. Storm-water run-off for a 50 year storm. (Section 45-411)
- 4.16. Erosion Control (Section 45-412)
- 4.18. Preservation of Landscape (Section 45-413)
- 4.19. Relation of Buildings to Environment (Section 45-414)
- 4.20. Soil Suitability for Construction (Section 45-415)
- 4.21. Sanitary Standards for Sewage (Section 45-416)
- 4.22. Buffers and Screening (Section 45-417)
- 4.23. Explosive Materials (Section 45-418)
- 4.24. Water Quality (Section 45-419)
- 4.25. Refuse Disposal (Section 45-421)

- 4.26. Specific Activities (Article IX) which include:
 - 4.26.1. Accessory Use or Structure (Section 45-452)
 - 4.26.2. Home Occupation (Section 45-455)
 - 4.26.3. Mobile Homes (Section 45-457)
 - 4.26.4. Off-street Parking and Loading (Article X)
 - 4.26.5. Signs (Article XI)

4.27. In addition the Board may make other conditions for approval that will insure such compliance and would mitigate any adverse affects on adjoining or neighboring properties which might otherwise result from any proposed use (Section 33-131).

	Case No. _____		
	Site review?	Yes	No

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

5.1. Board discusses Site Plan with applicant.

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

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

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

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

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

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

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

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

Note: Computation of time shall be in accordance with Section 1-2 as follows:
 "In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation."

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

MAP 46 LOT 3



56 Little Brook Lane

SEACONST AIRFIELD

30

RUNWAY

7

THIS AREA
HAD NO
STUMPS AND WAS
GRADED

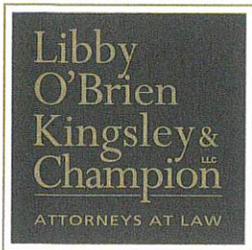
40 X 1000'
TO BE GRADED FOR STUMP
REMOVAL

EXISTING
POND

BOTTOM OF STUMPS (EXISTING)

HAWGARS

Mike Devine
781-645-9339
Devineext@aoutlook.com



TYLER J. SMITH, ESQ.
tsmith@lokllc.com

RCW 5/4/2023

May 3, 2023

VIA REGULAR MAIL AND EMAIL

Shelly Bishop, Code Enforcement Officer
1333 State Road
Eliot, Maine 03903
sbishop@eliotme.org

RE: Seacoast Airfield (3B4), 107 Littlebrook Lane, Eliot, Maine

Dear CEO Bishop:

This law firm represents Jean Hardy, a resident of 2 Littlebrook Airpark, Eliot, Maine and an abutter to the Seacoast Airfield (3B4). The airport was sold to its current owner, Shamrock Aviation, LLC (“Shamrock”), in August 2021. Since then, Shamrock has performed substantial construction at the airport without permitting from the Maine Department of Environmental Protection, or the Town of Eliot.

I have enclosed a *Land Use Permitting Summary Report* prepared by Aubrey Strause, P.E., of Acorn Engineering, Inc. Photographs are included throughout the report depicting the extensive nature of the construction. As you can see from pages 16 to 18 of the report, the construction work required site plan review by the Town of Eliot planning board, which did not occur. As such, Ms. Hardy requests that the Town of Eliot Code Enforcement Office take appropriate enforcement action.

Sincerely,

Tyler J. Smith *ZB*
Bar No. 4526

Enclosure

c: Jean Hardy (via email)
Gene R. Libby, Esq. (via email)



LAND USE PERMITTING SUMMARY REPORT

PREPARED FOR:

LIBBY O'BRIEN KINGSLEY & CHAMPION
(COUNSEL FOR THE DEFENDANTS)

SHAMROCK AVIATION, LLC (PLAINTIFF)

v.

JEAN M. HARDY AND EDITH H. BREEN (DEFENDANTS)

DOCKET ALFSC-RE-22-45-22-45

APRIL 17, 2023



AUBREY L. STRAUSE, PE
MAINE PROFESSIONAL ENGINEER, #11677



ACORN Engineering, Inc. • www.acorn-engineering.com
207-775-2655 • PO Box 3372 • Portland • Maine • 04104



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LIST OF ATTACHMENTS

ATTACHMENT A: Qualifications of Report Preparer
 ATTACHMENT B: Documents Provided to Acorn by Defendants’ Counsel
 ATTACHMENT C: Other References Relied Upon by Acorn
 ATTACHMENT D: Parcel records for Eliot Tax Map 46 Lot 3
 ATTACHMENT E: Town of Eliot Zoning Map
 ATTACHMENT F: Results of Maine DEP Permit Review Search
 ATTACHMENT G: Maine DEP Land Use Permitting Flowchart
 ATTACHMENT H: Town of Eliot Code of Ordinances, Section 45-290
 ATTACHMENT I: Town of Eliot Planning Board Materials (Jan 2020 – Dec 2022)



1.0 QUALIFICATIONS OF REPORT PREPARER

Acorn Engineering, Inc., (“Acorn”), based in Portland, Maine, was retained by Libby O’Brien Kingsley & Champion, legal counsel for the Defendants (“counsel”) to perform the scope of work described in this Land Use Permitting Summary Report (“the Report”) under an Agreement with counsel dated March 15, 2023.

Acorn Engineering, Inc. (Acorn) is an award-winning firm that specializes in providing urban redevelopment, civil/site design, municipal consulting and construction administration with a focus on stormwater management and treatment, and construction administration for highway, marine, rail facilities, and stormwater infrastructure.

Acorn staff members involved in the work described in the report include Ms. Aubrey Strause, PE and Andrew Godfrey, EI.

- Ms. Strause is a Senior Stormwater Engineer with Acorn. She serves as the compliance manager and municipal stormwater coordinator. Prior to joining Acorn in May 2021, she served as the Maine Department of Environmental Protection (Maine DEP) Bureau of Land Resources (Land Bureau) Stormwater Engineer in the Department’s Southern Maine Regional Office (Portland). This provided experience with applicability and nuances associated with Site Location of Development Permits, Stormwater Management Law Permits, the Stormwater Permit by Rule process, and the Natural Resource Protection Act (NRPA) Permit by Rule process.
- Mr. Godfrey is an Environmental Engineer with Acorn. He researched the Subject Property, used AutoCAD to calculate areas from aerial photographs and other resources, and prepared figures showing the result of research.

Full resumes and professional licensure status for these staff members are included in ***Attachment A***.

Attachment B identifies the documents provided to Acorn by counsel.

Attachment C lists other references that Acorn relied upon during preparation of the Report.

2.0 DESCRIPTION OF THE WORK

2.1 Project Area

This Report describes land use activities that were performed on the parcel identified as Tax Map 46, Lot 3 (approximately 19.65 acres) in the Town of Eliot, Maine¹, known as the Littlebrook Airpark. Additional parcels associated with the airpark, such as the parcels on which individual hangar structures are located, are within and adjacent to Tax Map 46, Lot 3. The area of the property generally considered the airpark is 46.32 acres. This overall property is hereafter referred to as the Subject Property.

The Subject Property is located in the Suburban District (SD), per the Town's Zoning Map², and is not located within Shoreland Zone. The original airpark, created in 1971³, featured a grass runway, which was paved in 1974.

Shamrock Aviation, LLC (licensed in New Hampshire but not Maine) purchased the Subject Property from Sweet Peas LLC on August 3, 2021, and began work to develop and redevelop the airpark ("the work"). Acorn was engaged by counsel to determine if the work satisfied local and state land use permitting requirements.

Photos 1 and 2 show the Subject Property prior to the work described in this Report.



Photo 1
Google Earth image, May 2018

¹ Refer to *Attachment D*.

² Refer to *Attachment E*.

³ Source: see *Attachment C*, Reference #1



Photo 2
Google Earth Image, October 2020

2.2 Extent of the Work

Multiple land development and redevelopment activities were completed in spring and summer 2022. *Photo 3* shows the extent of these activities, which are discussed in the following sections, as of June 2022.



Photo 3
Google Earth Image, June 2022

2.2.1 New Grassed Runway

A new grassed runway was constructed between the hangars and the paved runway by Continental Paving, Inc. (Continental) and Devine Exterior Services, LLC (Devine). Construction of the grassed runway included the following steps:

- Continental removed approximately 24,400 SF (0.56 acre) of existing pavement near the existing hangar buildings⁴;
- Devine constructed drainage improvements to redirect runoff away from the grassed runway⁵ (see Section 2.2.2);
- Devine graded underlying soils to create a level surface⁶; and
- Devine compacted the graded underlying soils⁷.

Devine's contract included revegetating the new runway surface with grass, although it is not clear whether this area is fully stabilized.

The new grassed runway is visible in the aerial image Photo 3 (although it has not yet been vegetated in that image) and in *Photo 4*.



Photo 4
New Grassed Runway Between Hangars and Paved Runway
(Source: Attachment C, Reference #2)

While this runway is referred to as “grassed”, this area was compacted during the work and will continue to compact over time. A discussion of the implication of this is included in Section 3.2.

2.2.2 Drainage Improvements

Devine performed the following drainage improvements:

- Leveling the area around the paved runway to prevent water from draining onto the new grassed runway⁸.

⁴ Source: see *Attachment B*, Reference #A

⁵ Source: see *Attachment B*, Reference #C

⁶ Source: see *Attachment B*, Reference #C

⁷ Source: see *Attachment B*, Reference #C

⁸ Source: see *Attachment B*, Reference #C

- Installing three drainage pipes⁹ (see **Photo 5**) across the runway to redirect water that would otherwise impact the new grassed runway.
- Installing riprap at the end of the three drainage pipes to prevent erosion¹⁰.
- Improving a swale that conveys flow toward Lamplighter Lane¹¹.
- Creating a “retention pond” behind existing hangar buildings¹². The location of this retention pond is not exactly clear. However, both pre-and post-construction photos (including **Photo 6**) show runoff toward a low-lying area east of the hangar buildings, so this may be the “retention pond” described in documents.



Photo 5
Trench Cut Across Runway for Installation of Drainage Pipe
(Source: Attachment B, Reference #K1)

⁹ Source: see **Attachment B**, Reference #C

¹⁰ Source: see **Attachment B**, Reference #C

¹¹ Source: see **Attachment B**, Reference #C

¹² Source: see **Attachment B**, Reference #C



Photo 6
Pre-Construction Runoff
 (Source: Attachment C, Reference #1)

Photo 7
Post-Construction Runoff
 (Source: Attachment C, Reference #2)

Potential Location of Retention Pond, East of Hangars

2.2.3 Tree Cutting, Clearing, and Stumping

Acorn estimates that approximately 143,000 square feet (3.28 acre) of forested area was cleared¹³. This work involved flush cutting trees, clearing, and stump grinding, which was performed by Devine¹⁴. **Photo 8** demonstrates the typical condition of cleared forested areas.



Photo 8
Tree Cutting, Clearing, and Stumping
 (Source: Attachment B, Reference #M4)

¹³ Source: see *Attachment B*, Reference #B

¹⁴ Source: see *Attachment B*, References #B and #C

2.2.4 Disturbing Vegetated Areas

Documents provided by counsel demonstrate that the project included disturbing areas that were previously vegetated in addition to those discussed previously in this Report.

Shoulders on both sides of the runway were disturbed, as visible in ***Photos 9 and 10***.



Photo 9
Soil Disturbed on Runway Shoulder
(Source: Attachment B, Reference #M8)



Photo 10
Soil Disturbed on Runway Shoulder
(Source: Attachment B, Reference #K2)

- Areas of unvegetated, exposed soil (i.e., disturbed areas) are outlined and shaded in red.



Other disturbed areas are observed on both sides of the runway in **Photo 11**.



Photo 11
Soil Disturbed on Both Sides of the Runway
 (Source: Attachment B, Reference K2)

No erosion and sedimentation controls are visible in Photos 8, 9, 10, or 11.

2.2.5 Runway Paving

Documents provided by counsel demonstrate that the existing runway was redeveloped. This work included grinding existing pavement (a process called “reclaiming”) after drainage improvements had been completed¹⁵, and placing approximately 3,500 tons of new pavement on the surface¹⁶.

Some references suggest that the runway was widened¹⁷, and photos show approximately three feet of disturbed soil on both sides of the runway, but the paved width does not appear to have increased.

2.3 Summary of the Work

Figure 1 is a visual summary of how land use on the Subject Property changed between October 2020 and June 2022 as a result of the work. Use of color in this visual is as follows:

- Areas considered impervious are outlined and shaded in blue.
- Grassed areas are outlined and shaded in green.
- Areas that are forested are outlined and shaded in purple.
- Areas of unvegetated, exposed soil (i.e., disturbed areas) are outlined and shaded in red.

¹⁵ Source: see **Attachment B**, Reference #A

¹⁶ Source: see **Attachment B**, References #A and #D

¹⁷ Source: see **Attachment B**, Reference #M(3)i

OCTOBER 2020



JUNE 2022



GENERAL NOTES:
 1. DATA FROM SOURCE FROM
<https://data.sno.wa.gov/dataset/water-quality>
 2. DATA SOURCE: DISTRICT NEW DOCKS DATA ON 3/16/21



	2020	2022
IMPERVIOUS	6.8 AC.	6.4 AC.
GRAVEL/BARE	0.6 AC.	5.7 AC.
GRASSED	6.7 AC.	5.4 AC.
WOODED	32.2 AC.	28.8 AC.
IMPERV + BARE	7.4 AC.	12.1 AC.
TOTAL	46.3 AC.	46.3 AC.



Table 1 summarizes impact of the work at the Subject Property, as shaded on Figure 1:

- The project re-paved approximately **3.36 acres** of runway after constructing the drainage improvements described in Section 2.2.3.
- The project disturbed soil on approximately **5.07 acres** adjacent to runways that was formerly stabilized with grass, an increase from 0.63 acre to 5.70 acres. Much of this disturbed area was not revegetated within one year.
- The project cut trees and cleared them, ground stumps, and graded approximately **3.4 acres** of forested area, reducing forested area on the Subject Property from 32.2 acres to 28.8 acres.

Table 1
Summary of Land Use Changes on the Subject Property
2020 to 2022

Land Use	Total Acres	
	October 2020	June 2022
Impervious Area Total	6.78	6.38
<i>Runway</i>	<i>3.46</i>	<i>3.36</i>
<i>Hangar Area</i>	<i>2.43</i>	<i>1.87</i>
<i>Adjacent to Runway (South)</i>	<i>0.89</i>	<i>1.15</i>
Disturbed Area Total	0.63	5.70
<i>Adjacent to Runway (South)</i>	<i>0.63</i>	<i>1.03</i>
<i>Adjacent to Runway (North)</i>	<i>0</i>	<i>4.67</i>
Grassed Area	6.71	5.44
Forested Area	32.30	28.80
TOTAL AREA	46.32	46.32



3.0 STATE PERMITTING REQUIREMENTS

3.1 Applicable State Regulatory Programs

State land use stormwater permitting applies to a project that disturbs one acre of more or land area and requires a stormwater permit per 38 MRSA §420-D (generally referred to as “Stormwater Management Law”) or a Site Location of Development permit per 38 MRSA §481 – 490 (generally referred to as “Site Law”). These programs are administered by the Maine DEP Land Bureau.

Rule Chapter 500 uses the following definitions (emphasis added) in land use planning.

- **Developed Area:** “an impervious area, landscaped area, or unvegetated area. Developed area includes all disturbed areas except an area that is returned to a condition that existed prior to the disturbance and is revegetated within one calendar year of being disturbed, provided the area is not mowed more than twice per year.”
- **Disturbed area:** “all land areas that are stripped, graded, grubbed, filled, bulldozed or excavated at any time during the site preparation or removal of vegetation for, or construction of, a project. "Disturbed area" does not include maintenance. A land area on which the cutting of trees, without grubbing, stump removal, disturbance or exposure of soil has taken place is not considered a "disturbed area."
- **Impervious area:** “the total area of a parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to...packed earthen materials...which similarly impede the natural infiltration of stormwater...”
- **Maintenance:** “an activity undertaken to maintain operating condition, original line and grade, hydraulic capacity, and original purpose of the project. Paving an impervious gravel surface at original line, grade and hydraulic capacity is considered maintenance”

These definitions apply to the discussion in this Section of the Report.

3.2 Assessment of Compliance with State Regulatory Programs

Maine DEP Rule Chapter 500¹⁸ became effective on December 31, 1997. The airport runway was first paved in 1974, so creation of runway impervious area pre-dated Stormwater Management Law.

The 2022 work included multiple drainage improvements and grading changes and did not maintain the original line and grade of the runway, so it does not meet the definition of “maintenance” in Rule Chapter 500. Therefore, the approximately 3.36 acres of runway area paved in 2022 is no longer exempt from Stormwater Management Law and counts toward impervious area and developed area as defined by Maine DEP in Rule Chapter 500.

¹⁸ Maine DEP Rule Chapter 500: www.maine.gov/sos/cec/rules/06/096/096c500.docx



Finding 1: The runway area paved in 2022 does not meet the definition of “maintenance”. This paved area is considered creation of new impervious area under Stormwater Management Law.

Finding 2: Pavement activities in 2022 resulted in the creation of more than three acres of impervious area, which requires a Site Law Permit.

The grassed runway created in 2022 was compacted at the time of construction, and will continue to become more compacted through use. The area of the grassed runway is considered impervious area by Maine DEP and is subject to Stormwater Management Law.

Finding 3: The grassed runway created in 2022 is considered impervious area by Maine DEP and is subject to Stormwater Management Law.

3.2.1 Land Use Compliance Review

To determine if the work complied with State Land Use requirements by submitting land use applications to Maine DEP, Acorn utilized two methods:

1. Requesting a review of Maine DEP Land Bureau databases through the online Land Permitting Question form¹⁹ that replaced the “On-Call” system in 2023 to determine if an application had been submitted to the Department for any part of the work.
2. Performing a review of two following Google Earth Layers maintained by the Maine DEP Land Bureau: Site Location of Development and Stormwater Management Law Permits: 2006 to present²⁰; and Permit By Rule Locations²¹

Results of these reviews are summarized in the following sections.

3.2.1.1 Maine DEP Land Bureau Database Review

On March 17, 2023, Ms. Strause submitted a request for a project review to the Maine DEP Land Bureau online Land Permitting Question form. Shortly after the request was submitted, Ms. Strause was contacted by licenser April Stehr, who was managing requests submitted through the form at that time.

Ms. Strause provided prompts of terms likely to find permits associated with the work. Ms. Stehr set the municipality as “Eliot” and entered the terms suggested by Ms. Strause, one at a time, in the Land Bureau land use permitting and natural resource protection databases. The search terms - and results of each search – are summarized in **Table 2**.

¹⁹ Access via: www.maine.gov/dep/contact/permit.html

²⁰ Access: www.maine.gov/dep/gis/datamaps/lawb_municipal_growth_areas/lawb_municipal_growth_areas.kmz

²¹ Access via: https://www.maine.gov/dep/gis/datamaps/lawb_pbr/lawb_pbr.kmz



Table 2
Results of Maine DEP Land Bureau Land Use Permitting Query
for projects in Eliot, Maine

	Permit by Rule	Stormwater Management Law	Site Location of Development
Shamrock	X	X	X
Shaughnessy	X	X	X
Airport	X	X	X
Hardy	X	X	<input checked="" type="checkbox"/>
Littlebrook	X	X	X
Lamplighter	X	X	X
Airpark	X	X	X

X= no result returned from the Maine DEP database for this search term.
= positive result returned from the Maine DEP database for this search term.

Table 1 demonstrates that the only search term for which a result was returned was for the term “Hardy” in the Site Location of Development (“Site law”) database. The document located was the Department’s approval of a Landfill Closure Plan, issued on April 11, 1984 to John E. Hardy Jr., as order #L-9220-26-A-X. This order was provided to Ms. Strause. *Attachment F* includes a copy of the request submitted to Maine DEP and emails received from Maine DEP, including a copy of order #L-9220-26-A-X.

Finding 4: no applications were submitted to the Maine DEP Land Bureau for the 2022 development and redevelopment work.

3.2.1.1 Maine DEP Land Bureau Google Earth Data Layer Review

Acorn reviewed two publicly-available Google Earth Data Layers maintained by the Maine DEP Land Bureau: one layer that includes Site Location of Development and Stormwater Management Law Permits filed since 2006, and another layer that includes Stormwater and NRPA Permit by Rule Locations. The Department maintains these layers to allow the public to determine where land use permits have been filed.

Figure 2 shows the Subject Property with both of these data layers turned on. No symbols are visible on the Subject Property, indicating that Maine DEP did not issue any permits for the work.

Finding 5: the Maine DEP Land Bureau did not issue a Site Law permit, Stormwater Management Law Permit, or a Permit by Rule for the 2022 development and redevelopment work.

Note that two Site Law permits for commercial properties are visible south of the Subject property, and one Permit by Rule location is visible southeast of the Subject Property.

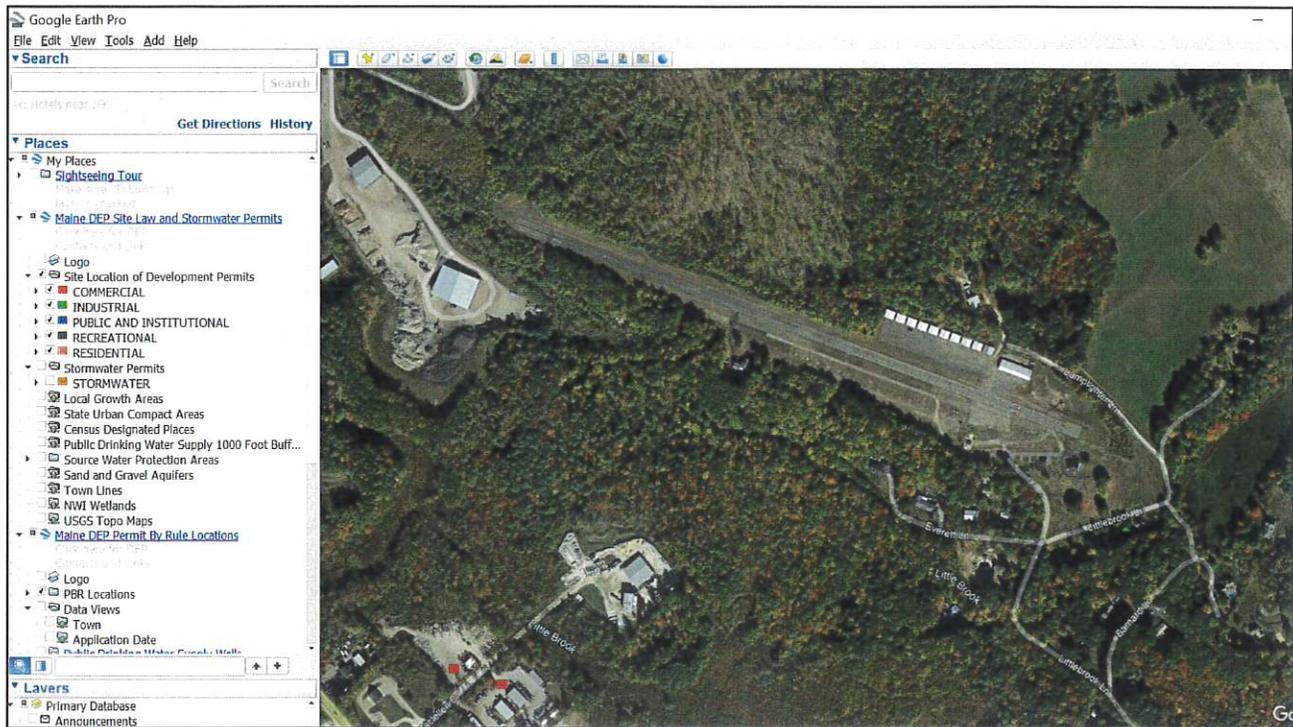


Figure 2
Maine DEP Land Bureau Google Earth Data Layers for
Site Location of Development and Stormwater Management Law Permits and
Stormwater and NRPA Permit by Rule Locations

3.2.2 Implication of State Land Use Permitting

The work proposed by the project triggered permitting by Maine DEP under Site Law. There is no documentation to suggest that the project submitted an application to Maine DEP for an amendment to existing Site Law order #L-9220-26-A-X or under a new Site Law order to receive coverage for new impervious area created by the work.

An application to Maine DEP under Site Law would require the project to satisfy three standards, described in Rule Chapter 500²²:

1. **Basic Standard:** Erosion & Sedimentation Control, Inspection & Maintenance (during and after construction), and Good Housekeeping/Pollution Prevention.
2. **General Standard:** Treatment of 95% of the impervious area and no less than 80% of the developed area through stormwater treatment Best Management Practices (BMPs).
3. **Flooding Standard:** modeling *prior to undertaking the work* to demonstrate that peak flow of stormwater from the property in the post-development condition will not exceed pre-development peak flow. Any proposed increased flow would be required to

²² Refer to the flowchart in *Appendix G*.



be managed through detention or other stormwater BMP storage measures on the property.

Of these three standards, the Flooding Standard has direct bearing on observed impacts to the residence at 2 Littlebrook Lane from the work. For projects that require a Maine DEP Site Law permit, including this one, Chapter 500 requires an evaluation of “peak flows of stormwater prior to undertaking the project” The professional engineer would create a hydrologic model to represent existing (pre-development) and proposed (post-development) conditions. For this work, since no Site Law application was submitted to Maine DEP, there is nothing to suggest that pre-and post-development peak flow modeling was performed.

The affidavits of Dana Thurston²³ and Charles Denault²⁴ include statements to the effect that runoff toward the residence at 2 Littlebrook Lane pre-dates the 2022 runway work. These affidavits also state that there had been previous efforts (including a “french drain” and “digging a ditch”) to mitigate runoff toward the residence. These statements are irrelevant: the hydrologic model would likely have identified runoff under existing conditions toward the residence at 2 Littlebrook Lane.

Even if the hydrologic model had *not* identified that runoff, the Defendant would have had the opportunity to provide this comment during the public process associated with the permitting (at both local and State level).

4.0 LOCAL REVIEW REQUIREMENTS

4.1 Applicable Local Review Process

The Town of Eliot uses the following definitions²⁵ (emphasis added) in land use planning.

- **Development:** “any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations; or of equipment or materials.”
- **Disturbed area:** “clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “disturbed area.” “Disturbed area” does not include routine maintenance but does include redevelopment.”

These definitions apply to the discussion in this Section of the Report.

4.1.1 Local Land Use Requirements

Like many Maine municipalities, the Town determines the level of review required based on the nature of the proposed activity and the zoning of the parcel on which the activity is

²³ Source: see *Attachment B*, Reference #H

²⁴ Source: see *Attachment B*, Reference #I

²⁵ Eliot Code of Ordinances, Chapter 1, Section 1-2 (Definitions)



proposed. Some land use activities are allowed with a permit issued by the Code Enforcement Officer; others require full Site Plan Review and approval by the Planning Board.

Section 45-290 of the Town Code of Ordinances (“Table of Permitted and Prohibited Uses”)²⁶ summarizes land use activities and the level of review required, and shows that “Earth material removal, 100 cubic yards or greater” in Zone SD is required to go through Site Plan Review.

Finding 6: Work performed at the Subject Property in 2022 was required to go through Site Plan Review and approval by the Eliot Planning Board

4.2 Assessment of Compliance with Local Review Process

4.2.1 Local Land Use Compliance

The Town of Eliot website²⁷ archives copies of Planning Board Meeting agendas, Public Hearing notices, and Site Walk notices from 2016 through 2023.

Shamrock Aviation, LLC purchased the Subject Property from Sweet Peas LLC on August 3, 2021, and photos of the Subject Property show that work was completed in May 2022. To be conservative, Acorn reviewed Planning Board materials posted in 2020, 2021, and 2022²⁸. Acorn reviewed each document manually, and also searched the downloaded files²⁹ for the following terms:

- Shamrock
- Aviation
- Littlebrook
- Shaughnessy

Finding 7: There is no documentation to suggest that the project was reviewed or approved by the Eliot Planning Board through Site Plan Review.

Town CEO Bishop acknowledged in at least two emails that construction activity was occurring on the Subject Property³⁰, referring to it as “temporary construction”. Acorn could not locate a definition for “temporary construction” in the Town of Eliot’s Code of Ordinances, and no language suggesting an exemption from the requirement for Site Plan Review.

Town CEO Bishop did not provide documentation suggesting that the work had been reviewed and approved by an alternative process.

Finding 8: There is no documentation to suggest that the project was reviewed or approved by an alternative local land use process.

²⁶ See *Attachment H*.

²⁷ Available at <https://www.eliotmaine.org/node/54/agenda>

²⁸ The exception is that the Public Hearing notice for June 29, 2021 was not available for download.

²⁹ See *Attachment I*.

³⁰ See Attachment B, Documents #M3(ii) and #M3(iii).



5.0 CONCLUSIONS

The nature of work on the Subject Property required a Maine DEP Site Law permit; there is no evidence to suggest an application was submitted or that the Department issued an order.

The nature of work on the Subject Property required review and approval by the Town of Eliot Planning Board; there is no evidence to suggest an application was submitted or approved.



ATTACHMENTS

- ATTACHMENT A: Qualifications of Report Preparer
- ATTACHMENT B: Documents Provided to Acorn by Defendants' Counsel
- ATTACHMENT C: Other References Relied Upon by Acorn
- ATTACHMENT D: Parcel records for Eliot Tax Map 46 Lot 3
- ATTACHMENT E: Town of Eliot Zoning Map
- ATTACHMENT F: Results of Maine DEP Permit Review Search
- ATTACHMENT G: Maine DEP Land Use Permitting Flowchart
- ATTACHMENT H: Town of Eliot Code of Ordinances, Section 45-290
- ATTACHMENT I: Town of Eliot Planning Board Materials (Jan 2020 – Dec 2022)



Shamrock Aviation, LLC v Hardy
Land Use Permitting Summary Report- Attachments
Docket ALFSC-RE-22-45
Attorney Work Product - Confidential

ATTACHMENT A: Qualifications of Report Preparer

Aubrey L. Strause, PE



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Since 2004, Aubrey has supported Maine entities (municipal, commercial, and industrial) and attorneys with stormwater management, land development, and maintenance of infrastructure. Samples of her work includes the following.

- ⌚ Review of proposed development plans and applications for compliance with Maine stormwater management regulations and erosion and sedimentation control regulations. This included Stormwater Law applications, Site Location of Development Law (Site Law) applications, and proposed shoreland stabilizations, as well as advising Maine DEP Land Bureau staff on Stormwater Permit-by-Rule (PBR) applications, when needed. The experience Aubrey brings to a project includes:
 - Detailed understanding of exemptions and exceptions that apply to specific types (or sizes) of projects, and the limitations of those conditions.
 - Familiarity of errors or miscalculations commonly found in application materials.
 - Knowledge of multiple approaches for sizing and designing stormwater treatment structures (BMPs).
 - In-depth knowledge of Maine DEP's Rule Chapter 500 and how State licensers and engineers interpret and implement it.
 - Effective boots-on-the-ground inspection of active projects for compliance with good construction practices and erosion controls.
 - Nuanced understanding of regulatory terms like "disturbed", "developed", "development", "grandfathered", "linear", and "change of use" which form the basis for permit jurisdiction.
 - Practical evaluation of site conditions (e.g., soil, slope, depth to seasonal high groundwater, natural resources) for design of an appropriate, constructable proposed project.
 - Coordination between local review entities (Planning Board) and State (Maine DEP Land Bureau) review of projects.
 - Knowledge of how the Maine DEP Land Bureau's 5-Year Recertification Program is structured and implemented.
 - Potential impacts that location within an Urban Impaired Stream (UIS) watershed or Lake Most at Risk from Development watershed will have on a proposed project.
 - The value of adequate inspection and maintenance planning, including clarity about who is responsible for these activities during and after construction.
 - Integration between Maine DEP Land Bureau and Water Bureau permits and programs such as Stormwater Law, Site Law, NRPA, Construction General Permit, municipal stormwater (MS4), and industrial stormwater (MSGP).
 - Applicability of Natural Resource Protection Act (NRPA) requirements to proposed projects, which may be resolved through a PBR or Individual application.
 - Positive and respectful working relationships with southern Maine consulting engineering firms, developers, and contractors.
 - Familiarity with requirements of agencies including the United States Army Corps of Engineers (USACE) and Maine Department of Inland Fisheries and Wildlife (Maine DIFW) that may also apply to a project.
 - Compliance and enforcement triggers.
- ⌚ Stormwater permitting and compliance, including:
 - Delegated review of Stormwater Law and Site Law stormwater applications;
 - Review of Erosion and Sedimentation Control (ESC) provisions;
 - Post-construction inspection of stormwater Best Management Practices (BMPs);
 - MS4 (municipal stormwater) and MSGP (industrial stormwater) permit facilitation;
 - Site inspection and implementation of corrective actions;
 - State or Federal audit preparation and assistance;
 - Development and update of facility O&M Plans, Stormwater Pollution Prevention Plans (SWPPPs); and oil Spill Prevention, Control, and Countermeasure (SPCC) Plans;
 - Annual reporting and communication with regulator(s); and
 - Training elements for staff.

Aubrey L. Strause, PE (continued)

- ⌚ Municipal infrastructure asset management, including:
 - Sanitary sewer pipe and structure rehabilitation and replacement;
 - Capacity, Management, Operation, and Maintenance (CMOM);
 - Fats, Oil, and Grease (FOG) program development;
 - Preventative inspection or maintenance;
 - Permit compliance; and
 - Updating sewer use ordinances and regulations to enhance abilities

Municipal Services Coordinator, Acorn Engineering, Inc.

May 2021 - Present

- ⌚ Professional Engineer with technical and business development responsibilities at Acorn Engineering; providing urban redevelopment, civil/site design, construction administration, and municipal consulting with a focus on stormwater and wastewater management, restoration of urban impaired watersheds, stormwater treatment design & retrofits, inspection and maintenance of stormwater systems, and environmental stewardship.
- ⌚ Provide support to municipalities and homeowner associations as they determine if a project was constructed as approved and when deficiencies require correction.
- ⌚ Review project drawings, permit applications, stormwater reports, erosion and sedimentation control reports, construction inspections for residential, commercial, municipal and industrial developments.
- ⌚ Prepare proposals, interact with the client, state and local agencies, and engage with project stakeholders to deliver a successful project.

Peer Review

Third Party Engineering Peer Review – Town of Yarmouth, Maine

- ⌚ Acorn has been providing third-party engineering review of submitted to the Town since 2018.
- ⌚ Projects supported included residential subdivisions, commercial/industrial redevelopment, and new commercial development.
- ⌚ Review is focused on project compliance with the Town's and Maine DEP's rules and requirements for stormwater mitigation, including requirements for impaired surface waters and the Maine DEP MS4 Permit.
- ⌚ Responsibilities include preparing a written evaluation of the application, submitted to the Town Engineer, for use during Planning Board reviews.

Third Party Engineering Peer Review – Town of Kennebunkport, Maine

- ⌚ Acorn is responsible for the third-party engineering review of subdivision projects submitted to the Town of Kennebunk for subdivision application approval
- ⌚ Review is focused on project compliance with the Town's and Maine DEP's rules and requirements for stormwater mitigation, roadway design, and erosion and sedimentation control
- ⌚ Responsibilities include reviewing application materials, drawings, and permits, summarizing the findings to the Town and applicant, and proposing project submittals to be reviewed during project construction

Permitting

Jocelyn Place Senior Housing & Office Building – Little Dolphin Drive – Scarborough, ME

On behalf of Oak Hill Senior Housing, LP, Acorn provided civil/site engineering and is providing construction administration services for a three-story, 60-unit senior housing complex (ages 55 and older) and a two-story office building.

1 Gooch Street Redevelopment, Biddeford – Tom Watson & Co.

Acorn is providing civil/site engineering and permitting services for the redevelopment of the existing parcel & building into 320 Self-Storage Units and 96 residential units, as well as proposed roadway, utility, and parking lot improvements. The self-storage and residential housing will be supported by 110 parking spaces to the rear of existing building and railroad tracks. Additional maintenance improvements are proposed along the private Gooch Street, including formalizing travel ways and utility upgrades.

10, 20, 26, and 30 Gooch Street Redevelopment – Biddeford – Tom Watson & Co.

Acorn is providing civil/site engineering and permitting services to construct a 6-story building containing 55 residential units with a restaurant space on 10 Gooch Street, a 5-story, 16-unit residential building and 11 townhome units on 20 Gooch Street, and a partial demolition and redevelopment of the existing building located

Aubrey L. Strause, PE (continued)

at 30 Gooch Street to accommodate a commercial use (potentially a brewery). The project will include associated parking and landscaped areas.

Riverfront Park – Mitchell & Associates – Bowdoinham

Acorn is providing civil/site engineering and permitting services for Phase II of the Bowdoinham Waterfront Plan Redevelopment project. The project includes redevelopment of the parcel into a river front park, shoreland stabilization, non-motorized boat access, and site restoration and will reduce the existing impervious area.

Additional Projects:

- Technology Way Lots 30-32 – Scarborough, ME
- Green Lantern Development – Solar Projects in Windham, Canton, Durham

Civil Site Design / Environmental / Construction Administration

MS4 Compliance – Scarborough, ME

In 2022, Acorn performed a comprehensive review of the Town's activities and documentation for the last effective year of the 2018 Maine DEP General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems ("the MS4 permit"). Acorn reviewed each unique element of the MS4 permit that had a documentation or reporting element and compiled these elements. Acorn will meet with Town to review the list of compliance elements and documented the documents, methods, and systems (e.g., Town ordinances, CityWorks; Doc-X; GIS; Facility O&M Plans) that the Town uses to record or track the information that would satisfy each compliance element. The deliverable was a Compliance Report Card that helps prepare the Town for compliance under the new MS4 Permit, which took effect on July 1, 2022.

Ogunquit River Phase IV (319 Grant) – Ogunquit, ME

Acorn was selected in 2022 to manage and oversee Phase IV of the Ogunquit River Watershed Restoration Project, funded by a Maine DEP 319 Grant. The goals of Phase IV of the Project are to reduce bacteria levels in the Ogunquit River and to minimize the number of beach advisories near specific stormwater outfalls. Acorn's approach to the project provides an independent assessment of the success of the first three phases and brings fresh ideas and innovative approaches that are consistent with the goals of the Project Work Plan. In this project, we are building on our positive relationship with MEDEP, taking advantage of our relationships with stormwater treatment BMP vendors/manufacturers and experience working with many southern Maine contractors; and drawing upon our team's experience working with large groups of stakeholders.

Phillips Brook Habitat and Floodplain Restoration (319 Grant) – Scarborough, ME

Acorn is providing design, engineering, permitting, and construction oversight to design in-stream habitat and floodplain restoration for the IS-6 site within Reach 1 of Phillips Brook, an Urban Impaired Stream. This project is funded by a Maine DEP 319 Grant. The main goals of this project include removing areas of fill and invasive species in the restoration area that intrude on the original floodplain and establishing bankfull bench structures along the brook's slope to allow the Brook to gain access to its floodplain. Tools to stabilize eroding banks include root wads and use of native plantings in a stream buffer zone. Acorn is adding stabilization upstream and downstream from site IS-6 using manufactured in-stream structures and root wads. The result will provide improved habitat for native aquatic species populations of brook trout and American eel.

200 Valley Street – Avesta Valley Street LP – Portland, ME

Acorn performed environmental due diligence, civil/site work, permitting, and construction support for construction of a 60-unit residential apartment building including basement level parking. Abatement of lead-impacted soils was completed in partnership with the Maine Department of Environmental Protection, allowing for these materials to be disposed of at an appropriate landfill at lower cost to Avesta Housing.

Commercial Redevelopment – Giri Properties – Multiple Communities

Acorn staff have performed environmental due diligence, feasibility analysis, civil/site design, and permitting services in several Maine communities for Giri Hotel Management and related companies. This has included the design and permitting of several national fast food and "fast casual" chains. These include the retrofit or expansion of existing hotels to allow customers to safely and efficiently access the new restaurant without impacting hotel operation.

201 Federal Street – Redfern Properties, LLC – Portland, ME

Acorn is providing civil/site engineering services to transform an existing surface parking lot into an 18-story mixed use building with interior parking on the ground floor level. The building will have approximately 180,000 square feet of mixed-use space, including 266 residential units (27 which will be workforce housing units), ground-floor commercial space, and common space and amenity area for residents.

45 Forest Avenue – Redfern Properties, LLC – Portland ME

Acorn provided civil/site engineering to convert the historic New England Telephone and Telegraph building at 45 Forest Ave in Portland into 81 residential micro-apartments, including 21 affordable units.

Construction Administration and Inspection

Third-Party Construction Administration – Yarmouth, ME

Acorn staff have served as extra "boots on the ground" to the Town of Yarmouth since 2018, providing construction administration and inspection services ranging from subdivisions to roadway improvements. As part of these projects, Acorn engineers provide written daily memos to Town staff, including photos to document daily progress. Acorn has demonstrated that it is responsive to the Town's needs.

University of Southern Maine 50 Bedford Street Parking Garage Third-party Inspection (3PI) – Portland, ME

The University of Southern Maine hired Acorn to provide weekly Third Party Inspection (3PI) of active construction of its parking garage at 50 Bedford Street in Portland with a focus on erosion and sedimentation control. These inspections are required to be submitted to the City for compliance with the project's Planning Board Approval letter dated 1/13/22 (PL-001729-2021).

Portland Development Review Coordination – Portland, ME

Acorn staff provide support to the City's Department of Planning and Urban Development with management of multiple projects under construction, including attending pre-construction meetings and performing inspections. Inspection purpose may be: general erosion and sedimentation control; documentation of any discrepancies between City approval and constructed project; justification to reduce the Performance Guarantee; justification to release the Defect Guarantee; and/or to recommend issuance of a Certificate of Occupancy. Roles include but are not limited to: coordination with the City, the applicant, and the applicant's contractor for site visit; coordination with other City Departments as needed; and submittal of a written report to the City Development Review Coordinator. Over time, Acorn's role has increased based upon our ability to meet and exceed the City's expectations.

Third-Party Inspection (3PI; Maine DEP) – Kittery, ME

Project Manager for Maine DEP 3PI inspections of the 76 Dennett Road residential and commercial development approved by Maine DEP Site Location of Development Permit #L-28385-26-B-T. Roles include but are not limited to reviewing erosion and sedimentation controls and natural resource protections, and coordinating with the contractor for any repairs or modifications required.

Stormwater Inspections for MS4 Compliance – Multiple Communities

Acorn staff perform inspections of stormwater BMPs in several southern Maine, determining the functioning condition and maintenance needs of each BMP. From the data collection, assessment and recommendations Acorn Engineering compile the information into site specific operation and maintenance plans. Reports are provided to the municipality identifying any maintenance that is required for each stormwater BMP.

Industrial Stormwater Compliance – Auburn and Portland, ME

Project Manager for compliance, including regular quarterly inspections, quarterly visual monitoring, and required analytical monitoring of two scrap metal recycling facilities regulated under MEDEP's Multi-Sector General Permit for industrial stormwater discharges. Roles include providing written reports documenting compliance and/or any corrective actions required.

Aubrey L. Strause, PE (continued)

Stormwater Engineer, Maine Department of Environmental Protection- Land Bureau Oct 2018 – May 2021

- ⌚ Professional Engineer responsible for review of Stormwater Law or Site Law applications for projects in 84 towns in southern Maine. This role included pre-submission coordination with applicants, as well as review of proposed erosion and sedimentation control (ESC) measures, stormwater treatment BMP sizing calculations, HydroCAD models, post-construction inspection and maintenance plans, and other requirements of Department Rule Chapter 500.
- ⌚ In addition to performing reviews, Aubrey supported Department enforcement cases, provided technical assistance, acted as a municipal liaison, assisted the Department's Bureau of Water Quality with programs that overlap, performed construction inspections, and responded to questions from the general public.

District Engineer, Cumberland Co. Soil & Water Conservation District April 2016 – Oct 2018

- ⌚ **Maine DEP Delegated Review Program:** As the licensed Maine professional engineer on record for the CCSWCD, Aubrey supervised the District's program to perform delegated reviews of Stormwater Law and Site Law applications through a Memorandum of Understanding with Maine DEP.
- ⌚ **Development Review Program:** Aubrey supervised review of proposed new development and redevelopment, governed by town-specific ordinances for multiple communities.
- ⌚ **319 and 604(b) Watershed Projects:** CCSWCD was the grantee or administrator for several watershed management projects in Cumberland County. Aubrey supported this work by designing simple, effective, low-cost projects to reduce sediment input to Maine lakes, ponds, and streams by preventing and mitigating erosion.
- ⌚ **Long Creek Watershed Management District:** Aubrey was the project manager for the LCWMD project. This involved managing the following programs: inspection and review of the 90+ stormwater treatment BMPs owned by LCWMD; pavement sweeping contract (670 acres annually); stormwater system cleaning contract (up to 800 structures annually); and landscaping contract for vegetated BMPs.
- ⌚ **Interlocal Stormwater Working Group:** This group represents nearly half of all MS4 permittees in the state, and Aubrey is proud to have built a strong, positive working relationship between this group and the Maine DEP. She updated the ISWG members on permit negotiation progress and communicated needs to town managers in their respective communities, and also prepared and provided assistance to each town on their Stormwater Management Plan (SWMP) or other compliance documentation.

Principal, Verdant Water, PLLC May 2013 - Present

- ⌚ Aubrey facilitated the 30-town Central Massachusetts Regional Stormwater Coalition (CMRSWC) project from its formation in May 2012 through March 2016. The coalition was funded initially by state grants and has been self-sustaining since 2016. Representative tasks included: developing a template for a Stormwater Pollution Prevention Plan (SWPPP) for use by all communities for all municipal facilities; performing an inventory of industrial facilities in all communities to audit coverage under the USEPA MSGP program; integrating GIS data from 30 communities into a single online mapping and inspection system; drafting a standard policy for connections of sump pumps to the storm drain system; performing stormwater program cost evaluations to look across multiple town departments; and improving IDDE communication and education within towns. Further, Aubrey served as a daily technical resource for public works directors, town administrators, and other municipal staff. Municipalities were very pleased with responsiveness and the quality of Aubrey's work and deliverables.

Aubrey L. Strause, PE (continued)

Education: *Rutgers University, New Brunswick, NJ* **B.S./B.S.** Bioresource Engineering May 1998

License: Maine Professional Engineering License #11677

Member: Maine Water Environment Association (MEWEA)
New England Water Environment Association (NEWEA)
Water Environment Federation (WEF)

Committees/Awards:

- ⊕ 2020, Alfred E. Peloquin Award from the New England Water Environment Association
- ⊕ 2018, (First annual) Stormwater Award from the Maine Water Environment Association
- ⊕ 2017, USEPA Region 1's Wastewater Trainer Excellence Award
- ⊕ 2014, Governor's Award for Environmental Excellence
- ⊕ 2014, E. Sherman Chase Award from the New England Water Environment Association

Certifications:

- ⊕ Maine DEP – Certified in Maintenance & Inspection of Stormwater BMPs
- ⊕ Maine DOT – Locally Administered Project (LAP)
- ⊕ OSHA – 10-Hour Construction Training



Aubrey Strause, PE Professional Licensure Status

License Type	Start Date	End Date
PROFESSIONAL ENGINEER	06/17/2008	12/31/2023

Description
Environmental

None.

Type	Completion Date	Provider
Engineering Bachelor's EAC/ABET or equivalent	Not Available	

Type	Exam Date	Status
NCEES PE Exam	04/11/2008	PASS

Andrew W. Godfrey, EI



A C O R N Engineering, Inc.

agodfrey@acorn-engineering.com
500 Washington Ave. Suite 202 Portland, ME 04103
C: 603.290.2812
B: 207.775.2655

PROFESSIONAL EXPERIENCE:

Design Engineer, Acorn Engineering, Inc., Portland, ME

May 2021 - Present

Specialties include:

- 🔗 Providing civil/site design consulting services
- 🔗 Implementing field data in AutoCAD Civil 3D for plan development
- 🔗 Applying HydroCAD software modeling for hydrological analysis
- 🔗 Applying for permits at the local and state levels
- 🔗 Researching town and city ordinance to ensure project compliance
- 🔗 Writing technical stormwater, erosion, construction reports
- 🔗 Writing application cover letters and project proposals

Projects – a partial list includes:

Avesta Douglass Street – Portland, ME

Acorn is working with Avesta Housing and The Szanton Company, LLC, on civil/site engineering for the construction of 120 affordable residential units, including a 5- story, 63-unit building and 57 townhouse units.

Raise Op Housing Cooperative: Walnut Street Redevelopment – Lewiston, ME

Project Description: 9-unit, 3000 sf residential building at a vacant lot in Lewiston, Maine. The project included parking design, water, sewer, gas, and electric communication utilities, and stormwater management system

Raise Op Housing Cooperative: Blake Street Redevelopment– Lewiston, ME

Project Description: Acorn provided civil/site engineering services for a 9-unit, 3 -story building with common space amenities and 10 parking spaces at 194 Blake Street in Lewiston

Little Dolphin Drive/ Jocelyn Place Senior Housing & Office Building – Scarborough, ME

On behalf of Oak Hill Senior Housing, LP, Acorn provided civil/site engineering and is providing construction administration services for a three-story, 60-unit senior housing complex and a two-story office building.

52 Hanover – Portland, ME

Demolition of the existing former Public Works Garage, (including remediation) and construction of a eight-story, 171 unit residential apartment building with two levels of parking and first floor retail units. This project participated in the Maine DEP VRAP program.

CAD Technician, Ambit Engineering, Portsmouth, NH

September 2019 - January 2021

- AutoCAD Civil 3D and HydroCAD drafting and revisions
- Site layouts, utility locations, profiles, and grading
- Presentation of local regulations at client meetings
- Letter drafting for site plan applications

Engineer Intern, Horizons Engineering, New London, NH

May 2019 - September 2019

- AutoCAD Civil 3D and HydroCAD drafting and revisions
- Preparing NH DES permit applications
- Daily log recordings for environmental site observations

Education:

University of New Hampshire, B.A. Environmental Engineering

2021

License: Maine Engineer-Intern (E.I.) #8106



Andrew Godfrey, EI Professional Licensure Status

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS		
		
ANDREW WALDEN GODFREY		
ENGINEER-IN-TERN		
Certification Number: EI8106 Status: Active First Licensure: 07/26/2022 Cancel Date: None		
Business: 500 WASHINGTON AVE SUITE 202 PORTLAND, ME 04103		
History		
License Type	Start Date	End Date
ENGINEER-IN-TERN	07/26/2022	
License/Disciplinary Action		
None.		
GENERAL INFORMATION		
FE Exam State: New Hampshire		
Education (1 record) hide		
Type	Completion Date	Provider
Engineering Bachelor's EAC/ABET or equivalent	05/20/2021	UNIVERSITY OF NEW HAMPSHIRE
The State Board of Licensure for Professional Engineers provides this licensure information in accordance with 32 M.R.S.A. § 1309. The information on this page is a secure, primary source for license verification. All information on this page is maintained by board staff and is updated daily. For further information, please contact the board office.		



B: DOCUMENTS PROVIDED TO ACORN BY DEFENDANTS' COUNSEL

The documents below are organized chronologically and have been assigned letters.

- A. 2022, January 4. Contract between Continental Paving, Inc. (Londonderry, NH), and Shamrock Aviation (Seabrook, NH) for work at the Little Brook Air Park (ELLIOT [sic], ME); one (1) page.
- B. 2022, January 17. Estimate #4090 from Devine Exterior Services, LLC (Maynard, MA), prepared for Littlebrook Airpark (Eliot, ME); one (1) page.
- C. 2022, February 8. Estimate #4091 from Devine Exterior Services, LLC, prepared for Littlebrook Airpark; one (1) page.
- D. 2022, May 30. Invoice #21339 prepared by Continental Paving, Inc., and submitted to Shamrock Aviation; two (2) pages.
- E. 2022, June 7. Statement prepared by Continental Paving, Inc., for the period ending June 7, 2022 for customer SHA200 (Shamrock Aviation); one (1) page.
- F. 2022, July 29. "Complaint" submitted by Shamrock Aviation, LLC (Plaintiff) against Jean M. Hardy (Defendant); eight (8) pages.
- G. 2022, September 19. "Defendant's Answer and Counterclaims", 11 pages.
- H. 2022, October 3. "Affidavit of Dana Thurston"; two (2) pages.
- I. 2022, October 4. "Affidavit of Charles Denault"; two (2) pages.
- J. (reserved)
- K. 2023, March 14. Photos numbering 1 through 11, described by counsel as follows:
 - 1. "This is an aerial photograph depicting an area where a cut was made across the runway and a drainpipe was installed.
 - 2. Aerial photograph depicting the new pavement and the land clearing on the right side of the runway.
 - 3. Aerial photograph depicting the new pavement and an area to the left of the runway where the ground was dug up for the installation of underground utilities.
 - 4. A photograph from the winter of 2021-22 showing debris on the runway.
 - 5. A pre-construction photograph depicting the elevation of the runway as compared to the surrounding areas.
 - 6. A pre-construction photograph depicting the elevation of the runway as compared to the surrounding areas.
 - 7. A pre-construction photograph depicting the elevation of the runway as compared to the surrounding areas.
 - 8. A photograph taken during the construction.
 - 9. A post-paving photograph depicting the elevation of the runway as compared to the surrounding areas.



10. A post-construction aerial photograph.
 11. A Google Maps aerial depicting the airport prior to the sale to Shamrock Aviation, LLC.”
- L. 2023, March 14. A 15-second video in *.MP4 format described by counsel as “depicting stormwater runoff from the runway, after the construction”.
- M. 2023, March 21. Documents provided to counsel by the Town of Eliot in response to a Freedom of Access Act (FOAA) request:
1. 2022, May 10. Email from Defendant Hardy to Code Enforcement Officer (CEO) Shelly Bishop, forwarded to Planner Jeff Brubaker on the same date.
 2. 2022, May 10. CEO Bishop reply to Defendant Hardy re: her email of the same date.
 3. 2022, May 10 to May 19. A series of 14 emails from Defendant Hardy to CEO Bishop. The emails in this series that contained information useful to Acorn are as follows:
 - i. May 10: email from Defendant Hardy to CEO Bishop stating that the new owner of the airport is widening the runway and making “a grass runway on the side of the runway”, and that she is making a formal complaint.
 - ii. May 11: email from CEO Bishop to Defendant Hardy referring to vibration, stating that the Town considers the disagreement to be a civil matter, and informing the Defendant on how to appeal the Town’s decision that it is a civil matter.
 - iii. May 11: email from CEO Bishop to Defendant Hardy referring to temporary construction activity, vibration, and the Town’s noise ordinance.
 - iv. May 19: email from CEO Bishop to Defendant Hardy.
 - v. 2022, May 19: several emails forwarded by CEO Bishop to Code Enforcement staff Kearsten Metz.
 - vi. May 19: several emails forwarded by CEO Bishop to Town Manager Michael Sullivan.
 - vii. May 19: email from CEO Bishop to Defendant Hardy, copying Town Manager Michael Sullivan, Planner Brubaker, and a recipient with the email address mb2development@gmail.com.
 4. 2022, August 16. Email from Defendant Hardy to CEO Bishop containing one (1) photo of disturbed soil and two stockpiles and the caption suggesting it was taken on March 12, 2022.
 5. 2022, August 16. Email from Defendant Hardy to CEO Bishop containing one (1) aerial photo of excavation, tree clearing, and drainage improvements, and the caption suggesting it was taken on April 23, 2022.
 6. 2022, August 16. Email from Defendant Hardy to CEO Bishop containing one (1) photo of tree cutting, clearing, and stumping, and the caption suggesting it was taken on April 29, 2022.
 7. 2022, August 16. Email from Defendant Hardy to CEO Bishop containing one (1) photo of soil disturbance and the caption suggesting it was taken on May 10, 2022.



8. 2022, August 16. Email from Defendant Hardy to CEO Bishop containing two (2) photos:
 - i. A large area of soil disturbance; and
 - ii. A length of runway with pavement removed and soil exposed.

The email does not indicate the date on which the photos were taken.

9. 2022, September 23. Emails between airport owner Tom Shaughnessy and Town Planner Jeff Brubaker.
 10. 2022, October 6. Email between Maine DEP Environmental Specialist Eric Hamlin and Town Planner Jeff Brubaker.
 11. 2022, March 20. Several emails forwarded by CEO Bishop to Town Clerk Wendy Raw and Town Land Use Administrative Assistant Kim Tackett.
- N. 2023, March 23. "Plaintiff's Answers to Defendants' First Request for Documents". Six (6) pages
- O. 2023, March 23. "Plaintiff's Answers to Defendants' First Set of Interrogations", partial. Seven (7) pages (incomplete).



C: OTHER REFERENCES RELIED UPON BY ACORN DURING PREPARATION OF THE REPORT

The documents below are considered references in the preparation of the Report and have been assigned numbers.

1. Littlebrook Airpark website, <https://littlebrookairpark.com/>
2. YouTube video posted by "Maine Flying" on January 27, 2023, <https://www.youtube.com/watch?v=nOqnBHd-ufg>
3. YouTube video posted by Eric Reuter on August 13, 2020, <https://www.youtube.com/watch?v=Aa2GW0OAsyk>
4. Town of Eliot VISION database, <https://gis.vgsi.com/eliotme/Search.aspx>
5. Town of Eliot GIS database, <https://next.axisgis.com/EliotME/>
6. Maine DEP Rule Chapter 500 (Stormwater Management). Effective Date December 31, 1997. Repealed and Replaced November 16, 2005 (filing 2005-417). Amended: December 27, 2006 (filing 2006-530); December 27, 2011 (filing 2011-478); and August 12, 2015 (filing 2015-132; Final adoption, major substantive)
7. Maine Revised Statutes, Annotated (MRSA) as follows:
 - a. 38 M.R.S.A. §341-D
 - b. 38 M.R.S.A. §413
 - c. 38 M.R.S.A. §420-D
 - d. 38 M.R.S.A. §481 - 490
8. Town of Eliot Code of Ordinances, https://library.municode.com/me/eliot/codes/code_of_ordinances



Shamrock Aviation, LLC v Hardy
Land Use Permitting Summary Report- Attachments
Docket ALFSC-RE-22-45
Attorney Work Product - Confidential

ATTACHMENT D: Parcel records for Eliot Tax Map 46 Lot 3

107 LITTLEBROOK LN

Location 107 LITTLEBROOK LN

Mblu 46/ 3/ 1/ 1

Acct#

Owner SHAMROCK AVIATION, LLC

Assessment \$801,200

Appraisal \$801,200

PID 1570

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$74,800	\$726,400	\$801,200

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$74,800	\$726,400	\$801,200

Owner of Record

Owner SHAMROCK AVIATION, LLC
Co-Owner
Address 380 LAFAYETTE ROAD
 BOX 11-290
 SEABROOK, NH 03874

Sale Price \$885,300
Certificate
Book & Page 18756/437
Sale Date 08/03/2021
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
SHAMROCK AVIATION, LLC	\$885,300		18756/437	00	08/03/2021
SWEET PEAS LLC	\$0		15001/0551	1A	11/03/2006
SWEET PEAS LLC	\$0		14799/0456	1A	04/03/2006
HARDY JEAN M	\$0		14794/0153	1N	03/30/2006
LITTLEBROOK VENTURES LLC	\$2,280,000		14517/0206	00	06/30/2005

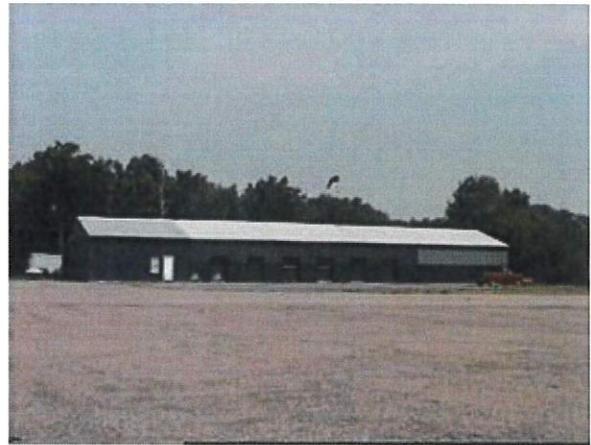
Building Information

Building 1 : Section 1

Year Built: 1974

Living Area: 6,900
Replacement Cost: \$117,928
Building Percent Good: 38
Replacement Cost
Less Depreciation: \$44,800

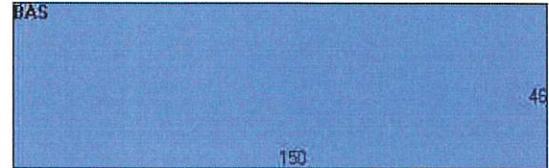
Building Photo



(<https://images.vgsi.com/photos/EliotMEPhotos/\00\00\14\80.jpg>)

Building Attributes	
Field	Description
Style:	Airport Hangar
Model	Commercial
Grade	Below Average
Stories:	1
Occupancy	1.00
Exterior Wall 1	Aluminum Sidng
Exterior Wall 2	
Roof Structure	Gable/Hip
Roof Cover	Metal/Tin
Interior Wall 1	Minim/Masonry
Interior Wall 2	
Interior Floor 1	Concr-Finished
Interior Floor 2	
Heating Fuel	Coal or Wood
Heating Type	None
AC Type	None
Struct Class	
Bldg Use	AIRPORT HANGAR
Total Rooms	
Total Bedrms	
Total Baths	
1st Floor Use:	
Heat/AC	NONE
Frame Type	STEEL
Baths/Plumbing	NONE
Ceiling/Wall	NONE
Rooms/Prtns	AVERAGE
Wall Height	16.00
% Comn Wall	0.00

Building Layout



(https://images.vgsi.com/photos/EliotMEPhotos//Sketches/1570_6264.jpg)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	6,900	6,900
		6,900	6,900



Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 3545
 Description AIRPORT HANGAR
 Zone SD
 Neighborhood
 Alt Land Appr No
 Category

Land Line Valuation

Size (Sqr Feet) 3287053
 Frontage
 Depth 0
 Assessed Value \$726,400
 Appraised Value \$726,400

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAV1	PAVING-ASPHALT			60000.00 S.F.	\$30,000	1

Valuation History

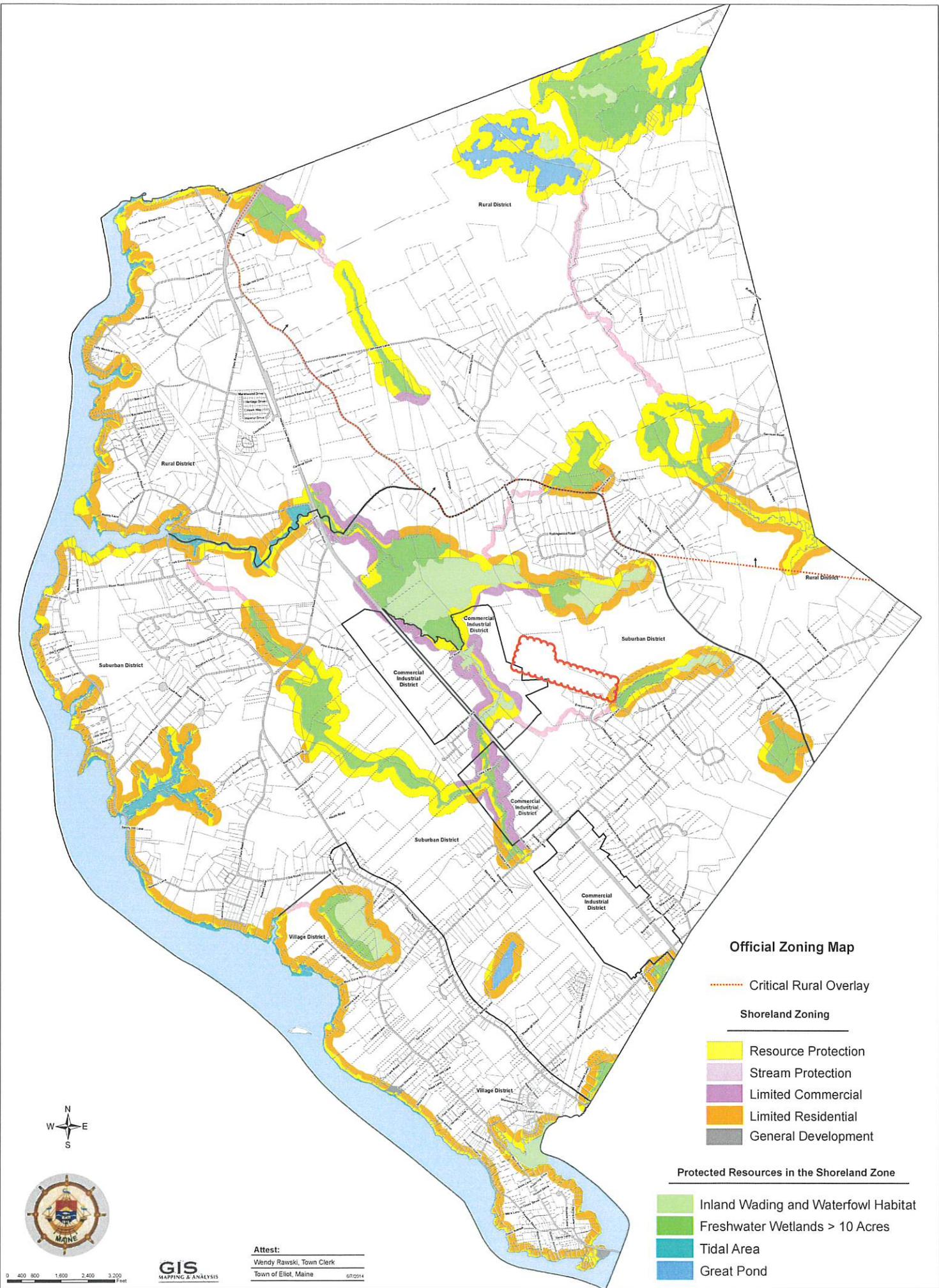
Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$74,800	\$726,400	\$801,200
2020	\$74,800	\$505,500	\$580,300
2019	\$74,800	\$505,500	\$580,300

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$74,800	\$726,400	\$801,200
2020	\$74,800	\$505,500	\$580,300
2019	\$74,800	\$505,500	\$580,300



Shamrock Aviation, LLC v Hardy
Land Use Permitting Summary Report- Attachments
Docket ALFSC-RE-22-45
Attorney Work Product - Confidential

ATTACHMENT E: Town of Eliot Zoning Map



Attest:
 Wendy Rawski, Town Clerk
 Town of Eliot, Maine 6/7/2014



Shamrock Aviation, LLC v Hardy
Land Use Permitting Summary Report- Attachments
Docket ALFSC-RE-22-45
Attorney Work Product - Confidential

ATTACHMENT F: Results of Maine DEP Permit Review Search

Maine DEP On Call Request

Date: 3/17/23

Made by: Aubrey Strause

Made to: <https://www.maine.gov/dep/contact/permit.html>

Requesting any NRPA or Stormwater permits for the following:

- Town: Eliot
- Address: 26 Littlebrook Lane; Lamplighter Lane
- Applicant: Shamrock, LLC, Shamrock Aviation, LLC, Tom Shaughnessy, or Jack Hardy
- Name: Littlebrook Airpark; Eliot Airport;

UPDATE: Added 107 Littlebrook

From: [Land on Call](#)
To: [Aubrey Strause](#)
Subject: Automatic reply: Info DEP Permit: Eliot
Date: Friday, March 17, 2023 9:20:06 AM

Thank you for your email.

If you've requested information, Department staff will be in touch as soon as possible.

If you've filed a complaint, Department staff will look into the situation and follow up as appropriate. It is not customary for the Department to contact the person filing the complaint unless additional information is needed. In most cases, you will not hear from the Department.

From: [Land on Call](#)
To: [Aubrey Strause](#)
Subject: RE: Info DEP Permit: Eliot
Date: Monday, March 20, 2023 1:18:58 PM
Attachments: [L9220AX.pdf](#)

Hi Aubrey,

Please find the attached permit.

-April

-----Original Message-----

From: Land on Call <LandonCall@maine.gov>
Sent: Friday, March 17, 2023 4:37 PM
To: Aubrey Strause <astrause@acorn-engineering.com>
Subject: RE: Info DEP Permit: Eliot

I have requested a copy of the L-9220-26-A-X. I will forward it once it's received.

-----Original Message-----

From: astrause@acorn-engineering.com <astrause@acorn-engineering.com>
Sent: Friday, March 17, 2023 9:16 AM
To: Land on Call <LandonCall@maine.gov>
Subject: Info DEP Permit: Eliot

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: Land Permitting Question - Eliot
From: Aubrey Strause
Email: astrause@acorn-engineering.com
Phone: 2076417704

Town: Eliot

Directions: Littlebrook Airpark, 26 Littlebrook Lane. Route 236. Three miles west of I-95, turn right onto Beech Road. Travel 2800 feet, turn left onto Littlebrook Lane.

Description of the issue or question:

Looking for any NRPA or Stormwater permits for the following:

Town: Eliot

Address: 26 Littlebrook Lane; Lamplighter Lane

Applicant: Shamrock, LLC, Shamrock Aviation, LLC, Tom Shaughnessy, or Jack Hardy

Name: Littlebrook Airpark; Eliot Airport;



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AUGUSTA, MAINE 04330

BOARD ORDER

JOHN E. HARDY JR.)
Little Brook Airport) SITE LOCATION ORDER AND SOLID WASTE ORDER
Eliot, York County, Maine) FINDINGS OF FACT AND ORDER
~~#07-9220-31090-~~)

L-9220-26-A-X

Pursuant to the provisions of Title 38 M.R.S.A., Section 483 et. seq. and the Department of Environmental Protection Regulations Chapter 401, Section 5, the Department of Environmental Protection has considered the closing plan dated May 2, 1983, of John E. Hardy with its supportive data and other related materials on file and finds the following facts:

1. John E. Hardy has operated a landfill on his property in Eliot, Maine identified as Little Brook Airport. This operation has existed for approximately 30 years.
2. On December 5, 1984, the Board accepted a Consent Agreement in which Mr. Hardy agreed to:
 - a. submit a closing plan by April 30, 1984;
 - b. close the facility according to that plan by July 31, 1984.
3. A closing plan was submitted to the Department for approval on May 3, 1983.
4. The closing plan submitted to the Department on May 3, 1983 includes a site grading plan which addresses drainage and interim and final slopes, interim and final cover, and liming and seeding of finished slopes.

Based on the above Findings of Fact, the Department concludes that the closing plan dated May 2, 1983, submitted by John E. Hardy will meet requirements of Title 38, M.R.S.A., Section 483 et. seq. and Department of Environmental Protection Regulations Chapter 401, Section 5, provided that:

- A. Final cover will consist of two feet of well-graded soil material containing a minimum of 1½ feet compacted thickness of 38% or greater fines that is capped with 6 inches of a soil material of a composition suitable to sustain plant growth placed within 14 days of the final placement of waste.

The operator or his agents will submit one sieve analysis per every 500 cubic yards of cover soil.

JOHN E. HARDY JR.)
Little Brook Airport) SITE LOCATION ORDER AND SOLID WASTE ORDER
Eliot, York County, Maine) FINDINGS OF FACT AND ORDER
DEP#07-9220-31090)

- B. All slopes will be graded to between 2 horizontal to 1 vertical and 4 horizontal to 1 vertical. The site will be graded in accordance with the plan prepared by Thomas F. Moran Inc. and dated April 26, 1983.
- C. The owner will inspect the site quarterly for the purpose of maintenance for a minimum of three years after closing. Corrections will be made as needed.
- D. A surface and groundwater sampling program which will include two monitoring sites on Little Brook and monitoring of the household well adjacent to the dump will be implemented.

Sampling will be done twice yearly, the first samples to be taken upon closing of the disposal site. Samples will be tested for temperature, specific conductance, Na, Pb, Fe and hardness. Monitoring will continue for a minimum of three years after closing of the site.

Monitoring results will be submitted promptly to the Department for review. The program may be modified after a review of the results collected after the first 3 submissions to the Department.

- E. Closing will be completed before July 31, 1984.

THEREFORE, the Department APPROVES the closing plan dated May 2, 1984, submitted by John E. Hardy, Eliot, Maine, subject to the following conditions:

- 1. Final cover shall consist of two feet of well-graded soil material containing a minimum of 1 $\frac{1}{2}$ feet compacted thickness of 35% or greater fines that is capped with 6 inches of a soil material of a composition suitable to sustain plant growth placed within 14 days of the final placement of waste.

The operator or his agents shall submit one sieve analysis per every 500 cubic yards of cover soil.

- 2. All slopes shall be graded to between 2 horizontal to 1 vertical and 4 horizontal to 1 vertical. The site shall be graded in accordance with the plan prepared by Thomas F. Moran Inc. and dated April 26, 1983.
- 3. The owner shall inspect the site quarterly for the purpose of maintenance for a minimum of three years after closing. Corrections shall be made as needed.
- 4. A surface and groundwater sampling program which will include two monitoring sites on Little Brook and monitoring of the household well adjacent to the dump shall be implemented.

JOHN E. HARDY JR.)
Little Brook Airport) SITE LOCATION ORDER AND SOLID WASTE ORDER
Eliot, York County, Maine) FINDINGS OF FACT AND ORDER
DEP #07-9220-31090

Sampling shall be done twice yearly, the first samples to be taken upon closing of the disposal site. Samples shall be tested for temperature, specific conductance, Na, Pb, Fe and hardness. Monitoring shall continue for a minimum of three years after closing of the site.

Monitoring results shall be submitted promptly to the Department for review. The program may be modified after a review of the results collected after the first 3 submissions to the Department.

5. Closing shall be completed before July 31, 1984.

DONE AND DATED AT AUGUSTA, MAINE THIS 11TH DAY OF APRIL, 1984

BOARD OF ENVIRONMENTAL PROTECTION

BY: *Samuel Zaitlin*
SAMUEL M. ZAITLIN, CHAIRMAN

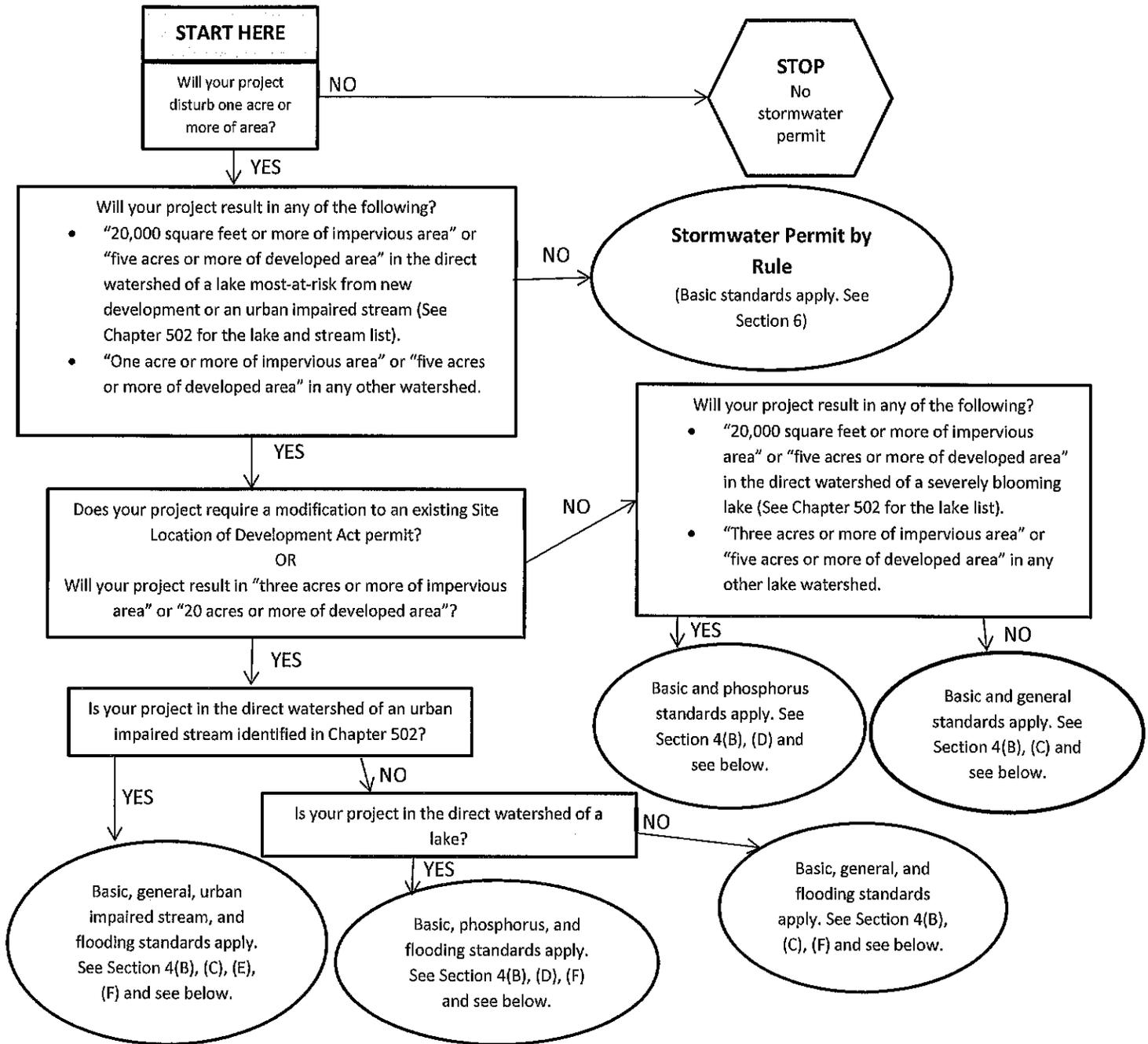
PLEASE NOTE ATTACHED SHEET FOR APPEALS PROCEDURES...



Shamrock Aviation, LLC v Hardy
Land Use Permitting Summary Report- Attachments
Docket ALFSC-RE-22-45
Attorney Work Product - Confidential

ATTACHMENT G: Maine DEP Land Use Permitting Flowchart

Flowchart for Chapter 500 Stormwater Management Rules



Other standards and/or additional controls may apply to your project:

Easements and Deed Restrictions See Section 4(G)	Redistribution of Stormwater Discharges See Section 4(H)	Discharge to Wetlands See Section 4(I)	Discharges to Public Storm Water Systems See Section 4(J)	Additional Controls See Section 5
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Shamrock Aviation, LLC v Hardy
Land Use Permitting Summary Report- Attachments
Docket ALFSC-RE-22-45
Attorney Work Product - Confidential

ATTACHMENT H: Town of Eliot Code of Ordinances, Section 45-290

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

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

Table of Land Uses

Land uses	R	S	V	C/I
Accessory dwelling unit	CEO	CEO	CEO	CEO
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes ¹	12	SPR T&B	no
Animal husbandry	yes ¹	yes ¹	yes ¹	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR ⁸	no
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto hobbyist storage area	SPR	SPR	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR
Auto recycling operation, principal	9	no	no	SPR
Auto recycling operation, limited	9	9	no	SPR
Auto repair garages	14	14	SPR ⁸	SPR

Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR
Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no
Bed and breakfasts	14	14	SPR ⁸	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR ²
Business office	14	14	SPR ⁸	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Clearing	yes	yes	yes	yes
Clinics	no	no	no	SPR
Clustered housing	SPR	no	no	no
Commercial adult enterprise	no	no	no	SPR
Commercial establishment, 2 or more where allowed	-	9	no	SPR
Day nurseries	SPR	16	SPR ⁸	SPR
Earth material removal, less than 100 cubic yards	yes	yes	yes	yes
100 cubic yards or greater	SPR	SPR	SPR	SPR

Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes
Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO
Farm equipment stores	SPR	10	no	SPR
Fences	yes ⁵	yes ⁵	yes ⁵	yes ⁵
Firewood sales	yes	13	SPR ⁸	yes
Fireworks sales	no ¹⁹	no ¹⁹	no ¹⁹	no ¹⁹
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no
Gardening	yes	yes	yes	yes
Gasoline stations	no	9	no	SPR
Governmental buildings or uses	SPR	SPR	SPR	SPR
Grain or feed stores	SPR	10	no	SPR
Harvesting wild crops	yes	yes	yes	yes

Home business	SPR ⁸	SPR ⁸	SPR ⁸	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR
Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR
Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no
Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR ⁸	SPR
Manufacturing	SPR ⁸	SPR ⁸	SPR ⁸	SPR
Marijuana establishment*	no	no	no	SPR ²⁰
Medical marijuana establishment*	no	no	no	SPR ²⁰
Mobile home parks	SPR/ SD ⁷	SPR/SD	SPR/SD	no

Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR
New construction of telecommunication structure 70 feet and higher	9	9	no	SPR
New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR ⁸	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR ⁸	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR ⁸	SPR
Public utility facilities	SPR	SPR	SPR	SPR
Recreational facilities, nonintensive	SPR	SPR	SPR	no
Recreational use not requiring structures	SPR	yes	yes	no
Restaurant	9	9	SPR ⁸	SPR

Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR ⁸	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO
Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no ⁶
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹
Solar energy system, larger-scale	SPR ²¹	SPR ²¹	no	SPR ²¹
Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no ⁶
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO ³	CEO ³	CEO ³	CEO ³

Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Uses similar to allowed uses	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
Uses similar to uses requiring a planning board permit	SPR	SPR	SPR	SPR

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

Notes:

1. Buildings housing animals shall be no less than 100 feet from property lines.
2. Each bulk oil fuel tank shall not exceed 50,000 gallons in size and use shall be limited to local use only.
3. Only as an accessory to an allowed principal use on the lot. Must conform to the requirements of 45-422, Waste containers.
4. Individual stores shall not have more than 2,500 square feet of gross floor area, except stores located on Route 236 may have up to 5,000 square feet. Customer sales areas shall be confined to one floor.
5. Must conform to the requirements of section 45-423.
6. See section 45-192(b) for an exception on accessory uses and structures.
7. See division 2 of article V of chapter 41 of this Code for specific areas where mobile home parks are allowed.
8. Must conform to the requirements of section 45-456.1 Home business.
9. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
10. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
11. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) non-commercial properties.
- 12.

Use is "SPR 1 & 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 1" and must be visually screened from abutting (same street side) non-commercial properties.

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

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

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



Shamrock Aviation, LLC v Hardy
Land Use Permitting Summary Report- Attachments
Docket ALFSC-RE-22-45
Attorney Work Product - Confidential

ATTACHMENT I: Town of Eliot Planning Board Materials (Jan 2020 – Dec 2022)



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Takahiro Sato, Applicant
Shelly Bishop, Code Enforcement Officer
Kim Tackett, Land Use Administrative Assistant
Date: January 17, 2023 (report date)
January 23, 2023 (meeting date)
Re: PB23-23: 22 Quail Lane (Map 23, Lot 5): Site Plan Amendment and Change of Use – Manufacturing (Food Processing)

Application Details/Checklist Documentation	
✓ Address:	22 Quail Ln.
✓ Map/Lot:	23/5
✓ Zoning:	Commercial/Industrial (C/I)
✓ Shoreland Zoning:	None
✓ Owner Name:	LHB Crane LLC
✓ Applicant Name:	Takahiro Sato
✓ Proposed Project:	Manufacturing (food processing) – milling buckwheat flour
✓ Reason for PB Review:	SPR use

Overview

Applicant seeks approval for a manufacturing use limited to food processing – organic buckwheat farmed in Linneus, ME, would be milled into flour.

This multi-unit commercial development was approved by the Planning Board in January 2022 under case PB21-28. The building is under construction and the owners are seeking tenants. In PB21-28, the applicant (Seacoast Crane; agent: Attar Engineering) only sought use approval for warehouse and professional office. Since the proposed business involves food processing, which I would interpret to most closely match our Section 1-2 definition of manufacturing, I recommended Planning Board site plan review and change of use as an additional SPR use is sought.

Many agriculture and food production uses are “by right” under 45-290, e.g. locally grown plants and produce, but since the buckwheat is grown elsewhere, this use is seen as SPR/manufacturing.

The only other change noted is that a dumpster would be placed in the rear laydown area. See annotated plan in packet.

Recommendation

Approval as a minor site plan amendment/revision

PB23-23: 22 Quail Lane (Map 23, Lot 5): Site Plan Amendment and Change of Use – Manufacturing (Food Processing)

Motion templates

Approval with conditions (recommended)

Motion to approve PB23-23 as a Minor Site Plan Amendment/Revision and Change of Use, as provided in Section 33-140(b) for manufacturing use limited to food processing: milling of buckwheat into flour.

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

1. [Standard conditions]
2. _____
3. _____
4. _____[Other conditions if warranted]

Disapproval

Motion to disapprove PB23-23 – for the following reason(s) related to noncompliance with land use regulations:

1. _____
2. _____
3. _____

Continuance/Major amendment

Motion to continue PB23-23 to the February 6, 2024, meeting.

Motion to deem PB23-23 a major amendment. The applicant must submit a site plan review application consistent with Ch. 33.

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

FB23-23



TOWN OF ELIOT
1333 STATE RD. , ELIOT, ME 03903

REQUEST FOR PLANNING BOARD ACTION
(FOR MISCELLANEOUS USES OR CHANGES)

PAID

- Applicant TAKAHIRO SATO
Mailing Address 14 DRAGONFLY LN City GORHAM State ME Zip 04038
Telephone # 207-233-2590 Email address HOCKEYTAK@GMAIL.COM
(TO RECEIVE MEETING NOTICES)
- Property Owner SEACOAST CRANE & BUILDING CO, INC.
Mailing Address 98 ROUTE 236 UNIT #3 City KITTERY State ME Zip 03904
- Property address 22 QUAIL LANE, ELIOT, ME 03903 Unit #2 Tax Map # 23 Lot # 5
Size (acres) 1 acre Zoning District Commercial/Industrial Shoreland Overlay District? Unknown
- Conforming Lot? YES/NO Conforming Use? YES/NO Conforming Structure? YES/NO
- Legal interest in property identified by applicant by:
Owner (copy of deed &/or tax records)
Pending Owner (copy of purchase & sale agreement)
Lease (copy of lease agreement with owners & applicants signature)
Corporate Officer (letter from corporation)
Other (identify: _____)
- Nature of action requested:
(Example: Request to amend a previously approved site plan by adding a 10' x 20' addition)

Site Plan Review - Permission to operate a milling business in Commercial/Industrial Zone. Purpose is to mill organic buckwheat into flour.
BUCKWHEAT PRODUCE BY "AURORA ORGANIC FARM" AT LINNEUS ME.
I AM A ORGANIC FLOUR MILL BUSINESS FOR JAPANESE
"SOBA" NOODLE PRODUCTS ALL U.S.A.

The organic buckwheat is sorted & ground into flour, its uses include being made into gluten free Soba noodles. Organic Buckwheat Flour to be shipped to stores, restaurants and warehouses nationwide, No retail sales will occur. Also looking to obtain a permit for a small dumpster outside.

- Attach ten (10) copies of sketch plan of property showing in approximate dimensions, all zoning districts, existing/proposed structures, parking areas, streets, entrances, existing and proposed setbacks, proposed lot divisions, proposed open space to be preserved, common areas, site & public improvements and facilities, any areas of excavation and grading, and any other criteria needed to evaluate request. Sketch plan is not required if so advised by the Planning Assistant.
- Applicants signature [Signature] Date 12/18/2023
DocuSigned by:
- Property owners signature [Signature] Date 12/20/2023
24D09BD8DDFE4C6...

TO BE COMPLETED BY PLANNING ASSISTANT

Date application received by PA _____ PA signature _____

Sketch plan required? YES NO

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

To the Town of Eliot Planning Board office and the Planning Board,

Hello, I am Tak Sato, owner of Botaka International and I am seeking site plan review permission to operate a milling business at 22 Quail Lane, Unit 2, in Eliot ME. This is located at Map #23, Lot #5, the is an industrial flex space, located in the Commercial/Industrial zoning district.

Having owned and run several restaurants, I have realized my true calling in life, which is to make Organic Buckwheat flour, so end users can use my gluten free flour to make gluten free breads, gluten free pastries and gluten free pasta, including making delicious organic gluten free Japanese soba noodles.

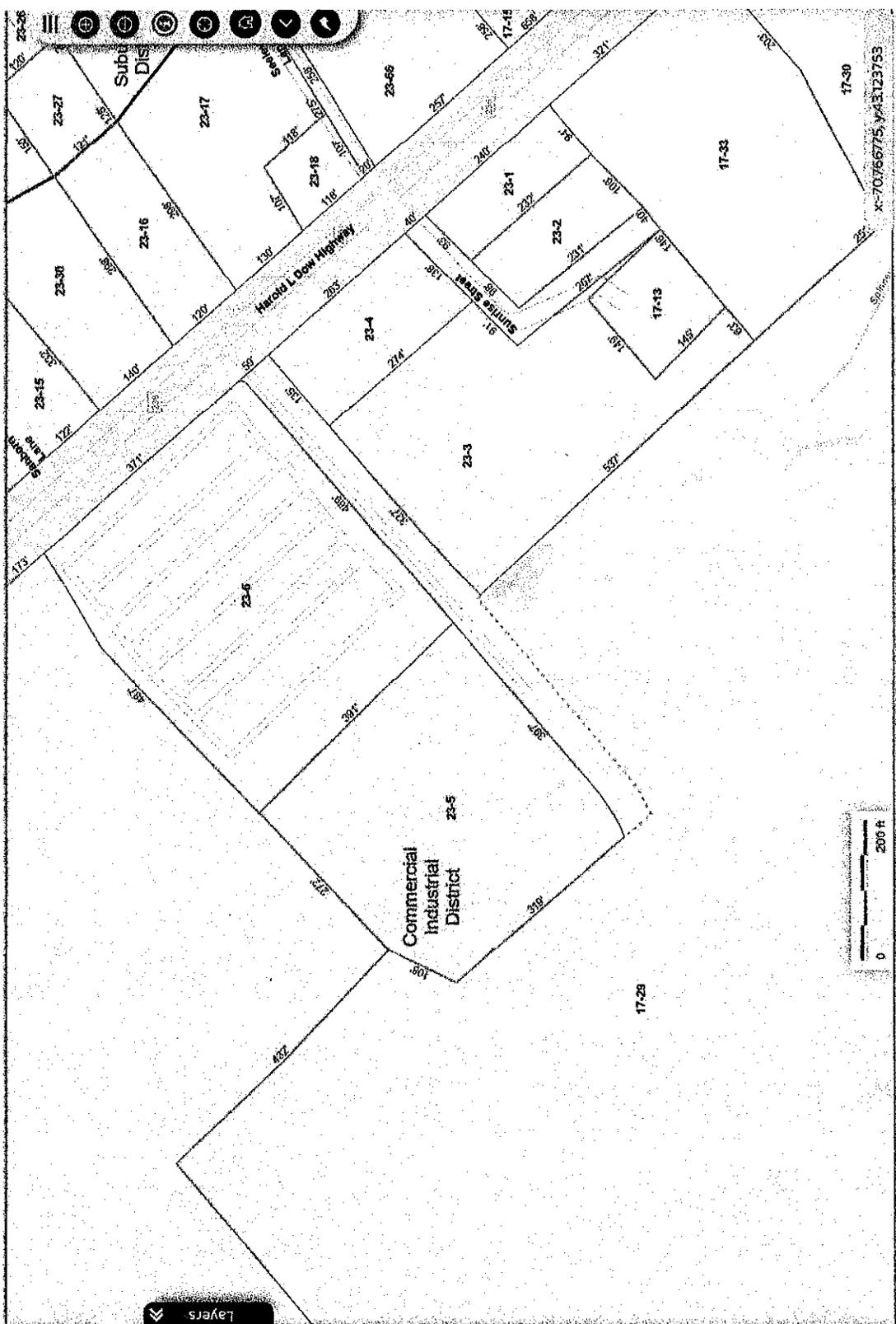
I use Maine farms for my product, by sourcing organic Buckwheat farmed from Auroa Mills & Farm in Linneus Maine, this buckwheat gets processed through machines specially designed to turn raw buckwheat into flour. The process for turning buckwheat into flour is that the buckwheat gets deshelled, sorted into a specific sizes and then ground into a wholesome organic flour. This flour is then packaged and shipped all over the United States to restaurants who desire high quality organic buckwheat flour for their freshly made soba noodles. Future plans include more restaurants, retailers and supermarkets with my new space at 22 Quail Lane. There is no cooking, heat source or flames required to mill buckwheat into flour.

I am also looking for permission to add a small dumpster anywhere on site, somewhere in the back of the property. I have permission from the owner to put this anywhere the Town approves for me to have it.

I hope you are able to hear this request for Site Plan Review at your February 2024 meeting or sooner. My lease starts in March 2024 and would love to have your blessing to operate my business before this happens.

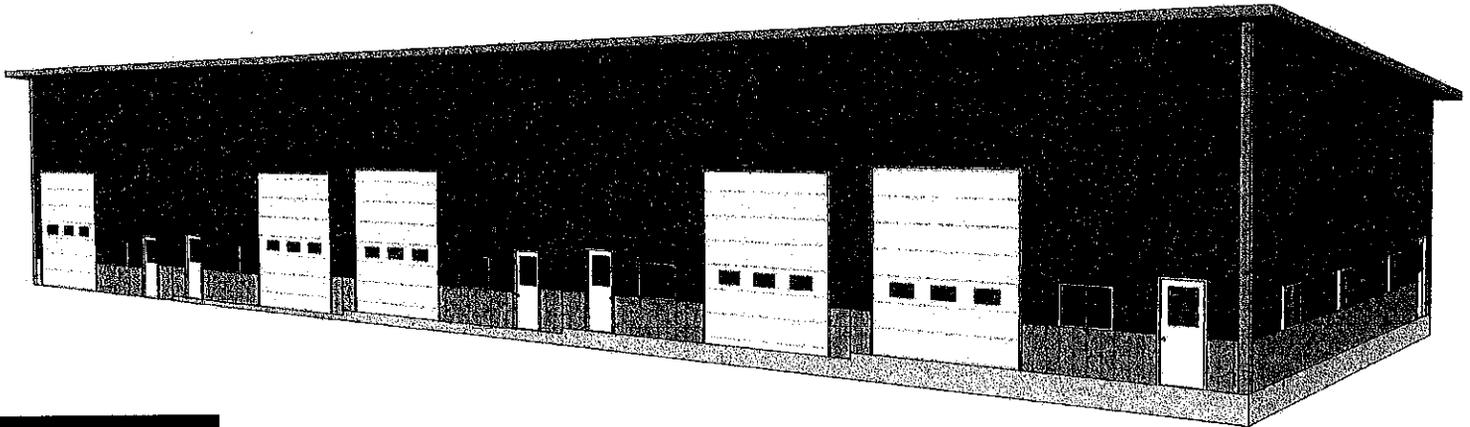
Thank you,

Tak Sato, CEO of Botaka International.



- Layers
- Public Map
 - Property Map
 - Utilities Map
 - Contours Map
 - FEMA Flood Map
 - Vernal Pools Map
 - Swamps Map
 - Wetlands Map
 - Aquifers Map
 - Slope Areas Greater Than 2 Acres Map
 - Deer Wintering Areas Map
 - Seagrass Beds Map
 - Zoning Map
 - Conserved Lands Map
 - Watersheds Map
 - Bedrock Geology Map
 - Soil Map
 - M54 Urbanized Area

- Streets



For Lease

New Warehouse/Distribution/ Light Industrial Units

David F. Choate, III
Executive Vice President
+1 603 433 7100
david.choate@colliers.com

Abigail K. Bachman
Associate
+1 603 206 9644
abby.bachman@colliers.com



500 Market Street, Suite 9
Portsmouth, NH 03801
+1 603 433 7100
colliers.com

22 Quail Lane Eliot, ME

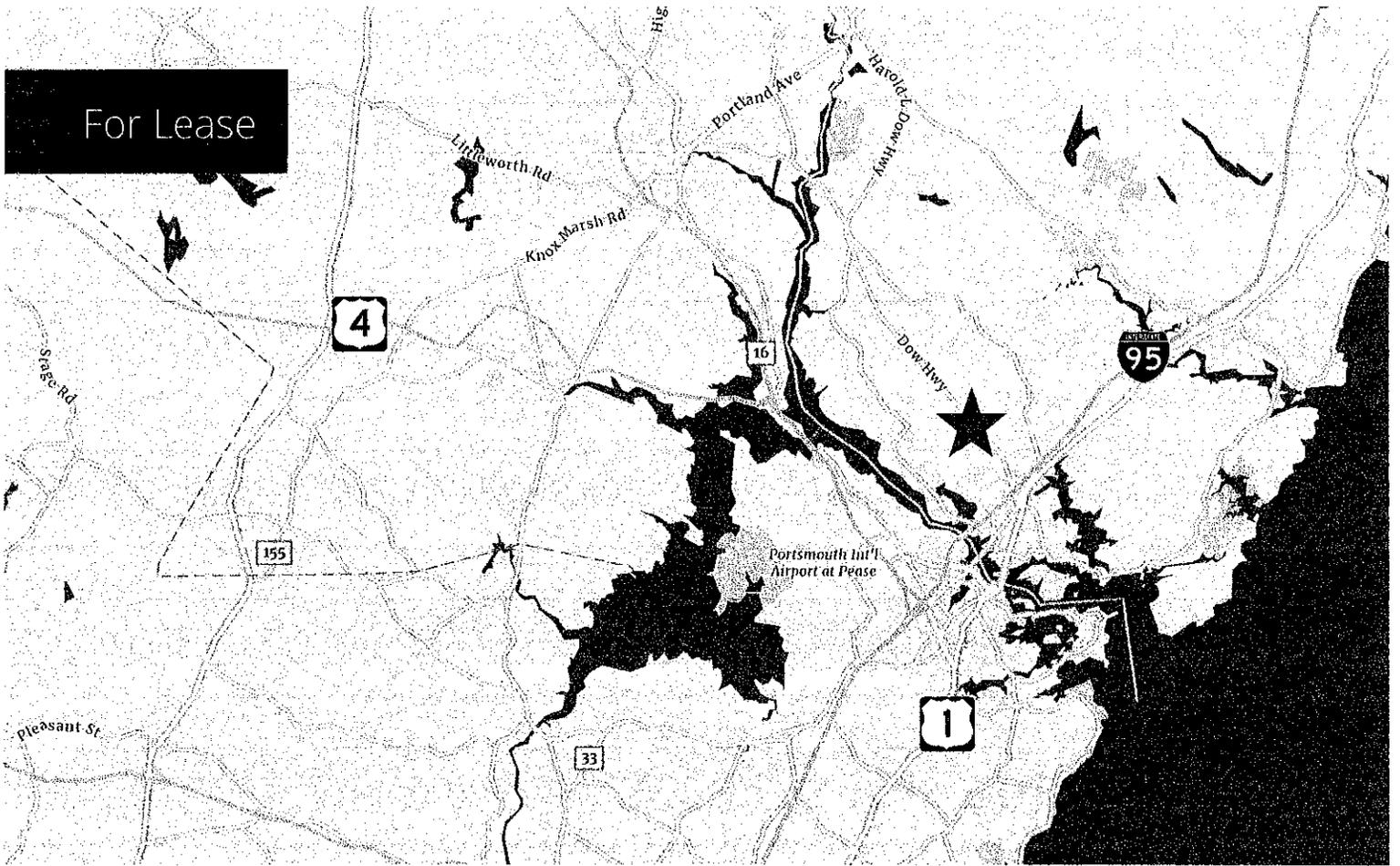
Property Highlights

- Five industrial units will be available for lease off Route 236 in Q1 2024
- Units are 1,500± SF each and will consist of warehouse space with 1 (12' x 14') drive-in door and a handicap restroom; units could be combined up to 7,500± SF
- Owner will build out a small office, if desired
- Each unit will have 4 parking spaces and 21'± to 25'± clear height
- Some outdoor storage space may be available
- Located off of busy Route 236/HL Dow Highway and just a short distance from I-95, Exit 3 and 10 minutes from downtown Portsmouth, NH

Information herein has been obtained from sources deemed reliable, however its accuracy cannot be guaranteed by Colliers International | New Hampshire & Maine. The user is required to conduct their own due diligence and verification. Colliers International | New Hampshire & Maine is independently owned and operated.

Accelerating success.

For Lease



Specifications

Address:	22 Quail Lane
Location:	Elliot, ME 03903
Building Type:	Warehouse/distribution/light industrial
Total Building SF:	7,500±
Available SF:	1,500± to 7,500±
Floors:	1
Utilities:	Well water & septic; propane gas
Zoning:	Commercial Industrial
Clear Height:	21'± to 25'±
Ceiling Height:	22'± to 26'±
Drive-in Door:	1 (12' x 14') per unit
Power:	200A; 120/208V; single phase
Parking:	24± on-site spaces
2022 Taxes:	\$1,274.13
Lease Rate:	\$1,750/month + utilities
Available:	Q1 2024

Contact us:

David F. Choate, III
 Executive Vice President
 +1 603 433 7100
 david.choate@colliers.com

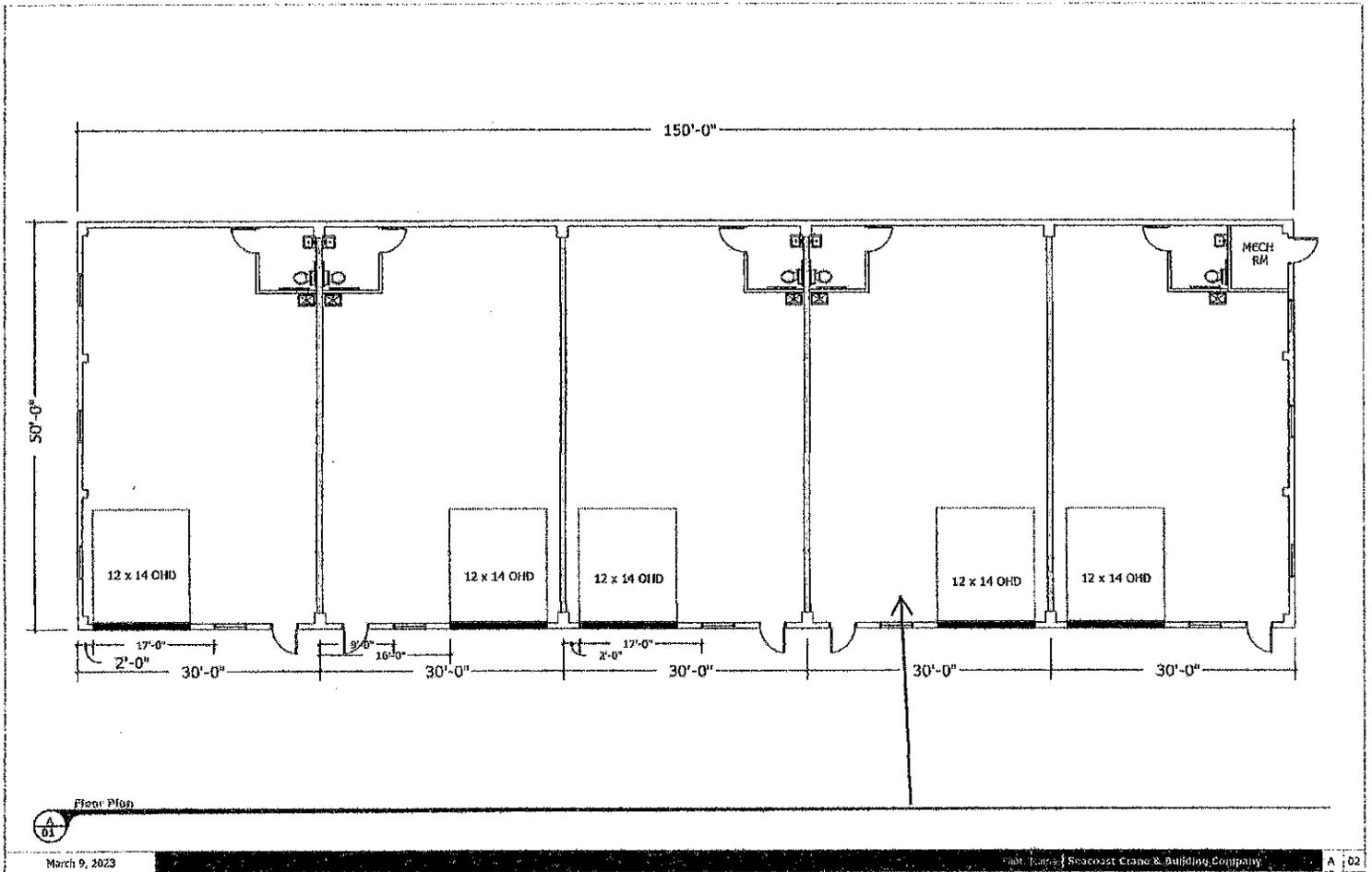
Abigail K. Bachman
 Associate
 +1 603 206 9644
 abby.bachman@colliers.com



500 Market Street, Suite 9
 Portsmouth, NH 03801
 +1 603 433 7100
 colliers.com



Floor Plan



A
01

March 9, 2023

Arch. Firm: Seacoast Crane & Building Company

A | 02

COMMERCIAL LEASE AGREEMENT

This Commercial Lease Agreement (Lease) is entered into on this date November 28, 2023, by and between Seacoast Crane & Building Co., Inc. (Landlord) and Botaka International (Tenant). Landlord is the owner of land and improvements whose address is: 22 Quail Lane, Eliot, Maine 03903. Landlord makes available for lease a portion of the Building designated as Unit # 2 (approximately 1,500 sq. ft. +/-) (Leased Premises).

Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the provisions set forth herein.

THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, it is agreed:

TERM:

The Initial Term of the Lease shall begin the 1st of March 2024, and will be a 5 year lease term. Landlord shall use its best efforts to put Tenant in possession of the Leased Premises on the beginning of the Lease term. If Landlord is unable to timely provide the Leased Premises, rent shall abate for the period of delay. Tenant shall make no other claim against Landlord for any such delay. If Tenant desires to take possession of the Leased Premises (if available) prior to the initial lease term, rent shall be prorated on a daily basis for this term.

Tenant may renew the Lease for 2 additional 5 year lease terms. Tenant shall exercise such renewal option, if at all, by providing written notice to Landlord not less than sixty (60) days prior to the expiration of the Initial Term. Renewals shall include a 3.0% annual increase in rent.

BASE RENT:

Tenant shall pay to Landlord during the 1st year rent of **Twenty One Thousand Dollars (\$21,000.00) per year**, payable in installments of **One Thousand – Seven Hundred and Fifty Dollars (\$1,750.00) per month**. Rent shall increase each year during the initial term by 3%. Each installment payment shall be due in advance on the first day of each calendar month during the lease term to Landlord at the following address:

**Seacoast Crane & Building Co., Inc.
98 Route 236, Unit # 3
Kittery, Maine 03904**

The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis.

Any monthly rent not paid by the 5th day of the month shall be subject to a late fee equal to 3% of the monthly rent due.

A returned payment fee of \$75.00 will be added for any returned payments. A personal check will not be accepted as payment to replace a returned payment. If there are 2 or more instances of a returned payment, Tenant agrees that the Landlord may require all future payments to be made only by Certified Check, Money Order, or Cash. If your returned payment causes the rental payment to be late, a late fee will also be due as specified in the Lease.

Rental payments shall be made by cash, check, certified check, and/or money order. Credit card payments are not accepted.

Tenant shall also pay to Landlord a "Security Deposit" in the amount of **One Thousand – Seven Hundred and Fifty Dollars (\$1,750.00)** as well as first months rent prior to occupancy.

USES / PROHIBITED USES:

The Leased Premises shall be used for manufacturing of flour and production of soba noodles only, with no human habitation permitted. Tenant shall use and occupy the Leased Premises in a reasonably safe and careful

COMMERCIAL LEASE AGREEMENT

manner in operating the Tenant's business. Tenant's use shall not violate Eliot's municipal zoning ordinances and Tenant shall make no immoral, offensive, or illegal use of the space. No recreational or medical marijuana may be grown, stored, consumed, or sold on the Premises. The Tenant is responsible for all permits, licenses, and zoning approvals relating to the Tenants business and Tenant indemnifies the Landlord of all liability, costs, and/or fess associated with the business.

Notwithstanding the forgoing, Tenant shall not use the Leased Premises for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemicals, thing, or device.

There shall be no outside storage of materials. Everything utilized by the Tenant shall be contained in the Leased Premises.

POSSESSION / SURRENDER / HOLDOVER:

Tenant shall take possession of the Leased Premises, in the condition in which they are at the beginning of the Term and at the end of the Term shall deliver all keys to the Landlord and leave the Leased Premises in substantially the same condition of the Leased Premises at the beginning of the Term, normal wear and tear excepted. Any merchandise, materials, or waste left in the Leased Premises after the end of the Term may be removed, stored, or disposed of by the Landlord without written consent to Tenant. Tenant shall be responsible for the associated cost of removal, storage, or disposal fees.

If Tenant shall remain in possession of all or any part of the Lease Premises after the expiration of the Term of this Lease, then Tenant shall be deemed a Tenant of the Lease Premises from month to month and subject to the same terms and conditions of this Lease. Tenant shall pay daily Base Rental equal to 150% of the amount of the sum of the daily Base Rental most recently in effect, for the entire holdover period (and shall continue to pay all other payments required hereunder in addition to such Base Rental). No holding over by Tenant after the Term of this Lease without the written consent of Landlord shall operate to extend the Lease for a longer period than one (1) month, and any holding over with the consent of Landlord in writing (unless a different term is specified therein) shall thereafter constitute this Lease a lease from month to month.

SUBLEASE AND ASSIGNMENT:

Tenant shall not sublease all or any part of the Leased Premises or assign this Lease in whole or in part without Landlord's written consent, such consent not to be unreasonably withheld or delayed. Sublease shall be subject to the same terms and conditions as lease between Landlord and Tenant.

If this Lease is assigned by Tenant, or the Leased Premises are encumbered, then the Landlord may, in the event of a default of this lease, collect rent from the assignee, subtenant, or occupant, and apply the amount collected to the Base Rent, Additional Rent, and Fees. No assignment, subletting, occupancy, or collection shall be deemed a waiver by Landlord of the provisions of this Lease, the acceptance by Landlord of the assignee, subtenant or occupant as tenant, or a release by Landlord of the Tenant from further performance by Tenant of its obligations under this Lease. The consent by Landlord of any assignment or subletting shall not in any way be construed to relieve Tenant from obtaining the express written consent of Landlord to any further assignment or subletting.

LANDLORDS IMPROVEMENTS OR ALTERATIONS:

Landlord shall furnish the unit in a "Broom Clean" condition with all fixtures, fans, lights, doors, and windows in working order at the start of the lease term.

Landlord shall not be required to make any additions or improvements unless specifically noted below. Removals or changes to any of the listed additions or improvements by the Tenant must have advance written approval of the Landlord. The improvements listed are the property of the Landlord and the Tenant is responsible to return them as they were at the beginning of the Lease.

No promise of Landlord to alter; remodel, repair or improve any part of the Leased Premises or common areas and no representation, express or implied, respecting any matter related to the Property of this Lease has been made to Tenant by Landlord, Landlords rental broker or agent, other than as may be contained in the Lease Agreement.

COMMERCIAL LEASE AGREEMENT

TENANT'S IMPROVEMENTS AND ALTERATIONS:

Tenant, at Tenant's expense, shall have the right following Landlord's consent to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time to time as Tenant may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials. Tenant shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by Tenant at the commencement of the Lease term or placed or installed on the Leased Premises by Tenant thereafter, shall remain Tenant's property free and clear of any claim by Landlord. Tenant shall have the right to remove the same at any time during the term of this Lease provided that all damage to the Leased Premises caused by such removal shall be repaired by Tenant at Tenant's expense.

Tenant must have written approval before installing any appliance. Landlord accepts no responsibility for the maintenance, repair, or upkeep of any appliance supplied by Tenant. Tenant agrees they are responsible for any damage that occurs to the Leased Premises resulting from the addition of any appliance that is supplied by the Tenant.

Tenant to install air circulation system, fans, and or vents if needed. Any penetrations through the building shall be approved and coordinated with the Landlord.

Tenant to install walk in cooler if needed.

Tenant to furnish a small dumpster on site if allowable by the town. Location of dumpster to be coordinated with Landlord.

EXAMINATION OF LEASED PREMISES:

Tenant shall examine the Leased Premises prior to occupancy and shall acknowledge that the demised Leased Premises is in satisfactory condition at the time the Tenant enters into possession of the Leased Premises. Landlord has made no representations to Tenant relating to the condition of the Leased Premises except as provided in this Lease Agreement.

REPAIRS & MAINTENANCE:

Tenant covenants and agrees to keep and maintain the Leased Premises in good order, condition, and repair, in substantially the same condition of the Leased Premises at the beginning of the Term, normal wear and tear and damage caused by casualty excepted. Tenant shall not make any alterations / improvements thereon without the written consent of the Landlord. Any alterations or improvements shall be at the cost of the Tenant.

Tenant shall comply with all the provisions in the fire insurance policy, including those relating to the keeping of fire extinguishers in or about the insured space.

Tenant shall be responsible for all repairs required as a result of the negligent acts by Tenant or by any of Tenant's agents, employees or invitees and all repairs not required of Landlord.

Tenant will carry out all normal maintenance of the Leased Premises. Leased Premises is leased in an AS IS condition. In addition, it shall be the responsibility of the Tenant to keep the Leased Premises and parking area in a neat, clean, and sanitary condition, which shall include the daily removal of trash. Tenant is responsible for stocking restroom supplies, trash removal, window washing, pest control, and general cleaning and maintenance inside the leased premises.

Tenant is responsible to notify the Landlord of the need for any repair of which the Tenant becomes aware. If Landlord incurs any additional expense (operating or capital) as a result of Tenants failure to promptly notify Landlord of needed repair that Tenant has discovered, Tenant shall pay such additional expense as additional rent

COMMERCIAL LEASE AGREEMENT

within 30 days after demand. The Tenant shall contact William Belanger at 207-252-0688 in the event of any repair or emergency.

Landlord shall be responsible for all repairs to common areas, accesses, glass, service entrances, parking areas, exterior components, major building components, and structural aspects of the property.

Landlord shall be responsible for plowing and/or treating with salt all driveway and parking areas for standard use occupancy. Anything required beyond this would be the Tenants responsibility and cost, including additional salting, sanding, etc. as may be required for the specific needs of the Tenant, Tenants patients, agents, employees, invitees and visitors. The control of snow and ice on all walkways, steps, and loading areas serving the leased premises and all other areas not readily accessible to plows (5' from building walls) shall be the sole responsibility of Tenant. Notwithstanding the foregoing, however, Tenant shall hold Landlord harmless from any and all claims by Tenant's agents, representatives, employees, callers or invitees for damage or personal injury resulting in any way from snow or ice on any area serving the leased premises.

Leased Premises are covered by a metal roof system which allows snow and ice to periodically fall from the roof top creating a potential hazard to visitors and / or property entering and exiting the building. Tenant shall hold Landlord harmless from any and all claims by Tenant's agents, representatives, employees, callers or invitees for damage or personal injury resulting in any way from falling snow or ice.

RIGHT TO ACCESS / INSPECTION:

Landlord, or its representatives, shall have the right, with Tenant's permission, which permission shall not be unreasonably withheld, at any reasonable time to enter upon the Leased Premises for the purpose of making or causing to be made any repairs or otherwise to protect their interest, but the right of the Landlord to enter, repair, or do anything else to protect their interest, or the exercise or failure to exercise said right, shall in no way diminish Tenant's obligation or enlarge Landlord's obligations under this Lease, or affect any right of Landlord, or create any duty or liability by Landlord to Tenant or any third party. Tenant may not change the exterior locks. Landlord has a master key and Tenant may not alter locks in any way that impedes Landlord's use of its master key. Same master keys are used by Fire Department and Police Department in case of an emergency -- located at Knox Box at the rear of the building.

Landlord shall give 24-hour notice for any non-emergency access required. If less than 24-hour notice is given, access shall not be unreasonably denied. Landlord shall be permitted to enter Leased Premises at any time, without notice, in the event of an emergency.

During the last three (3) months of the term of this Lease, Landlord shall have the right to show the Leased Premises to prospective tenant's at all reasonable times and maintain a "For Lease" sign on the exterior thereof. Access of space for this purpose shall be coordinated with the Tenant.

PROPERTY TAXES:

Landlord shall pay, prior to delinquency, all general real estate taxes and installments of special assessments coming due during the Lease term on the Leased Premises, and all personal property taxes with respect to Landlord's personal property, if any, on the Leased Premises. Tenant shall be responsible for paying all personal property taxes with respect to Tenant's personal property at the Leased Premises.

INSURANCE:

The Tenant shall maintain with respect to the Premises comprehensive general liability and property damage insurance including the broad form comprehensive general liability coverage in amounts not less than \$1,000,000.00 combined single limit and an annual aggregate of at least \$2,000,000.00. Such insurance shall include Landlord as an additional named insured.

COMMERCIAL LEASE AGREEMENT

Tenant shall maintain, at its sole cost and expense, (A) fire and extended coverage insurance for all of its contents, furniture, furnishings, equipment, improvements, funds, personal property, floor coverings and fixtures located within or about the Property, providing protection in an amount equal to one hundred percent (100%) of the insurable value of said items.

All insurance required hereby shall be with companies qualified to do business in the State of Maine, shall be issued by insurance companies with a general policyholder's rating of not less than A-, Class VI as rated in the most current A.M. Best report. Insurance may be maintained by Tenant under a blanket policy or policies so-called, provided the coverage afforded Landlord will not be reduced or diminished by reason of the use of such blanket insurance policy, and provided further that the requirements set forth herein are otherwise satisfied.

The Tenant shall deposit with Landlord certificates of insurance that it is required to maintain under this Lease, at or prior to the Commencement Date, and thereafter, prior to the expiration of each such policy. Such policies shall, to the extent obtainable, provide that the policies may not be changed or canceled, without at least ten (10) day's prior written notice to Landlord.

The Tenant covenants that in the event it keeps upon the Property any substance of dangerous, inflammable, or explosive character or makes any use of the Property which increases the rate of insurance on the Property, Tenant shall promptly pay to Landlord upon demand any such increase resulting there from, which shall be due and payable as additional rent hereunder.

Landlord shall maintain fire and broad form extended coverage insurance on an "all risk" basis, with replacement cost endorsement, on the Building, building improvements, improvements to the land and personal property on the Property equal to the replacement cost thereof. Landlord shall not be responsible for any damage to Tenant's contents, furniture, furnishings, equipment, improvements, funds, personal property or fixtures, resulting from any fire or other perils customarily insured against, except arising out of the gross negligence or willful misconduct of Landlord, its employees, agents, licensees, or contractors.

Landlord agrees to indemnify, defend, and hold harmless Tenant from all claims of arising from any accident, injury, or damage caused to any person, or to the property of any person occurring in the Common Areas of the Building or other portions of the Property, and caused by the negligence of Landlord. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities, including attorney's fees, incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof.

Landlord shall maintain with respect to the Building comprehensive general liability and property damage insurance including the broad form comprehensive general liability coverage in amounts not less than \$1,000,000.00 combined single limit and an annual aggregate of at least \$2,000,000.00. Landlord will provide Tenant with reasonable evidence of such insurance coverage.

Any insurance carried by either party with respect to the Property or property therein or occurrences thereon shall include a clause or endorsement denying the insurer rights of subrogation against the other party. Notwithstanding anything to the contrary set forth in this Lease, neither Landlord nor Tenant shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees if any such loss or damage is covered by insurance benefiting the party suffering such loss or which is customarily covered by fire and extended coverage insurance in an amount equal to 100% of the replacement value of the property so damaged.

INDEMNIFICATION:

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Tenant shall hold Landlord and its officers, directors and shareholders harmless and indemnify them from and against all injury, loss, cost (including reasonable attorneys' fees and expenses), claim, cause of action, demands or judgments, or damage to any person or property while on the Premises arising out of the use or occupancy of the Premises by Tenant or Tenant's Agents (unless caused by the act, neglect or default of Landlord, other tenants of the Building or their employees, agents, licensees or contractors), and from and -against all injury, loss, claim or damage to any person or property anywhere on the Property occasioned by any act, neglect or default of Tenant or of its employees, agents, licensees or contractors. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon, or about the Leased Premises arising from any cause other than the acts or neglect of the Landlord, and Tenant hereby waives all claims with respect thereof against the Landlord. Landlord shall not be liable for any damages arising from any act or neglect of any other tenant of the Leased Premises, Building, or Property.

UTILITIES:

Base rent shall include all reasonable charges for water and sewer used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord. Each unit shall not use and or dispose of an excess of 60 gallons of water per day into the septic system. All other utilities (electric, telephone, internet, cable, heating fuel, trash removal, etc.) are by the Tenant. Tenant agrees that these essential utilities are to be maintained and operational at all times. Proof of payment shall be provided to the Landlord on demand. Currently P. Gagnon & Sons is the sole provider of gas for heat. Tenant at its own expense agrees to maintain the temperature level in the Leased Premises at a level sufficient to prevent freezing of or damage to any water or sprinkler pipes or lines in or serving the Leased Premises. Tenant expressly waives and releases Landlord from all liabilities, claims, suits, judgments, costs, expenses, damages, (including consequential damages) arising out of the failure of any utilities or services for the Leased Premises. Landlord shall not be in default hereunder or be liable for any damages directly or indirectly resulting from, nor shall the rent be abated or any of the Tenants obligations be reduce by reason of; (1) the installation, use or interruption of use of any equipment in connection with the furnishings of any of the foregoing services; (2) failure to furnish or delay in furnishing any such services where such failure or delay is caused by accident or by any condition or event beyond reasonable control of Landlord, or by making the necessary repairs or improvements to the Property; (3) any limitation, or restrictions on use of water, electricity serving the Leased Premises. Landlord shall not be liable under any circumstance for a loss or injury to Property or business, arising in connection with or incidental to any failure to furnish any such services.

Tenant acknowledges that the Leased Premises are designed to provide standard use electrical facilities and standard lighting. Tenant shall not use any equipment or devices that utilizes excessive electrical energy or which may, in Landlord's reasonable opinion, over load the wiring or interfere with electrical services to other tenants.

SIGNS:

Landlord will provide and install standard vinyl letting signage at the remote sign structure located on the site. Following Landlord's consent, Tenant shall have the right to place additional signage on the personnel door glass used for accessing their respective unit, any signs which are permitted by applicable zoning ordinances and private restrictions. Landlord may refuse consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenant. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Leased Premises resulting from the removal of signs installed by Tenant.

PARKING:

During the term of this Lease, Tenant shall have the non-exclusive use in common with Landlord, other tenants of the Building, their guests and invitees, of the non-reserved common automobile parking areas, driveways, and footways, subject to rules and regulations for the use thereof as prescribed from time to time by Landlord. Landlord reserves the right to designate parking areas for Tenant and Tenant's agents and employees. A total of four (4) parking spaces are allocated to the Leased Premises. If Tenant requires additional spaces (temporarily or

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permanently) Tenant must receive written permission from Landlord. Tenant shall provide Landlord with a list of all license numbers for the cars owned by Tenant, its agents and employees.

Parking at any location not clearly designated for parking is prohibited. Parking under canopy and low eave of the building is prohibited. Parking under low eave of building with snow on the roof may cause potential damage or injury to vehicle or passengers from falling snow / ice.

Overnight or long-term parking is prohibited unless approved in writing by Landlord.

Landlord shall not be responsible for any vehicle, valuables, or personal property lost, damaged, or stolen in the parking area, except as caused by the negligence or willful misconduct of Landlord. Furthermore, to the extent permitted by law, Landlord shall not be liable for any injury to persons using the parking areas; use of the parking area shall be at the sole risk of Tenant.

Landlord reserves the right to temporarily close the parking area by providing advance written notice to the Tenant.

QUIET POSSESSION:

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

BUILDING RULES:

Tenant will comply with the rules of the Building adopted and altered by Landlord from time to time and will cause all of its agents, employees, invitees and visitors to do so; all changes to such rules will be sent by Landlord to Tenant in writing. The initial rules for the Building are attached hereto as Exhibit "A" and incorporated herein for all purposes.

DAMAGE AND DESTRUCTION:

If the Leased Premises or any part thereof or any appurtenance thereto is so damaged by fire, casualty or structural defects, such damage or defects not being the result of any act of negligence by Tenant or by any of Tenant's agents, employees or invitees, that the same cannot be used for Tenant's purposes, then Tenant shall have the right within ninety (90) days following damage to elect by notice to Landlord to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Leased Premises, and if such damage does not render the Leased Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord. Rentals and other charges paid in advance for any such periods shall be credited on the next ensuing payments, if any, but if no further payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Leased Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes

If, in Landlord's opinion, such repairs cannot be completed within ninety (90) days, Landlord may elect, upon notice to Tenant given within thirty (30) days after the date of such fire or other casualty, to repair such damage, in which event this Lease shall continue in full force and effect, but the Base Rent shall be partially abated to the extent Tenant's use of the Leased Premises is impaired, based upon the reasonable relative value to Tenant that the damaged space bears to the value of Tenant's total Leased Premises, commencing with the date of damage and continuing until substantial completion of the repairs required of Landlord.

Tenant shall be responsible at its sole cost for the restoration and replacement of any other Leasehold Improvements and Tenant's property. Landlord shall not be liable for any loss of business, loss of Tenant's

COMMERCIAL LEASE AGREEMENT

personal property, inconvenience or annoyance arising from any fire or other casualty or any restoration of any portion of the Property arising from fire or other casualty.

If such damage is the result of the negligence or willful misconduct of Tenant or Tenant's agents, employees, contractors, licensees or invitees, Rent shall not be abated, and Tenant shall pay Landlord for repairs and for all costs associated with such damages, including but not limited to the loss of all rental income from all tenants of the Property as the result of such damage.

NO LIENS:

Tenant shall keep Tenant's leasehold interest, and any improvements which are or become the property of Landlord under this Lease, free and clear of any attachment of judgment lien. Before the actual commencement of any work for which a lien or a claim of a lien may be filed, Tenant shall give Landlord at least ten (10) days prior written notice of the intended commencement date and Landlord shall have the right to enter the Leased Premises and post such notices of non-responsibility for Tenant's work at any reasonable time. Tenant shall, within five (5) days after the attachment of any lien or claim of lien, pay and discharge, or secure the release from the Leased Premises of any lien or claim of lien; Tenant shall promptly indemnify Landlord from and against all loss, cost, damage, injury or expense in connection with any such lien or claim of lien, including, without reasonable attorney's fees. In addition, Tenant agrees that no security agreement, whether by way of conditional bill of sale, chattel mortgage or instrument of similar import, shall be placed upon any improvement at the Premises which is affixed to the Real Property.

CHANGES REQUESTED BY LENDER:

When applicable, neither the Landlord or Tenant shall unreasonably withhold consent to changes of this agreement requested by the lender on the Landlord's interest, so long as these changes do not materially alter the basic business terms of this Lease.

DEFAULT:

In the event of a default made by Tenant in the payment of rent when due to Landlord, Tenant shall have five (5) days after receipt of written notice thereof to cure such default. In the event of a default made by Tenant in any of the other covenants or conditions to be kept, observed and performed by Tenant, Tenant shall have five (5) days after receipt of written notice thereof to cure such default. In the event that the Tenant shall fail to cure any default within the time allowed under this paragraph, Landlord may declare the term of this Lease ended and terminated by giving Tenant written notice of such intention, and if possession of the Leased Premises is not surrendered, Landlord may reenter said premises. Landlord shall have, in addition to the remedy above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages.

CONDEMNATION:

If any legally constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for leasing, this Lease shall cease when the public authority takes possession, and Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

SUBORDINATION:

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises of the Building. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such

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persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

SECURITY DEPOSIT:

Landlord shall hold the Security Deposit without liability for interest and as security for the performance by Tenant of Tenant's covenants and obligations under this Lease, it being expressly understood that Tenant shall not consider the Security Deposit an advance payment of rent or a measure of Landlord's damages in case of default. Unless otherwise provided by law or regulation, Landlord may commingle the Security Deposit with Landlord's other funds. Landlord may, from time to time, without prejudice to any other remedy, use the Security Deposit to the extent necessary to make good any arrearages of rent or to satisfy any other covenant or obligation of Tenant hereunder. Following any such application of the Security Deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the Security Deposit to its original amount. If Tenant is not in default at the termination of this Lease, Landlord shall return the balance of the Security Deposit remaining after any such application to Tenant.

Landlord shall return the entire deposit to Tenant within 15 days after retaking possession; or shall return so much of the deposit as exceeds any damages done to the property during the Tenant's residence, normal wear and tear expected, and any unpaid rent. If the Landlord returns any amount less than the full deposit, he/she shall also provide a written itemized list of damages and charges.

NOTICE:

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

Tenant:
Botaka International
14 Dragonfly Lane,
Gorham, ME 04038

Landlord:
Seacoast Crane & Building Co., Inc.
98 Route 236, Suite #3
Kittery, Maine 03904

Notices may be given by either party to the other, or any other manner provided for by law, in any of the following ways; First Class USPS Mail, Personal Delivery, Registered Mail, or email. If a notice is sent via certified, registered, or regular mail, it will be considered received on the date the Tenant signs for it, or 5 days after it was mailed, whichever occurs first.

WAIVER:

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

HEADINGS:

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

RELATIONSHIP OF PARTIES:

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Nothing contained in this lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal or agent or of partnership, joint venture, or any other association whatsoever between Landlord and Tenant.

BINDING EFFECT:

All rights and liabilities herein given to, or imposed upon the respective parties hereto, shall extend to and bind the several and respective heirs, executors, administrators, successors, and assigns of said parties.

CONSENT:

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

EXECUTION OF LEASE:

The submission of this Lease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation or option for Tenant to lease, or otherwise create any interest of Tenant in the Leased Premises or any other premises within the Building or Property. Execution of this Lease by Tenant and its return to Landlord shall not be binding on Landlord notwithstanding any time interval, until Landlord has in fact signed and delivered this Lease to Tenant. The parties agree to promptly sign all documents reasonably requested to give effort to the provisions of this Lease.

LANDLORD'S REMEDIES:

If the event of a default of this Lease, the Landlord may in addition to any other remedies or options set by law pursue any or all of the following remedies concurrently or successfully, as follows:

- A. Landlord may terminate this Lease and take possession of the Leased Premises without prior notice or demand.
- B. In addition to any Rent and other charges already due and payable, the Rent for the entire unexpired balance of the term of this Lease and any other charges, costs and expenses herein agreed to be paid by Tenant shall be due and payable immediately as if by the terms of this Lease such Rent, charges, costs and expenses were on that day due and payable in full, in accordance with and to the extent permitted by the laws of Maine.
- C. Landlord shall to the extent permitted by law, have the right to proceed by distress and sale of Tenant's property for Rent and other amounts due hereunder. During the term hereof, Landlord shall have a lien on all of Tenant's personal property, fixtures and equipment in the Leased Premises, as security for Rent and all other charges payable hereunder.
- D. Tenant expressly waives any right of redemption or for the restoration of the operation of this Lease under any present or future law if Tenant shall be dispossessed for any cause, or if Landlord shall obtain possession of the Leased Premises as herein provided.
- E. Landlord may, at any time, cure the default of Tenant and at the expense of Tenant. Tenant shall pay, with interest at the maximum legal rate, on demand, to Landlord, the amounts so paid, expended or incurred by Landlord and any expense of Landlord including attorneys' reasonable fees incurred in connection with the default and as permitted by law.
- F. The rights and remedies of Landlord set forth herein shall be in addition to any other rights or remedies now or hereafter provided by the laws of Maine. All such rights and remedies shall be cumulative and not exclusive of each other. Landlord may exercise such rights and remedies at such times, in such order, to such extent, and as often as Landlord deems advisable with regard to whether the exercise of one right or remedy precedes, concurs with or succeeds the exercise of another. A single or partial exercise of a right or remedy shall not preclude a further exercise thereof or the exercise of another right or remedy from time to time. No delay or omission by Landlord in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of or acquiescence to a default. No waiver of default shall extend to or affect any other default or impair any right or remedy with respect hereto. No action or inaction by Landlord shall constitute a waiver of a default. No waiver of a default shall be effective unless it is in writing.

COMMERCIAL LEASE AGREEMENT

FORCE MAJEURE:

Any prevention or delay or stoppage of work to be performed by Landlord or Tenant which is due to labor disputes, inability to obtain labor, material or equipment, acts of God, governmental regulations, judicial orders, hostile government actions, civil commotion, fire or other casualty, or other cause beyond the reasonable control of the party obligated to perform hereunder, shall excuse performance of the work by that party for a period equal to the duration of that prevention or delay or stoppage. Nothing in this Article shall excuse or delay Tenant's obligation to pay rent or other charges under this Lease. Force Majeure shall not include the novel coronavirus Covid-19 (or similar) pandemics.

Condition:

Lease is conditional upon Tenant obtaining all final State and Town approvals to operate the Tenants defined business. Tenant shall start seeking necessary permissions soon after the lease is signed. Landlord will cooperate with Town, State and Tenant, within reason, to help ensure Tenant obtains all necessary approvals. Should any Government agency not grant Tenant's permits, the lease shall be null and void. Landlord to return all rents/deposits back to Tenant within 10 business days. Tenant agrees to reveal to the Landlord all discussions with Town/Officials/Clerk/Licensing/Code Enforcement to the Owner. Tenant will give weekly reports on status of permits/permitting/approvals to the Landlord and/or his agent until all final permits have been obtained. This condition expires at the start of lease date.

SEVERABILITY:

In the event one or more clauses of this Lease are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of this Lease.

MISREPRESENTATION:

If any information provided by Tenant in application for this Lease is found to be knowingly incorrect, untruthful, and/or misleading, it is a default of the lease.

ABANDONMENT:

In the event that Tenant vacates the premises without notifying the Landlord, the premises is then considered to be abandoned and Tenant is in default of this Lease agreement. Specifically, Tenant shall (unless Landlord shall have directed Tenant not to remove such items) reimburse Landlord, as Additional Rent within thirty (30) days after demand, for Landlord's reasonable, actual out-of-pocket costs incurred in connection with removal of Tenant's property and restoration of the premises. Landlord's acceptance of a subtenant or replacement tenant in case of abandonment shall not constitute a waiver of rights against the original tenant. In case of abandonment, Tenant may be responsible for damages and losses allowed by federal, state and local regulations.

GOVERNING LAW & VENUE:

This Lease shall be construed in accordance with the laws of the State of Maine. All judicial proceedings hereunder shall be brought in the State Courts of Maine. Tenant and Landlord each shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

FINAL AGREEMENT:

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

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

DocuSigned by: Takahiro Sato - CEO of Botaka International
(X) Takahiro Sato - CEO of Botaka International Date: 12/7/2023
BD8BCB72AF75401...Tenant

DocuSigned by: William J. Belanger III
(X) William J. Belanger III Print Name: William J. Belanger III Date: 12/12/2023
76ED8F6F179940F...Landlord

DS WJBI TSCOB

EXHIBIT "A" - BUILDING RULES

REVISED OCTOBER 13, 2023

This document contains the facility policies governing the operation of the building. The policies set forth are regularly reviewed and revised as necessary.

GENERAL BUILDING RULES:

- Tenant shall not suffer or permit the obstruction of any Common Areas, including driveways and walkways.
- Landlord reserves the right to refuse access to any persons Landlord in good faith judges to be a threat to the safety, reputation, or property of the Building and/or its occupants.
- Tenant shall not make or permit any noise or odors that annoy or interfere with other tenants or persons having business within the Building.
- Tenant shall not make, suffer or permit litter except in appropriate receptacles for that purpose.
- Tenant shall not alter any lock or install new or additional locks or bolts.
- Tenant shall be responsible for the inappropriate use of any toilet rooms, plumbing or other utilities. No foreign substances of any kind are to be inserted therein.
- Tenant shall not deface the walls, partitions or other surfaces of the Premises or the Building.
- Tenant shall not suffer or permit anything in or around the Premises that causes excessive vibration or floor loading in any part of the Building.
- Furniture, significant freight and equipment shall be moved into or out of the Building only with the Landlord's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Landlord. Tenant shall be responsible for any damage to the Building arising from any such activity.
- Tenant shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Landlord.
- Tenant shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.
- No window coverings, shades or awnings shall be installed or used by Tenant without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.
- No tenant, employee or invitee shall go upon the roof of the Building except as expressly provided in the Lease.
- Tenant shall not suffer or permit smoking or carrying of lighted cigar or cigarettes in areas reasonably designated by Landlord or by applicable governmental agencies as nonsmoking areas. Entire building and 20' from the building perimeter is nonsmoking.
- Tenant shall not use any method of heating or air conditioning other than as provided by Landlord or any dedicated system approved by Landlord.

The Premises shall not be used for lodging. Notwithstanding the foregoing, Underwriters' Laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot

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chocolate and similar beverages, provided that such use is in accordance with all applicable laws, codes, ordinances, rules and regulations, and does not cause odors which are objectionable to Landlord and other tenants. Tenant shall comply with all safety, fire protection and evacuation regulations established by Landlord or any applicable governmental agency.

Tenant assumes all risks from theft or vandalism to the Premises and agrees to keep the Premises locked as may be required.

Tenant or any of Tenant's agents, employees or invitees shall enter the building through main entrance to each unit. This is especially important during times when snow / ice have accumulated on the roof of the building. Falling snow and ice can cause bodily harm, injury, or death.

Landlord reserves the right to waive any one of these rules or regulations, and/or as to any particular tenant, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such tenant.

Landlord reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the Building and its occupants. Landlord shall provide Tenant with copies of any new and/or modified rules or regulations prior to the effective date thereof. Tenant agrees to abide by these and such other rules and regulations.

Parking Rules

- Parking areas shall be used only for parking vehicles no longer than full size passenger automobiles.
- No long-term or overnight vehicle parking or storage unless approved in writing by the Landlord.
- Users of the parking areas will obey all posted signs and park only in the areas designated for vehicle parking.
- Unless otherwise instructed, every person using the parking areas is required to park and lock his/her own vehicle. Landlord will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking areas.
- The maintenance of vehicles in the parking areas or Common Areas is prohibited.
- Tenant shall be responsible for seeing that all its employees, agents and invitees comply with the applicable parking rules, regulations, laws and agreements.
- Landlord reserves the right to modify these rules and/or adopt such other reasonable and non-discriminatory rules and regulations as it may deem necessary for the property operation of the parking area.
- Parking under low eaves or canopies is prohibited, especially during the winter months where snow and ice can cause potential damage to property, or injury / death to passengers.

TS/06/1
12/17/2023



MAINE

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Corporate Name Search

Information Summary

[Subscriber activity report](#)

This record contains information from the CEC database and is accurate as of: **Wed Sep 27 2023 07:27:52**. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
BOTAKA INTERNATIONAL	20031091 D	BUSINESS CORPORATION	GOOD STANDING

Filing Date	Expiration Date	Jurisdiction
01/08/2003	N/A	MAINE

Other Names	(A=Assumed ; F=Former)
BOTAKA TRADING COMPANY	F

Clerk/Registered Agent

MAURICE A. SELINGER, III
P.O. BOX 7320
PORTLAND, ME 04112

[New Search](#)

Click on a link to obtain additional information.

List of Filings

[View list of filings](#)

Obtain additional information:

Additional Addresses

[Plain Copy](#)

[Certified copy](#)

Certificate of Existence ([more info](#))

[Short Form without amendments](#)
(\$30.00)

[Long Form with amendments](#)
(\$30.00)

You will need Adobe Acrobat version 3.0 or higher in order to view PDF files.
If you encounter problems, visit the [troubleshooting page](#).



If you encounter technical difficulties while using these services, please contact the [Webmaster](#). If you are unable to find the information you need through the resources provided on this web site, please contact the Division of Corporations, UCC & Commissions Reporting and Information Section at 207-624-7752 or [e-mail](#).

HAROLD L DOW HWY

Location HAROLD L DOW HWY

Mblu 23/ 5/ 11

Acct#

Owner LHB CRANE LLC

Assessment \$105,300

Appraisal \$105,300

PID 1057

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$0	\$105,300	\$105,300
Assessment			
Valuation Year	Improvements	Land	Total
2022	\$0	\$105,300	\$105,300

Owner of Record

Owner LHB CRANE LLC
Co-Owner
Address 98 ROUTE 236
 KITTERY, ME 03904

Sale Price \$0
Certificate
Book & Page 17002/0633
Sale Date 04/21/2015

Ownership History

Ownership History				
Owner	Sale Price	Certificate	Book & Page	Sale Date
LHB CRANE LLC	\$0		17002/0633	04/21/2015
HANSEN, ROBERT W	\$0		3577/0009	07/17/1985

Building Information

Building 1 : Section 1

Year Built:
Living Area: 0
Replacement Cost: \$0
Building Percent Good:
Replacement Cost
Less Depreciation: \$0

Building Attributes

Field	Description
Style:	Vacant Land
Model	
Grade:	
Stories:	
Occupancy	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure:	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Flr 1	
Interior Flr 2	
Heat Fuel	
Heat Type:	
AC Type:	
Total Bedrooms:	
Total Bthrms:	
Total Half Baths:	
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	
Kitchen Style:	
Num Kitchens	
Cndtn	
Num Park	
Fireplaces	
Frdtn Cndtn	
Basement	

Building Photo



(<https://images.vgsi.com/photos/EliotMEPhotos/default.jpg>)

Building Layout

(https://images.vgsi.com/photos/EliotMEPhotos/Sketches/1057_2283.jpg)

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Land Line Valuation

Use Code 3010
Description C/I VAC LAND POT

Size (Sqr Feet) 143312
Frontage 0

Zone C/I
Neighborhood
Alt Land Appr No
Category

Depth 0
Assessed Value \$105,300
Appraised Value \$105,300

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$0	\$105,300	\$105,300
2020	\$0	\$83,900	\$83,900
2019	\$0	\$83,900	\$83,900

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$0	\$105,300	\$105,300
2020	\$0	\$83,900	\$83,900
2019	\$0	\$83,900	\$83,900

CURRENT OWNER		TOPO		UTILITIES		STRT/ROAD		LOCATION		CURRENT ASSESSMENT	
LHB CRANE LLC	1 Level	1 Paved	1 Urban	COM LAND	3910	105,300	105,300	4509	ELIOT, ME		
SUPPLEMENTAL DATA											
98 ROUTE 236	Alt Prcl ID	PRECINC									
KITTERY	ME 03904	STYLE HEART									
	GROSS EFTEC	TIF									
	PHOTO	Assoc Prcl#									
	GIS ID 23-5										

RECORD OF OWNERSHIP		BK-VOL/PAGE		SALE DATE		QU/VII		SALE PRICE		VC	
LHB CRANE LLC	17002	0633	04-21-2015	U	V	0	0	0	0	0	0
HANSEN, ROBERT W	3577	0009	07-17-1985	U		0	0	0	0	0	0

EXEMPTIONS		OTHER ASSESSMENTS	
Year	Code	Description	Number
Total		Total	
		Amount	Comm Int

ASSESSING NEIGHBORHOOD		NOTES	
Nbhd	Nbhd Name	Tracing	Batch
0001	B		

EASEMENT ONLY TO THIS LOT
 23AC TO 17/31 YR 2000

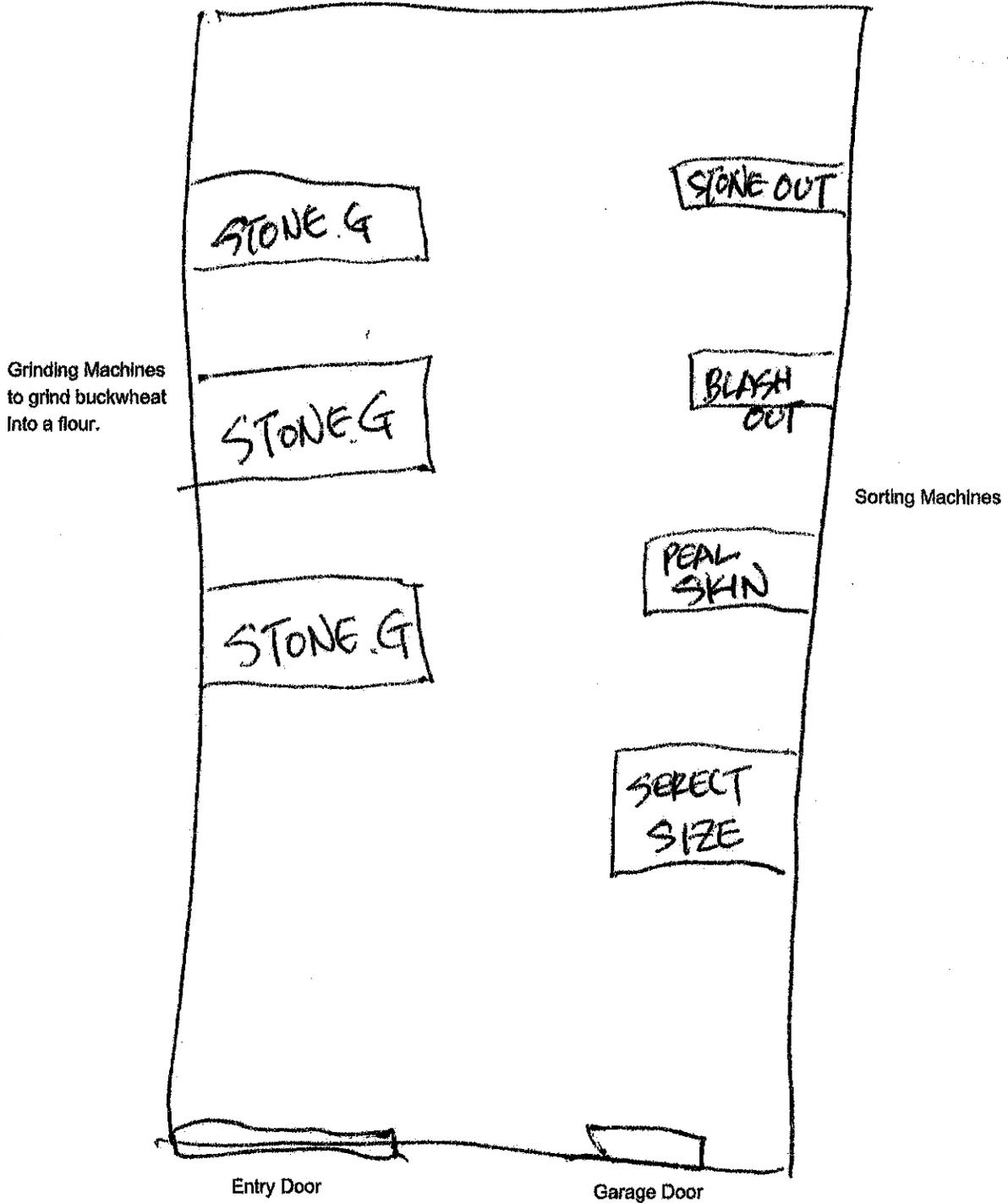
APRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	0
Appraised Xf (B) Value (Bldg)	0
Appraised Ob (B) Value (Bldg)	0
Appraised Land Value (Bldg)	105,300
Special Land Value	0
Total Appraised Parcel Value	105,300
Valuation Method	C

BUILDING PERMIT RECORD		VISIT/CHANGE HISTORY	
Permit Id	Issue Date	Type	Purpose/Result

LAND LINE VALUATION SECTION														
B Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value
1	C/I VAC LAND P	C/I		43,560	2,45	1,80000	G	0.50	1,000	1,000	UND.80X.75 ACCESS=CN	1,000	2.21	96,100
1	C/I VAC LAND P	C/I		2,290	8,000	1,00000	0	0.50	1,000	1,000	TOPO	1,000	4,000	9,200
Total Card Land Units				43,560	SF			Parcel Total Land Area	3,2900				Total Land Value	105,300

Route 236/ HL Dow Highway

Prime Storage



Driveway/Parking Area.



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Ryan M. McCarthy, P.E., P.L.S., Tidewater Engineering & Surveying, Inc., Applicant's Representative
 Shelly Bishop, Code Enforcement Officer
 Kim Tackett, Land Use Administrative Assistant
 Date: January 17, 2024 (report date)
 January 23, 2024 (meeting date)
 Re: PB23-20: 128 Stacy Ln. (Map 78, Lot 43): Shoreland Zoning Permit Application – Shoreline Stabilization

Application Details/Checklist	
✓ Address:	128 Stacy Ln.
✓ Map/Lot:	78/43
✓ PB Case#:	23-20
✓ Zoning:	Rural
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Eugene and Nedra Sahr
✓ Applicant/Agent Name:	Agent: Tidewater Engineering & Surveying, Inc.
✓ Application Received by Staff:	November 14, 2023
✓ Application Fee Paid and Date:	\$225 (\$50 – shoreland structure over/below high water line; \$175 – public hearing) November 14, 2023
Application Sent to Staff Reviewers:	Not yet sent
Application Heard by PB	
Found Complete by PB	
Site Walk	
Site Walk Notice Publication	
Public Hearing	
Public Hearing Publication	
✓ Reason for PB Review:	Shoreland, structure extending over/below normal high-water line (SPR use)

Overview

Applicant seeks approval of a shoreline stabilization project involving stabilizing approximately 87 linear feet (lf) of eroding shoreline along their property. For the project, the shoreland zoning permit application proposes “A combination of riprap and vegetative shoreline stabilization measures.”

The application package includes a copy of the DEP NRPA application. Attachment 1 includes a project description, noting that

the erosion of this embankment has been accelerated due to severe weather events and the loss of the protection of marsh grass in the intertidal area. The exposed shoreline has led to the loss of native soils and sediments which in turn has caused the slope failure and several existing mature trees to collapse into the river. If left in this condition, the slope will continue to erode causing further degradation of existing trees and vegetation, undermining the uplands of the property and leading to further loss of intertidal habitats.

The application goes on to describe the rip rap as consisting of

18” to 24” sized rocks, supported by a crushed stone base, that extends from the toe at a 1:1 slope up to an approximate elevation of 13.0’. The riprap will be underlain with a geo-textile fabric that allows drainage while keeping the underlying soils in place.

On top of the rip rap embankment, the application proposes a

transition to a 3:1 vegetated slope stabilized with native vegetation, promoting healthy growth along the shoreline, supporting existing mature trees, and preventing further upland soil from impacting the mudflat habitat.

Photos of the existing condition are in Attachment 4.

Uses

Structures and uses extending over or below the normal high-water line or within a wetland are SPR uses in the shoreland zone.

Type of review needed

Initial review – ask questions of the applicant, make comments on Code compliance, consider completeness determination and setting of a public hearing

Right, title, and interest

Warranty deed in application package

Status of other agency reviews

MaineDEP NRPA permit and a US Army Corps permit/authorization have been sought by the applicant. At the time of this writing, the Planning Office has not received copies of approved DEP/USACE permits, and DEP’s website lists the permit review as “in process”. The applicant is requesting concurrent PB review.

Section 44-35(c) review

Section 44-35(c) has standards for piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line of a water body or within a wetland. The following table reviews the application under this section. Paragraph numbers under 44-35(c) are in parentheses. For brevity, some standards are summarized.

44-35(c) para. #	Summary of paragraph	Evaluation of application
(1)	No more than one pier/dock/wharf/similar structure per lot given the amount of shoreline frontage (150 ft. for the Suburban district)	N/A
(2)	Developed on appropriate soils so as to control erosion	Met. The project is intended to prevent erosion. NRPA application Attachment 1, Section A, states: “Stabilizing the shoreline will help to prevent further erosion, help retain the mature trees that are in jeopardy of being lost, and prevent further impacts to the mudflat habitat.” Site Plan Sheet 1 shows erosion control measures.
(3)	Location shall not interfere with beach areas	Met.
(4)	Minimize adverse effects on fisheries	Appears to be met. Project notes mudflat habitat with a “do not disturb” note, and seeks to prevent further soil erosion from affecting the river.
	Remaining paragraphs	N/A

Vegetation

Site Plan, Sheet 2 shows both the mature trees to be saved and not be disturbed, and the location and planting schedule for the new native vegetation.

Recommendation

Deem application complete, set public hearing

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

November 13, 2023

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



Re: Shoreland Application: Proposed Shoreline Stabilization
128 Stacy Lane, Eliot ME 03903 (Tax Map 78 Lot 43)- Reference No. 22-144

Dear Mr. Brubaker:

Tidewater Engineering & Surveying, Inc. is pleased to submit the enclosed Shoreland Application on behalf of Eugene and Nedra Sahr. The applicant is seeking to stabilize approximately 87 linear feet of existing eroding shoreline along their property at 128 Stacy Lane, Eliot ME 03903 (Tax Map 78 Lot 43).

A Natural Resources Protection Act permit application was submitted to the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers for review on October 9, 2023. Maine DEP and the U.S. Army Corps of Engineers are currently in the process of reviewing the application, however we will submit their approval to the Town once received.

We respectfully request that the review by the Town occur concurrently with Maine DEP and U.S. Army Corps of Engineers review to expedite the permitting process.

Thank you for considering this application. Should you have any questions while reviewing the enclosed documents, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan M. McCarthy".

Ryan M. McCarthy, P.E., P.L.S.
President
Tidewater Engineering & Surveying, Inc.
(207) 439-2222
ryan@tidewatercivil.com

Enclosures

FOR OFFICE USE ONLY:
 PERMIT NO.: _____
 ISSUE DATE: _____
 FEE AMOUNT: _____

TOWN OF ELIOT
SHORELAND ZONING PERMIT APPLICATION

GENERAL INFORMATION

1. APPLICANT Agent: Tidewater Engineering & Surveying, Inc.	2. APPLICANT'S ADDRESS Agent Address: 1021 Goodwin Road, Unit 1 Eliot, ME 03903	3. APPLICANT'S TEL. # Agent Telephone: (207) 439-2222
4. PROPERTY OWNER Eugene and Nedra Sahr	5. OWNER'S ADDRESS 128 Stacy Lane, Eliot, ME 03903	6. OWNER'S TEL. # (207) 332-6203
7. CONTRACTOR Riverside & Pickering Marine Contractors	8. CONTRACTOR'S ADDRESS 34 Patterson Lane Newington, NH 03801	9. CONTRACTOR'S TEL. # (603) 427-2824
10. LOCATION/ADDRESS OF PROPERTY 128 Stacy Lane Eliot, ME 03903	11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED Tax Map 78 Lot 43	12. ZONING DISTRICT Rural District Shoreland Zone - Limited Residential
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3). Stabilize approximately 87 linear feet of shoreline to protect the integrity of the bank and existing trees in jeopardy of falling into the resource along the property in Eliot, Maine. A combination of riprap and vegetative shoreline stabilization measures are proposed.		

14. PROPOSED USE OF PROJECT Residential - Protect Shoreline	15. ESTIMATED COST OF CONSTRUCTION TBD
--	---

SHORELAND AND PROPERTY INFORMATION

16. LOT AREA (SQ. FT.) 24,829 SF	17. FRONTAGE ON ROAD (FT.) 100'
18. SO. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES N/A	19. ELEVATION ABOVE 100 YR. FLOOD N/A
20. FRONTAGE ON WATERBODY (FT.) Approximately 87 linear feet	21. HEIGHT OF PROPOSED STRUCTURE N/A
22. EXISTING USE OF PROPERTY Residential	23. PROPOSED USE OF PROPERTY Residential

Note: Questions 24 & 25 apply only to expansions of portions of existing structures which are less than the required setback.

<p>24. A) TOTAL FLOOR AREA OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89: _____ N/A _____ SQ. FT.</p> <p>B) FLOOR AREA OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT: _____ N/A _____ SQ. FT.</p> <p>C) FLOOR AREA OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK: _____ N/A _____ SQ. FT.</p> <p>D) % INCREASE OF FLOOR AREA OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89: _____ N/A</p>	<p>25. A) TOTAL VOLUME OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89: _____ N/A _____ CUBIC FT.</p> <p>B) VOLUME OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT: _____ N/A _____ CUBIC FT.</p> <p>C) VOLUME OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK: _____ N/A _____ CUBIC FT.</p> <p>D) % INCREASE OF VOLUME OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89: _____ N/A</p>
---	---

$(\% \text{ INCREASE} = \frac{B+C}{A} \times 100)$ <hr/> N/A %	$(\% \text{ INCREASE} = \frac{B + C}{A} \times 100)$ <hr/> N/A %
---	---

NOTE: IT IS IMPERATIVE THAT EACH MUNICIPALITY DEFINE WHAT CONSTITUTES A STRUCTURE, FLOOR AREA, AND VOLUME AND APPLY THOSE DEFINITIONS UNIFORMLY WHEN CALCULATING EXISTING AND PROPOSED SO. FT. AND CU. FT.

SITE PLAN

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AND AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURES TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING AND AFTER CONSTRUCTION (See attached guidelines)

SEE ATTACHED SITE PLAN

SCALE: _____ = _____ FT.

FRONT OR REAR ELEVATION

SIDE ELEVATION

SEE ATTACHED SITE PLAN

DRAW A SIMPLE SKETCH SHOWING BOTH THE EXISTING
AND PROPOSED STRUCTURES WITH DIMENSIONS

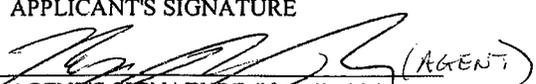
ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

- PLANNING BOARD REVIEW APPROVAL
(e.g. Subdivision, Site Plan Review)
- BOARD OF APPEALS REVIEW APPROVAL
- FLOOD HAZARD DEVELOPMENT PERMIT
- EXTERIOR PLUMBING PERMIT
(Approved HHE 200 Application Form)
- INTERIOR PLUMBING PERMIT
- DEP PERMIT (Site Location,
Natural Resources Protection Act)
- ARMY CORPS OF ENGINEERS PERMIT
(e.g. Sec. 404 of Clean Waters Act)

OTHERS:

NOTE: APPLICANT IS ADVISED TO CONSULT WITH THE CODE ENFORCEMENT OFFICER AND APPROPRIATE STATE AND FEDERAL AGENCIES TO DETERMINE WHETHER ADDITIONAL PERMITS, APPROVALS, AND REVIEWS ARE REQUIRED

I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE <u>TOWN OF ELIOT</u> SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.	
APPLICANT'S SIGNATURE	DATE
 (AGENT)	11/13/2023
AGENT'S SIGNATURE (if applicable)	DATE
Tidewater Engineering & Surveying, Inc.	

ELIOT SHORELAND ZONING PERMIT APPLICATION
 APPLICANT: EUGENE & NEDRA SAHR
 LOCATION: 128 STACY LANE, ELIOT, ME 03903



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B. TOWN GIS PROJECT LOCATION MAP12

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A. THE DOVER EAST QUADRANGLE MAINE COASTAL BLUFF MAP21

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



AGENT LETTER OF AUTHORIZATION

July 12, 2023

Re: Letter of Agent Authorization
Proposed Shoreline Stabilization: 128 Stacy Lane, Eliot, ME 03903
Reference Job No. 22-144

To Whom It May Concern:

This letter is to inform the Town of Eliot, the Maine Department of Environmental Protection, and the U.S. Army Corps of Engineers that Tidewater Engineering & Surveying, Inc. and Riverside & Pickering Marine Contractors, Inc. are hereby authorized to represent us as our agents in permitting a proposed shoreline stabilization within the previously developed 100' Tidal Buffer Zone and jurisdictional wetlands on our property. Said property is located at 128 Stacy Lane in Eliot, Maine.

Please contact me if there is any question regarding this authorization.

Sincerely,

Handwritten signatures of Eugene and Nedra Sahr in black ink.

Eugene & Nedra Sahr
128 Stacy Lane
Eliot, ME 03903

ELIOT SHORELAND ZONING PERMIT APPLICATION
 APPLICANT: EUGENE & NEDRA SAHR
 LOCATION: 128 STACY LANE, ELIOT, ME 03903



Property Deed

Doc# 2005014736
 BK 14486 Pg 0070 - 0073
 Received York SS
 03/22/2005 11:50AM
 Debra L. Anderson
 Register of Deeds

E

Seller: BRANDMAN
 Order No.: NLSF435209

Data JD: 61239
 Job No.: 33728

WARRANTY DEED

NORE. TRANSFER TAX PAID

Know all Men by these Presents, That ANDREW T. BRANDMAN, KIRA S. BRANDMAN, EUGENE SAHR AND NEDRA SAHR (herein referred to as Grantor, whether one or more), in consideration of the sum of Ten and No/100 Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, paid by EUGENE SAHR AND NEDRA SAHR, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP (herein referred to as Grantee, whether one or more), whose mailing address is 136 Stacy Lane, Eliot, ME 03903

does hereby give, grant, bargain, sell and convey with warranty covenants unto the said Grantee, his heirs and assigns forever, the following described real property, situated in the County of York, State of Maine, to-wit:

SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES.

TAX PARCEL NO.: MAP 78, LOT 43

BEING the same property conveyed to Andrew T. Brandman, Kira S. Brandman, Eugene Sahr and Nedra Sahr, all as joint tenants with rights of survivorship by Deed dated March 23, 2001, recorded March 27, 2001, in Book 10518, Page 220, York County, Maine.

To have and to hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Grantee, his heirs and assigns, to his and their use and behoof forever.

And Grantor does covenant with the said Grantee, his heirs and assigns, that Grantor is lawfully seized in fee of the premises, that they are free of all encumbrances except as herein stated, that Grantor does have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that Grantor and Grantor's heirs shall and will warrant and defend the same to the said Grantee, Grantee's heirs and assigns forever, against the lawful claims and demands of all persons.

This conveyance is made and accepted subject to the lien for current taxes and other assessments and all valid and subsisting restrictions, reservations, conditions, limitations, encumbrances, covenants, exceptions and easements as may appear of record, if any, affecting the above described property.

The singular number shall include the plural, the plural the singular, and use of any gender shall be applicable to all genders.

[Continued on Next Page]

(6 Clemons)
 Apps -> LSI
 700 Cherrington
 Corcoran PA
 15108
 0969

Return to: Eugene Sahr + Nedra Sahr
 136 Stacy Lane
 Eliot, ME 03903

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



Seller: BRANDMAN
Order No.: NLSE435209

Data ID: 61239

In Witness Whereof, Grantor, relinquishing and conveying all rights by descent and all other rights in the above described premises, has hereunto set their hand and seal this 23 day of the month of April, A.D. 2004.

Signed, Sealed and Delivered in presence of:

_____ Witness Signature Witness' Printed Name: <u>Sue Glackstein</u>	_____ <u>ATM</u> ANDREW T. BRANDMAN—Grantor
_____ Witness Signature <u>Sue Glackstein</u> Witness' Printed Name: <u>Sue Glackstein</u>	_____ <u>Kira S Brandman</u> KIRA S/ BRANDMAN—Grantor
_____ Witness Signature Witness' Printed Name: <u>Lori Ann Smith</u>	_____ <u>Eugene Sahr</u> EUGENE SAHR—Grantor
_____ Witness Signature Witness' Printed Name: <u>Lori Ann Smith</u>	_____ <u>Nedra Sahr</u> NEDRA SAHR—Grantor

(Acknowledgements continued)

ELIOT SHORELAND ZONING PERMIT APPLICATION
 APPLICANT: EUGENE & NEDRA SAHR
 LOCATION: 128 STACY LANE, ELIOT, ME 03903



Seller: BRANDMAN
 Order No.: NLSE435209

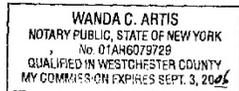
Data ID: 61239
 Job No.: 33728

STATE OF New York }
 COUNTY OF New York } ss:

Then personally appeared the above named ANDREW T. BRANDMAN and acknowledged the foregoing instrument to be his free act and deed.

Before me,
Wanda C. Artis
 Notary Public
 Attorney at Law
 Printed Name: Wanda C. Artis

STATE OF Connecticut }
 COUNTY OF Fairfield } ss: Shuford



Then personally appeared the above named KIRA S. BRANDMAN and acknowledged the foregoing instrument to be her free act and deed.

Before me,
[Signature]
 Notary Public
 Attorney at Law
 Printed Name: SUSAN A. GLADSTONE
 NOTARY PUBLIC
 NY COMMISSION EXPIRES APR. 30, 2008

STATE OF Maine }
 COUNTY OF York } ss:

Then personally appeared the above named EUGENE SAHR and acknowledged the foregoing instrument to be his free act and deed.

Before me,
[Signature]
 Notary Public
 Attorney at Law
 Printed Name: Lori Ann Smith

STATE OF }
 COUNTY OF } ss:

Then personally appeared the above named NEDRA SAHR and acknowledged the foregoing instrument to be her free act and deed.

Before me,

 Notary Public
 Attorney at Law
 Printed Name: _____

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



Seller: BRANDMAN
Order No.: NLSF435209

Data ID: 61239

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1:

A CERTAIN LOT OR PARCEL OF LAND LOCATED IN ELIOT, COUNTY OF YORK AND STATE OF MAINE AND BEING LOTS NUMBERED ONE (1) SECTION 1 ON "PLAN OF SUBDIVISION FOR GREENBRIAR CORP., ELIOT, YORK COUNTY, MAINE" DATED AUGUST 21, 1967, SURVEYED BY W. L. KIMBALL, SAID PLAT BEING RECORDED ON OCTOBER 27, 1967, IN YORK COUNTY REGISTRY OF DEEDS, PLAN BOOK 44, PAGE 40 BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A HUB SET IN THE GROUND AT STACY LANE, A PRIVATE WAY THENCE RUNNING NORTH EIGHTY FIVE DEGREES NINE MINUTES WEST BY LOT TWO (2) ONE HUNDRED SEVENTY SEVEN (177) FEET TO AN IRON PIPE AT THE EDGE OF THE PISCATAQUA RIVER; THENCE TURNING AND RUNNING IN A CURVED LINE BY SAID PISCATAQUA RIVER ONE HUNDRED (100) FEET TO AN IRON PIPE SET IN THE GROUND AT LAND OF FOSTER, THENCE TURNING AND RUNNING SOUTH EIGHTY SIX DEGREES THIRTY FIVE MINUTES EAST BY SAID FOSTER LAND ONE HUNDRED SEVENTY EIGHT AND TWENTY FIVE HUNDREDTHS (178.25) FEET TO AN IRON PIPE AT LOT THREE (3) THENCE TURNING AND RUNNING SOUTH THREE DEGREES TWENTY FIVE MINUTES WEST BY SAID LOT THREE (3) NINETY (90) FEET TO A HUB AND POINT OF BEGINNING.

PARCEL 2:

A CERTAIN LOT OR PARCEL OF LAND LOCATED IN ELIOT, COUNTY OF YORK AND STATE OF MAINE AND BEING LOT NUMBERED THREE (3) ON "PLAN OF SUBDIVISION FOR GREENBRIAR CORP., ELIOT, YORK COUNTY, MAINE" DATED AUGUST 21, 1967, SURVEYED BY W. L. KIMBALL, SAID PLAN BEING RECORDED ON OCTOBER 27, 1967, IN YORK COUNTY REGISTRY OF DEEDS, PLAN BOOK 44, PAGE 40 BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A HUB SET IN THE GROUND AT STACY LANE, A PRIVATE WAY, AND THENCE RUNNING NORTH 3° 25' EAST BY LOT NUMBERED ONE (1), NINETY (90) FEET TO AN IRON PIPE SET IN THE GROUND AT LAND OF FOSTER; THENCE TURNING AND RUNNING SOUTH 86° 35' EAST BY SAID LAND OF SAID FOSTER, ONE HUNDRED (100) FEET TO AN IRON PIPE SET IN THE GROUND AT LOT NUMBERED FIVE (5); THENCE TURNING AND RUNNING SOUTH 3° 25' WEST BY SAID LOT NUMBERED FIVE (5), NINETY-TWO AND FIVE TENTHS (92.5) FEET TO AN IRON PIPE SET IN THE GROUND AT SAID STACY LANE; THENCE TURNING AND RUNNING NORTH 85° 09' WEST BY SAID STACY LANE, ONE HUNDRED (100) FEET TO A HUB AND POINT OF BEGINNING.

END OF DOCUMENT

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



ATTACHMENT #1- PROJECT DESCRIPTION:

A. Introduction/Purpose:

The proposed project consists of the stabilization of approximately 87 linear feet of eroding shoreline. Shoreline erosion is typically a gradual, natural process that allows the ecosystem to adapt, however the erosion of this embankment has been accelerated due to severe weather events and the loss of the protection of marsh grass in the intertidal area. The exposed shoreline has led to the loss of native soils and sediments which in turn has caused slope failure and several existing mature trees to collapse into the river. If left in this condition, the slope will continue to erode causing further degradation of existing trees and vegetation, undermining the uplands of the property and leading to further loss of intertidal habitats. Stabilizing the shoreline will help to prevent further erosion, help retain the mature trees that are in jeopardy of being lost, and prevent further impacts to the mudflat habitat.

B. Project Summary:

The owners have witnessed their shoreline erode over time causing extensive tree damage and soil loss. To protect the embankment along the Piscataqua River, approximately 87 linear feet of shoreline will be reconstructed with riprap and vegetative stabilization measures. The riprap will consist of approximately 18" to 24" sized rocks, supported by a crushed stone base, that extends from the toe at a 1:1 slope up to an approximate elevation of 13.0'. The riprap and stone will be underlain with a geo-textile fabric that allows drainage while keeping the underlying soils in place. The top of the riprap embankment will transition to a 3:1 vegetated slope stabilized with native vegetation, promoting healthy growth along the shoreline, supporting existing mature trees, and preventing further upland soil from impacting the mudflat habitat. The proposed impact below the Highest Annual Tide (HAT) line is approximately 488 sf. The toe location was established to minimize the impacts below the HAT, follow the existing shoreline edge, and limit excavation into the uplands. Further excavation would produce unnecessary impacts to the established shoreland vegetation, mature trees, and tree canopy. See attached plans for additional detail.

C. Historical Knowledge:

The property was purchased by the applicant in 2004. Review of aerial photographs from 2003 to present shows evidence of increased shoreline degradation and trees being undermined and falling into the Piscataqua River.

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



D. Impact Calculations:

The total permanent impacts below the H.A.T. is estimated as follows...

Total area of rip-rap impact = 488 sf +/- (Below HAT)

Disturbance area of the adjacent uplands are as follows...

Area of rip-rap impact = 708 sf +/-

Graded vegetative slope = 1087 sf +/-

Total Disturbance Area = 1795 sf +/- (Above HAT: Uplands)

F. Location-Based Impact Mitigation:

After thoroughly evaluating the shoreline and intertidal zones along this property, we are recommending the shoreline stabilization location shown on the enclosed plans for the following reasons:

- 1) Reestablishes the natural shape of the edge of shoreline.
- 2) Protects mature existing trees to the maximum extent possible from being removed by optimizing the slope of riprap and vegetation to limit root disturbance of certain trees.
- 3) The elevation of the top of the proposed riprap slope will be above the 100- and 500-year storm flood elevations to prevent future erosion during major storm events and wave action.
- 4) The location of the toe of the slope minimizes impacts to the existing mud flat below the HAT line while maintaining and supporting mature vegetation in the uplands.
- 5) The uplands adjacent to the shoreline are developed as lawn area and will not require the unnecessary removal of any trees or other vegetation for construction access.

G. Revegetation Plan:

The revegetation plan was established in accordance with Section 44-35.p.8.h from the *Code of Ordinances* for Eliot, Maine, and with the help of a landscape architect from Woodburn & Company, Victoria Martel. See the attached memo from Woodburn & Company for further revegetation design decisions.

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



Attachment 1:



September 29, 2023

**Re: Sahr Residence, 128 Stacy Lane, Eliot, ME
Shoreline Stabilization Re-Vegetation Plan**

To Whom It May Concern:

Woodburn & Company Landscape Architecture has prepared the shoreline re-vegetation plan, for the Sahr Residence, included in the permitting package before you. Our goal in preparing this plan, was to revegetate the impacted area at a density and character equal to, or better than, the existing condition.

In reviewing the stabilization plans prepared by Tidewater Engineering, you will see upslope of the proposed riprapped embankment is a 3:1 slope. We are proposing to vegetate that slope by installing a 50/50 mix of two seed mixes from New England Wetland Plants: the New England Coastal Salt Tolerant Grass Mix, and the New England Roadside Matrix Upland Seed Mix. This blend of seeds will propagate the embankment with a mix of native grasses, forbs and shrubs which will establish quickly for immediate stabilization, and then naturalize over time creating a dense and varied planting on the slope leading to the river.

The area from the top of the slope to the residence, is populated with a beautiful stand of mature oak trees, which will remain. These trees appear healthy, and provide canopy over much of the embankment and the yard.

In order to offset the removal of four mature trees (whose removal is unavoidable given their location on the compromised bank) we are proposing the addition of four shade trees, two White Oaks and two disease-resistant Elms. These trees will be located at the top of the slope, as close as possible to the sites where the other trees were removed.

Additionally, there are handful of smaller trees on the banking which must be removed, In order to counteract their removal, we are proposing five River Birch, to be planted below the canopy of the Oaks, to further naturalize the area, and buffer the impacts of the stabilization efforts.

Please feel free to contact me at our office, phone number below, with any questions you may have.

Sincerely,

Victoria Martel

103 KENT PLACE
NEWMARKET, NH 03857
603.659.5949
woodburnandcompany.com

ATTACHMENT #2- ALTERNATIVES ANALYSIS:

- 1) Do Nothing: This alternative would be for the applicant to continue to allow the shoreline on their property to erode into the coastal resource and further undermine existing trees and vegetation. This alternative was not pursued for the following reasons:
 - a. Storm events and tide fluctuations will continue to erode the shoreline.
 - b. Existing vegetation and mature trees will continue to be undermined, further exposing root systems, and causing additional trees to fall into the water.
 - c. The shoreline will become increasingly unstable, posing a hazard to the owners and the structures on their property.
 - d. Intertidal habitats, such as marsh grass and mudflats, will continue to be lost at a rapid pace.

- 2) Vegetative Stabilization: This alternative would attempt to utilize solely vegetative measures to stabilize the slope. This alternative was not pursued for the following reasons:
 - a. The existing slope is too steep for vegetation to be used for stabilization.
 - b. The underlying soils will continue to erode and fail under the root systems.
 - c. Vegetative measures are not appropriate for this location due to its direct exposure to wind, wave, and ocean swells. Vegetative measures would not be able to withstand this exposure level.

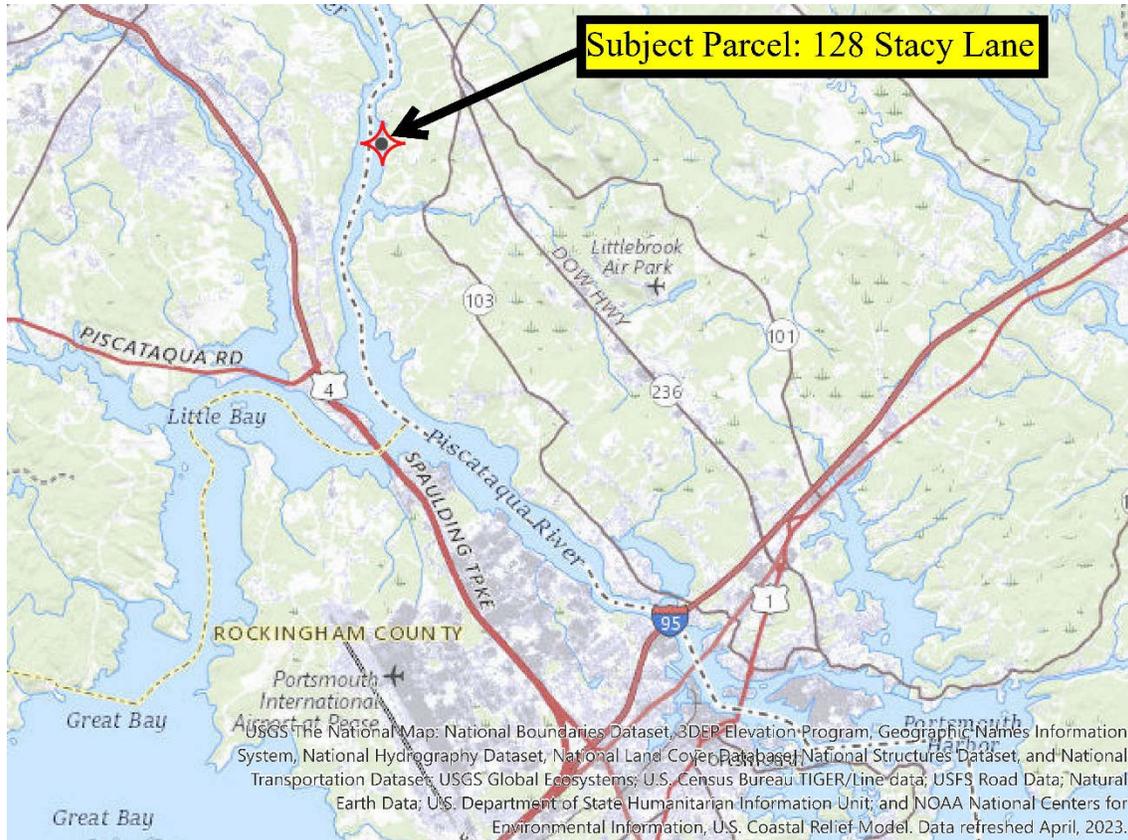
- 3) Vertical Bulkhead: This alternative would provide structural retaining walls between the coastal resource and the uplands. This alternative was not pursued for following reasons:
 - a. Bulkheads reflect wave energy which can cause unintended impacts to nearby shorelines.
 - b. A timber bulkhead would be built using a pressure treated wood which is treated with chemicals that are harmful to the environment. Riprap stabilization in a marine environment typically has a longer lifespan than timber. The shorter lifespan would increase the impact to the resource by shortening the time span between replacements of the structure.

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
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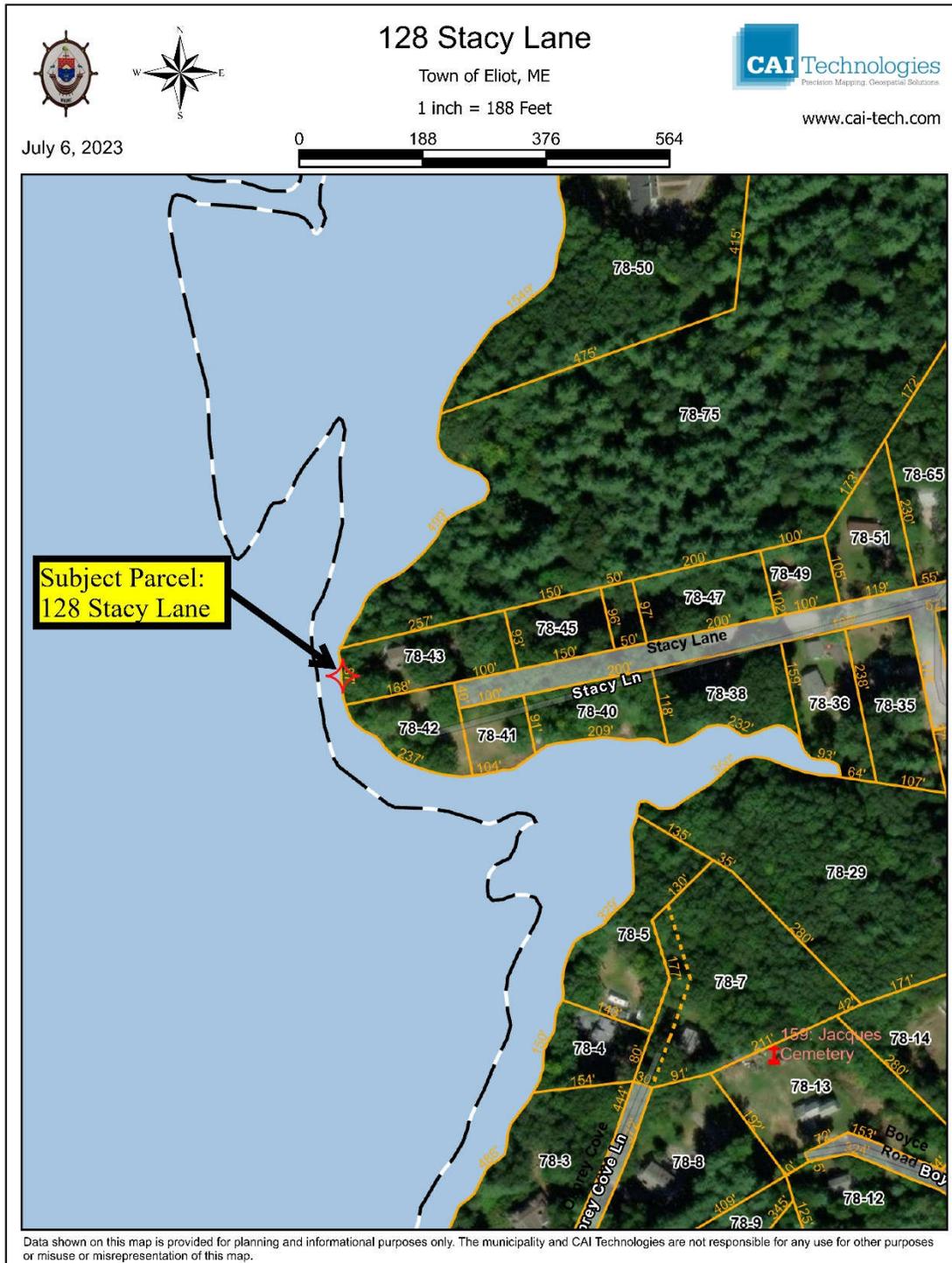


ATTACHMENT #3- LOCATION MAPS:

A. USGS Project Location Map



B. Town GIS Project Location Map



ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
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ATTACHMENT #4- PROJECT SITE PHOTOS:

Photo 1: View showing sloping edge of property shoreline from uplands (02/13/2023)



ELIOT SHORELAND ZONING PERMIT APPLICATION
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Photo 2: View showing eroding toe of slope, slope failure, and exposed roots (02/13/2023)



ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
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Photo 3: View showing slope failure, fallen trees, eroding vegetation, and exposed pipe (02/13/2023)



ELIOT SHORELAND ZONING PERMIT APPLICATION
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Photo 4: View showing existing mud flats along eroding shoreline with downed trees and exposed root systems (07/7/2023)



ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



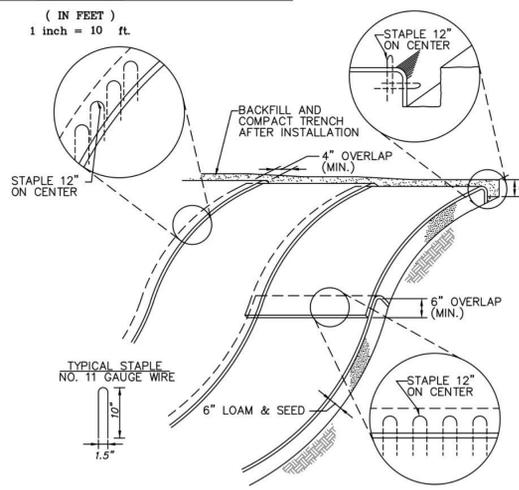
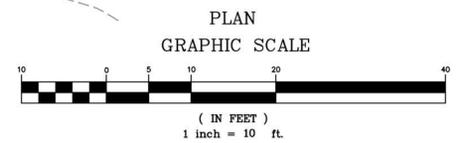
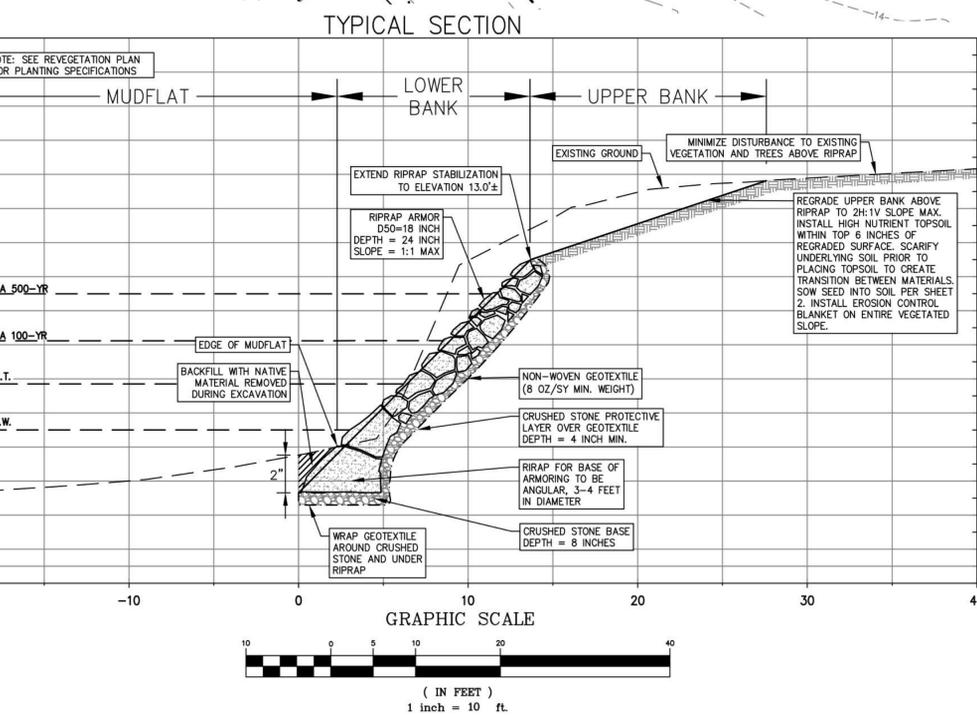
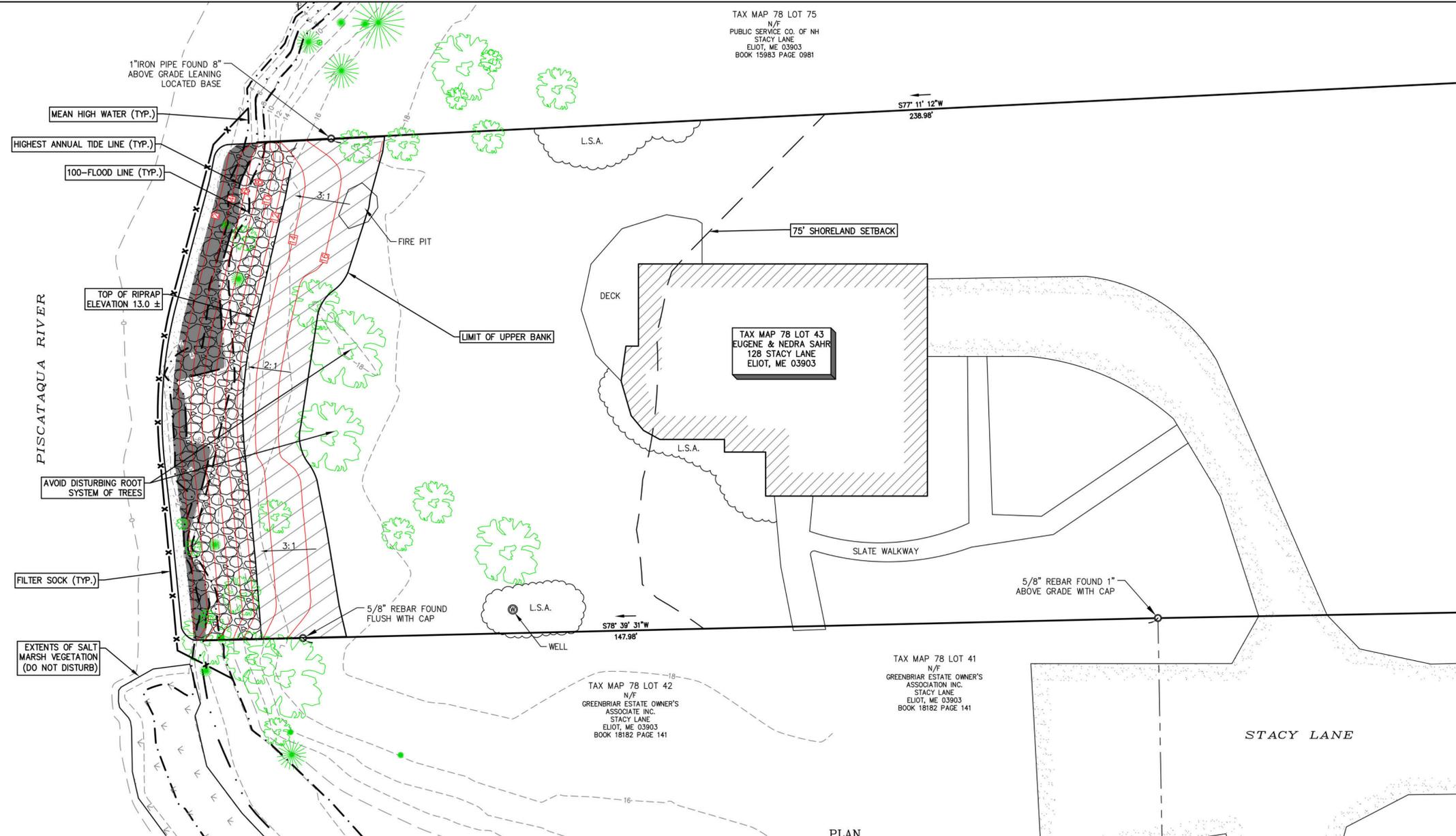
ATTACHMENT #5- SLOPE STABILIZATION AND REVEGETATION PLAN:

LEGEND

- SUBJECT PARCEL BOUNDARY LINE
- APPROXIMATE ABUTTER'S LINE
- EDGE OF PAVEMENT
- 10' CONTOUR: POSITIVE ELEVATION
- (1) CONTOUR: NEGATIVE ELEVATION
- IRON PIPE, ROD, OR DISK FOUND
- UTILITY POLE
- WELL
- RIPRAP ABOVE H.A.T. LINE
- RIPRAP BELOW H.A.T. LINE
- UPPER BANK EXTENTS
- AREA OF MUDFLAT TO BE RESTORED

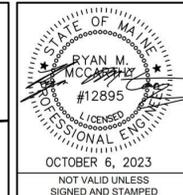
GENERAL NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT A PROPOSED SHORELINE STABILIZATION PLAN ALONG TAX MAP 78 80 LOT 43 IN THE TOWN OF ELIOT, MAINE. THE OWNER AND THEIR CONTRACTOR ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED FEDERAL, STATE AND LOCAL PERMITS PRIOR TO CONSTRUCTION.
 2. OWNER OF RECORD:
MAP 78 LOT 43
EUGENE & NEDRA SAHR
128 STACY LANE, ELIOT, ME 03903
Y.C.R.D. BOOK 14406 PAGE 70
 3. BASIS OF BEARING IS MAINE STATE PLANE (NAD83) WEST ZONE, US FOOT. ELEVATIONS AND TOPOGRAPHY SHOWN HEREON CORRESPOND TO NAVD88.
 4. THE BOUNDARY SHOWN HEREON IS BASED ON REFERENCE PLAN 1.
 5. TIDAL ELEVATIONS: THE FOLLOWING ELEVATIONS WERE DETERMINED BY DATA PUBLISHED BY N.O.A.A. ALL ELEVATIONS CORRESPOND TO NAVD88.
8423005 ATLANTIC TERMINALS T14A NH (14,800 FT± DOWNSTREAM)
MEAN HIGH-HIGH WATER (MHHW) 3.38'
MEAN HIGH WATER (MHW) 3.01'
MEAN LOW WATER (MLW) -3.73'
MEAN LOWER-LOW WATER (MLLW) -3.99'
 6. THE 2018 HIGHEST ANNUAL TIDE (H.A.T.) ELEVATION PUBLISHED BY MAINE DEP FOR THE PISCATAQUA RIVER BETWEEN SALMON FALLS RIVER AND DOVER POINT IS ELEV. = 5.7' (NAVD88). THE H.A.T. ELEVATION IS USED TO DELINEATE THE UPLAND EDGE OF THE COASTAL RESOURCE FOR REGULATORY PURPOSES UNDER THE MANDATORY SHORELAND ZONING ACT.
 7. THE 100-YEAR FLOOD ELEVATION OF THE PISCATAQUA RIVER IS ELEVATION 9.0' (NOV029) PER FEMA FIRM MAP 230149 0005B. THIS ELEVATION CONVERTED TO THE DATUM SHOWN HEREON IS 8.24' (NAVD88).
 8. UTILITY LOCATIONS SHOWN ON THESE PLANS ARE APPROXIMATE AND MAY NOT BE ENTIRELY ACCURATE OR COMPLETE.
 9. THE CONTRACTOR IS RESPONSIBLE FOR ALL MEANS AND METHODS OF CONSTRUCTION, INSTALLING AND MAINTAINING PROPER EROSION AND SEDIMENT CONTROL MEASURES, IMPLEMENTATION OF A CONSTRUCTION SAFETY PLAN, COMPLYING WITH ALL PERMITTING CONDITIONS.
 10. ESTIMATED AREA OF IMPACT PER PROPERTY BELOW H.A.T. LINE
MAP 78 LOT 43:
LENGTH OF SHORELINE: 87 LF±
AREA OF IMPACT BELOW H.A.T. LINE: 499 SF±
 11. SEE SHEET 2 FOR REVEGETATION REQUIREMENTS AND SPECIFICATIONS.
- REFERENCE PLAN:
1. "SUBDIVISION FOR GREENBRIAR CORP. ELIOT, YORK COUNTY, MAINE" PREPARED BY W.L. KIMBALL, DATED AUGUST 21, 1967 AND RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS PLAN BOOK 44 PAGE 40.



- NOTES:**
1. BEGIN AT THE TOP OF BLANKET INSTALLATION AREA BY ANCHORING BLANKET IN A 6" DEEP TRENCH. BACKFILL AND COMPACT TRENCH AFTER STAPLING.
 2. ROLL THE BLANKET DOWN THE SWALE IN THE DIRECTION OF THE WATER FLOW.
 3. THE EDGES OF BLANKETS MUST BE STAPLED WITH APPROX. 4 INCH OVERLAP WHERE 2 OR MORE STRIP WIDTHS ARE REQUIRED.
 4. WHEN BLANKETS MUST BE SPICED DOWN THE SWALE, PLACE BLANKET END OVER END WITH 6 INCH (MIN.) OVERLAP AND ANCHOR END SLOPE BLANKET IN A 6 INCH DEEP TRENCH.
 5. BLANKET SHALL BE NORTH AMERICAN GREEN SC-150 OR APPROVED EQUAL.
 6. APPLY SPECIFIED SEED MIXTURE BELOW EROSION CONTROL BLANKET.

EROSION CONTROL BLANKET SLOPE PROTECTION
NOT TO SCALE



DATE:	OCTOBER 6, 2023
NO.:	
SUBMISSION/REVISION DESCRIPTION:	

TIDEWATER
ENGINEERING & SURVEYING, INC.
1021 Goodwin Rd Unit 1, Eliot, ME 03903
(207)439-2222 • www.tidewatercivil.com

MDEP SHORELINE STABILIZATION PLAN
OF LANDS OWNED BY
EUGENE & NEDRA SAHR
LOCATED IN
ELIOT, YORK COUNTY, MAINE

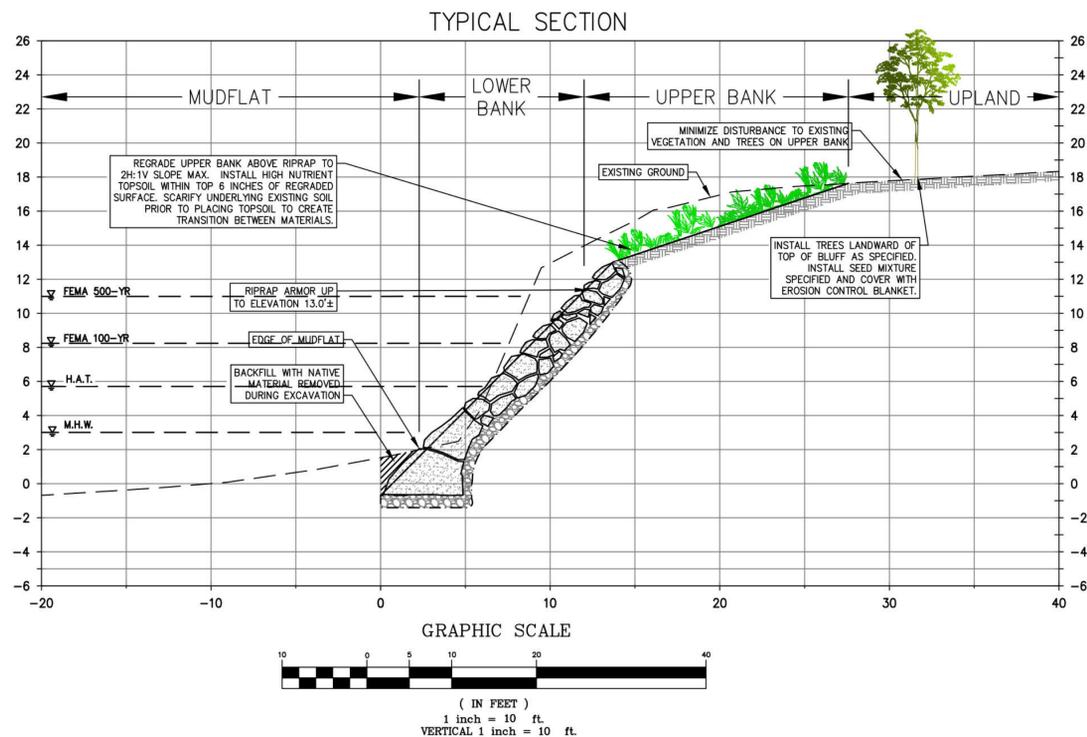
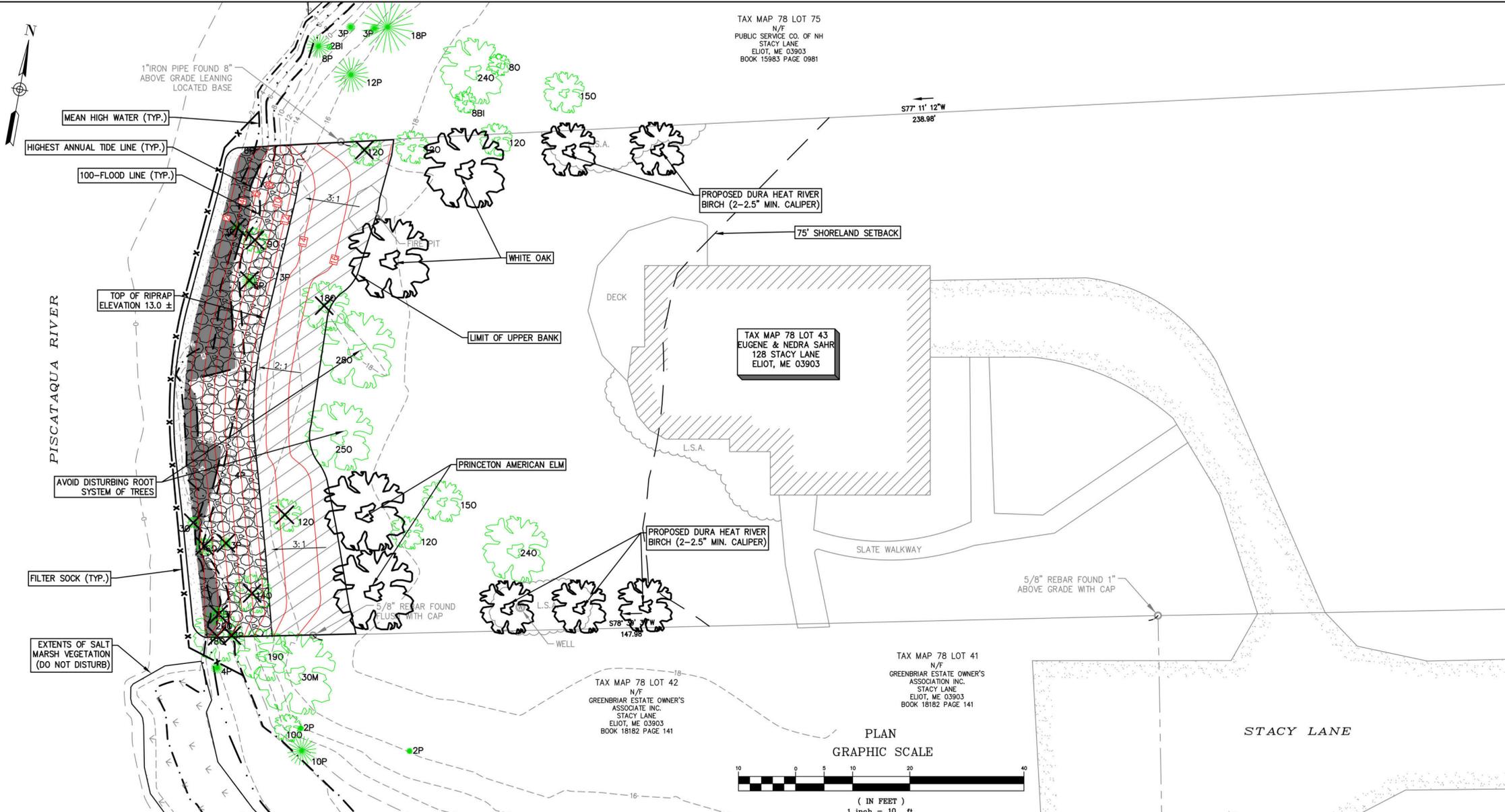
JOB #:	22-144
DATE:	OCT. 6, 2023
SCALE:	1" = 10'
SHEET:	1 OF 2

LEGEND

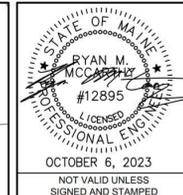
- EXISTING DECIDUOUS TREE
 - EXISTING CONIFEROUS TREE
 - PROPOSED DECIDUOUS TREE
 - PROPOSED TREE TO BE REMOVED
- EXAMPLE DESIGNATION:
 "7P" = 7" CALIPER PINE TREE
- P = PINE TREE BI = BIRCH TREE
 O = OAK TREE M = MAPLE TREE

GENERAL NOTES:

1. THE PURPOSE OF THIS PLAN IS TO PROVIDE A REVEGETATION PLAN OF THE AREA LOCATED WITHIN A 25' X 50' GRID SYSTEMS ALONG THE SHORELINE OF TAX MAP 78 LOT 43 IN THE TOWN OF ELIOT, MAINE. THIS PLAN HAS BEEN PREPARED IN CONJUNCTION WITH A SHORELINE STABILIZATION PROJECT.
2. OWNER OF RECORD:
 EUGENE & NEDRA SAHR
 128 STACY LANE, ELIOT, ME 03903
 YORK COUNTY REGISTRY OF DEEDS BOOK 14406 PAGE 70
3. THE SHORELINE OF THE PISCATAQUA RIVER ALONG THE SUBJECT LOT HAS BEEN DESIGNATED AS AN UNSTABLE COASTAL BLUFF BY MAINE GEOLOGICAL SURVEY AS DEPICTED ON THE DOVER EAST QUADRANGLE, MAINE COASTAL BLUFF MAP OPEN FILE NO. 02-186 DATED 2002.
4. THE UNSTABLE COASTAL BLUFF IN THE VICINITY OF THE PROJECT INCLUDES VEGETATION AND TREES THAT HAVE BEEN UNDERMINED BY EROSION CAUSED BY TIDAL CURRENTS, WAVES AND ICE MOVEMENT. THE UNDERLYING SOILS AND ROOT SYSTEMS OF THE VEGETATION AND TREES HAVE BEEN EXPOSED IN MANY AREAS.
5. THE PROPOSED STABILIZATION PROJECT WILL INCLUDE RECONSTRUCTING AND ARMORING THE LOWER BANK WITH RIPRAP AND REGRADING THE UPPER BANK TO A MAXIMUM 2:1 SLOPE WITH VEGETATIVE STABILIZING METHODS. AS A RESULT, SOME OF THE EXISTING VEGETATION ON THE UNSTABLE BLUFF WILL NEED TO BE REMOVED. THIS PLAN DEPICTS THE PROPOSED TREES TO BE REMOVED AND THE EXISTING TREES TO REMAIN. THE CALIPER AND SPECIES OF EACH TREE HAS BEEN DOCUMENTED AS WELL.
6. REFERENCE IS MADE TO CHAPTER 44 SHORELAND ZONING SECTION SEC. 44-35(p) FOR DETAILED INFORMATION PERTAINING TO THE REGULATIONS ASSOCIATED WITH "CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING."
7. CLEARING AND VEGETATION REMOVAL IN CONJUNCTION WITH A SHORELINE STABILIZATION PROJECT IS EXEMPT FROM THE CLEARING AND VEGETATION REMOVAL STANDARDS SET FORTH IN SECTION 44-35(p)(1)-(5) PROVIDED THE REMOVAL OF VEGETATION IS LIMITED TO THAT WHICH IS NECESSARY AND RE-VEGETATION IS COMPLETED IN ACCORDANCE WITH SECTION 44-35(p)(9)(h) SUCH THAT THE REVEGETATION SHALL OCCUR IN THE SAME AREA AND AT A DENSITY COMPARABLE TO PRE-EXISTING.
8. THE PROPOSED TREES TO BE REMOVED ARE BASED UPON A MEETING HELD WITH RIVERSIDE & PICKERING MARINE CONTRACTORS AT THE SITE ON FEBRUARY 13, 2023. THE PROPOSED TREES TO BE REMOVED WERE LIMITED TO THAT WHICH WAS DETERMINED TO BE NECESSARY DUE TO BEING LOCATED WITHIN THE AREA TO BE ARMORED WITH RIPRAP, REGRADING THE UPPER BANK AND/OR FOR EQUIPMENT ACCESS AND MOBILITY PURPOSES.
9. THE AREA ABOVE THE PROPOSED RIPRAP AND DESIGNATED AS THE "UPPER BANK" IS TO BE STABILIZED USING VEGETATIVE MEASURES. A 50% SEED MIX COMBINATION OF NEW ENGLAND ROADSIDE MATRIX AND COASTAL SALT TOLERANT GRASS SHALL BE PLANTED WITHIN THE UPPER BANK TO CREATE A DIVERSE LANDSCAPE AND ROOT SYSTEM.
10. THE OWNER AND THEIR CONTRACTOR ARE RESPONSIBLE FOR OBTAINING AND COMPLYING WITH ALL REQUIRED FEDERAL, STATE AND LOCAL PERMITS PRIOR TO CONSTRUCTION.



PLANTING SCHEDULE			
LOCATION	COMMON NAME	SCIENTIFIC NAME	COMMENTS
UPPER BANK: 50/50 BLEND SEED MIXTURE FROM NEW ENGLAND WETLAND PLANTS			
NEW ENGLAND ROADSIDE MATRIX UPLAND SEED MIX			
	VIRGINIA WILD RYE	ELYMUS VIRGINICUS	THESE MIXES ARE UNUSUAL IN THAT THEY CONTAIN NATIVEGRASSES, WILDFLOWERS, AND SHRUBS THAT ARE BLENDED TOGETHER AS A NATIVE MATRIX SEED MIX. IN AREAS THAT RECEIVE FREQUENT MOWING, THE COLD SEASON GRASSES WILL DOMINATE, SUCH AS THOSE AREAS CLOSEST TO THE ROADWAY SHOULDER. IN AREAS FARTHER FROM THE ROAD, WHICH MAY BE MOWN ONLY ONCE EACH YEAR, OR IN HARD TO MOW AREAS, SUCH AS AROUND SIGN POSTS, THE WILDFLOWER COMPONENT WILL BECOME DOMINANT. ALONG CUTS AND SIDE SLOPES WHICH MAY NEVER BE MOWN, THE SHRUB COMPONENT WILL ADD DIVERSITY AND BEAUTY TO THE ROADSIDE PLANTINGS. IT IS A PARTICULARLY APPROPRIATE SEED MIX FOR ROADSIDES, INDUSTRIAL SITES, OR CUT AND FILL SLOPES. THESE MIXES MAY BE APPLIED BY HYDROSEEDING, OR BY MECHANICAL SPREADER. ALWAYS APPLY ON A CLEAN, WEED-FREE SEED BED. AFTER SOWING, LIGHTLY RAKE OR ROLL THE SITE TO IMPROVE SEED-TO-SOIL CONTACT. BEST RESULTS ARE OBTAINED WITH A MID-LATE SPRING SEEDING. SUMMER SEEDING WILL BENEFIT FROM A LIGHT MULCHING OF CLEAN, WEED-FREE STRAW TO CONSERVE SOIL MOISTURE.
	PANICLEDLEAF TICK TREFOIL	DESMODIUM PANICULATUM	
	LITTLE BLUE STEM	SCHIZACHYRIUM SCOPARIUM	
	BIG BLUESTEM	ANDROPOGON GERARDII	
	RED FESCUE	FESTUCA RUBRA	
	INDIAN GRASS	SORGHASTRUM NUTANS	
	SWITCH GRASS	PANICUM VIRGATUM	
	STAGHORN SUMAC	RHUS TYPHINA	
	GREY DOGWOOD	CORNUS RACEMOSA	
	SILKY DOGWOOD	CORNUS AMOMUM	
	EVENING PRIMROSE	OENOTHERA BIENNIS	
	BUTTERFLY MILKWEED	ASCLEPIAS TUBEROSA	
	BLACK EYES SUSAN	RUDBECKIA HIRTA	
	PATRIDGE PEA	CHAMAECRISTA FASCICULATA	
	HOLLOW-STEM JOE PYE WEED	EUPATORIUM FISTULOSUM	
NEW ENGLAND COASTAL SALT TOLERANT GRASS MIX			
	CANADA WILD RYE	ELYMUS CANADENSIS	THE NEW ENGLAND COASTAL SALT TOLERANT SEED MIX CONTAINS A SELECTION OF NATIVE GRASSES THAT TOLERATE SALTY CONDITIONS. THIS MIX IS APPROPRIATE FOR DRIER COASTAL AREAS THAT RECEIVE SALT SPRAY OR MIST. ALWAYS APPLY ON CLEAN BARE SOIL. THE MIX MAY BE APPLIED BY HYDRO-SEEDING, BY MECHANICAL SPREADER, OR ON SMALL SITES IT CAN BE SPREAD BY HAND. LIGHTLY RAKE, OR ROLL TO ENSURE PROPER SEED TO SOIL CONTACT. BEST RESULTS ARE OBTAINED WITH A SPRING SEEDING. LATE SPRING AND EARLY SUMMER SEEDING WILL BENEFIT WITH A LIGHT MULCHING OF WEED-FREE STRAW TO CONSERVE MOISTURE. IF CONDITIONS ARE DRIER THAN USUAL, WATERING MAY BE REQUIRED. LATE FALL AND WINTER DORMANT SEEDING REQUIRE AN INCREASE IN THE SEEDING RATE. FERTILIZATION IS NOT REQUIRED UNLESS THE SOILS ARE PARTICULARLY INFERTILE. PREPARATION OF A CLEAN WEED FREE SOIL SURFACE IS NECESSARY FOR OPTIMAL RESULTS.
	RED FESCUE	FESTUCA RUBRA	
	ATLANTIC COASTAL PICNIC GRASS	PANICUM AMARUM	
	BIG BLUESTREAM	ANDROPOGON GERARDII	
	INDIAN GRASS	SORGHASTRUM NUTANS	
	SWITCH GRASS	PANICUM VIRGATUM	
	PATH RUSH	JUNCUS TENUIS	
UPLAND: TREE PLANTINGS			
	DURA HEAT RIVER BIRCH	BETULA NIGRA 'DURA HEAT'	7-8' HT. - QUANTITY = 5
	WHITE OAK	QUERCUS ALBA	2-2.5" CAL - QUANTITY = 2
	PRINCETON AMERICAN ELM	ULMUS AMERICANA 'PRINCETON'	2-2.5" CAL - QUANTITY = 2



DATE:	OCTOBER 6, 2023
NO.	
DESCRIPTION	SUBMISSION/REVISION DESCRIPTION

TIDEWATER
 ENGINEERING & SURVEYING, INC.
 1021 Goodwin Rd Unit 1, Eliot, ME 03903
 (207)439-2222 • www.tidewatercivil.com

SHORELAND ZONE RE-VEGETATION PLAN
 OF LANDS OWNED BY
 EUGENE & NEDRA SAHR
 LOCATED IN
 ELIOT, YORK COUNTY, MAINE

JOB #: 22-144
 DATE: OCT. 6, 2023
 SCALE: 1" = 10'
 SHEET: 2 OF 2

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



ATTACHMENT #6- CONSTRUCTION PLAN:

Approximately 87 linear feet of riprap armoring will be installed along the existing embankment to mitigate further erosion. Prior to any soil disturbing activities, the Contractor shall install all erosion and sediment control measures which includes a filter sock barrier just seaward of the toe of the slope. The Contractor will then proceed with excavating the existing mudflat to dig out a keyway for the toe of the riprap. The toe of the riprap will then be established using a base of 24" stone that is 3-4 feet wide, supported by an 8" gravel base. When the excavator digs out a keyway toe for the riprap, a non-woven, geo-textile filter fabric will be installed between the exposed soil and the riprap to help prevent erosion of fine particulates from the upland and promote healthy drainage. Once the toe is established, riprap of various sizes ($D_{50} = 24"$) will be built up at a 1:1 slope up to an approximate elevation of 13.0'. From there, the slope will transition to a maximum 2:1 graded vegetative slope. After the work is completed and the site is established, the filter sock shall be removed in its entirety. The total time of the site work will be completed from the uplands in approximately three weeks.

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



ATTACHMENT #7- EROSION CONTROL PLAN:

Throughout the entire construction period for the slope stabilization a silt filter sock will be placed seaward of the proposed riprap toe location. This will be in place to reduce sedimentation of the resource during high tide when bare soil may be exposed to the river. After completion of the project the silt filter sock will be removed completely.

ELIOT SHORELAND ZONING PERMIT APPLICATION
APPLICANT: EUGENE & NEDRA SAHR
LOCATION: 128 STACY LANE, ELIOT, ME 03903



ATTACHMENT #8- SITE CONDITION REPORT

The site plan enclosed as Attachment 5 depicts two-foot contours, existing resource boundaries, the area of the resource to be altered, activity location and dimensions and wetland/waterbody classification. The slope to be stabilized is located within both upland areas and the intertidal zone.

As this project is associated with a coastal resource subject to tidal action, the upland edge of the resource was delineated by the highest annual tide (HAT) elevation published by Maine DEP for 2018. The HAT for Dover Point is elevation 5.7' referenced to the North American Vertical Datum of 1988 (NAVD88). This method for delineating the coastal resource is widely accepted by the State of Maine pursuant to the Mandatory Shoreland Zoning Act.

The shoreline of the Piscataqua River along the subject lot has been designated as an unstable coastal bluff by Maine Geological Survey. See attachment 8A for The Dover East Quadrangle Maine Coastal Bluff Map, dated 2002.

The surface of the resource and intertidal zone within the project limits is comprised primarily of mud flats. There are sections of marsh grass located just outside the property limits that are to remain undisturbed throughout the construction process. Fallen trees and vegetation with exposed soils are scattered close to the shoreline embankment. Failure and erosion of the shoreline has resulted in sediment from the embankment covering portions of the mudflat, further affecting intertidal habitats. For more detailed information, please refer to the enclosed *Appendix B: MDEP Coastal Wetland Characterization: Intertidal and Shallow Subtidal Field Survey Checklist*.

A section view of the proposed shoreline is provided within Attachment 5. This view provides a clear representation of the proposed shoreline slope with respect to the substrate and the tidal elevations experienced at this site, including LAT, MLW, MHW, HAT and the 100-year flood elevation. The 100-year flood elevation published by FEMA is elevation 9.0 feet (NGVD29) which corresponds to elevation 8.24' (NAVD88), the elevation datum depicted on the plans.

The adjacent uplands are developed with landscaped areas and residential structures. Existing trees or upland vegetation will be impacted by the proposed slope stabilization, however, additional trees and vegetation will be planted to restore the shoreline to its original density.

ELIOT SHORELAND ZONING PERMIT APPLICATION
 APPLICANT: EUGENE & NEDRA SAHR
 LOCATION: 128 STACY LANE, ELIOT, ME 03903



A. THE DOVER EAST QUADRANGLE MAINE COASTAL BLUFF MAP

Coastal Bluffs

SCALE: 1:25000

DATA COLLECTOR AND COMPILER:
 TIDEWATER ENGINEERING & SURVEYING, INC.

Dover East Quadrangle, Maine

Charles H. Hurler, Jr. is the principal geologist for the project. He is a registered professional geologist in the State of Maine, No. 10000. He has been a member of the Maine Geological Society since 1980. He has worked for the Maine Geological Survey and has been a consultant to the State of Maine and various municipalities. He has also worked for the U.S. Geological Survey and the U.S. Army Corps of Engineers. He has a B.S. in Geology from the University of Maine, Orono, and a M.S. in Geology from the University of New Hampshire, Durham. He has published several papers on coastal geology and has been a speaker at several national and international conferences. He is currently working on a Ph.D. dissertation on coastal geology at the University of New Hampshire.

Alfonso E. Mander, Robert M. Erickson, and Joseph T. Riley

Digital cartographer:
 Jessica N. White
 Steve C. Klocke

Cartographic design and editing:
 Robert D. Tucker
 Stephanie B. Eckstein

Maine Geological Survey
 Address: 22 State House Station, Augusta, Maine 04333
 Phone: (207) 624-1111 Fax: (207) 624-1112
 Email: maine@maine.gov
 Website: www.maine.gov/geology

Open-File No. 02-186
 2002
 This map was prepared by
 TIDEWATER ENGINEERING & SURVEYING, INC.

Types of Bluffs Along Maine's Coast

The purpose of this map is to provide a visual representation of the types of bluffs that occur along the coast of Maine. The map is based on a detailed field survey of the Dover East Quadrangle, Maine, and is intended to provide a general overview of the types of bluffs that occur in this area. The map is not intended to be used for engineering or other purposes that require detailed information about the bluffs.

The map shows the following types of bluffs:

- Block massive bluffs:** These bluffs are composed of massive, blocky rock that has been eroded into a series of vertical faces. They are typically found in the northern part of the Dover East Quadrangle.
- Stratified bluffs:** These bluffs are composed of layers of rock that have been eroded into a series of horizontal faces. They are typically found in the southern part of the Dover East Quadrangle.
- Soft bluffs:** These bluffs are composed of soft, easily eroded rock that has been eroded into a series of rounded faces. They are typically found in the southern part of the Dover East Quadrangle.
- Shale bluffs:** These bluffs are composed of shale rock that has been eroded into a series of vertical faces. They are typically found in the southern part of the Dover East Quadrangle.
- Granite bluffs:** These bluffs are composed of granite rock that has been eroded into a series of vertical faces. They are typically found in the southern part of the Dover East Quadrangle.
- Basalt bluffs:** These bluffs are composed of basalt rock that has been eroded into a series of vertical faces. They are typically found in the southern part of the Dover East Quadrangle.
- Soft bluffs with a cap:** These bluffs are composed of soft rock that has been eroded into a series of rounded faces. They are typically found in the southern part of the Dover East Quadrangle.
- Shale bluffs with a cap:** These bluffs are composed of shale rock that has been eroded into a series of vertical faces. They are typically found in the southern part of the Dover East Quadrangle.
- Granite bluffs with a cap:** These bluffs are composed of granite rock that has been eroded into a series of vertical faces. They are typically found in the southern part of the Dover East Quadrangle.
- Basalt bluffs with a cap:** These bluffs are composed of basalt rock that has been eroded into a series of vertical faces. They are typically found in the southern part of the Dover East Quadrangle.

Classification and Mapping of Maine's Coastal Bluffs

The purpose of this map is to provide a visual representation of the types of bluffs that occur along the coast of Maine. The map is based on a detailed field survey of the Dover East Quadrangle, Maine, and is intended to provide a general overview of the types of bluffs that occur in this area. The map is not intended to be used for engineering or other purposes that require detailed information about the bluffs.

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Classification of Coastal Bluffs

Range	SHORELINE TYPE	BLUFF FACE
Light	Light	Light
Medium	Medium	Medium
Dark	Dark	Dark
No Bluff	No Bluff	No Bluff

Map Resolution: 1:25,000

Map Scale: 1 inch = 2,500 feet

Map Projection: NAD 83 UTM Zone 18N

Map Datum: NAD 83

Map Contour Interval: 10 feet

Map Elevation: 100 feet

Map Contour Interval: 10 feet

Map Elevation: 100 feet

Shoreline Processes and Bluff Hazards

The purpose of this map is to provide a visual representation of the types of bluffs that occur along the coast of Maine. The map is based on a detailed field survey of the Dover East Quadrangle, Maine, and is intended to provide a general overview of the types of bluffs that occur in this area. The map is not intended to be used for engineering or other purposes that require detailed information about the bluffs.

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Examples of Bluff Types Shown on This Map

Type	Bluff	Bluff	Bluff	Bluff	Bluff
Block massive	1	2	3	4	5
Stratified	6	7	8	9	10
Soft	11	12	13	14	15
Shale	16	17	18	19	20
Granite	21	22	23	24	25
Basalt	26	27	28	29	30
Soft with cap	31	32	33	34	35
Shale with cap	36	37	38	39	40
Granite with cap	41	42	43	44	45
Basalt with cap	46	47	48	49	50



Section VI: Self-Verification Notification Form
(for all tidal and non-tidal projects in Maine subject to Corps jurisdiction)

**US Army Corps
of Engineers**
New England District

At least two weeks before work commences, complete all fields (write "none" if applicable) below or use the fillable form found at [www.usace.army.mil/engr/maine](#). The two-week lead time is not required for emergency situations. Send this form, an Official Species List, and project plans to the following email address:

Maine Project Office
U.S. Army Corps of Engineers
442 Civic Center Drive, Suite 350
Augusta, Maine 04330

State Permit #: L-30542-4D-A-N
Date of State Permit: _____
State Project Manager: Phoebe Scott

Permittee: Eugene & Nedra Sahr
Address, City, State, Zip: 128 Stacy Lane, Eliot, ME 03903
Email, Phone: _____, 207-332-6203

Agent: Tidewater Engineering & Surveying, Inc. (contact: Ryan McCarthy PE)
Address, City, State, Zip: 1021 Goodwin Road Unit 1, Eliot, ME 03903
Email, Phone: _____, 207-439-2222

Contractor: Riverside & Pickering Marine Contractors (contact: Kuerstin Fordham)
Address, City, State, Zip: 34 Patterson Lane, Newington, NH 03801
Email, Phone: _____, 603-427-2824 x1000

Project Name: Sahr Shoreline Stabilization Project
Address, City, State, Zip: 128 Stacy Lane, Eliot, ME 03903
Lat °N, Long °W: 43.163767 N, -70.825831 W Tax Map/Lot: 78/43
Waterway Name: Piscataqua River
Description of Work: Stabilize approximately 87 feet of shoreline with a combination of riprap and vegetative measures. Current shoreline has failed and is undermined.
Proposed Starting Date: October 2024 Proposed Finish Date: March 2025

Area of wetland impact (SF): Permanent: 488 SF Temporary: 0 SF
Area of waterway impact (SF): Permanent: 0 SF Temporary: 0 SF

Work will be done under the following Section V General Permits (circle all that apply):
I. Inland Waters and wetlands: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23
II. Navigable Waters: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23

Have MHPC and all five federally-recognized tribes in Maine been notified of the proposed work? Yes No

Your signature below, as permittee, indicates that you accept and agree to comply with the terms, eligibility criteria, and general conditions for Self-Verification under the Maine General Permit.

Permittee Signature: Eugene Sahr Date: 11/15/23
Nedra Sahr 36

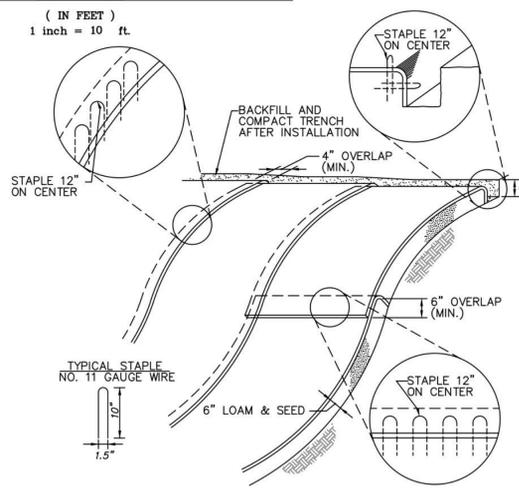
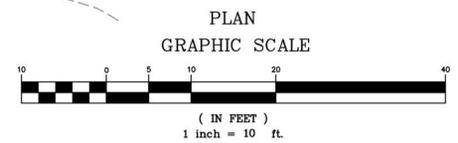
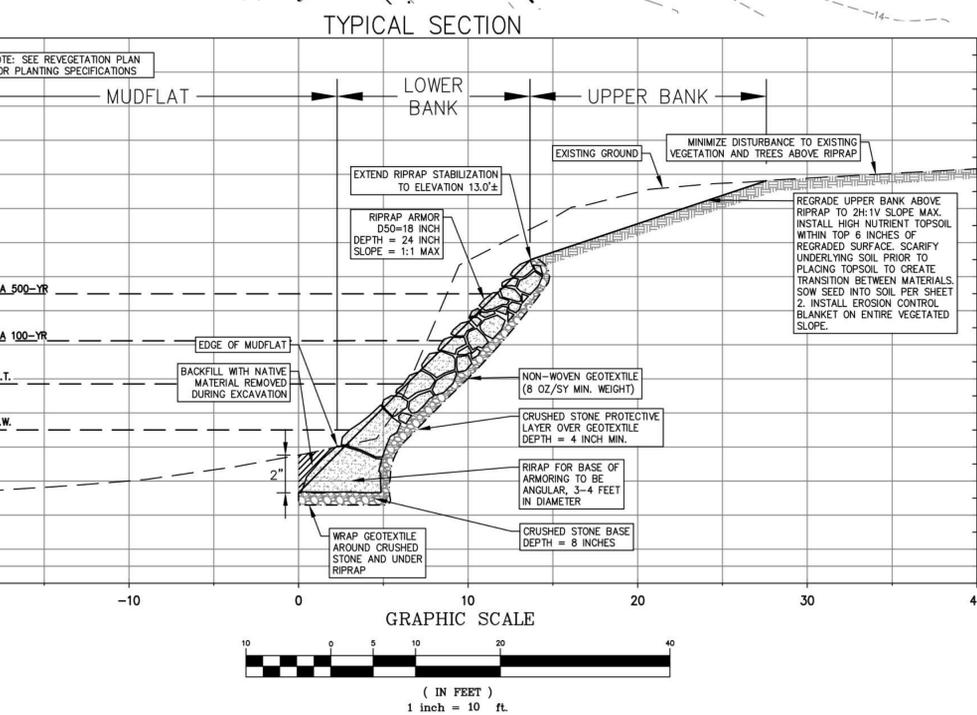
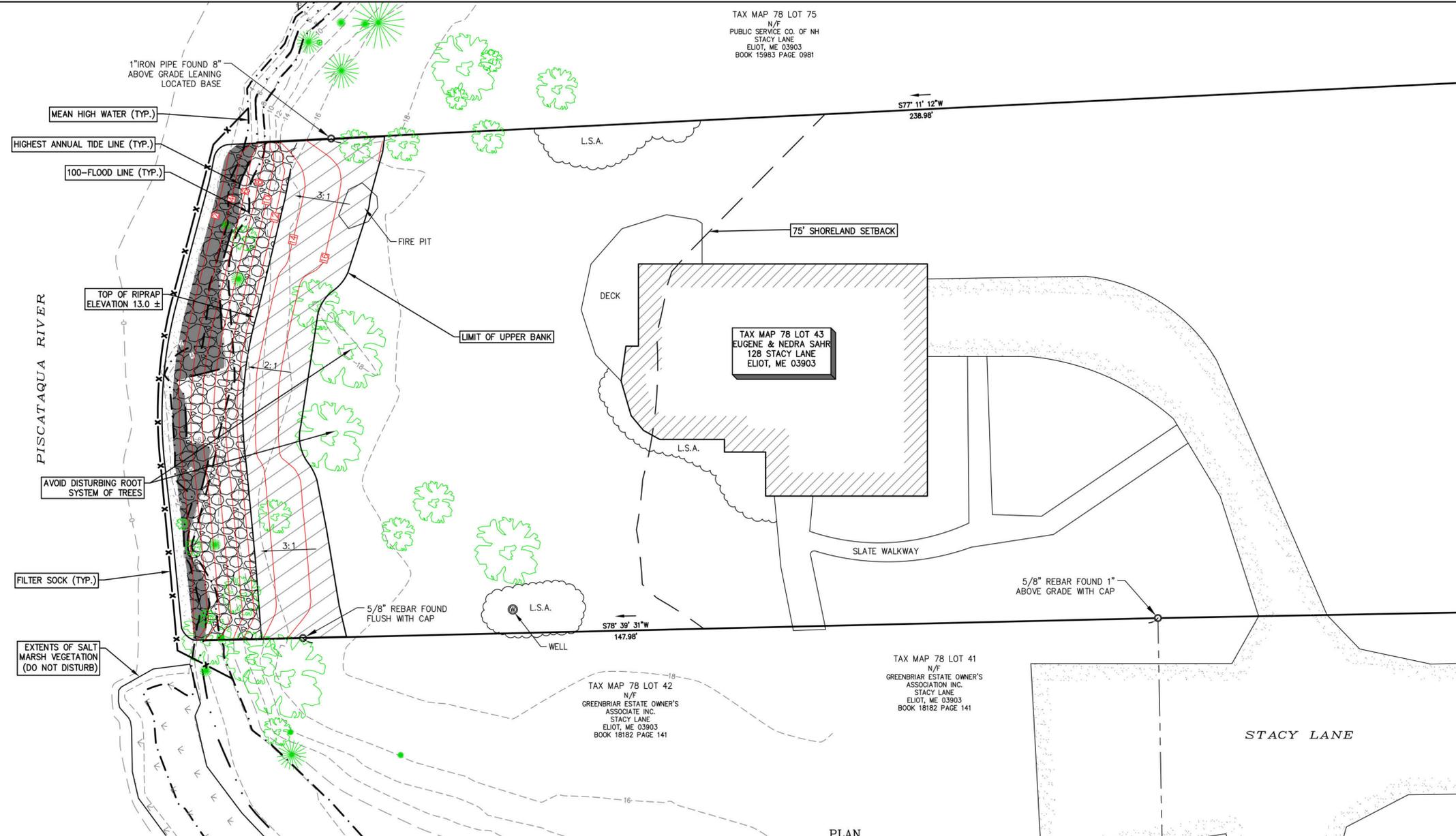
NAE-2023-02270

LEGEND

- SUBJECT PARCEL BOUNDARY LINE
- APPROXIMATE ABUTTER'S LINE
- EDGE OF PAVEMENT
- 10' CONTOUR: POSITIVE ELEVATION
- (1) CONTOUR: NEGATIVE ELEVATION
- IRON PIPE, ROD, OR DISK FOUND
- UTILITY POLE
- WELL
- RIPRAP ABOVE H.A.T. LINE
- RIPRAP BELOW H.A.T. LINE
- UPPER BANK EXTENTS
- AREA OF MUDFLAT TO BE RESTORED

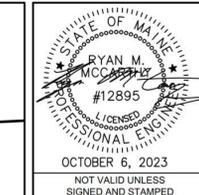
GENERAL NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT A PROPOSED SHORELINE STABILIZATION PLAN ALONG TAX MAP 78 80 LOT 43 IN THE TOWN OF ELIOT, MAINE. THE OWNER AND THEIR CONTRACTOR ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED FEDERAL, STATE AND LOCAL PERMITS PRIOR TO CONSTRUCTION.
 2. OWNER OF RECORD:
MAP 78 LOT 43
EUGENE & NEDRA SAHR
128 STACY LANE, ELIOT, ME 03903
Y.C.R.D. BOOK 14406 PAGE 70
 3. BASIS OF BEARING IS MAINE STATE PLANE (NAD83) WEST ZONE, US FOOT. ELEVATIONS AND TOPOGRAPHY SHOWN HEREON CORRESPOND TO NAVD88.
 4. THE BOUNDARY SHOWN HEREON IS BASED ON REFERENCE PLAN 1.
 5. TIDAL ELEVATIONS: THE FOLLOWING ELEVATIONS WERE DETERMINED BY DATA PUBLISHED BY N.O.A.A. ALL ELEVATIONS CORRESPOND TO NAVD88.
8423005 ATLANTIC TERMINALS T14A NH (14,800 FT± DOWNSTREAM)
MEAN HIGH-HIGH WATER (MHHW) 3.38'
MEAN HIGH WATER (MHW) 3.01'
MEAN LOW WATER (MLW) -3.73'
MEAN LOWER-LOW WATER (MLLW) -3.99'
 6. THE 2018 HIGHEST ANNUAL TIDE (H.A.T.) ELEVATION PUBLISHED BY MAINE DEP FOR THE PISCATAQUA RIVER BETWEEN SALMON FALLS RIVER AND DOVER POINT IS ELEV. = 5.7' (NAVD88). THE H.A.T. ELEVATION IS USED TO DELINEATE THE UPLAND EDGE OF THE COASTAL RESOURCE FOR REGULATORY PURPOSES UNDER THE MANDATORY SHORELAND ZONING ACT.
 7. THE 100-YEAR FLOOD ELEVATION OF THE PISCATAQUA RIVER IS ELEVATION 9.0' (NOV029) PER FEMA FIRM MAP 230149 0005B. THIS ELEVATION CONVERTED TO THE DATUM SHOWN HEREON IS 8.24' (NAVD88).
 8. UTILITY LOCATIONS SHOWN ON THESE PLANS ARE APPROXIMATE AND MAY NOT BE ENTIRELY ACCURATE OR COMPLETE.
 9. THE CONTRACTOR IS RESPONSIBLE FOR ALL MEANS AND METHODS OF CONSTRUCTION, INSTALLING AND MAINTAINING PROPER EROSION AND SEDIMENT CONTROL MEASURES, IMPLEMENTATION OF A CONSTRUCTION SAFETY PLAN, COMPLYING WITH ALL PERMITTING CONDITIONS.
 10. ESTIMATED AREA OF IMPACT PER PROPERTY BELOW H.A.T. LINE
MAP 78 LOT 43:
LENGTH OF SHORELINE: 87 LF±
AREA OF IMPACT BELOW H.A.T. LINE: 499 SF±
 11. SEE SHEET 2 FOR REVEGETATION REQUIREMENTS AND SPECIFICATIONS.
- REFERENCE PLAN:
1. "SUBDIVISION FOR GREENBRIAR CORP. ELIOT, YORK COUNTY, MAINE" PREPARED BY W.L. KIMBALL, DATED AUGUST 21, 1967 AND RECORDED IN THE YORK COUNTY REGISTRY OF DEEDS PLAN BOOK 44 PAGE 40.



EROSION CONTROL BLANKET SLOPE PROTECTION
NOT TO SCALE

- NOTES:**
1. BEGIN AT THE TOP OF BLANKET INSTALLATION AREA BY ANCHORING BLANKET IN A 6" DEEP TRENCH. BACKFILL AND COMPACT TRENCH AFTER STAPLING.
 2. ROLL THE BLANKET DOWN THE SWALE IN THE DIRECTION OF THE WATER FLOW.
 3. THE EDGES OF BLANKETS MUST BE STAPLED WITH APPROX. 4 INCH OVERLAP WHERE 2 OR MORE STRIP WIDTHS ARE REQUIRED.
 4. WHEN BLANKETS MUST BE SPICED DOWN THE SWALE, PLACE BLANKET END OVER END WITH 6 INCH (MIN.) OVERLAP AND ANCHOR END SLOPE BLANKET IN A 6 INCH DEEP TRENCH.
 5. BLANKET SHALL BE NORTH AMERICAN GREEN SC-150 OR APPROVED EQUAL.
 6. APPLY SPECIFIED SEED MIXTURE BELOW EROSION CONTROL BLANKET.



DATE:	OCTOBER 6, 2023
NO.:	
SUBMISSION/REVISION DESCRIPTION:	

TIDEWATER
ENGINEERING & SURVEYING, INC.
1021 Goodwin Rd Unit 1, Eliot, ME 03903
(207)439-2222 • www.tidewatercivil.com

MDEP SHORELINE STABILIZATION PLAN
OF LANDS OWNED BY
EUGENE & NEDRA SAHR
LOCATED IN
ELIOT, YORK COUNTY, MAINE

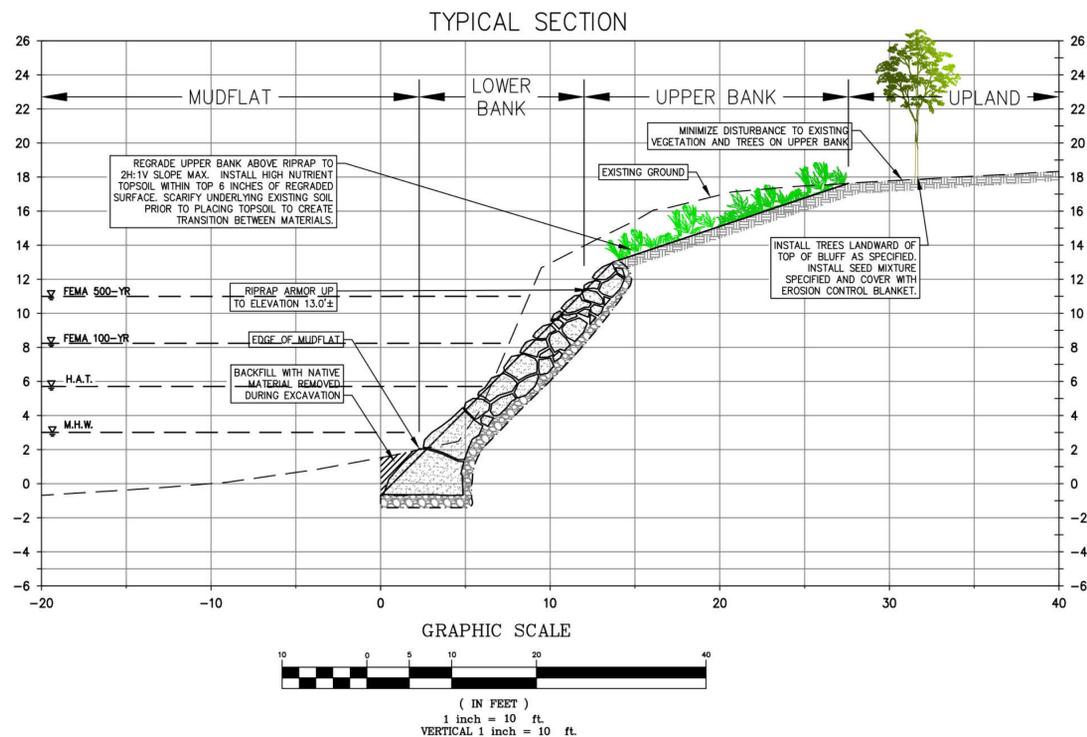
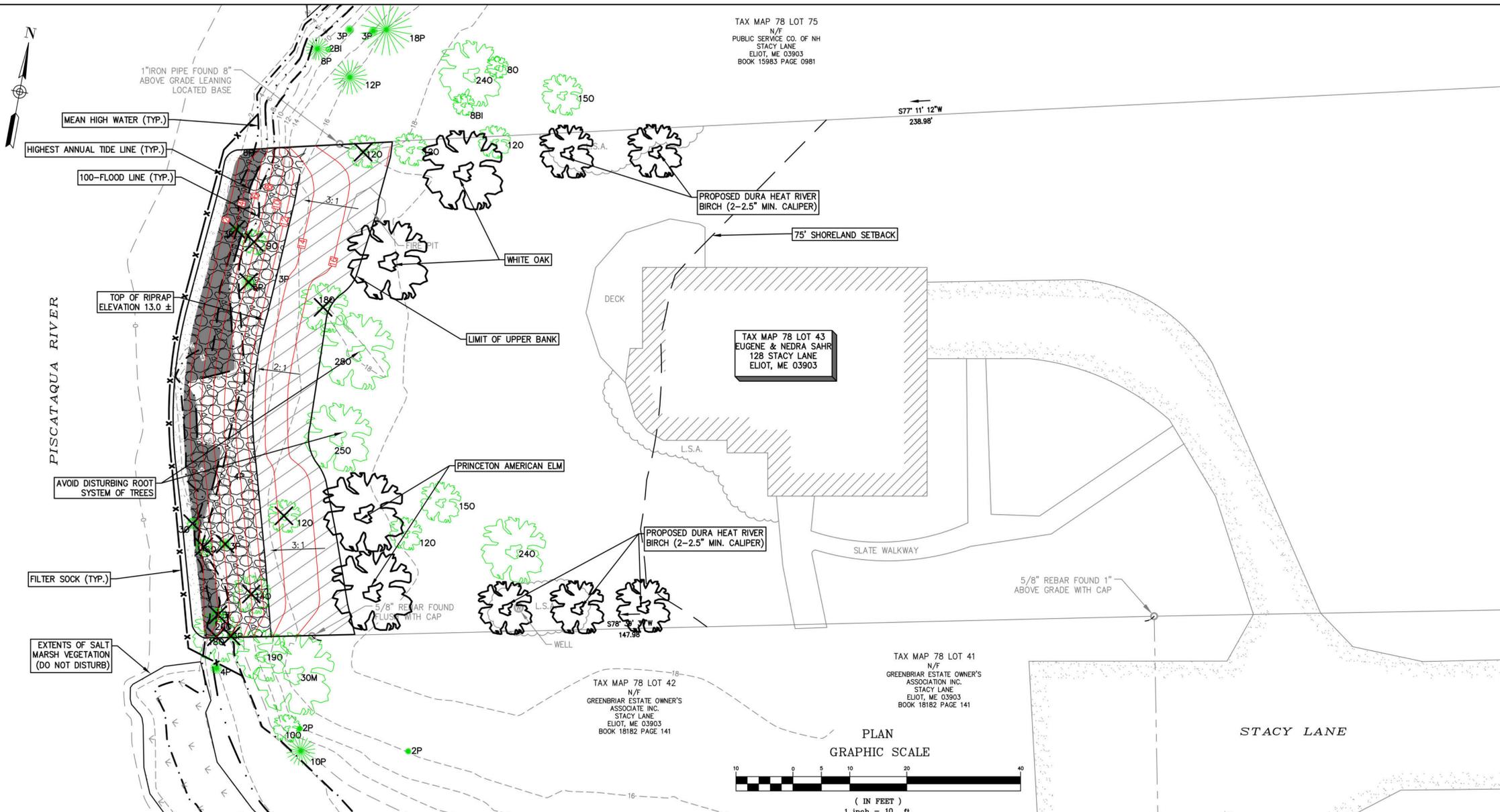
JOB #:	22-144
DATE:	OCT. 6, 2023
SCALE:	1" = 10'
SHEET:	1 OF 2

LEGEND

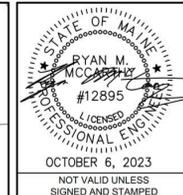
- EXISTING DECIDUOUS TREE
 - EXISTING CONIFEROUS TREE
 - PROPOSED DECIDUOUS TREE
 - PROPOSED TREE TO BE REMOVED
- EXAMPLE DESIGNATION:
 "7P" = 7" CALIPER PINE TREE
- P = PINE TREE BI = BIRCH TREE
 O = OAK TREE M = MAPLE TREE

GENERAL NOTES:

1. THE PURPOSE OF THIS PLAN IS TO PROVIDE A REVEGETATION PLAN OF THE AREA LOCATED WITHIN A 25' X 50' GRID SYSTEMS ALONG THE SHORELINE OF TAX MAP 78 LOT 43 IN THE TOWN OF ELIOT, MAINE. THIS PLAN HAS BEEN PREPARED IN CONJUNCTION WITH A SHORELINE STABILIZATION PROJECT.
2. OWNER OF RECORD:
 EUGENE & NEDRA SAHR
 128 STACY LANE, ELIOT, ME 03903
 YORK COUNTY REGISTRY OF DEEDS BOOK 14406 PAGE 70
3. THE SHORELINE OF THE PISCATAQUA RIVER ALONG THE SUBJECT LOT HAS BEEN DESIGNATED AS AN UNSTABLE COASTAL BLUFF BY MAINE GEOLOGICAL SURVEY AS DEPICTED ON THE DOVER EAST QUADRANGLE, MAINE COASTAL BLUFF MAP OPEN FILE NO. 02-186 DATED 2002.
4. THE UNSTABLE COASTAL BLUFF IN THE VICINITY OF THE PROJECT INCLUDES VEGETATION AND TREES THAT HAVE BEEN UNDERMINED BY EROSION CAUSED BY TIDAL CURRENTS, WAVES AND ICE MOVEMENT. THE UNDERLYING SOILS AND ROOT SYSTEMS OF THE VEGETATION AND TREES HAVE BEEN EXPOSED IN MANY AREAS.
5. THE PROPOSED STABILIZATION PROJECT WILL INCLUDE RECONSTRUCTING AND ARMORING THE LOWER BANK WITH RIPRAP AND REGRADING THE UPPER BANK TO A MAXIMUM 2:1 SLOPE WITH VEGETATIVE STABILIZING METHODS. AS A RESULT, SOME OF THE EXISTING VEGETATION ON THE UNSTABLE BLUFF WILL NEED TO BE REMOVED. THIS PLAN DEPICTS THE PROPOSED TREES TO BE REMOVED AND THE EXISTING TREES TO REMAIN. THE CALIPER AND SPECIES OF EACH TREE HAS BEEN DOCUMENTED AS WELL.
6. REFERENCE IS MADE TO CHAPTER 44 SHORELAND ZONING SECTION SEC. 44-35(p) FOR DETAILED INFORMATION PERTAINING TO THE REGULATIONS ASSOCIATED WITH "CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING."
7. CLEARING AND VEGETATION REMOVAL IN CONJUNCTION WITH A SHORELINE STABILIZATION PROJECT IS EXEMPT FROM THE CLEARING AND VEGETATION REMOVAL STANDARDS SET FORTH IN SECTION 44-35(p)(1)-(5) PROVIDED THE REMOVAL OF VEGETATION IS LIMITED TO THAT WHICH IS NECESSARY AND RE-VEGETATION IS COMPLETED IN ACCORDANCE WITH SECTION 44-35(p)(9)(h) SUCH THAT THE REVEGETATION SHALL OCCUR IN THE SAME AREA AND AT A DENSITY COMPARABLE TO PRE-EXISTING.
8. THE PROPOSED TREES TO BE REMOVED ARE BASED UPON A MEETING HELD WITH RIVERSIDE & PICKERING MARINE CONTRACTORS AT THE SITE ON FEBRUARY 13, 2023. THE PROPOSED TREES TO BE REMOVED WERE LIMITED TO THAT WHICH WAS DETERMINED TO BE NECESSARY DUE TO BEING LOCATED WITHIN THE AREA TO BE ARMORED WITH RIPRAP, REGRADING THE UPPER BANK AND/OR FOR EQUIPMENT ACCESS AND MOBILITY PURPOSES.
9. THE AREA ABOVE THE PROPOSED RIPRAP AND DESIGNATED AS THE "UPPER BANK" IS TO BE STABILIZED USING VEGETATIVE MEASURES. A SEED MIX COMBINATION OF NEW ENGLAND ROADSIDE MATRIX AND COASTAL SALT TOLERANT GRASS SHALL BE PLANTED WITHIN THE UPPER BANK TO CREATE A DIVERSE LANDSCAPE AND ROOT SYSTEM.
10. THE OWNER AND THEIR CONTRACTOR ARE RESPONSIBLE FOR OBTAINING AND COMPLYING WITH ALL REQUIRED FEDERAL, STATE AND LOCAL PERMITS PRIOR TO CONSTRUCTION.



PLANTING SCHEDULE			
LOCATION	COMMON NAME	SCIENTIFIC NAME	COMMENTS
UPPER BANK: 50/50 BLEND SEED MIXTURE FROM NEW ENGLAND WETLAND PLANTS			
NEW ENGLAND ROADSIDE MATRIX UPLAND SEED MIX			
	VIRGINIA WILD RYE	<i>ELYMUS VIRGINICUS</i>	THESE MIXES ARE UNUSUAL IN THAT THEY CONTAIN NATIVEGRASSES, WILDFLOWERS, AND SHRUBS THAT ARE BLENDED TOGETHER AS A NATIVE MATRIX SEED MIX. IN AREAS THAT RECEIVE FREQUENT MOWING, THE COLD SEASON GRASSES WILL DOMINATE, SUCH AS THOSE AREAS CLOSEST TO THE ROADWAY SHOULDER. IN AREAS FARTHER FROM THE ROAD, WHICH MAY BE MOWN ONLY ONCE EACH YEAR, OR IN HARD TO MOW AREAS, SUCH AS AROUND SIGN POSTS, THE WILDFLOWER COMPONENT WILL BECOME DOMINANT. ALONG CUTS AND SIDE SLOPES WHICH MAY NEVER BE MOWN, THE SHRUB COMPONENT WILL ADD DIVERSITY AND BEAUTY TO THE ROADSIDE PLANTINGS. IT IS A PARTICULARLY APPROPRIATE SEED MIX FOR ROADSIDES, INDUSTRIAL SITES, OR CUT AND FILL SLOPES. THESE MIXES MAY BE APPLIED BY HYDROSEEDING, OR BY MECHANICAL SPREADER. ALWAYS APPLY ON A CLEAN, WEED-FREE SEED BED. AFTER SOWING, LIGHTLY RAKE OR ROLL THE SITE TO IMPROVE SEED-TO-SOIL CONTACT. BEST RESULTS ARE OBTAINED WITH A MID-LATE SPRING SEEDING. SUMMER SEEDING WILL BENEFIT FROM A LIGHT MULCHING OF CLEAN, WEED-FREE STRAW TO CONSERVE SOIL MOISTURE.
	PANICLEDLEAF TICK TREFOLI	<i>DESMODIUM PANICULATUM</i>	
	LITTLE BLUE STEM	<i>SCHIZACHYRIUM SCOPARIUM</i>	
	BIG BLUESTEM	<i>ANDROPOGON GERARDII</i>	
	RED FESCUE	<i>FESTUCA RUBRA</i>	
	INDIAN GRASS	<i>SORGHASTRUM NUTANS</i>	
	SWITCH GRASS	<i>PANICUM VIRGATUM</i>	
	STAGHORN SUMAC	<i>RHUS TYPHINA</i>	
	GREY DOGWOOD	<i>CORNUS RACEMOSA</i>	
	SILKY DOGWOOD	<i>CORNUS AMOMUM</i>	
	EVENING PRIMROSE	<i>OENOTHERA BIENNIS</i>	
	BUTTERFLY MILKWEED	<i>ASCLEPIAS TUBEROSA</i>	
	BLACK EYES SUSAN	<i>RUDBECKIA HIRTA</i>	
	PATRIDGE PEA	<i>CHAMAECRISTA FASCICULATA</i>	
	HOLLOW-STEM JOE PYE WEED	<i>EUPATORIUM FISTULOSUM</i>	
NEW ENGLAND COASTAL SALT TOLERANT GRASS MIX			
	CANADA WILD RYE	<i>ELYMUS CANADENSIS</i>	THE NEW ENGLAND COASTAL SALT TOLERANT SEED MIX CONTAINS A SELECTION OF NATIVE GRASSES THAT TOLERATE SALTY CONDITIONS. THIS MIX IS APPROPRIATE FOR DRIER COASTAL AREAS THAT RECEIVE SALT SPRAY OR MIST. ALWAYS APPLY ON CLEAN BARE SOIL. THE MIX MAY BE APPLIED BY HYDRO-SEEDING, BY MECHANICAL SPREADER, OR ON SMALL SITES IT CAN BE SPREAD BY HAND. LIGHTLY RAKE, OR ROLL TO ENSURE PROPER SEED TO SOIL CONTACT. BEST RESULTS ARE OBTAINED WITH A SPRING SEEDING. LATE SPRING AND EARLY SUMMER SEEDING WILL BENEFIT WITH A LIGHT MULCHING OF WEED-FREE STRAW TO CONSERVE MOISTURE. IF CONDITIONS ARE DRIER THAN USUAL, WATERING MAY BE REQUIRED. LATE FALL AND WINTER DORMANT SEEDING REQUIRE AN INCREASE IN THE SEEDING RATE. FERTILIZATION IS NOT REQUIRED UNLESS THE SOILS ARE PARTICULARLY INFERTILE. PREPARATION OF A CLEAN WEED FREE SOIL SURFACE IS NECESSARY FOR OPTIMAL RESULTS.
	RED FESCUE	<i>FESTUCA RUBRA</i>	
	ATLANTIC COASTAL PICNIC GRASS	<i>PANICUM AMARUM</i>	
	BIG BLUESTREAM	<i>ANDROPOGON GERARDII</i>	
	INDIAN GRASS	<i>SORGHASTRUM NUTANS</i>	
	SWITCH GRASS	<i>PANICUM VIRGATUM</i>	
	PATH RUSH	<i>JUNCUS TENUIS</i>	
UPLAND: TREE PLANTINGS			
	DURA HEAT RIVER BIRCH	<i>BETULA NIGRA 'DURA HEAT'</i>	7-8' HT. - QUANTITY = 5
	WHITE OAK	<i>QUERCUS ALBA</i>	2-2.5" CAL - QUANTITY = 2
	PRINCETON AMERICAN ELM	<i>ULMUS AMERICANA 'PRINCETON'</i>	2-2.5" CAL - QUANTITY = 2

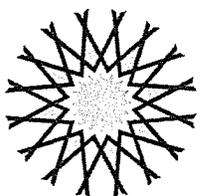


DATE:	OCTOBER 6, 2023
NO.:	
DESCRIPTION:	SUBMISSION/REVISION DESCRIPTION

TIDEWATER
 ENGINEERING & SURVEYING, INC.
 1021 Goodwin Rd Unit 1, Eliot, ME 03903
 (207)439-2222 • www.tidewatercivil.com

SHORELAND ZONE RE-VEGETATION PLAN
 OF LANDS OWNED BY
 EUGENE & NEDRA SAHR
 LOCATED IN
 ELIOT, YORK COUNTY, MAINE

JOB #:	22-144
DATE:	OCT. 6, 2023
SCALE:	1" = 10'
SHEET:	2 OF 2



ATTAR

ENGINEERING, INC

CIVIL · STRUCTURAL · MARINE

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

November 7th, 2023
Project No. C368-22

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

Dear Mr. Brubaker:

On behalf of the lot owner/applicant, Alan and Frances Newson, I have enclosed a Subdivision Plan Application and supporting documents for your review and consideration.

The 17.1-acre parcel is located on River Road and currently has a single-family dwelling and barn in the suburban district.

The plan proposes to subdivide the existing residential parcel into four smaller lots. One contains the existing dwelling and barn, and the remaining three will have proposed single-family houses and accompanying driveways and features. There is no proposed development of the three proposed new lots at this time. All lots are to be sold as is and developed at a later date.

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

Sincerely;

Wyatt R. Page, E.I.
Project Engineer

CASE NO. _____

**TOWN OF ELIOT
PLANNING BOARD
SUBDIVISION APPLICATION**

This application shall conform in all respects to the Land Subdivision Standards of Chapter 41 of the Planning Board of the Town of Eliot code of ordinances. Ten (10) copies of application and sketch plan shall be submitted.

- Application for () Sketch plan
- () Preliminary plan for major subdivision
- Final plan for minor subdivision

1. Proposed name of subdivision River Road Subdivision

2. Location of property 708 River Road

3. Tax Map 50 Lot # 29 Size (acres) 17.1

4. Zoning District (circle one) Commercial/Industrial Rural **Suburban** Village

5. Name of record owner Alan & Frances Newson
Mailing address 705 River Road, Eliot ME 03903 Phone # 207-252-4050

6. Name of applicant Same as owner(above)
Mailing address _____ Phone # _____
If corporation, name of agent Wyatt Page, Attar Engineering, Inc. 207-439-6023

7. A complete statement of any easements relating to the property is attached hereto
(if none, so state) None

8. Deed or deeds recorded at County Registry of Deeds
Date 9/1/2022 Book # 19104 Page # 932
Date _____ Book # _____ Page # _____
Date _____ Book # _____ Page # _____

CASE NO. _____

9. Do the owner and/or applicant have an interest in an abutting property as stated on the attached sheet? No

10. Name, address and license # of Engineer, Land Surveyor, Architect, or Planner
Kenneth A. Wood, Attar Engineering, Inc. 1284 State Road Eliot ME License #5992

11. Preliminary plan covers 4 Lot subdivision, no proposed development. Individual lots to be sold as is.

12. If applicable, has the owner and/or applicant been approved for a MaineDOT driveway permit for the installation, physical change or change of use a driveway located on a State highway? N/A

13. Does owner propose to submit Final Subdivision Plan to cover the entire Preliminary Plan, or to file same in sections? Final Subdivision Plan to cover
If so, how many? _____

14. Does the preliminary plan cover the entire contiguous holdings of the applicant?
Yes

15. Entrances onto existing or proposed collector streets do not exceed a frequency of one per 400' of street frontage? Yes No

16. Entrances onto existing or proposed arterial streets do not exceed a frequency of one per 1000' of street frontage? Yes No

17. A distance of at least 200' is maintained between centerlines of offset intersecting streets? Yes No

18. Does the applicant propose to dedicate to the public all streets, highways and parks shown on the plan? N/A

CASE NO. _____

19. Give the number of acres which the applicant proposes to dedicate to public to use for park, playground and/or other purposes N/A

20. If any waivers of requirements are to be requested, list them on a separate sheet, referencing the Sections in Chapter 41 and give reasons why such requirements should be waived .

21. Is the property located in a flood zone? No

If yes, please complete the attached Flood Hazard Development Application and return it with your application.

Subdivider shall submit fees as specified in Sections 1-25 in the amount of \$200/lot prior to the second meeting with the Planning Board. Fees are not refundable.

Applicant signature Wyett A Page, Agent Date 11/7/2023

Owner signature _____ Date _____

Planning Assistant _____ Date _____

FEES:	
Major subdivision	\$200 per lot
Minor subdivision	\$200 per lot

CASE NO. _____

Town of Eliot Planning Board
CHECKLIST FOR A SUBDIVISION APPLICATION
(All items will be reviewed unless otherwise noted or NA)

The owner of the property is

Alan & Frances Newson

The applicant is Alan & Frances Newson who has demonstrated a legal interest in the property by providing:

Warranty Deed

Agents for the applicant are:

Wyatt Page & Kenneth Wood, Attar Engineering, Inc.

The property is located at 708 River Road, in the Suburban zoning district, identified as Assessor's Map 50, Lot 29, and containing 17.1 acres

Application is for establishment of (new) (modification to existing) Major/Minor Subdivision. New Minor Subdivision

Existing Subdivision was approved by the Planning Board on _____.

The name of the proposed subdivision is River Road Subdivision and it will contain 4 lots which range in size from 4.07 acres to 4.78 acres and are shown on Plan No. 1, dated 11/7/2023

N/A Easements and/or Rights of Way affected by or within the proposed subdivision are as follows:

- a. _____.
- b. _____.
- c. _____.

N/A Entrances onto existing or proposed collector streets do not exceed a frequency of one per 400' of street frontage? Entrances onto existing or proposed arterial streets do not exceed a frequency of one per 1000' of street frontage?

N/A Owner/applicant has been approved for a driveway permit from MaineDOT for the installation, change or change of use on any State highway, if applicable?

Lots within the proposed Subdivision will have private (public) water supply and private (public) (private central) sewage disposal systems.

Sketch Plan was accepted by the Planning Board on 9/5/2023

Preliminary Plan approved by Planning Board on _____

A Site visit was conducted on _____

A public hearing was held on _____

_____ abutters spoke or submitted written correspondence at the Public Hearing or submitted written correspondence by mail.

CASE NO. _____

_____ members of the public spoke or submitted written correspondence at the Public Hearing or submitted written correspondence by mail.

The application was discussed by the Planning Board on 5/16/2023, 9/5/2023, _____, _____.

Plan for minimizing surface water drainage (Section 41-213) submitted: (Yes) (No) (Waiver requested).

Soil Erosion and Sediment Control Plan (Section 41-214) submitted: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Statement or plan showing effect upon air quality (Section 41-212) submitted: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Soils Report and High Intensity Soils Survey [Section 41-150(11)] submitted: (Yes) (No) (Waiver requested)

(Optional for Minor Subdivision) Location of all natural features or site elements to be preserved (Section 41-215) identified: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Statement or plan concerning historical sites and land use patterns (Section 41-216) submitted: (Yes) (No) (Waiver requested).

Means of providing water supply to the proposed subdivision (Section 41-217) identified: (Yes) (No) (Waiver requested).

Sanitary sewerage system (Section 41-218) identified: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Community services and impact statement (Section 41-220) submitted: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Traffic congestion and safety plan (Section 41-221) submitted: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Public health and safety statement (Section 41-222) submitted: (Yes) (No) (Waiver requested).

Compliance with Federal, State, and Local land use laws (Section 41-223) demonstrated: (Yes) (No).

(Optional for Minor Subdivision) Estimated Progress schedule [Section 41-150(21)] submitted: (Yes) (No) (Waiver requested).

Adequate financing (Section 41-224) demonstrated: (Yes) (No) (Waiver requested).

N/A *(Optional for Minor Subdivision)* Water Department approval provided for public water service [Section 41-174 (1)]

N/A *(Optional for Minor Subdivision)* State of Maine, Department of Human Services approval for central water supply system provided [Section 41-174 (2)]

CASE NO. _____

- Soil Scientist approval for individual wells provided [Section 41-174 (3)]: Yes (No)
- Proposed subdivision Plan reviewed by the Department of Environmental Protection: (Yes) (No) (Waiver requested).
- Proposed subdivision Plan reviewed by the Department of the Army, Corps of Engineers: (Yes) (No) (Waiver requested).
- Proposed subdivision Plan reviewed by the York County Soil and Water Conservation District: (Yes) (No) (Waiver requested)
- Other _____

Alan Newson
705 River Road
Eliot, ME 03903

February 24th, 2023
Project No.: C368-22

Jeff Brubaker, AICP
Town Planner
Town of Eliot
1333 State Road
Eliot, ME 03903

Dear Mr. Brubaker:

Please be informed that Kenneth A. Wood, P.E. and other assigned staff at Attar Engineering, Inc. will be acting as my agents for the applications and permitting of my project on River Road in Eliot, Maine.

Please contact me if I can provide any additional information.

Sincerely,



Alan Newson

cc: Kenneth A. Wood, P.E Attar Engineering, Inc.

DLN: 1002240208458

NANCY E HAMMOND, REGISTER OF DEEDS
E-RECORDED **Bk 19104 PG 932**
Instr # 2022037923
09/01/2022 12:55:57 PM
Pages 2 YORK CO

After recording return to:

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WARRANTY DEED

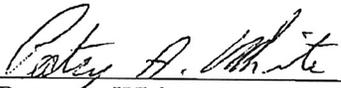
PATSY A. WHITE, with a mailing address of P.O. Box 423, Lebanon, ME 04027, for consideration paid, hereby grants to **FRANCES NEWSON**, with a mailing address of 705 River Road, Eliot, ME 03903, with **WARRANTY COVENANTS**, a certain lot or parcel of land, together with any improvements thereon and all rights appurtenant thereto, in the Town of Eliot, York County, Maine, being more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

Witness my hand this 1st day of September, 2022.



WITNESS

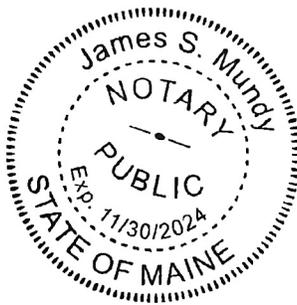


Patsy A. White

STATE OF MAINE
County of York, ss.

September 1, 2022

Personally appeared the above-named Patsy A. White, before me, and acknowledged the foregoing instrument to be her free act and deed.





Attorney at Law/Notary Public
Print Name:

Maine R.E. Transfer Tax Paid

After recording return to:

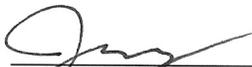
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WITNESS

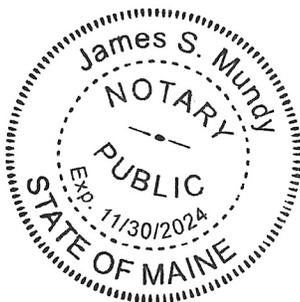


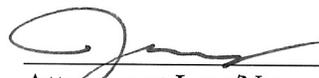
Patsy A. White

STATE OF MAINE
County of York, ss.

September 1, 2022

Personally appeared the above-named Patsy A. White, before me, and acknowledged the foregoing instrument to be her free act and deed.





Attorney at Law/Notary Public
Print Name:

EXHIBIT A

Beginning at an iron pipe on the East side of said River Road, being the northeast corner of the locus property, thence running S 14° 53' 27" W 1,545.97 feet along property now or formerly of Elwin R. White to an iron pin; thence turning and running N 83° 39' 34" W 693.18 feet along property now or formerly of David Pregent to an iron pipe; thence turning and running N 1° 26' 18" W 100 feet along property now or formerly of Denise LaPointe to an iron pipe; thence turning and running N 84° 52' 14" W 200 feet along property now or formerly of said LaPointe to an iron pipe on the easterly side of said River Road; thence turning and running N 2° 53' 55" W 504.24 feet along said River Road to an iron pipe; thence turning and running S 88° 56' 34" E 200 feet along property now or formerly of Sylvia R. Paul to a point; thence turning and running N 8° 03' 26" E 208 feet along property of said Paul to a point; thence turning and running N 88° 56' 34" W 200 feet along property of said Paul to an iron pipe on the easterly side of said River Road; thence turning and running N 6° 03' 40" E 118.29 feet along said River Road to a pipe, this section being reserved for a right of way to the back property; thence turning and running S 80° 40' 28" E 99.26 feet along property now or formerly of Paul M. Endicott to an iron pin; thence turning and running N 12° 33' 18" E 360.28 feet along property of said Endicott to an iron pin; thence turning and running N 77° 48' 57" E 253.60 feet along property now or formerly of Daniel D. Smith to a pipe; thence turning and running S 5° 48' 27" E 156 feet along property now or formerly of Gerald McDaniels to a point; thence turning and running S 85° 31' 23" E 200 feet along property of said McDaniels to an iron pin; thence turning and running N 5° 18' 4" 319.50 feet along property of said McDaniels to an iron pin and easterly side of said River Road; thence turning and running S 84° 00' 00" E 665.05 feet along said River Road to the point of beginning.

Excepting those parcels conveyed to Judith Mae French and Leon Everett French, Jr. by deed dated October 21, 2003 and recorded in the York County Registry of Deeds (YCRD) in Book 13623, Page 141 and to Leon A. Cole, Trustee of the Cole Family 2020 Trust by deed dated February 8, 2021 and recorded in the YCRD in Book 18558, Page 143.

Meaning to describe and intending to convey a portion of the premises described in the deed of Elwin R. White to Allan R. White and Patsy A. White dated October 7, 1988 and recorded in the YCRD in Book 4868, Page 171. Allan R. White died on July 16, 2021, leaving Patsy R. White as sole owner by operation of law.



Lot 50-29 Location Map

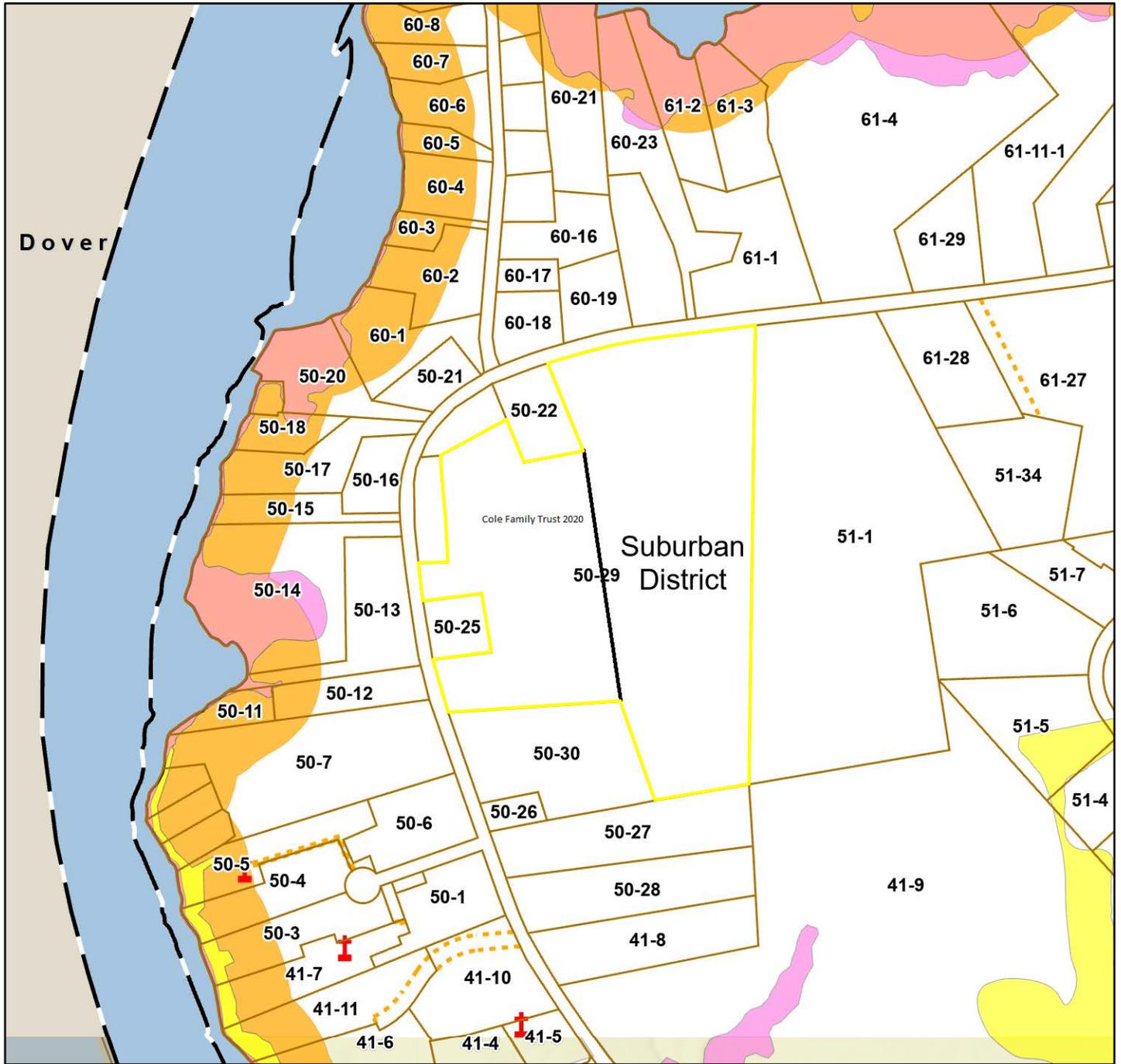
Town of Eliot, ME

1 inch = 500 Feet



www.cai-tech.com

March 8, 2023



Large Scale	Street Names	Town Rights-of-Way	Zoning
CAI Town Line	Parcel Lines - No Ortho	Water Bodies	Resource Protection
Mask - New Hampshire	Rights-of-Way	A	Limited Residential
Parcel - Poly	Cemetery Centroids	AE	Tidal Areas

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

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

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

Town, City, Plantation

Street, Road, Subdivision

Owner's Name

Eliot

708 River Road

Alan Newson

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Michael Crown

211

7 November 2022

Page 1 of 4
 HHE-200 Rev. 05/08

Site Evaluator Signature

SE #

Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

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

Town, City, Plantation

Street, Road, Subdivision

Owner's Name

Eliot

708 River Road

Alan Newson

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Michael Crown

211

7 November 2022

Page 2 of 4
 HHE-200 Rev. 05/08

Site Evaluator Signature

SE #

Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

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

Town, City, Plantation
Eliot

Street, Road, Subdivision
708 River Road

Owner's Name
Alan Newson

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

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

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0	fine		dark	
5	sandy		brown	
10	loam			
15				no
20	loamy	friable	yellowish brown	
25	sand		dark	
30			yellowish brown	
35				
40	silt loam	firm	light gray	yes
45	clay		olive	
50	loam		gray	

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

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

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

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

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

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

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

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

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

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

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

Michael Crown

211

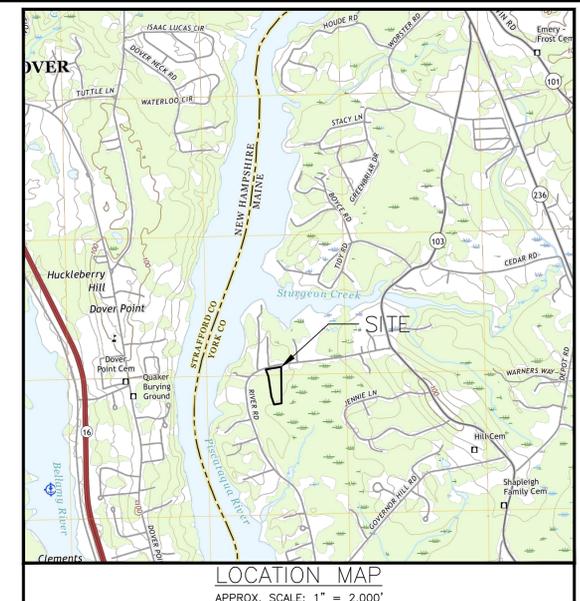
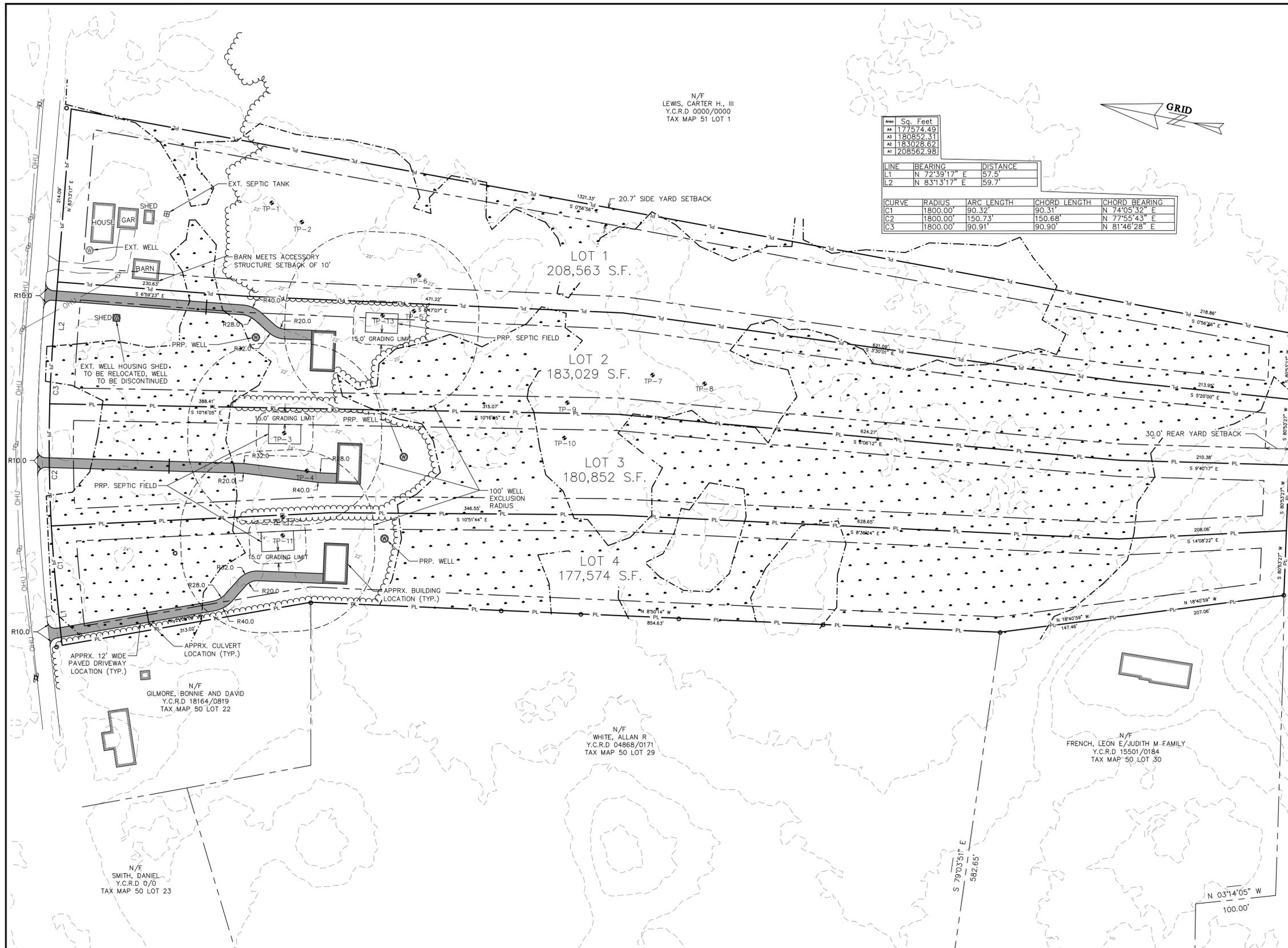
31 January 2023

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

Site Evaluator Signature

SE #

Date



GENERAL NOTES

- THIS PLAN PROVIDES SKETCH PLAN DETAILS FOR THE SUBDIVISION OF TAX MAP 50 LOT 29 INTO 4 RESIDENTIAL LOTS. THE PORTION IDENTIFIED AS LOT 1 WOULD HOUSE THE EXISTING HOME AND ASSOCIATED BUILDINGS ASIDE FROM THE SHED LOCATED IN LOT 2. LOTS 2-4 ARE TO BE DEVELOPED INTO NEW RESIDENTIAL LOTS.
- THE SITE IS IDENTIFIED ON THE TOWN OF ELIOT TAX ASSESSOR'S MAP 50 AS LOT 29 IN THE SUBURBAN DISTRICT AND MEASURES APPROXIMATELY 17.1 ACRES.
- THE BEARINGS HEREON, ARE BASED ON GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83 AS DERIVED FROM GPS OBSERVATIONS.
- WETLAND DELINEATION AND TEST PITS BY MICHAEL CUOMO, MAINE CERTIFIED SOIL SCIENTIST #211, DATED 11/07/2022 AND LOCATED BY ATTAR ENGINEERING, AUGUST, 2022.
- DIMENSIONAL REQUIREMENTS
SUBURBAN DISTRICT AS PER §45-405
MINIMUM LOT SIZE 2 ACRES
FRONT YARD SETBACK 30 FEET
SIDE YARD SETBACK 20 FEET
REAR YARD SETBACK 30 FEET
MAXIMUM BUILDING HEIGHT 35 FEET
MAXIMUM LOT COVERAGE 15%
MINIMUM STREET FRONTAGE 150 FEET
- ATTAR ENGINEERING HAS NOT IDENTIFIED UTILITIES AS PART OF THIS SURVEY.
- THE SIDELINES OF RIVER ROAD, AS DEPICTED HEREON, ARE BASED ON A STATUTORY WIDTH OF 3 RODS (49.5') AND FOUND MONUMENTATION.

ATTAR ENGINEERING HAS NOT PERFORMED A RECORD RETRACEMENT SURVEY OF THE SIDELINES OF RIVER ROAD. THE OWNERS OF LAND ADJACENT TO SAID ROAD OR STREET MAY HAVE OWNERSHIP RIGHTS EXTENDING INTO THE ROAD OR STREET. THIS DOCUMENT DOES NOT INTEND TO LIMIT, DENY, OR LOCATE THESE RIGHTS AND DOES NOT NECESSARILY REFLECT THE EXTENT OF TITLE THAT PASSES BY IMPLICATION OR OPERATION OF LAW.

TEST PIT DATA

LOT #	TP #	DEPTH TO RESTRICTIVE LAYER
1	1	18"
1	2	12"
1	6	15"
2	5	24"
2	7	22"
2	8	11"
2	9	10"
2	13	20"
3	3	14"
3	4	10"
3	10	12"
4	11	12"
4	12	18"

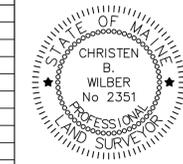
MINIMUM REQUIRED DEPTH TO RESTRICTIVE LAYER IS 9". ALL TEST PITS HAVE SUFFICIENT CLEARANCE ACCORDING TO THE STATE OF MAINE SUBSURFACE WASTEWATER DISPOSAL RULES (10-144 CMR 241).

TOWN OF ELIOT PLANNING BOARD	DATE

STATE OF MAINE - YORK COUNTY
ss. REGISTRY OF DEEDS
RECEIVED _____, 20____
AT _____, M., AND RECORDED IN
PLAN BOOK _____, PAGE _____
ATTEST _____ REGISTER



NO.	DESCRIPTION	DATE



SUBDIVISION PLAN
708 RIVER ROAD
ELIOT, ME 03903

TAX MAP 50, LOT 29

FOR:
ALAN NEWSON
705 RIVER ROAD
ELIOT, ME 03903

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

SCALE: 1" = 60'
DATE: 11/07/2023

APPROVED BY: _____

DRAWN BY: WRP
REVISION DATE: - - -

JOB NO: C368-22 FILE: River Road 708 SDV SHEET: 1

**Additional information submitted for
agenda items that was not received in time
to include in the agenda packet**

Seacoast Airfield Improvements

107 Littlebrook Lane

Eliot ME 03903

Table of Content

- 1) Police Report Blocking Ramp to Runway 07/15/2022
 - Report
 - Police Photos
- 2) Preliminary Injunction 03/01/2023
- 3) Excepts from Jean Hardy Deposition 08/09/2023
 - No water damage to date
 - Preexisting water runoff dilemma
 - Filing reports and abusing offices of Town of Eliot Code enforcement office, DEP and FAA as to interfere with normal operation and improvements to this neglected nearly abandoned old local airport
 - note one full deposition supplied 123 pages in full
- 4) Google Earth Overview October 2020 and post pavement June 2022
- 5) Photo - beginning of improved area
 - approx. 340 meters (928 Ft from Hardy House)
- 6) Abutting neighbor approval of improvements mid airfield



Eliot Police Department
Incident Report

Incident #: 22ELI-300-OF
Call #: 22-15466

Date/Time Reported: 07/15/2022 1423
Report Date/Time: 07/16/2022 0658
Status: No Crime Involved

Reporting Officer: Patrol Robert Govoni
Approving Officer: Sergeant Ronald Lund

Signature: _____

Signature: _____



INVOLVED SEX RACE AGE SSN PHONE

1 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
LITTLEBROOK PARK
ELIOT ME 03903

Military Active Duty: N
BODY: NOT AVAIL. COMPLEXION: NOT AVAIL.
DOB: [REDACTED] PLACE OF BIRTH: NOT AVAIL.
LICENSE NUMBER: [REDACTED] ETHNICITY: NOT HISPANIC

[CONTACT INFORMATION]

Home Phone (Primary) [REDACTED]
Work Phone (Primary) [REDACTED]

[APPEARANCE]

GLASSES WORN: NO

EMPLOYER/SCHOOL: [REDACTED]

EVENTS (S)

LOCATION TYPE: Other/Unknown Zone: E ZONE 3
LITTLEBROOK AIRPARK
107 LITTLE BROOK LN
ELIOT ME 03903

1 Assist Citizen

Incident #: 22ELI-300-OF
Call #: 22-15466

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
1	SHAUGHNESSY, THOMAS E [REDACTED] [REDACTED] [REDACTED]	REPORTING PARTY	M	W		[REDACTED]	[REDACTED]
	CallBack Number (Primary)						949-378-8405

NARRATIVE FOR PATROL ROBERT GOVONI

Ref: 22ELI-300-OF

Entered: 07/17/2022 @ 1821 Entry ID: 5077
Modified: 07/28/2022 @ 1626 Modified ID: 5077
Approved: 07/28/2022 @ 1638 Approval ID: 5019

July 15, 2022

I, Officer Robert Govoni, was on duty in Eliot Police Cruiser 884 and [REDACTED]

The following is the substance of all my conversations during this investigation.

14:23 Hours (approx.): I was dispatched to the Littlebrook Airpark at 107 Little Brook Lane for report that a neighbor to the airpark blocked one of the entrances with a tractor and rocks.

Upon my arrival, Officer Mazur and I met with the airpark's owner and the calling party **Thomas (Tom) Shaughnessy**. Tom pointed out to us that the neighbor, [REDACTED], had used [REDACTED] tractor to move large rocks to create a wall at the eastern most entrance to the runway. Tom expressed his frustration on the matter to us and said that his lawyer recommended that he report it to the Eliot Police Department so there is record of it. Tom stated that he would want a copy of the report to provide to his lawyer and that his lawyer will address the issue with [REDACTED] lawyer. Tom also mentioned that he did not want to confront [REDACTED] about the issue in risk of escalating the situation. Tom then gave me permission to drive on the runway so I could photograph the rocks.

Officer Mazur and I then went to go speak with [REDACTED]. While we were driving up to [REDACTED] property, I noticed that there was also a rock wall built across a small road that leads to a shed on Tom's property, I took a photograph of this too.

Officer Mazur and I spoke with [REDACTED] expressed [REDACTED] frustration about Tom and that since he had the runway paved, it has caused rainwater to run off towards [REDACTED] home and had recently flooded her basement. [REDACTED] was firm in that she had the right to protect her property. [REDACTED] said [REDACTED] would move the rocks if we wanted [REDACTED] to. It was agreed upon that we would allow their lawyers to discuss the issue and come up with a resolution.

The following day, I conducted a building check of the Littlebrook Airpark. During this I noticed that [REDACTED] was actively moving more rocks to add to [REDACTED] rock wall.

Recommendation

Close case in Eliot Police Records.

Eliot Police Department
Images Associated with 22ELI-300-OF



STATE OF MAINE
YORK, ss.

SUPERIOR COURT
Civil Action
Docket No. RE-22-045

SHAMROCK AVIATION, LLC,)
)
Plaintiff,)
)
v.)
)
JEAN M. HARDY and)
EDITH H. BREEN,)
)
Defendants.)

**ORDER ON PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION**

I. Background

Plaintiff Shamrock Aviation, LLC ("Shamrock") owns a recreational airfield located at 107 Littlebrook Lane, Eliot, Maine ("Airfield Property"). Defendants Jean Hardy ("Hardy") and Edith Breen ("Breen") jointly own property located at 2 Littlebrook Lane ("Hardy Parcel"), which abuts the Airfield Property. Shamrock purchased the Airfield Property in 2021 in a series of conveyances from Hardy and Sweet Peas LLC. Hardy is managing member of Sweet Peas LLC. The conveyances to Shamrock were subject to several reservations of rights.

First, Hardy's conveyance of her rights in the Airfield Property was "subject to the reservation by Jean M. Hardy, her heirs and assigns to a right of way over Littlebrook Lane, Littlebrook Airpark, Lamplighter Lane and Everett Lane for access to and egress from her remaining property to the public highway." (Pl.'s Mot., Ex. B, 2.) ("Easement 1.")

Second, Sweet Peas, LLC's grant of its rights in the Airfield Property was:

subject to a reservation by Jean M. Hardy, her heirs and assigns, to a right of way over the existing taxi way from the northwesterly corner of her remaining property in an easterly direction for a right of way to and across the property known as Littlebrook Airpark for access to the airport runway and use of the

sixty (60) foot airport runway. The purpose of said right of way is to allow Jean M. Hardy, her heirs and assigns to taxi airplanes and other vehicular traffic to and from her remaining land to the runway at Littlebrook Airpark and for takeoff and landing of aircraft on said runway. Said right of way shall and may be used by Jean M. Hardy, her heirs and assigns for all usual, normal and reasonable activities related to the operation of aircraft. Jean M. Hardy, her heirs and assigns shall further be entitled to the unrestricted use of the Littlebrook Airpark runway for so long as Littlebrook Airpark is operated as an airport. Sweet Peas, LLC, its successors and assigns shall maintain the taxi way in at least its current condition and in sufficient condition for the continued use as a taxi way. In the event Sweet Peas, LLC its successors and assigns fails to maintain the taxi way, Jean M. Hardy may perform such maintenance, and all costs of such maintenance shall be promptly reimbursed by Sweet Peas, LLC, its successors and assigns.

(Id.) ("Easement 2.")

Third, as part of the transaction and by separate deed ("Easement Deed"), Sweet Peas, LLC granted to Jean Hardy and Edith Breen "perpetual rights and easements, as joints tenants thereof, for mowing, snow removal, planting, land buffer and recreation over, and upon and within" a defined portion of the Airfield Property south of the runway abutting the Hardy Parcel as depicted in Exhibit A to the Easement Deed (the "Easement Area"). The Easement Area includes a garage as well as a branch of Littlebrook Lane that both leads to the garage as well as to the Hardy Parcel. ("Easement 3.")

The Sweet Peas conveyance to Shamrock further identifies the Easement Area as a "Restricted Development Area" subject to a covenant stating that Shamrock "shall not build on, develop for residential or commercial purposes, or park automobiles upon that portion of the land conveyed by this deed identified [as] the 'Restricted Development Area.'" (*Id.*, 5.).

The Easement Area slopes downward from the airport runway toward the Hardy Parcel and includes two paved ramps or taxiways that connect to the runway. The first ("Ramp 1") leads to the garage on Shamrock's property that is within the Easement Area. Ramp 1 also connects with one leg of Littlebrook Lane that runs by the garage and can be

used to access the runway.¹ Since March 2022, Shamrock and its contractors used this route to access the Airfield Property more frequently than in the past. Hardy claims the increased traffic interferes with her use and enjoyment of her Easement Area, which she uses “for recreation and as a land buffer, especially as it pertains to going for walks, dog-walking, and playing outside with [her] grandchildren.” (Hardy Aff., ¶ 10.) Ramp 2 leads from the runway directly down to the Hardy Parcel.

The Hardy Parcel sits at a lower elevation than the runway. Hardy’s affidavit states that “[s]tormwater now gushes from the runway down the two ramps into the Easement Area and ultimately onto my property.” (Hardy Aff., ¶ 12.) She asserts that the “flooding reaches the entryway to my home, crosses my driveway, and floods my leech field. This deluge places my home at risk of water damage from basement moisture and flooding and threatens my leech field.”² (*Id.*) Hardy informed Thomas Shaughnessy, Shamrock’s managing member of the flooding concern, and of her intent to placing a flood barrier to stop the flow of water onto her property.

Hardy has planted trees, grass, and flowers in the Easement Area. She claims that Shamrock has cut flowers, run over grass, parked vehicles in the Easement Area, and dumped crushed stone in the area.

In July 2022 Hardy placed sandbags and rocks across the ramps to divert the flow of water. Because they impeded vehicular use of the ramps, Shamrock removed them. Hardy

¹ Littlebrook Lane splits at the southwest corner of the Hardy Parcel, with one leg running northerly along the parcel’s western boundary towards the garage and the other leg running easterly along the parcel’s southern boundary toward Lamplighter Lane, which leads to the Airfield Property office and hangars.

² Exhibit A to the Hardy affidavit is a short video showing the runoff during a storm.

then placed them in another location, which again had the effect of impeding vehicular access.

Shamrock further complains that Hardy and her family have regularly and without permission entered onto the Airfield Property—crossing the runway to travel to neighboring houses; perform unauthorized “inspections” of the property; go to the hangars; and interact with and photograph Shamrock contractors at work on the Airfield Property. Plaintiff expressed concern to Hardy that her presence on the runway constitutes a potential safety hazard. Hardy contends she is within her easement rights to cross the runway without restriction. Hardy does not own an aircraft at the present time.

Shamrock filed a one-count complaint seeking a declaration that Defendants’ actions are outside the scope of their easement rights. Contemporaneous with its complaint, Plaintiff filed a motion for a temporary restraining order and/or preliminary injunction requesting that the court “order that Hardy, and others acting under her direction or in concert with her, are prohibited during the pendency of this litigation from using the Easement Area, or crossing Shamrock’s property for any purpose, and that they must immediately remove boulders and other objects they previously placed on Shamrock’s property.” (Pl.’s Mot., 13.) The parties have submitted memoranda in support of and opposition to the motion. A hearing on the motion was held on February 6, 2023.

II. Standard of Review

As the party seeking preliminary injunctive relief, Plaintiff bears the burden of demonstrating that (1) there is a likelihood of succeeding on the merits of the claim(s); (2) it will suffer irreparable injury if the injunction is not granted; (3) such injury outweighs any harm that may result from granting the Injunction; and (4) the public interest will not be

adversely affected. *Windham Land Trust v. Jeffords*, 2009 ME 29, ¶ 41, 967 A.2d 690; *Ingraham v. Univ. of Maine at Orono*, 441 A.2d 691, 693 (Me. 1982). These factors “are not to be applied woodenly or in isolation from each other”, but weighed together to determine whether injunctive relief is proper in the unique circumstances of each case. *Dept. of Env’t Prot. v. Emerson*, 563 A.2d 762, 768 (Me. 1989). If the evidence of supporting one factor is particularly strong, then other factors may be subject to less stringent requirements. *Id.* To be entitled to injunctive relief, however, a party must satisfy all four elements. *Bangor Historic Track, Inc. v. Dep’t Agric. Food & Rural Res.*, 2003 ME 140, ¶ 9, 837 A.2d 129.

III. Discussion

A. Likelihood of Success on the Merits

The issue before the court is whether Hardy’s activities—entering onto the Airfield Property, using the Easement Area and, specifically, placing sandbags, rocks, and other objects on the paved ramp(s) within the Easement area—exceed the scope of her deeded easement rights. Construction of a deed is a question of law. *Pettee v. Young*, 2001 ME 156, ¶ 8, 783 A.2d 637. The court looks within the four corners of a deed and gives words their “general and ordinary” meaning. *Pettee v. Young*, 2001 ME 156, ¶ 8, 783, A.2d 637; *Rhoda v. Fitzpatrick*, 655 A.2d 357, 360 (Me. 1995).

With respect to interpreting the scope of easement rights, an easement holder may only exercise the rights granted in a reasonable manner. *Mill Pond Condo. Ass’n v. Manilo*, 2006 ME 135, ¶ 6, 910 A.2d 392. Such rights include those that are “incidental or necessary to the reasonable and proper enjoyment of the easement” with the limitation that the dominant estate holder’s exercise of rights must be “as little burdensome to the servient estate as possible for the contemplated use.” *Id.* (quoting *Beckwith v. Rossi*, 157 Me. 532,

536, 175 A.2d 732, 73 (1961)). Owners of the servient estate "have the right to use their land in any way they please, not inconsistent with [a dominant estate holder's] right." *Drummond v. Foster*, 107 Me. 401, 407, 78 A. 470, 472 (1910).

1. Outside the Easement Area

Shamrock's request that Defendants be enjoined from entering on or crossing its property not within the Easement Area implicates Easement 1 and Easement 2. Easement 1 reserves to Hardy, her heirs, and assigns a "right of way over Littlebrook Lane, Littlebrook Airpark, Lamplighter Lane and Everett Lane for access to and egress *from her remaining property to the public highway.*" (Emphasis added.) The court reads this to permit Hardy to use the named roads (some or all of which may lie within the bounds of Shamrock's property, the Littlebrook Airpark) only "for access to and egress from" the Hardy Parcel to the public way. Travel on said roads for said purpose clearly constitutes reasonable exercise of the easement rights reserved in Easement 1. Any use of the roads or property for any other purpose does not, except as qualified below with respect to Easement 2. The scope of rights with respect to the phrase, "right of way over . . . Littlebrook Airpark," however, also must be read in conjunction with Easement 2.

Easement 2 reserves to Hardy and her heirs and assigns a right of way over the "existing taxiway" that runs from the northwesterly corner of the Hardy Parcel in an easterly direction "for access to and across the property known as the Littlebrook Airpark *for access to the runway and use of the sixty (60) foot airport runway.*" (Emphasis added.) The purpose and scope of the right is expressly defined—and limited—to allow Jean Hardy, her heirs and assigns "to taxi airplanes and other vehicular traffic to and from her remaining land [the Hardy Parcel] to the runway at Littlebrook Airpark and for takeoff and landing of aircraft on

said runway” and such right of way “shall and may be used . . . for all usual, normal and reasonable activities related to the operation of aircraft.” Thus, access to and use of the runway is limited to activities relating to the operation of aircraft, not as a general route for traveling to and from her own property.

Hardy points to another provision within the language of Easement 2 to argue that her rights to use the runway are not restricted. The language reads “Jean M. Hardy, her heirs and assigns shall further be entitled to the unrestricted use of Littlebrook Airpark runway for so long as Littlebrook Airpark is operated as an airport.” The court does not find this argument persuasive. Read in context, this provision is a temporal limitation on, and not a substantive expansion of, the easement rights clearly articulated previously.

Accordingly, Shamrock is likely to succeed on the merits of its claim that Hardy’s entering onto the runway do not fall within her easement rights.

2. Within the Easement Area

The main thrust of Shamrock’s motion focuses upon Hardy’s activities within the Easement Area, and particularly her attempts to divert stormwater by placing sandbags and rocks on the paved ramp(s). Under the Easement Deed, Defendants were granted “perpetual rights and easements for mowing, snow removal, planting, land buffer and recreation over, and upon and within” the Easement Area. Placing sandbags and rocks on the paved ramps is outside the scope of the rights granted by this easement—even if well intended. At the same time, it would not be unreasonable for Hardy to take other measures designed to divert stormwater runoff, provided those measures do not obstruct the ramps or roads, or otherwise damage any structures on the Airfield Property. Other activities complained of, however, such as recreational activities, planting trees, or planting gardens clearly fall within

the scope of the easement; however, must be accomplished in a manner that does not interfere with Shamrock's use of the roads, ramps, or structures on its property.

Accordingly, Shamrock is likely to succeed on the merits of its claim with regard to Hardy's placement of sandbags and rocks on the ramps, but not as to the other uses or activities within the Easement Area.

B. Irreparable injury

An injury is "irreparable" when there is no adequate remedy at law. *Bangor Historic Track, Inc. v. Dep't of Agric., Food & Rural Res.*, 2003 ME 140, ¶ 10, 837 A.2d 129. Irreparable injury is demonstrated when a landowner is subject to "repeated trespasses" which interfere with the use and enjoyment of real property. *Plourde v. Valley Sno-Riders*, No. CV-02-007, 2002 Me. Super. LEXIS 41, at *6 (Mar. 18, 2002); see also *Charles C. Wilson & Son v. Harrisburg*, 107 Me. 207, 218, 77 A. 787, 791 (1910) (irreparable injury created where defendants action "prevents the comfortable use of one's property and the enjoyment of property rights"); *O'Brien v. Murphy*, 189 Mass. 353, 357, 75 N.E. 700 (1905) ("The inconvenience and annoyance from repeated trespasses, though relatively harmless, but which interfere with the free use and enjoyment of real property, justify the interference of a court of equity to prevent their continual repetition, even if a recovery of nominal damages would afford full compensation.") Hardy's intrusions onto the runway of the Airfield Property for non-aircraft related purposes constitute "repeated trespasses" and therefore constitute irreparable injury for which equitable relief is an available remedy.

The same is true with respect to Hardy's obstruction of the ramps within in the Easement Area, although on the present record before the court at this stage of the litigation perhaps more so with respect to Ramp 1 than Ramp 2. Ramp 1 appears to be the principal

taxiway from the runway to the garage whereas Ramp 2 leads more directly to the house on the Hardy Parcel.

C. Balance of Harms

Hardy neither currently owns an airplane nor operates one at the Airfield Property. While she may be inconvenienced by not being permitted to drive across the runway or enter the Airfield Property at will, any such inconvenience is outweighed by the potential safety hazards and exposure to liability that could result from an unplanned or unexpected presence on the runway.

The potential harms to each party with regard to Hardy's specific actions to divert stormwater runoff is more evenly balanced. On one hand, Hardy's placement of objects on the taxiways to divert stormwater obstructs planes and vehicles from using the ramp and constitutes direct interference with Shamrock's use of its own property. On the other hand, uncontrolled flooding, even though just occasional, is potentially destructive to Hardy's home and property. At least at this preliminary stage of the litigation and based on the limited record before the court, the balance tips in favor of Shamrock with respect to Ramp 1, which would appear to be the more important of the two ramps for accessing the garage directly from the runway, but tips in Hardy's favor with respect to Ramp 2, which runs from the runway directly towards Hardy's house.

D. Public Interest

Because this is a dispute between two private parties, the public interest factor "is of diminished importance." *Cyr v. Ruotolo*, No. CV-85-348, 1985 Me. Super. LEXIS 371, at *22 (Dec. 27, 1985). To the extent that there is a public interest in the outcome of this motion, it

tips in Shamrock's favor in that preventing unforeseen and unpredictable intrusions onto an active runway advances the safety of the airport's users and patrons.

IV. Conclusion and Order

Based on the foregoing, the court concludes that Plaintiff is entitled to an order preliminarily enjoining access to and use of the Airfield Property runway and Ramp 1 except to carry out usual, normal, and reasonable activities related to the operation of aircraft. Since they currently do not own or operate an aircraft, this effectively precludes Defendants from entering onto the Airfield Property outside the Easement Area at this time. Plaintiff is further entitled to an order preliminarily enjoining Defendants from placing any objects or materials on or across Ramp 1 or Littlebrook Lane for any purpose, including stormwater diversion. This is not intended, however, to prevent Defendants from employing other temporary, reasonable measures within the Easement Area to control the flow of stormwater runoff from the runway (including on Ramp 2) provided they do not interfere with or obstruct passage on or over Ramp 1 or Littlebrook Lane and provided these measures do not otherwise interfere with or damage Shamrock's property.

Accordingly, Plaintiff's Motion for Temporary Restraining Order and/or Preliminary Injunction is GRANTED IN PART and DENIED IN PART as follows:

1. Defendants Jean M. Hardy and Edith H. Breen are hereby preliminarily enjoined from accessing, entering onto, crossing, or using areas of the Airfield Property not within the Easement Area; except that, consistent with the above easements, they may access and use Ramp 1 and the runway to carry out usual, normal, and reasonable activities related to the operation of aircraft.

2. Defendants Jean M. Hardy and Edith H. Breen, and anyone acting at their direction, are hereby preliminarily enjoined from placing any objects or materials of any kind on or across Ramp 1 or Littlebrook Lane for any purpose, including stormwater diversion, or otherwise causing any obstruction to vehicles or planes using Ramp 1 or Littlebrook Lane.
3. This order remains in effect pending further order of the court.

The clerk may enter this Order on Plaintiff's Motion for Preliminary Injunction on the docket by reference pursuant to M.R. Civ. P. 79(a).

SO ORDERED

Dated: February 28, 2023



Wayne R. Douglas
Justice, Superior Court

ENTERED ON THE DOCKET ON: 03/01/23

1 A Yes. If you go to the north of my house --

2 Q Okay.

3 A -- take your -- yeah, right there, right in that
4 area, we had water running down from that, and
5 sediment would gather on my driveway, and so a
6 French drain was put in to stop that.

7 Q But the water never came down this ramp, right
8 here, next to the grassy area?

9 A I believe so.

10 Q So you say that, the water -- that places your
11 home at risk of water damage from basement
12 moisture, flooding, and threatens your leach
13 field; do you see that?

14 A Yes, sir.

15 Q What specific damage do you claim that your
16 house -- your house has suffered as of right now
17 as a result of water damage that you're holding
18 Shamrock responsible for?

19 A At this point, there is none, but it -- with the
20 amount of rain that we've had, there's a lot of
21 water that's never been down that hill before,
22 down that ramp area, and it's not just that ramp
23 area, but the rest that's going onto my
24 property.

25 So my concern is that in the future, if this

1 continues and that a -- some sort of resolution,
2 some sort of engineered -- I can't remember the
3 word I'm looking for -- solution is done, there
4 very could well be damage to my home.

5 Q What specific damage has occurred to this date
6 to your leach field as a result of the flow of
7 water that you hold Shamrock responsible for?

8 A I don't know.

9 Q And what -- what do you mean when you say that
10 the easement area is unusable during and after
11 rainstorms?

12 A When it's pouring rain, there is a lot of -- lot
13 of water coming down that pavement area, and
14 then afterwards, there is storm-water runoff,
15 there's silt.

16 For my own driveway, I have a lot of silt on
17 my driveway. I've actually bought a sweeper so
18 I can sweep that silt off of my driveway.

19 Q What kind of uses of the easement area have you
20 wanted to make during rainstorms that you've
21 been prevented from making that you hold
22 Shamrock responsible for?

23 A At this point, we're not using all of that
24 easement area. Again, because of the amount of
25 traffic that's on that paved area, we're not

1 A Yes, sir.

2 Q What do you mean by that?

3 A With the heavy rain coming down the hill, or
4 even just a rainstorm, as I said, there is a lot
5 of silt coming from the top of the hill down
6 onto my property.

7 Q So you're talking about erosion that's taking
8 place on land owned by Shamrock?

9 A Yes.

10 Q Had your basement ever flooded before Shamrock
11 did work on the airport?

12 A Only one time my basement flooded and that was
13 because the water was coming up through a drain.
14 Once I put a sump pump in, it never happened
15 again, and this happened when there was a period
16 of extensive, heavy flooding. Other than that,
17 my basement has never flooded before.

18 Q And does it flood now?

19 A No.

20 Q Had there ever been standing water on your
21 property, in any location, before Shamrock did
22 work on the airport?

23 A No.

24 Q And you say now there is?

25 A It puddles. As a result of the storm water

1 water flowing onto your property while you owned
2 the airport?

3 A It was not an issue, other than the area that I
4 told you about.

5 Q So the answer is that you -- I think you said
6 you installed a French drain; is that right?

7 A Yes, sir.

8 Q And that's the only thing you did, correct?

9 A I believe so.

10 Q Do you know how much lower topographically the
11 foundation of your house is from the end of the
12 runway nearest to your house?

13 A I have no idea.

14 Q In Paragraph 13, you talk about placing an
15 artificial flood barrier; do you see that?

16 A Yes, sir.

17 Q And what did that flood barrier consist of?

18 A It's something that I purchased at Home Depot at
19 my own expense, and it's used to do that. It
20 stops water, and I put it across the pavement
21 area, and I put rocks on it to keep it from
22 blowing away, and I was hoping that would solve
23 the problem or at least reduce it.

24 Q Did it?

25 A I don't know. It was taken down by

1 A That's correct. Shamrock Aviation, to my
2 knowledge, has not done anything.

3 Q And, other than putting in that -- that -- the
4 sandbags and rocks we discussed, you haven't
5 done anything either, correct?

6 A No, because it was removed by Mr. Shaughnessy.

7 Q Okay. But that's the only thing you tried to
8 do, correct?

9 A That is correct.

10 Q And you don't know whether that would have been
11 effective or not at stopping the water?

12 A No, because it was never tried. It was removed
13 before that was allowed to see if it would
14 happen.

15 Q Paragraph 18 asked you to identify all the
16 instances in which you've made complaints to
17 authorities about Shamrock's actions; do you see
18 that?

19 A Yes, sir.

20 Q And you can tell me if I'm wrong, but I counted,
21 under the Town of Eliot, that there's seven
22 times you, or someone on your behalf, has
23 contacted the town, including forwarding
24 Ms. Strause's expert report; do you see that?

25 A Yes, sir.

1 Q It's fair to say that the town is well aware of
2 your complaints regarding the manner in which
3 Shamrock has used the airport?

4 A I have no idea what the town is aware of.

5 Q Well, you've received responses from the Town to
6 some of these notifications to the Town about
7 complaints, right?

8 A Basically, the Town has said go work it out with
9 your neighbor.

10 Q To the best of your knowledge, has the Town
11 taken any punitive action against Shamrock?

12 A I have no idea, sir.

13 Q So, to the best of your knowledge, the answer is
14 no?

15 A As I said, I have no idea.

16 Q It's something you could find out, if you wanted
17 to, though, right?

18 A I suppose.

19 Q And it also -- it talks about how -- well, you
20 raised concerns to the FAA; do you see that?

21 A Yes, sir.

22 Q To the best of your knowledge, has the FAA taken
23 any enforcement action against Shamrock?

24 A Again, I have no idea.

25 Q And there's also a reference to how you made a

1 complaint to the Maine DEP and a complaint that
2 attached Ms. Strause's expert report; do you see
3 that?

4 A Yes, sir.

5 Q To the best of your knowledge, has the DEP taken
6 any enforcement action against Shamrock?

7 A Again, I have no idea.

8 Q Are there any other complaints you've made to
9 any authorities that are not listed here that
10 have occurred subsequent to when you executed
11 these interrogatory answers?

12 A Not that I can think of at this time.

13 Q Are there, more generally, any conversations
14 with the Town, the DEP, or the FAA that aren't
15 reflected here?

16 A No, sir.

17 Q Have you made any attempt to pursue legal
18 avenues to force any of these bodies to take
19 action against Shamrock?

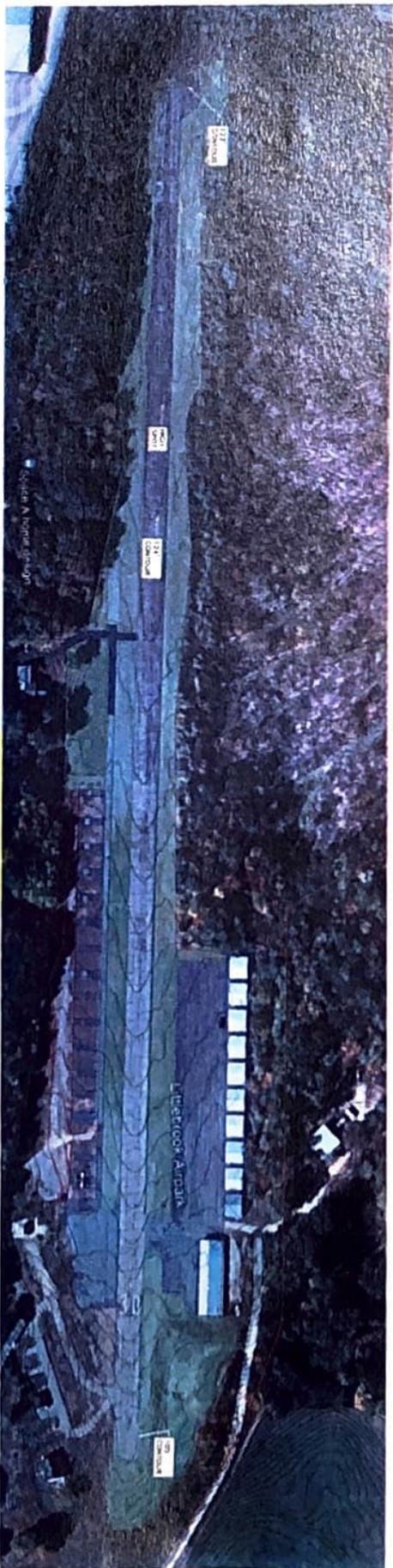
20 A Ask me that again.

21 Q Have you pursued any available legal remedies in
22 an effort to force these -- either the Town, the
23 FAA, or the DEP to take action against Shamrock?

24 A I don't believe so.

25 Q Why not?

OCTOBER 2020



JUNE 2022

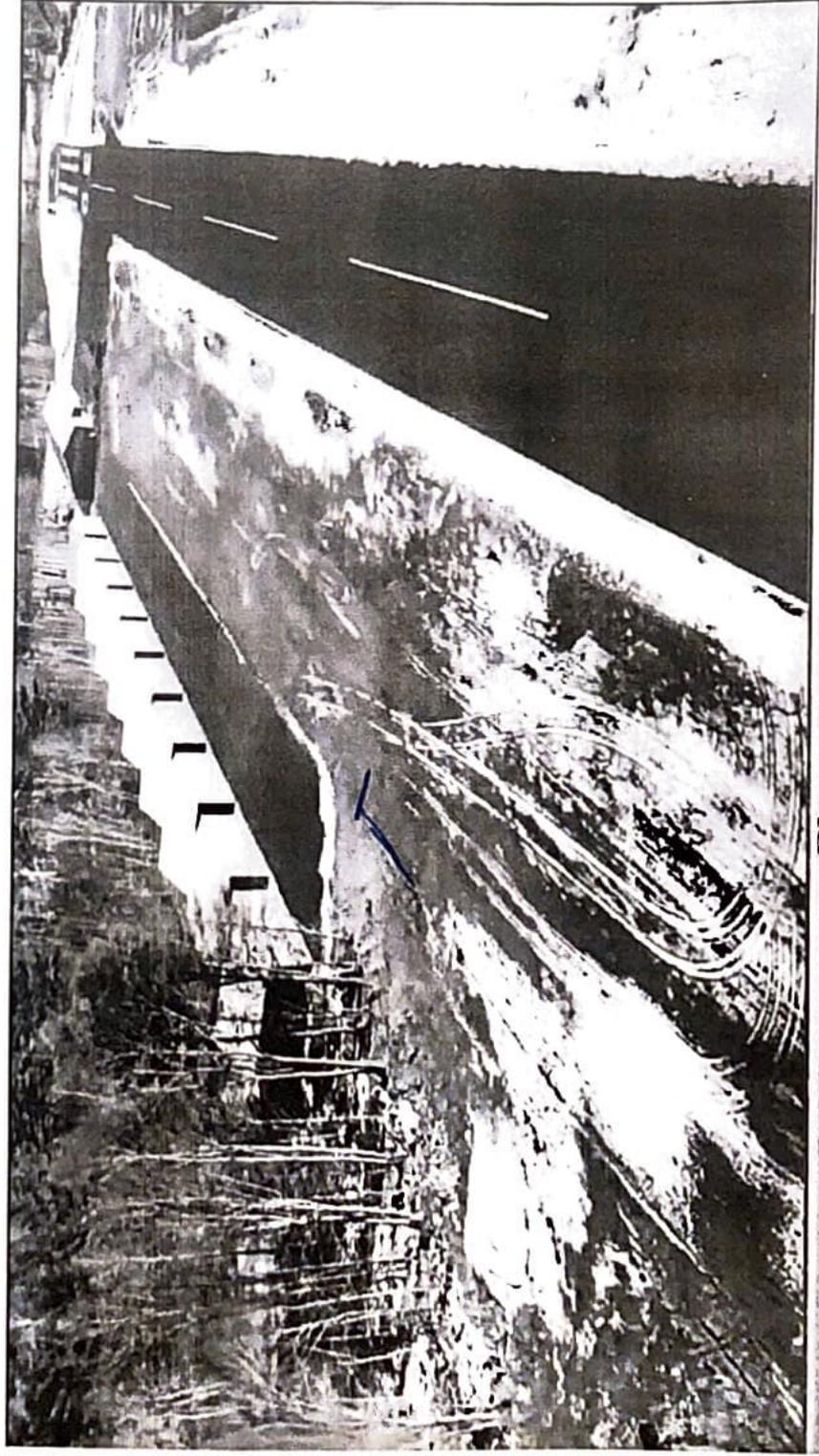


1. 2020 Aerial, October 2020
 2. 2022 Aerial, June 2022
 3. 2020 Aerial, October 2020
 4. 2022 Aerial, June 2022

	2020	2022	
APRINTON	6.6 AC	6.4 AC	
GRAVEL/HARD	0.6 AC	5.7 AC	
GRASS/D	6.7 AC	5.8 AC	
WOOD/D	37.2 AC	28.8 AC	
MIXED + DIRT	7.4 AC	12.1 AC	
TOTAL	48.5 AC	48.3 AC	

APPROX

(340m) 928 ft from the
I. ~~AT~~ ~~THE~~ ~~HOUSE~~
2 LITTLEBROOK
AIRTRAK HOUSE

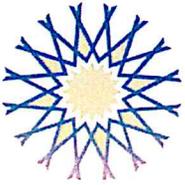


Rebuttal to Acorn Report

- 1) Acorn never visited site all done w Google Earth
- 2) Acorn never interviewed contractor(s) or owner. Relied solely on *selective* information supplied by Hardy
- 3) Report erroneously included the repaving of the runway (maintenance) and previous work areas, prior to Shamrock's ownership, in their 3+ acre calculations
- 4) Acorn was never supplied information from Hardy of some of the previous activities, after original paving of airport 1974(?)
 - Runway REPAVED by Pike Industries 1999-2000
 - Tree farming 2 know cuttings (deposition)
 - Gravel harvesting, earth moving (deposition)

Note: Some of the older work performed has been viewed by the code enforcement officer and city Planner who visited the site, after Acorn report generated

Summary: This is a very misleading report, filled with subjective calculations based on omitted, selective information supplied by Hardy



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

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

January 18th, 2024
Project No. C368-22

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

Dear Mr. Brubaker:

On behalf of the lot owner/applicant, Alan and Frances Newson, I have enclosed a revised Subdivision Plan Application and supporting documents for your review and consideration.

The 17.1-acre parcel is located on River Road and currently has a single-family dwelling and barn in the suburban district.

The plan proposes to subdivide the existing residential parcel into four smaller lots. One contains the existing dwelling and barn, and the remaining three will have proposed single-family houses and accompanying driveways and features. There is no proposed development of the three proposed new lots at this time. All lots are to be sold as is and developed at a later date.

The parcel contains no graveyards, historical sites, historical buildings, or other features that may be considered important historical assets. This includes historical locations and features identified in the Eliot Maine Comprehensive Plan.

The proposed subdivision will have no effect on community services, there are no construction of maintenance items to be completed prior to sale of the lots. There are no proposed changes to utilities. Public health and safety will not be adversely affected by the subdivision as there are no proposed developments at this time.

The applicant has also requested that payment in lieu be accepted in place of the normally required open space as the rear portion of the lot where the open space would be placed is landlocked by wetlands and cannot be accessed easily.

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

Sincerely;

Wyatt R. Page, E.I.
Project Engineer

CASE NO. _____

**TOWN OF ELIOT
PLANNING BOARD
SUBDIVISION APPLICATION**

This application shall conform in all respects to the Land Subdivision Standards of Chapter 41 of the Planning Board of the Town of Eliot code of ordinances. Ten (10) copies of application and sketch plan shall be submitted.

- Application for () Sketch plan
- (✓) Preliminary plan for major subdivision
- () Final plan for minor subdivision

1. Proposed name of subdivision River Road Subdivision

2. Location of property 708 River Road

3. Tax Map 50 Lot # 29 Size (acres) 17.1

4. Zoning District (circle one) Commercial/Industrial Rural **Suburban** Village

5. Name of record owner Alan & Frances Newson

Mailing address 705 River Road, Eliot ME 03903 Phone # 207-252-4050

6. Name of applicant Same as owner(above)

Mailing address _____ Phone # _____

If corporation, name of agent Wyatt Page, Attar Engineering, Inc. 207-439-6023

7. A complete statement of any easements relating to the property is attached hereto
(if none, so state) None

8. Deed or deeds recorded at County Registry of Deeds

Date 9/1/2022 Book # 19104 Page # 932

Date _____ Book # _____ Page # _____

Date _____ Book # _____ Page # _____

CASE NO. _____

9. Do the owner and/or applicant have an interest in an abutting property as stated on the attached sheet? No

10. Name, address and license # of Engineer, Land Surveyor, Architect, or Planner
Kenneth A. Wood, Attar Engineering, Inc. 1284 State Road Eliot ME License #5992

11. Preliminary plan covers 4 Lot subdivision, no proposed development. Individual lots to be sold as is.

12. If applicable, has the owner and/or applicant been approved for a MaineDOT driveway permit for the installation, physical change or change of use a driveway located on a State highway? N/A

13. Does owner propose to submit Final Subdivision Plan to cover the entire Preliminary Plan, or to file same in sections? Final Subdivision Plan to cover
If so, how many? _____

14. Does the preliminary plan cover the entire contiguous holdings of the applicant?
Yes

15. Entrances onto existing or proposed collector streets do not exceed a frequency of one per 400' of street frontage? Yes No

16. Entrances onto existing or proposed arterial streets do not exceed a frequency of one per 1000' of street frontage? Yes No

17. A distance of at least 200' is maintained between centerlines of offset intersecting streets? Yes No

18. Does the applicant propose to dedicate to the public all streets, highways and parks shown on the plan? N/A

CASE NO. _____

19. Give the number of acres which the applicant proposes to dedicate to public to use for park, playground and/or other purposes N/A

20. If any waivers of requirements are to be requested, list them on a separate sheet, referencing the Sections in Chapter 41 and give reasons why such requirements should be waived .

21. Is the property located in a flood zone? No

If yes, please complete the attached Flood Hazard Development Application and return it with your application.

Subdivider shall submit fees as specified in Sections 1-25 in the amount of \$200/lot prior to the second meeting with the Planning Board. Fees are not refundable.

Applicant signature Wyatt Page, Agent Date 1/18/2023

Owner signature _____ Date _____

Planning Assistant _____ Date _____

FEES:	
Major subdivision	\$200 per lot
Minor subdivision	\$200 per lot

CASE NO. _____

**Town of Eliot Planning Board
CHECKLIST FOR A SUBDIVISION APPLICATION
(All items will be reviewed unless otherwise noted or NA)**

The owner of the property is
Alan & Frances Newson

The applicant is Alan & Frances Newson who has demonstrated a legal interest in the property by providing:
Warranty Deed

Agents for the applicant are:
Wyatt Page & Kenneth Wood, Attar Engineering, Inc.

The property is located at 708 River Road, in the Suburban zoning district, identified as Assessor's Map 50, Lot 29, and containing 17.1 acres

Application is for establishment of (new) (modification to existing) Major/Minor Subdivision. New Minor Subdivision

Existing Subdivision was approved by the Planning Board on _____.

The name of the proposed subdivision is River Road Subdivision and it will contain 4 lots which range in size from 4.07 acres to 4.78 acres and are shown on Plan No. 1, dated 11/7/2023

N/A Easements and/or Rights of Way affected by or within the proposed subdivision are as follows:

- a. _____
- b. _____
- c. _____

N/A Entrances onto existing or proposed collector streets do not exceed a frequency of one per 400' of street frontage? Entrances onto existing or proposed arterial streets do not exceed a frequency of one per 1000' of street frontage?

N/A Owner/applicant has been approved for a driveway permit from MaineDOT for the installation, change or change of use on any State highway, if applicable?

Lots within the proposed Subdivision will have (private) (public) water supply and (private) (public) (private central) sewage disposal systems.

Sketch Plan was accepted by the Planning Board on 9/5/2023

Preliminary Plan approved by Planning Board on _____

A Site visit was conducted on _____

A public hearing was held on _____

_____ abutters spoke or submitted written correspondence at the Public Hearing or submitted written correspondence by mail.

CASE NO. _____

_____ members of the public spoke or submitted written correspondence at the Public Hearing or submitted written correspondence by mail.

The application was discussed by the Planning Board on 5/16/2023, 9/5/2023, _____.

Plan for minimizing surface water drainage (Section 41-213) submitted: (Yes) (No) (Waiver requested)

Soil Erosion and Sediment Control Plan (Section 41-214) submitted: (Yes) (No) (Waiver requested)

(Optional for Minor Subdivision) Statement or plan showing effect upon air quality (Section 41-212) submitted: (Yes) (No) (Waiver requested)

(Optional for Minor Subdivision) Soils Report and High Intensity Soils Survey [Section 41-150(11)] submitted: (Yes) (No) (Waiver requested)

(Optional for Minor Subdivision) Location of all natural features or site elements to be preserved (Section 41-215) identified: (Yes) (No) (Waiver requested)

(Optional for Minor Subdivision) Statement or plan concerning historical sites and land use patterns (Section 41-216) submitted: (Yes) (No) (Waiver requested)

Means of providing water supply to the proposed subdivision (Section 41-217) identified: (Yes) (No) (Waiver requested).

Sanitary sewerage system (Section 41-218) identified: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Community services and impact statement (Section 41-220) submitted: (Yes) (No) (Waiver requested).

(Optional for Minor Subdivision) Traffic congestion and safety plan (Section 41-221) submitted: (Yes) (No) (Waiver requested)

(Optional for Minor Subdivision) Public health and safety statement (Section 41-222) submitted: (Yes) (No) (Waiver requested).

Compliance with Federal, State, and Local land use laws (Section 41-223) demonstrated: (Yes) (No).

(Optional for Minor Subdivision) Estimated Progress schedule [Section 41-150(21)] submitted: (Yes) (No) (Waiver requested)

Adequate financing (Section 41-224) demonstrated: (Yes) (No) (Waiver requested).

N/A (Optional for Minor Subdivision) Water Department approval provided for public water service [Section 41-174 (1)]

N/A (Optional for Minor Subdivision) State of Maine, Department of Human Services approval for central water supply system provided [Section 41-174 (2)]

CASE NO. _____

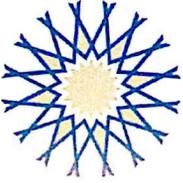
Soil Scientist approval for individual wells provided [Section 41-174 (3)]: **Yes** (No)

Proposed subdivision Plan reviewed by the Department of Environmental Protection: (Yes) (No) **Waiver requested**

Proposed subdivision Plan reviewed by the Department of the Army, Corps of Engineers: (Yes) (No) **Waiver requested**

Proposed subdivision Plan reviewed by the York County Soil and Water Conservation District: (Yes) (No) **Waiver requested**

Other _____



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ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

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

January 18th, 2024
Project No. C368-22

**RE: Waiver Request – Site Plan Amendment Application
708 River Road Subdivision
708 River Road (Tax Map 50, Lot 29)**

Dear Mr. Brubaker:

The purpose of this letter is to request that the Planning Board consider a waiver from compliance with the Town of Eliot Code of Ordinances. The waiver requests and justifications follow:

Code of Ordinances Chapter 41 Article III Division 3 §41-150(11) – High Intensity Soils Report

A waiver from the requirement that a high intensity soil survey and report signed and sealed by a Maine Certified Soil Scientist is requested. Rationale for this waiver follows:

- The subdivision proposes no development at this time and test pit data generated by Licensed Soil Scientist and site evaluator Michael Cuomo has been submitted and discussed at length with the Eliot Planning Board. The data shows that all test pits meet the requirements for building. The aforementioned data can be used in a high intensity soils report at such time that a subdivided parcel is to be developed and submission of HISS is required.

Code of Ordinances Chapter 41 Article III Division 3 §41-150(21) – Estimated Progress Schedule

A waiver from the requirement for an estimated progress schedule is requested as there is no construction or development proposed by this subdivision.

Code of Ordinances Chapter 41 Article IV §41-212 – Air Quality

A waiver from air quality requirements is requested as there are no developments proposed that would affect air quality.

Code of Ordinances Chapter 41 Article IV §41-213 – Plan for Minimizing Surface Water Drainage

A waiver from the requirement to submit a surface water drainage plan is requested as there is no development proposed beyond the subdivision of the lot. A surface water drainage plan would be submitted as required at such time that the lots are to be developed.

Code of Ordinances Chapter 41 Article IV §41-214 – Soil Erosion and Sediment Control Plan

A waiver from the requirement to submit an erosion and sedimentation control plan is requested as there is no development proposed beyond the subdivision of the lot. An erosion and sedimentation control plan would be submitted as required at such time that the lots are to be developed and require erosion and sedimentation control measures.

Code of Ordinances Chapter 41 Article IV §41-215 – Preservation of Natural Resources & Scenic Beauty

A waiver from the requirements of section 41-215 is requested on the basis of no natural resources, scenery, or other physical features being changed by the proposed subdivision plan.

Code of Ordinances Chapter 41 Article V §41-221 – Traffic Congestion and Safety Plan

A waiver from the requirement to provide a traffic congestion and safety plan is requested as there are no proposed changes to traffic generation resulting from the proposed subdivision as no development is proposed at this time.

Subdivision Plan Review by External Entities

Waivers from the requirement to have the subdivision plan reviewed by the following external entities is requested on the basis of no development being proposed by the subdivision plan:

- Department of Environmental Protection
- Department of the Army, Corps of Engineers
- York County soil and Water Conservation District

Please contact me if any additional information or clarifications are required.

Sincerely;

A handwritten signature in black ink that reads "Wyatt Page". The signature is written in a cursive, slightly slanted style.

Wyatt Page
Project Engineer

C368-22 Waiver Request.doc

LOCAL

Portsmouth Planning Board member could face removal: 'Inability to maintain impartiality'

[Jeff McMenemy](#) Portsmouth Herald

Published 5:16 a.m. ET Jan. 16, 2024 | Updated 5:16 a.m. ET Jan. 16, 2024

PORTSMOUTH — City Attorney Susan Morrell is asking the City Council to schedule a public hearing to determine if Planning Board member James Hewitt should be removed from office.

In a memo to the City Council, Morrell reports the Planning Board chairman, members of the city's planning and legal departments, and others, have repeatedly shared with her communications from Hewitt that "raise concerns" about his ability to "perform his duties as a Planning Board member."

"Attempts to educate Mr. Hewitt as to the legal standards expected, and clarify expectations, began in December of 2021, continued through 2022, and were again addressed in November 2023," Morrell told the council.

Despite her efforts, she said, "Hewitt has not brought his communications into compliance with the legal standards by which Planning Board members must conduct themselves."

Hewitt was appointed to the Planning Board in December 2021 by then-Mayor Rick Becksted, who was serving his final weeks after being voted out of office. At that time Becksted said, "I've been working to make changes on land-use boards so residents won't continue seeing the type of overdevelopment and obscene development they've seen over the last eight years."

Concerns raised about Hewitt

Morrell pointed specifically to emails Hewitt sent to members of the Technical Advisory Committee in January about a project at 581 Lafayette Road "that will eventually be brought before the Planning Board for consideration."

“These emails to city staff represent his continued inability to maintain impartiality, to limit his review to the record before him and are in violation of the legal standards imposed upon land use board members by state statute to remain impartial, transparent, and to base their decisions upon the information presented to them at the public hearing on the project,” Morrell contends in her memo to the council.

Developer Mark McNabb is proposing to build more than 70 apartments at 581 Lafayette Road, which is the site of the Tour restaurant and former home to the Jerry Lewis Cinemas.

McNabb has pledged that 20% of those apartments will rent at work-force rates.

In the January email to Technical Advisory Committee members, Hewitt stated there are “29 parking spaces that do not meet Portsmouth’s parking space dimensional requirements” and adds that the spaces “cannot be used in the overall parking supply total.”

“I suggest TAC require the applicant to produce parking demand data for a similar size apartment complex that indicates 65 parking spaces for 72 apartments/116 bedrooms will be adequate,” he stated in the email.

Reached Friday afternoon, Hewitt said “Today’s news about the city’s intention to remove me from the Planning Board has left me profoundly disappointed.”

He declined to make any more comments.

How board members can be removed

Morrell stated RSA 673:13 “provides for the removal of land-use board members” after a public hearing “upon a written finding of inefficiency, neglect of duty, or malfeasance in office.”

Malfeasance in office is defined, according to Morrell, “as the general misuse of public office, or a wrongful conduct that affects, interrupts or interferes with the performance of official duties, or as the doing of an act which ought not to be done.”

Hewitt’s actions, she contends, “support the request for the council to schedule a public hearing to determine if (he) should be removed from the Planning Board.”

A sample motion included in Morrell’s memo suggests holding the public hearing at the Feb. 5 council meeting.

More: Portsmouth mayor eyes new bid for affordable housing at Sherburne site: Will it work?

Prior warning for Hewitt

Morrell also shared with the council a letter she sent to Hewitt on Nov. 9, 2023 about an email he sent to fellow board members concerning a 375 Banfield Road project.

Morrell tells Hewitt in the letter that his email “is problematic for four reasons.”

First, he was told at a hearing on the project “not to consider or discuss” an environmental lawsuit pending against the city related to the site.

“Your email demonstrates a clear bias toward the project, as you are advocating for consideration by the Planning Board of irrelevant facts not property before it,” she told Hewitt in the letter.

By circulating the email to the entire board, “you have potentially contaminated the votes of your fellow board members” and communicated to a quorum of the board, “in violation of the Right to Know law,” Morrell states.

Hewitt’s actions, she states in the letter, “exhibit an undeniable pattern of scorning legal advice and the counsel of the Planning Board Chair relative to issues of bias and the Right to Know law.”

The 375 Banfield Road project called for constructing an industrial warehouse and office building on site, according to plans filed with the city.

It was approved by the Planning Board, according to the city attorney.

In her November letter to Hewitt, Morrell tells him “this is not the first time you have chosen to ignore the legal advice provided by the City Attorney’s Office to you and the Planning Board.”

“This pattern of behavior has persisted throughout your term as a Planning Board member,” Morrell said.

She pointed to “numerous letters and emails sent to you by former City Attorney Robert Sullivan,” going back as far as December 2021.

“Concerns regarding your conduct as a board member, potential bias, and circumvention of the Right to Know law are also documented in email correspondence” from February 2022, March 2022, July 2022, September 2022 and October 2022,” Morrell wrote in the three-page letter.

She reported Hewitt was initially “apologetic for unintended missteps.”

But she warns him in the letter that “your continued conduct contrary to this advice is evidence of your refusal to comply with the laws governing the operations of the Planning Board.”

Morrell goes on to tell Hewitt in the November letter that “any recurrence of the illegal conduct discussed above or any similar conduct or other illegal actions on your part will lead to the initiation of your removal from the Planning Board.”

The letter is copied to Mayor Deaglan McEachern, Planning Board Chair Rick Chellman, City Manager Karen Conard and Deputy City Attorney Trevor McCourt.