

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

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

DATE: Tuesday Feb. 6, 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. **OPTIONAL ONLINE COURSE VIEWING (5:00 PM, in-person only)**
Making Room for Home-Based Businesses (Planetizen Course)
2. **REGULAR MEETING START AND ROLL CALL (6:00 PM)**
Quorum, Alternate Members, Conflicts of Interest
2. **PLEDGE OF ALLEGIANCE**
3. **MOMENT OF SILENCE**
4. **10-MINUTE PUBLIC INPUT SESSION**
5. **PUBLIC HEARING**
 - a) 128 Stacy Ln. (Map 78, Lot 43), PID# 078-043-000, PB23-20: Shoreland Zoning Permit Application – Shoreline Stabilization
6. **NEW BUSINESS**
 - a) Ordinance amendments
 - 1) Floodplain Management Ordinance
 - 2) LD2003 – any additional changes to enacted Nov. 2023 ordinance amendments
 - 3) Event Centers
7. **OLD BUSINESS**
 - a) 107 Littlebrook Ln. (Map 46, Lot 3), PID# 046-003-000, PB23-21 Site Plan Amendment/Review – Earth material removal ≥100 cy
8. **REVIEW AND APPROVE MINUTES**
 - a) January 9, 2024
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 20, 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: **870 1009 4131**
 2. When prompted to enter Attendee ID
 3. When prompted enter meeting password: **628035**

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

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


Christine Bennett, Planning Board Chair



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: 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: February 1, 2024 (report date)
 February 6, 2024 (meeting date)
 Re: PB23-20: 128 Stacy Ln. (Map 78, Lot 43): Shoreland Zoning Permit Application – Shoreline Stabilization – **Public Hearing**

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	January 23, 2024
✓ Found Complete by PB	January 23, 2024
Site Walk	None
Site Walk Notice Publication	N/A
Public Hearing	February 6, 2024 (scheduled)
Public Hearing Publication	January 26, 2024 (Weekly Sentinel)
✓ 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

Public hearing – receive comments and written correspondence (if any) from the public before deliberation and consideration of an overall action on the application.

Eliot Conservation Commission comments (1/23/24 email from Chair):

“ECC would like to see copies of the DEP and USACE permits when available. We appreciate the level of detail and alternatives analysis provided by the applicant.”

USACE self-verification has been forwarded to ECC Chair.

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 permits, and DEP’s website lists the permit review as “in process”. The applicant is requesting concurrent PB review.

PB23-20: 128 Stacy Ln. (Map 78, Lot 43): Shoreland Zoning Permit Application – Shoreline Stabilization – **Public Hearing**

The USACE self-verification form has been submitted and is in your packet.

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. At the January 23, 2024, meeting, the applicant summarized that white oaks, elms, and river birch will be planted.

Recommendation

Approve with conditions and shoreland findings – see motion templates below

Motion templates

Approval with shoreland zoning findings and conditions (recommended)

Motion to approve the Shoreland Zoning Permit Application for PB23-20 for Shoreline Stabilization at 128 Stacy Ln., 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:

PB23-20: 128 Stacy Ln. (Map 78, Lot 43): Shoreland Zoning Permit Application – Shoreline Stabilization – **Public Hearing**

- 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.

The approval includes the following conditions:

1. [Standard conditions]
2. No later than 20 days after completion of the development, the applicant shall provide to the Code Enforcement Officer postconstruction photographs of the shoreline vegetation and developed site.
3. Prior to commencing the activity, applicant shall submit a copy of DEP permit(s) to the Code Enforcement Officer, Town Planner, and Conservation Commission Chair.
4. _____[other conditions, if any]

Denial

Motion to deny the Shoreland Zoning Permit Application for PB23-20, for the following reasons:

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

Continuance

Motion to continue PB23-20 to the February 20, 2024, meeting.

* * *

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: February 6, 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, February 6, 2024 at 6:00 PM for the following application:

- **128 Stacy Ln.** (Map 78, Lot 43), PID# 078-043-000, PB23-20: Shoreland Zoning Permit Application – Shoreline Stabilization
 - **Applicant:** Eugene and Nedra Sahr; agent: Tidewater Engineering & Surveying, Inc.
 - **Property Owner:** Eugene and Nedra Sahr

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.



~ Sports & Classifieds ~

HIGH SCHOOL VARSITY SCORES

Berwick Academy

Boys Ice Hockey

Jan. 22, (L) vs. Phillips Exeter Academy, 2-5
 Jan. 19, (W) vs. Portsmouth Abbey, 4-1
 Jan. 17, tied vs. Kents Hill School, 2-2
 Girls Ice Hockey
 Jan. 20, (W) the Travis Roy Maine Cup vs. Kents Hill School, 3-2
 Jan. 19, (L) the Travis Roy Maine Cup vs. North Yarmouth Academy, 2-7
 Jan. 17, (L) vs. Tilton School, 1-5

Kennebunk High School

Boys Basketball

Jan. 19, (W) vs. Marshwood, 51-36

Girls Basketball

Jan. 19, (L) vs. Marshwood, 50-64

Marshwood High School

Boys Basketball

Jan. 23, (L) vs. Falmouth, 26-51
 Jan. 19, (L) vs. Kennebunk, 36-51

Girls Basketball

Jan. 23, (W) vs. Falmouth, 58-43
 Jan. 20, (W) vs. Noble, 81-33
 Jan. 19, (W) vs. Kennebunk, 64-50

Boys Alpine Skiing

Jan. 23, SMAA/WMC Crossover:
 Falmouth 18
 Fryeburg Academy 37
 Marshwood 46
 Cheverus 76
 Greely 112
 Wells 180
 Marshwood Scorers:
 Quinn Maguire, 59.35 (1st)
 Lucas Glidden, 1:05.26 (10th)
 Reid Chamberlain, 1:09.24 (15th)
 Troy Bascio, 1:10.92 (20th)
 Jan. 19 at Pleasant Mountain:
 Falmouth 14
 Marshwood 33
 Kennebunk 71
 Cheverus 81
 Windham 90
 Marshwood Scorers:
 Quinn Maguire, 1:28.62 (1st)
 Reid Chamberlain, 1:51.69 (8th)
 Lucas Glidden, 1:53.42 (9th)
 Caleb Boyle, 2:03.71 (15th)

Girls Alpine Skiing

Jan. 23, SMAA/WMC Crossover:
 Falmouth 20
 Greely 47.5
 Marshwood 51.5
 Lake Region 54
 Fryeburg Academy 56
 Marshwood Scorers:
 Hadley Prewitt, 1:01.01 (1st)
 Annika Oberg, 1:16.54 (14th)
 Sarah McClellan, 1:17.43 (17th)
 Olivia Drake, 1:18.02 (19th)
 Jan. 19 at Pleasant Mountain:
 Falmouth 15
 Kennebunk 48
 Windham 61
 Marshwood 68
 Scarborough 82
 Gorham 95

Marshwood Scorers:

Hadley Prewitt, 1:33.76 (1st)
 Annika Oberg, 2:07.67 (16th)
 Olivia Drake, 2:07.82 (17th)
 Lilliana Gennaro, 2:41.06 (34th)

Noble High School

Boys Basketball

Jan. 19, (L) vs. Falmouth, 48-51

Girls Basketball

Jan. 20, (L) vs. Marshwood, 33-81
 Jan. 19, (L) vs. Bonny Eagle, 21-61

Traip Academy

Boys Basketball

Jan. 22, (L) vs. Winthrop, 49-55
 Jan. 19, (L) vs. Sacopee Valley, 61-70

Girls Basketball

Jan. 22, (L) vs. Winthrop, 22-43
 Jan. 19, (L) vs. Sacopee Valley, 20-36

Wells High School

Boys Basketball

Jan. 17, (W) vs. Poland, 71-60

York High School

Boys Basketball

Jan. 20, (L) vs. Gray-New Gloucester, 57-71

Girls Basketball

Jan. 20, (L) vs. Gray-New Gloucester, 38-53

Scores from www.maxpreps.com.
 Alpine Skiing scores from Coach Eric Oberg.

Registration for WinterKids Downhill 24

STATEWIDE -

Registration is now open for the 12th Annual WinterKids Downhill 24 at Sugarloaf, happening Thursday, February 29 - Friday, March 1. Presented by Agren and Zachau Construction, the WinterKids Downhill 24 is a 24-hour ski and snowboard challenge that raises money for WinterKids programs, which helps kids around the state build healthy habits through outdoor winter activity. This is the only night of the year to ski under the lights at Sugarloaf.

The Downhill 24 starts at 8 p.m. that Thursday and ends at 8 p.m. Friday, with a closing ceremony party in the King Pine Room at Sugarloaf. Teams can register to ski, ride, or skin-up for 24 hours. Registrations are available for corporate teams and individual teams, with teams of up to twelve people. There will be a full schedule of events including a race arena, inflatable obstacle course, trivia, raffles, all night mid-mountain party, music, food, and more!

For this year's 12th annual event, the organization aims to raise \$800,000. "The success of the event has not only changed our organization's trajectory but has also enabled us to expand our reach and serve thousands more kids each year," says Julie Mulhern, WinterKids' Executive Director. "The funds raised at the event are instrumental in their efforts to reach and positively impact the lives of over 50,000 children across all sixteen counties of Maine." The event also helps support the Carrabassett Valley region with local beneficiaries each year. This year's beneficiaries include the Adaptive Outdoor Education Center, Sugarloaf Ski Club, and the Western Maine Center for Children.

Created in 2022, the WinterKids Downhill 24 Outdoor Fund supports organizations statewide through a community voting process in July. Public schools, 501(c)(3) nonprofits, and parks and recreation organizations receive funds to get more kids outside and active. Some of the organizations benefiting from WinterKids programs include Pine Tree Camp, Teens to Trails, Arrostook County Action Program, Maine Youth Fish & Game Association, South Portland Middle School, Mariners Soar, Rangeley Lakes Regional School, Molly Ockett School, Town of Millinocket Parks and Rec, Saco Parks and Rec, City of Bangor Parks and Rec, and Quarry Road Trails.

The 12th Annual Downhill 24 is presented by Agren and Zachau Construction. Additional sponsors include Kittery Trading Post, WEX, Portland Pie Company, HERC Rentals/Pike

See **DOWNHILL** on page 20 . . .

PUBLIC & LEGAL NOTICES

Town of Eliot SITE WALK NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: 107 Littlebrook Lane (Seacoast Airfield)
DATE OF SITE WALK: February 6, 2024
TIME: 3:00PM

Backup date and time in case of inclement weather or other contingencies: February 7, 2024, at 3:00PM.

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a site walk on Tuesday, February 6, 2024 at 3:00 PM for the following application:

107 Littlebrook Ln. (Map 46, Lot 3), PID# 046-003-000, PB23-21: Site Plan Amendment/Review - Earth material removal ≥100 cy. Applicant: Mike Devine. Property Owner: Shamrock Aviation, LLC.

The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. It may also be viewed online in the January 23, 2024, Planning Board agenda packet available via the following link: www.eliotmaine.org/planning-board.

TOWN OF BERWICK - PUBLIC NOTICE

The Berwick Planning Board will hold a Public Hearing to review changes to the Town's Land Use Ordinance and Subdivision Regulations.

Supporting documentation is available at the Town Hall from the Community Development and Planning Department. Please contact the Department with any questions at planning@berwickmaine.org or (207) 698-1101 ext. 124.

PUBLIC HEARING:

When: Thursday, February 1, 2024 at 6:30 p.m.
Location: Berwick Town Hall, Burgess Meeting Room

TOWN OF BERWICK - PUBLIC NOTICE

The Berwick Planning Board will hold a Site Walk and Public Hearing for a Conditional Use Review as requested by Rene La Pierre and Berwick Small Engines. The owner of this property is seeking approval to open a small engine repair shop and construct a small retail store located at 74 School Street (Map U002 Lot 9 Zone V/C).

Supporting documentation is available at the Town Hall from the Community Development and Planning Department. Please contact the Department with any questions at planning@berwickmaine.org or (207) 698-1101 ext. 124.

SITE WALK: PUBLIC HEARING:
Date: Thursday, February 15, 2024 **Date:** Thursday, February 15, 2024
Time: 4:30 p.m. **Time:** 6:30 p.m.
Place: 74 School Street, Berwick **Place:** Berwick Town Hall
 Burgess Meeting Room

Town of Eliot NOTICE OF FINDING OF NO SIGNIFICANT IMPACT

NOTICE TO ALL INTERESTED PERSONS:

The State of Maine, Department of Environmental Protection, has issued a Finding of No Significant Impact in compliance with Section C of "The State of Maine Revolving Loan Fund Rules Chapter 595", on behalf of the Town of Eliot as part of the environmental review requirements.

The proposed action is the installation of collection sewers and cross-country sewer lines along and in the vicinity of Beech Road, Passamaquoddy Lane, Brook Road, Levesque Drive, and Julie Lane. This project is the second of three construction projects that will complete the work needed to collect and convey the new wastewater flows to Kittery Wastewater Treatment Plant.

A review of the proposed action by the DEP has indicated that it will not result in a significant impact to the environment. Therefore, a Finding of No Significant Impact has been issued for the project.

Further records in regard to the project are on file and are available for public review at the Eliot Town Offices, 1333 State Road, Eliot, Maine and the offices of the Department of Environmental Protection, 17 State House Station, Augusta, Maine. Comments relative to this decision may be submitted to the district or DEP within thirty days.

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: February 6, 2024
TIME: 6:00PM

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128 Stacy Ln. (Map 78, Lot 43), PID# 078-043-000, PB23-20: Shoreland Zoning Permit Application - Shoreline Stabilization. Applicant: Eugene and Nedra Sahr. Agent: Tidewater Engineering & Surveying, Inc. Property Owner: Eugene and Nedra Sahr.

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 to join the remote Zoom meeting will be posted on the web page at eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.

Town of Kittery Accepting Bids

The Town of Kittery is accepting sealed bids for furnishing two electric passenger vehicles for lease in accordance with the specifications of this Invitation for Bids (IFB). The vehicles will be part of the Town's fleet and used to transport administrative staff such as the Code Enforcement Officers to job sites, meetings, and inspections.

Deliver proposals to the Town Manager's Office at Kittery Town Hall, 200 Rogers Road, Kittery, ME 03904, no later than 3 PM on February 12, 2024. For a complete description and instructions on how to submit a proposal, please visit www.kitteryme.gov/bids. Questions are accepted via email to Director of Planning and Development Jason Garnham at jgarnham@kitteryme.org.

NOTICE OF PUBLIC HEARING

To: Marianne Goodine or Michele Stivaletta-Noble, Cindy Appleby, Mark Dupuis, Keeley Lambert, Mike Livingston, resident of the Town of Wells, County of York, and State of Maine; GREETINGS:

In the name of the State of Maine, you are hereby required to notify and warn the voters of the Town of Wells that the Board of Selectmen of said town will meet at the Municipal Building, 208 Sanford Road, Wells on the 6th day of February 2024 at 6:00 p.m. in the evening.

The Board will conduct a public hearing regarding a possible Consent Agreement with Jason Labonte, Home Innovations, LLC, regarding land use violations at Tax Map 54, Lots 5-1 to 5-36 in the River's Edge Subdivision, and at Tax Map 37, Lots 6-1 to 6-16 in the Parker Ridge Subdivision.

SELECT BOARD OF THE TOWN OF WELLS

BENOIT, DANIEL J
BENOIT, JESSIE
30 DC DR
ELIOT, ME 03903

RENAUD, WILLIAM, III
PO BOX 201
ELIOT, ME 03903

BERUBE, HELEN
56 OSPREY COVE LN
ELIOT, ME 03903

SANTOSUOSSO, ERNEST W
BUCHWALD, ADELE
107 STACY LN
ELIOT, ME 03903

CHRISTIE, THOMAS J
CHRISTIE, CORNELIA M
126 STACY LN
ELIOT, ME 03903

TSAMPAS, CONSTANTINE
TSAMPAS, DEBRA A
55 OSPREY COVE LANE
ELIOT, ME 03903

CLEMONS, BRUCE
LANGMAID, ANN
73 RIVER ROAD
STRATHAM, NH 03885

CLOONEY, LILLIAN S
104 STACY LN
ELIOT, ME 03903

GREENBRIAR ESTATE OWNERS'
PO BOX 549
ELIOT, ME 03903

LICCIARDELLO, GAIL J
113 STACY LN
ELIOT, ME 03903

MILLER, JOHN W JR
123 STACY LN
ELIOT, ME 03903

PAINCHAUD, CHARLES R
PAINCHAUD, HOLLY
114 STACY LN
ELIOT, ME 03903

PUBLIC SERVICE CO OF NH
DBA EVERSOURCE ENERGY
PO BOX 270
HARTFORD, CT 06141-0270

2007 Amendments to Maine Floodplain Management Model Ordinances
60.3 (c & d) Zones

Additions are underlined and deletions are strikethrough.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A, A1-30, AE, and AH shall either:
 - a. be on the site for fewer than 180 consecutive days,

ARTICLE XIII or XIV - DEFINITIONS

(The Article number depends on which version of the model is in effect for your community)

Elevation Certificate - An official form (FEMA Form 81-31, ~~07/00~~, 2/06, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

2009 Amendments to Maine Floodplain Management Model Ordinances
60.3 (cd) Model

Additions are underlined and deletions are ~~strikethrough~~.

ARTICLE XI

- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones **A1-30, AE, AO, AH, and A**, in and over water ~~and seaward of the mean high~~ if the following requirements are met:

Alternate Language for State Model Floodplain Management Ordinance

Article IV – Application FEE

In recognition of the varying degree of difficulty and amounts of time required for reviewing and processing flood hazard development permit applications, some communities are inserting language for a split or sliding fee schedule.

Some communities already have fee structures in other ordinances that are set according to the value of the proposed project. In order to promote consistency between their ordinances they might choose to adopt a similar fee structure for the floodplain ordinance. Other communities want the flexibility of allowing their Board of Selectmen to reassess and establish fees annually, without specifying the exact amount within the ordinance. Many communities simply assess a larger fee for new construction or substantial improvement projects (which often require more time and effort to review) and a smaller fee for all other (minor) projects.

Some options may be:

1. Assess a fee that is a percentage of the proposed project value, (i.e. 1%/\$1000)
2. Set fees according to monetary thresholds based on the value of the proposed project

Examples:

\$10 - project value < \$1,000

\$20 - project value ≥ \$1,000 but < \$10,000

\$30 - project value ≥ \$10,000 but < \$25,000

\$40 - project value ≥ \$25,000 but < \$50,000

\$50 - project value ≥ \$50,000

3. Split Fee Example:
A nonrefundable application fee of \$25 for minor development or \$50 for new construction or substantial improvements shall be paid to the City/Town Clerk and a copy of a receipt for the same shall accompany the application.
4. Allowing the Board of Selectman to annually establish a fee.

Example:

A nonrefundable application fee, as established annually by the Board of Selectmen shall be paid to the City/Town Clerk and a copy of a receipt for the same shall accompany the application.

5. Some larger towns or cities may want to consider assessing fees based on the amount of time required to process the application.

Example:

Applications shall be submitted to the Town Clerk accompanied by the prescribed application fee. The application fee shall be determined by the Board of Selectmen upon recommendation of the Planning of Board. The fee shall be designed to approximate the costs incurred by the Town for administering the ordinance. Upon receipt of an application and the required fee, the Town Clerk will stamp the application with the date of receipt and forward the application to the Code Enforcement Officer.

INSTRUCTIONS FOR COMPLETING AND ADOPTING THE MODEL FLOODPLAIN MANAGEMENT ORDINANCE

The enclosed model Floodplain Management Ordinance has been customized, as much as possible, for your community. The Ordinance provided usually designates either the Code Enforcement Officer or the Planning Board as the permitting authority. We customized it according to the ordinance currently in effect for your community. **Please review this document carefully and notify us of any errors.** If the community would like to change the permitting authority or make any other changes to the ordinance, please contact the Floodplain Management Program as we can easily make most changes for you. **If any changes are made locally to the model ordinance, please submit the ordinance to Floodplain Management Staff prior to any public hearing. It is critical that we review the proposed changes to be certain they are consistent with the minimum Federal requirements for participation in the National Flood Insurance Program (NFIP) and state standards.**

In Article IV, the amount of the application fee is strictly a local option but should be sufficient to cover the costs for administering and enforcing this ordinance. It is recommended that the Flood Hazard Development Permit fee be \$50.00 for new construction and substantial improvement and \$25.00 for minor development. It is also acceptable to insert language allowing the Board of Selectmen or the municipal Council to establish the fees annually.

When using a model floodplain management ordinance, make sure all blanks are filled in prior to enacting the ordinance, and that the ordinance references the most current Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) dates, or Flood Hazard Boundary Map date.

The floodplain management ordinance must be adopted in accordance with MRSA Title 30-A § 4352. To enact the floodplain management ordinance, a public hearing to allow for citizen input and comments on the proposed ordinance is required prior to enactment.

In accordance with the above MRSA title, Maine law requires that the municipal reviewing authority must post and publish notice of the required public hearing to meet the following two provisions: **“A) The notice must be posted in the municipal office at least 13 days before the public hearing; B) The notice must be published at least 2 times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing. That notice must be written in plain English, understandable by the average citizen.”**

Following the public hearing, the proposed ordinance shall be attested and posted in the manner provided for town meetings. One copy of the proposed ordinance shall be certified by the municipal officers to the municipal clerk at least seven days prior to the day of meeting to be preserved as a public record. Copies shall be available at that time for distribution to the voters by the municipal clerk as well as at the time of the town meeting.

The subject matter of the proposed ordinance shall be reduced to the question: **“Shall an ordinance entitled ‘Floodplain Management Ordinance’ be enacted?”** and shall be submitted to the town meeting for action either as an article in the warrant or a question on a secret ballot. It is always recommended that the ordinance in effect be repealed and replaced with the new ordinance.

Adoption of New FEMA Maps

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. Please note that is acceptable for the community to set the effective date of the ordinance to coincide with the day the new maps become effective.

(continue reading on page 2)

Upon adoption of a floodplain management ordinance, two complete copies certified as “A True Copy” by the municipal clerk, must be sent to the Maine Floodplain Management Program, Dept. of Agriculture, Conservation & Forestry, 93 SHS, 17 Elkins Lane, Augusta, ME 04333-0093. If possible, please e-mail us an electronic copy of the ordinance.

Joining the NFIP

When a community is first applying to join the NFIP, a resolution to join the Program must be adopted. We will provide the Resolution. The Resolution must be entered as a separate question on the warrant/ballot item and can be worded as follows: “Shall a resolution entitled ‘Resolution for Applying for Flood Insurance’ be adopted?” An application form must also be completed, however, that is not a town meeting action item.

If you have any questions in regard to the above or need additional assistance, please call or e-mail the Maine Floodplain Management Program:

Sue Baker, State Coordinator 287-8063 sue.baker@maine.gov

Janet Parker, Planner II 287-9981 janet.parker@maine.gov

2015 through 2019 Updates to the State Model Floodplain Management Ordinance

Department of Agriculture, Conservation & Forestry/Floodplain Management Program

February 5, 2019

This document outlines the changes to the state model ordinance for communities that will be adopting Digital Flood Insurance Rate Maps. The cleanest way for communities to adopt is usually to repeal and replace your current ordinance. If your community chooses to make amendments only, you will need to review the model ordinance language section by section against your current ordinance to make sure that small wording changes, punctuation, and minor errors will be corrected.

2015 Updates to the State Model Ordinance

All references to the State Planning Office have been deleted.

- All dates for FEMA forms and publications (for example, the Elevation Certificate, Floodproofing Certificate, Coastal Construction Manual) have been removed as the forms always have an expiration date and publications are updated occasionally.
- A definition for North American Vertical Datum (NAVD) has been added as the elevations on all DFIRMS are now shown in this datum. They were previously shown in National Geodetic Vertical Datum (NGVD).

Article I: Purpose and Establishment

The last paragraph of Article I has been changed to reflect adoption of the countywide Flood Insurance Study and the Digital Flood Insurance Rate Map panels for your community only.

Article VI.K.: Floodways

Under Article VI.K.2.b.

The FEMA publication *Guidelines and Specifications for Study Contractors* is outdated. FEMA now has a web address with guidance documents, so instead of referencing a particular publication, it now says:

- b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

Please note for future reference: The FEMA web address for the guidelines is at

www.fema.gov/guidelines-and-standards-flood-risk-analysis-and-mapping

Article VI.P. Coastal Floodplains

Under Article VI.P.2.b.(3) the following underlined language was added however, it was removed from the ordinance in 2019:

- (3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

The regulatory side of the NFIP does not have a size limit, however, the flood insurance side of the Program assesses a higher premium for breakaway walls that enclose 300 square feet or greater. The larger the square footage of the enclosure, the higher the cost of insurance. In **2019**, we removed the size limit and have added a disclosure: ***NFIP flood insurance premiums will be higher for breakaway walls that exceed 299 square feet. The larger the square footage of the enclosure, the higher the cost of insurance. Developers are advised to inquire into flood insurance premiums rates before commencing construction.***

(over)

2016 Updates to the State Model Ordinance

Article VI.J.: Accessory Structures

After discussing this with FEMA, we have removed VI.J.1. which specified a 500 square foot limit and a \$3,000 value limitation for accessory structures.

FEMA *Technical Bulletin TB-1 Openings in Foundation Walls and Walls of Enclosures* states that detached garages and detached storage buildings may be permitted without requiring them to be elevated if they comply with all of the requirements for enclosures (found under Article VI.L.) Garages and other accessory buildings must be used only for parking of vehicles and storage, utilities must be elevated, flood damage resistant materials must be used below the BFE, the requirements for flood openings must be satisfied, and they must be anchored to resist flotation, collapse, or lateral movement under flood conditions.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones AE, AO, AH, and A, shall be exempt from the elevation criteria required in Article VI.F. & G., if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;
2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
3. be located outside the floodway;
4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

2019 Updates to the State Model Ordinance

The primary update for 2019 is for Zone A. The ordinance has always allowed the communities to utilize base flood elevation data from federal, state, or other technical sources. If there is no existing base flood information, the applicant was required to calculate the base flood elevation. The ordinance now allows the applicant to build so that the lowest floor of the building is two feet higher than the highest adjacent grade to the building. This means no below grade crawl spaces or basements should be allowed. In a Zone A, flood insurance is rated on the elevation differential between the highest adjacent grade to the building and the lowest floor. The lower the floor is below the highest adjacent grade, the more expensive flood insurance becomes. Amendments located at Article III.H.; Article V.B.2.; and Article VI.F., G., and H.

Accessory Structure

The definition has been changed so that it is in line with FEMA guidance.

2022 Updates to the State Model Floodplain Management Ordinance

Department of Agriculture, Conservation & Forestry/Floodplain Management Program

December, 2022

This document outlines the 2022 changes to the state model ordinance for communities that have Digital Flood Insurance Rate Maps and those communities that do not yet have digital maps. The cleanest way for communities to adopt is usually to repeal and replace your current ordinance. If your community chooses to make amendments only, you will need to review the model ordinance language section by section and word for word against your current ordinance to make sure that small wording changes, punctuation, and minor errors will be corrected.

The Program is unable to provide a strikethrough/underline version of all the changes. Municipal ordinance adoption dates vary widely, so the community should rely on the update sheets that have been created each time changes have been made.

Please note that there are several versions of the model ordinance and they are dependent on the zones on the community's FIRM so the numbering system may be slightly different than the model we created for the community.

Article II – Permit Required

The federal NFIP regulations at 44 CFR 59.22.b.1. require the community designate a local official or board to act as the Floodplain Administrator. It is recommended that this be same as the permitting authority named in the second paragraph. FEMA identified this as a deficiency in the state model ordinance, so this is a required change.

Article III – Application for Permit

H.4. “lowest machinery and equipment servicing the building;”

Article VI – Development Standards

Two new paragraphs have been added:

F. Utilities. This clarifies that all mechanicals and utilities servicing newly constructed and substantially improved buildings must be elevated. If a community participates in the Community Rating System, this language must be in the ordinance.

G. Physical Changes to the Natural Landscape. The federal NFIP regulations at 44 CFR 65.3 states that “a community’s base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions”. Our model ordinances have historically not contained language addressing these types of projects and the potential need to obtain a Letter of Map Revision.

Practical guidance for meeting this section is based on one of two scenarios:

(1) P.E. certification that the development will not change the base flood elevation, flood zone designation, or the boundary of the special flood hazard area, or

(2) An engineering analysis must be completed to show any change in the base flood elevation or boundary of the special flood hazard area. The integrity of the map must be preserved by submitting a Letter of Map Revision (LOMR) request so the map can be revised to reflect the new conditions at a site.

L. Accessory Structures. FEMA issued new policy guidance in February 2020 (FEMA Policy #104-008-03). This was followed up with a new Floodplain Management Bulletin P-2140 in July 2020 titled

Floodplain Management Requirements for Agricultural Structures and Accessory Structures. The new bulletin supersedes previous guidance. The FEMA guidance limits the size to a one story two car garage so the State was required to reinstate a size-limit. Agricultural Structures are now defined and are allowed to use hydraulic openings/flood vents by variance only.

N. Hydraulic Openings/Flood Vents. The heading of this paragraph has been changed from “Enclosed Areas Below the Lowest Floor”. The standards remain the same.

Article X – Appeals and Variances

F. This is a new paragraph that allows a variance to use hydraulic openings/flood vents in Agricultural Structures. This is required in the 2020 FEMA policy and guidance.

G. The cross references have been updated.

Article XIV – Definitions

Agricultural Structure. A definition has been added.

Containment Wall. A definition has been added to clarify the intended use of these walls around above ground tanks as a means to contain spills or leaks.

Existing Manufactured Home Park or Subdivision. A definition has been added as this is a required definition in the federal regulations at 44 CFR 59.1.

Article XVI – Disclaimer of Liability

This section has been added at the request of the FEMA Regional Office.

2023 Updates to the State Model Floodplain Management Ordinance

August 2023

Revisions have been made that require elevation certificates to be signed by Professional Land Surveyors only. The model ordinance is affected by this language change in the following articles:

Article III.J. - Application for Permit

Article V.F.1 - Review Standards for Flood Hazard Development Permit Applications

Article VIII.A. - Certificate of Compliance

Article XIV – Definitions

DFIRM: Digital Flood Insurance Rate Map has been deleted as all maps are referred to as “Flood Insurance Rate Maps” or “Flood Hazard Boundary Maps”.

Elevation Certificate – delete subsection “b. is required for purchasing flood insurance”; collapse remaining text into one sentence.

Elevation Certificate and Floodproofing Certificate have been updated and the form number has been changed.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF ELIOT, MAINE

ENACTED: _____
Date

EFFECTIVE: _____
Date

CERTIFIED BY: _____
Signature

CERTIFIED BY: _____
Print Name

Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Eliot, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Eliot, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Eliot, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Eliot has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Eliot having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Eliot, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of Eliot, York County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – York County, Maine," dated July 17, 2024, with accompanying "Flood Insurance Rate Map" dated July 17, 2024, are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Eliot, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address, and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing locations of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

- D. A statement of the intended use of the structure and/or development;
 - E. A statement of the cost of the development including all materials and labor;
 - F. A statement as to the type of sewage system proposed;
 - G. Specification of dimensions of the proposed structure and/or development;
- [Items H-K.2. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE from data contained in the "Flood Insurance Study - York County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.M. and VIII.D.; or,
 - (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.H.2.b., Article VI.I.2.a. or b., or Article VI.J.2.b.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement;
 - 4. lowest machinery and equipment servicing the building; and,
 - 5. level, in the case of non-residential structures only, to which the structure will be floodproofed.
 - I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
 - J. A written certification by:
 - 1. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
 - 2. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.
 - K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.I.; and other applicable standards in Article VI;
 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.N.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.O.;
 4. a certified statement that containment walls will meet the standards of Article VI.P.
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee in the amount established by the fee schedule set in section 1-25 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood and floodway data contained in the "Flood Insurance Study - York County, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.(1); Article VI.M.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
 - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
 - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
 - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction for verifying compliance with the elevation requirements of Article VI, paragraphs H., I., or J. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
 - G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities, that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within Zones A and AE shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least two feet above the base flood elevation.
- G. **Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.
1. All development projects in Zone AE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.
 2.
 - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.

3. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
4. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. **Residential** - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article VIII.D.; or,
 - b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure.

I. **Non-Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zone AE, shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least two feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; Article VIII.D.; or,

- b. in the absence of all data described in Article VI.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,
- c. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.I.1.a., b., and c.

J. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) All components of the anchoring system described in Article VI.J.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.J.1.b., such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; Article VIII.D.; or,
- b. in the absence of all data as described in Article VI.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,
- c. meet the anchoring requirements of Article VI.J.1.c.

K. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days; and,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.J.1.

L. **Accessory Structures** - New construction or substantial improvement of Accessory Structures, as defined in Article XIII, shall be exempt from the elevation criteria required in Article VI.H. & I. above, if all other requirements of Article VI and all the following requirements are met.

1. Accessory Structures located in Zones A and AE shall:
 - a. meet the requirements of Article VI.A.1. through 4., as applicable;
 - b. be limited in size to a one-story two car garage;
 - c. have unfinished interiors and not be used for human habitation;
 - d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area.
 - e. be located outside the floodway;
 - f. when possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
 - g. have hydraulic openings, as specified in Article VI.N.2., in at least two different walls of the accessory structure.

M. **Floodways** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.M.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - c. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

N. **Hydraulic Openings/Flood Vents** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs H., I., or J. and is elevated on posts, columns, piers, piles, or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

O. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least two feet above the base flood elevation; and,
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.M.; and,
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:

- a. have the containment wall elevated to at least two feet above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

Q. **Wharves, Piers, and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water, and shall comply with all applicable local, state, and federal regulations.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor for compliance with Article VI, paragraphs H., I., or J.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the Elevation Certificate and the applicant's written notification; and,
 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.

- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will 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. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Eliot may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.

- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. the criteria of Article IX.A. through C. and Article VI.M. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article IX.A. through C.; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
 - 1. the development meets the criteria of Article IX.A. through C.; and,
 - 2. the development meets the criteria of Article VI.M. and Article VI.N.
- G. Any applicant who meets the criteria of Article IX.A. through C. and Article IX.D., E., or F. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks, and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- H. Appeal Procedure for Administrative and Variance Appeals
 - 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Agricultural Structure - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Area of Special Flood Hazard - the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - any area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Containment Wall - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

Development - any man made change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or shear walls; and,

- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.N.

Elevation Certificate - an official form (FEMA Form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

Flood or Flooding -

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

Floodplain Management - the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or,
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.N. of this ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required

utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical data used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and,
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, and,

- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - a grant of relief by a community from the terms of a floodplain management regulation.

Violation - the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XIV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

ARTICLE XV - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF RESOURCE INFORMATION & LAND USE PLANNING
93 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

January 19, 2024

Richard Donhauser, Select Board Chairman
Town of Eliot
1333 State Road
Eliot, ME, 03903

[E-Mail Return Receipt Requested]

RE: New FEMA Flood Insurance Rate Maps and requirement for adoption into local ordinance for compliance with the National Flood Insurance Program (NFIP)

Dear Select Board Chairman Donhauser:

Your community should have received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new Digital Flood Insurance Rate Maps (DFIRMs) for York County for July 17, 2024. The LFD marks the beginning of a six-month time period for communities to update their local Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before July 17, 2024, in order to avoid being immediately suspended from the NFIP.**

Participation in the NFIP provides protection to those members of your community who may be affected by flooding. In addition, federal flood insurance is available to those who have federally backed mortgages in the floodplain. Another important benefit is your community's eligibility for disaster funding and low interest loans when your county is in a declared disaster area. This is all possible by way of your community's commitment to adopt, administer, and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. **Please review this document carefully.** The enclosed ordinance contains all the changes that have occurred at the federal and state level since your ordinance was last adopted. Since FEMA has very specific requirements regarding ordinance language, we encourage communities to adopt

SUE BAKER, PROGRAM MANAGER
MAINE FLOODPLAIN MANAGEMENT PROGRAM
17 ELKINS LANE, WILLIAMS PAVILLION



PHONE: (207) 287-2801
FAX: (207) 287-2353
WWW.MAINE.GOV/DACF/

the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. If the community changes the numbering system, a draft should be provided to this office for review. This is to ensure that the ordinance remains compliant and contains the correct cross references. Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.

We filled in the application fee (Article III) and permitting authority (Article II) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. We highly recommend that the community set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted and certified by the Town Clerk, please send this office an electronic copy (if possible) and one clerk certified printed copy. We will provide copies to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

If you have not already done so, please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for the affected communities. Please contact Janet Parker at 287-9981 or janet.parker@maine.gov as soon as this information is available.

Over the next few months, we expect to host at least one public outreach meeting in the York County area. This will be a public informational session so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll provide notice so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or sue.baker@maine.gov) or Janet (287-9981 or janet.parker@maine.gov) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM
State NFIP Coordinator

Enclosures: Customized 2023 Model Ordinance
Adoption Instructions

Update of Ordinance Changes
Optional/Alternate Language

Cc: Michael Sullivan, Town Manager
Wendy Rawski, Town Clerk
Jeff Brubaker, Town Planner
Shelly Bishop, Code Enforcement Officer
Katie Rand, FEMA Region I
Southern Maine Planning and Development Commission

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: February 1, 2023 (report date)
February 6, 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 has a project to remove trees, overgrowth, and stumps from, and grade, a 40 ft. by 1000 ft. area adjacent to the runway at Seacoast Airfield, and is seeking Planning Board approval for the grading/earthmoving component. 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 – see previous 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 that 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

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

from ACORN Engineering was included in the January 23, 2024, packet. This was received on or about May 2023 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 submitted additional information and a rebuttal to the ACORN report which was made available for the January 23, 2024, meeting.

The Conservation Commission shared comments on the application on January 23, 2024. These are in an email from the Chair and included in your packet.

The February 6 Site Walk (unless postponed by weather) should be summarized at this (February 6) PB meeting.

Recommendation

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

If the Site Walk is postponed to February 7, postpone overall action on the item to February 20.

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 20, 2024, meeting.

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

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

From: [Planner](#)
To: [Kim Tackett](#)
Subject: FW: ECC COMMENTS
Date: Thursday, February 1, 2024 1:15:59 PM

Jeff Brubaker, AICP
(207) 439-1813 x112

From: Kari Schank <kschank@yahoo.com>
Sent: Tuesday, January 23, 2024 1:07 PM
To: Planner <jbrubaker@eliotme.org>; Christine Bennett <perfectpickle@comcast.net>
Subject: ECC COMMENTS

Hi jeff and Christine,

I cannot attend tonight's PB meeting due to other commitments. For what it's worth, here are comments on the PB package that we received on Thursday.

PB23-21. I do not believe the ECC has seen the application referenced in your staff notes. The applicant conducted work that was not approved by DEP or the town of Eliot. Are there any ramifications for the unauthorized work? Why is the town allowing them to conduct additional work?

- Is there new tree clearing proposed in addition to area that was already previously cleared? Applicant should provide drawing to scale identifying: area of unauthorized clearing and proposed area of clearing/disturbance.
- NWI mapping indicates presence of wetlands within what appears to be the vicinity of the project area but I can't tell because the drawing provided is not to scale. Applicant should provide a drawing identifying: the previously disturbed area and any protected natural resources.
- Earthwork. Proposed work is just shy of one acre. Has this area of disturbance been confirmed? Again, this area should be identified on drawings.
- Disturbed area should be planted with native grasses. Erosion control measures should be installed in accordance with ME ESC standards. Applicant should provide a drawing to scale to confirm setbacks from protected resources. Photos of site should also be provided. There is no directional area on this "drawing".
- Staff notes reference the "Movement of earth materials from one portion of the parcel to another location on the same parcel". Where is the excavated material being relocated to? If you haven't seen it already, PB should consider where the material will be relocated to ensure no impacts to wetlands or other protected natural resources. Furthermore, is there

any requirement for testing soil before it is moved? Also, are there any implications for the applicant clearing more than 3 acres of forest without approval? This is concerning on many levels.

PB23-20. ECC would like to see copies of the DEP and USACE permits when available. We appreciate the level of detail and alternatives analysis provided by the applicant.

C368-22. 708 River Road. ECC is concerned about potential impacts (direct and indirect) to wetlands that could result from subdividing this property for residential development.

- In the Checklist for Subdivision Applicant, the ECC does not agree with the applicants request to waive plans for minimizing surface water drainage; and waive requirement for locations of all natural features or site elements to be preserved.
- The ECC would like to see the wetland delineation report. The applicant's agent should confirm whether or not a function and values assessment was completed and if vernal pools were identified. As this application progresses, ECC would invite the applicants agent to present at one of our monthly meetings.

Let me know if you have any questions/concerns.

Thanks!

- Kari

Sent from my iPhone

1 **ITEM 1 - ROLL CALL**

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

5
6 Also Present: Jeff Brubaker, Town Planner.

7
8 Absent: Jeff Leathe (excused).

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

12
13 NOTE: Ms. Bennett introduced Ben Pratt, the newest member to join the Planning Board.

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

16
17 **ITEM 3 – MOMENT OF SILENCE**

18
19 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION - None**

20
21 **ITEM 5 – PUBLIC HEARING - None**

22
23 A public hearing had been scheduled to be held tonight but the public notice failed to be
24 printed in the legal notices. It will be re-scheduled to the next regularly scheduled
25 meeting, with applicant concurrence.

26
27 **ITEM 6 – NEW BUSINESS**

28
29 **A. Route 236 Zoning**

30
31 This is an administrative discussion about zoning along Route 236 to take a look at the
32 uses, look and feel, and utility of this zone in conjunction with the improvements being
33 made to the infrastructure related to water and sewer, and also with the current update to
34 the Comprehensive Plan (Comp Plan). LeeJay Feldman is with us from Southern Maine
35 Planning and Development Commission (SMPDC) to give an analysis of a Route 236
36 study that was conducted in 2020 and to advise the PB as to how they might approach
37 looking at the zoning there.

38
39 Mr. Feldman introduced himself and said that he was asked under a previous Manager to
40 look at the analysis on Route 236 for zoning purposes related to the TIF and a MDOT
41 study to include improvements to the Route 236 corridor, including access management
42 issues. While doing your Comp Plan and getting ready to undertake future land use
43 analysis that the future land use piece of the plan could incorporate a fairly large of Route
44 236 to be considered a ‘village zone’. You can start small. Even if the Comp Plan
45 suggests a large area be considered for that doesn’t mean undertaking re-zoning or
46 creation of new performance standards for the entire area. In fact, it would be better to

47 start with a smaller node, or area, to see how it goes before expanding it to a much larger
48 area for re-zoning. The Comp Plan is the precursor that really needs to be in place. If you
49 try to do that now, and the Comp Plan didn't address it, then there could be questions and
50 issues from folks that you won't have justification. Once the Comp Plan is adopted and
51 recommends this, then you will be in good shape to move that type of re-zoning forward.
52 I looked at not only the zone but what kind of standards you might want to put in place. I
53 think you have a copy of "Town of Eliot: Where Tradition Meets Tomorrow Design
54 Guidelines". I created that document for the Town as part of the study and is something
55 that you can consider as you move forward. You can adopt a document like this to be
56 standards for the Town or you could adopt it as a guideline, which would say to a
57 developer 'this' is what we'd like you to do but we're not requiring it, where standards
58 could be put in place to require a developer to do a certain look and feel in that segment
59 of Town. One thing I want to mention is that I believe in baby steps. We can't just create
60 something that is radically different from what we have but something that really starts to
61 make a change. I think moving slowly over time can be proven what you're trying to
62 accomplish. These guidelines are more about the design of buildings, parking, etc. It's
63 not meant to be 'form-based' code but a hybrid form that is gradual. The other thing to
64 think about is what we call a 'village zone', which are clusters of development. Tight,
65 smaller lots, much closer together, which makes it a much more walkable community.
66 Yes, this is Route 236 but, if you do it the right way, you can create nodes that are much
67 more walkable where folks can park in one parking area and walk to another parking
68 area. In doing that, especially with sewer coming into the area, don't be afraid to drop the
69 lot sizes. With sewer, there's no reason to have 1-acre lot sizes; that you could consider
70 going down to a 20,000-square-foot lot size and, if a developer needs more land in the
71 area, they are going to assemble it somehow to make their project happen. You want to
72 have small, clustered lots if you can. In doing that, you also want to have in-fill
73 development. Where there's vacant lots in between two other developments, you want to
74 encourage some sort of in-fill development to occur there to not have open land that
75 creates a feel that there's a big, wide-open development; that you want to start making it
76 feel smaller and closer and more tight-knit. In doing that, one thing I like to consider is
77 not creating minimum setbacks. Instead, think about creating maximum setbacks so that
78 the maximum setback might be 20 feet, 10 feet even in some cases. Because you usually
79 have a property line, then you have a ROW, then you've got the road. What you want to
80 try to do is narrow down that feel of that road. I did this a number of years ago with
81 Route 4 where there are parts of it where buildings are very close together and that
82 creates a kind of tunnel effect, which slows people down. Another thing to consider with
83 this is parking standards. For years, we've lived with the need a parking space for every
84 three seats in a restaurant or one parking space for every 250 square feet of retail space
85 and you know, by looking at that area, that half the year it's just pavement that sits there
86 without the parking space being used and that creates stormwater problems, pollutants,
87 etc. Say to the developers that you can't have 300 parking spaces, that we'll only allow
88 100 or 125 because, three quarters of the year, they won't be used. So, why do we want
89 all that pavement, large stormwater ponds that have to be built to handle the runoff, etc.
90 For now, I'll leave it there and be happy to answer questions. A lot of the design
91 guidelines I'm suggesting in the book you have come from Kittery and the types of
92 development there are being carried right through your Town, as an abutting town, so

93 there becomes this real common look and feel through the whole region as it builds out. I
94 know this is just the very beginning, a precursor to what could be a long road ahead to be
95 able to get some new standards in place. I'm here to help any way I can.

96
97 Mr. Latter said that I appreciate the maximum setback and the village feel. I just don't
98 know where on Rote 236 I can envision it. As it exists right now, it lends itself to a by-
99 way. But I would say that this is awesome. Let's make 4 or 5 smaller districts and see if
100 we can get some condensed development.

101
102 Mr. Feldman said that you can do that; that another part of considering this is creating a
103 'node'. Looking at land not just right on Route 236 but where are there large areas of land
104 that may be available to create a 'node' so that you have a cluster of this type of
105 development. It doesn't have to be, and you don't want just a straight shot right down
106 Route 236 with this type of development. That's what you're trying to discourage, if you
107 can. There are areas where you can create a 'node' rather than just a strip, the strip
108 development that, hopefully, you are trying to eliminate over time.

109
110 Mr. Latter said that you are talking about grabbing a 200- or 300-acre parcel and creating
111 a dense development within that parcel and calling it a 'node'. It's not dense onto Route
112 236 but it's part of that area and that's where you're talking about incentivizing that type
113 of development.

114
115 Mr. Feldman said pretty much. I'm not going to put an anchorage number on it. It's just
116 looking at that land along the corridor and start literally putting circles around it and
117 saying that 'this' area would be a great area for a 'node' or 'that' area would be great for
118 a 'node'. And again, the zone doesn't have to be connected, as long as your Comp Plan
119 suggests that that large area become a village-type district. It's not spot zoning. You can
120 create a 'node' off 'here' as long as it's in the recommended area, or off 'here'. It doesn't
121 have to be in any way connected to another village area as long as it's meeting the intent
122 of your Comp Plan in the area that's it's calling out to be. Another aspect of this is don't
123 shy away from it; that that might create spot zoning. If your Comp Plan calls it out, then
124 kit's not spot zoning.

125
126 Ms. Bennett said to just think about driving up just over the Kittery town line, just
127 passing a storage space, and other businesses, along with residential uses along that
128 southern end of Route 236. You get to the intersection with Bolt Hill, and there are some
129 large parcels that are ripe for re-development that could create a new 'node' there at that
130 intersection. By doing so, that would probably trigger a (traffic) light and Ms. Braun can
131 probably talk at length about how dangerous that stretch of the road is; that tractor-trailers
132 race between the light at Stevenson Road (Kittery) to get to the Beech Road intersection.
133 Oftentimes, planners suggest creating a built environment where buildings are tighter and
134 closer to the road and the human response to that is to slow down (traffic calming). At the
135 Bolt Hill intersection, we have a rather large senior housing community and, then, at
136 Beech Road, there is another residential complex. It feels like those might be two 'nodes'
137 that we work with to try to create a 'village', some of this compact development. And
138 also trying to encourage internal connections, thinking about how Eliot Commons is

139 built, which was done in the late 80's, and is probably coming up on a re-development. If
140 you think about how that is being used today, a lot of people routinely travel behind that
141 (main) structure to get to the Post Office. You already have Baran Place, Eliot Commons,
142 etc. That's already, to some degree, it's organically becoming its own 'node'. But, if we
143 think about how we want this to look and function, and what we want to see there, kind
144 of flesh out a full-service 'village node', that, at least to my mind, is kind of the aspiration
145 for this exercise. We've also talked about design standards because we're getting a lot of
146 steel and sheet metal buildings along Route 236 that many of us in the community have
147 not found aesthetically appealing or in congress with our New England built
148 environment.

149
150 Mr. Feldman, taking that a little further, said that the connectivity doesn't have to be
151 roadways but it's just encouraging access from parking lot to parking lot in some area
152 where the flow can occur so that people aren't going back onto Route 236 and then, 500
153 feet down the road, having to get back off for another access. I think that's a lot of what
154 ___ Palmer has looked at for the re-design of that area, as well. We talk about these types
155 of development in that area, you haven't even started considering the types of uses you
156 want there. I think you're going to want mixed use. Commercial developments on the
157 first floor and apartment living spaces above. Whether it's here or anywhere, as you try to
158 create more commercial space in these areas, the one thing that has to happen is that you
159 need the people to be able to provide services for those people and the way to do it is to
160 create mixed use development. He used ski areas as an example of mixed use.

161
162 Mr. Pratt said that what I got hung up on reading the documents is that we were talking
163 about Beech Road, north, which is more of a corridor, a 'highway-esque' feel, and may
164 have a lot to do with there not being many, or any, crossroads. Talking about Beech Road
165 to Bolt Hill makes total sense to me. I can't grasp that with the northern end because
166 everything is set back from the road, with no crossroads, and all types of potential traffic
167 issues. If you're talking about behind the brewery to go to the Post Office, that could all
168 be blocked out in a 'village' manner eventually. Then you have places like White Heron,
169 which is already kind of showing that. Extending that down to Bolt Hill Road makes
170 more sense to me.

171
172 Mr. Feldman said to keep in mind not just 5 or 10 years down the road but 30 or 40 years
173 down the road. You want to start now; that I hear what you're saying about that segment
174 of road being what it is but what could it be 25 or 30 years from now.

175
176 Mr. Shiner said that, when I look at Route 236, I think of a bisecting artery that totally
177 divides the Town. And, as you go north to south, it's really like three 'nodes because,
178 once you come into Town, all the way down to roughly Depot there's that long straight-
179 away where everyone goes mad fast, except when the Waldorf School has the 15-mph
180 light flashing. You see brake lights and almost rearends all the time. That's the north
181 'node'. Then it goes from there all the way down to Beech as like the central 'node'.
182 Then the 'node' we've been talking about that goes down to the Kittery border, the
183 southern 'node', if you will. I think, if you're going to take a really high-level look at this
184 from a comprehensive standpoint, to Mr. Feldman's point, it can creep from the north

185 down to the south, as well as from the south up, to meet in the middle, if you will. So, I
186 think that whatever you're talking about for that southern section, I have my eyes fixed
187 on how quickly it could adapt to that central and that virgin northern area.
188

189 Ms. O'Connor said that I like the way you did southern, central, north; that that helps to
190 narrow down the actual buildings we are talking about. There are a couple of
191 developments in there where you drive in, there's a parking lot, and there are fifteen
192 small businesses in there. There are two structures adjacent to each other and another is
193 very close by. That, to me, may be something that we could do that walkable situation.
194 You could have parking but some kind of walkway that would let you go among those
195 three places. If the zoning was a little different, that is somewhere where it could be a
196 mixed commercial/retail, and that would be real nice. There could be food providers or
197 small retail or small shops, as well as small businesses, and that would be, I think, what
198 people are asking for.
199

200 Mr. Latter said yes; that right now it's a lot of light industry.
201

202 Ms. O'Connor commented about how we could think about migrating from that very
203 commercial/industrial feel to something that is commercial/retail/residential, or really
204 small commercial/retail/residential.
205

206 Mr. Shiner added that they're not isolated, either. It's not like I can't see it. It's right there
207 but I can't get there unless I go back out onto Route 236.
208

209 Ms. O'Connor said that this is helpful. The idea that there are walkable 'nodes' connected
210 to walkable 'nodes'. That language was like a lightbulb for me.
211

212 Mr. Shiner added that, once you get there and park, you can do two or three things.
213

214 Mr. Latter said that, that said, we do want to make sure we maintain an element of light
215 industrial. Those are good paying jobs within the community.
216

217 Ms. Braun said that there is no reason why parts of Route 236 couldn't have mixed use,
218 like apartment buildings with retail space. York has done one on Route 1 where they have
219 three-story, single homes in the back and the lower level is strictly retail; that in the front,
220 there are a couple of businesses and there is parking. Also, Kittery did one across from
221 Carl's, which I think is very-well done. I don't see any reason why Eliot can't adopt
222 something like that, which I think would answer a lot of concerns that I hear from the
223 community.
224

225 Mr. Feldman said to keep in mind that you said you want to keep light industrial. That is
226 clearly an important factor but a light industrial use doesn't have to look light industrial.
227 The façade of the building is the outside. What the function is inside could be light
228 industrial of some sort but the building, look, and feel could be very New England-style.
229

230 Mr. Shiner said that, to your point, the skin of the building can be whatever you want it to
231 be. The bones will always be light industrial-style for obvious reasons. Whereas, a lot of
232 times you talk about anchor stores, or businesses to anchor an activity in an area. I don't
233 think it is necessarily that we want to talk about anchoring other than it's the anchoring of
234 a use in that it's going to be retail mixed with light industrial, for example. And it could
235 be that, if you had stall-type stores, small square footage stores, and if there is a variety
236 it's always interesting. But mixed within that, they're perhaps not all small, stall-styles.
237 There4 could be some larger stores that would be attractive for other reasons, like the
238 grocery store, that you'd want to put in. They would complement because that larger
239 space is kind of the center of the universe for them and the stalls are more like the
240 satellite locations around that are complimentary. Maybe a drycleaner or beauty shop,
241 etc. and gives you the ability to stay in Town and to pull up into a location and go to
242 multiple locations to do your business. My thought is that the anchoring factor is its
243 convenience but it's styles of things that happen there, the types of things that happen
244 there.

245
246 Mr. Brubaker said that I think it's going to be different approaches to different parts of
247 the corridor. In terms of the different 'nodes', I think what's been said is a really good
248 start and we're going to have a different approach to each of the identifying 'nodes' in
249 there. So, I think it's good to mention, here, just the extent of the water and sewer project
250 right now. That will go up to Julie Lane and goes all the way down to Bolt Hill. Right
251 now, the section from Beech to Bolt Hill already has _____ for water service available but
252 it doesn't have municipal (public) sewer service. It has a private sewer line and property
253 owners can engage with Eliot Commons to tap into the private one. It will soon be getting
254 municipal sewer service up to Beech Road. Then, from Beech Road, north, really from
255 Passamaquoddy Lane, north, which is where the other Prime Storage is and near the
256 Dollar General, that's going to be a sewer line from there up to Julie Lane. Previously
257 there had been the thought of Arc Road, and that is still anticipated, but has just been
258 deferred to the future.

259
260 Mr. Latter asked is there an ultimate capacity of sewerage treatment, if we were willing
261 to go fund the infrastructure cost, how far could we run sewer up Route 236, based on the
262 capacity of the treatment not the cost of the project.

263
264 Mr. Brubaker said that that came up recently with the car wash discussions. But, overall,
265 what the Town did in the 20/21 timeframe was to approach Kittery to amend the
266 intermunicipal agreement (IMA) to double the Town's capacity at the wastewater
267 treatment plant. This was done in anticipation of the TIF project, the water & sewer
268 project being done, then opening up for uses.

269
270 Mr. Latter said that, as the water & sewer project exists now, is a settled matter. You
271 could wish it did other things but it's not going to. But, if you're looking out 25, 35, 40
272 years, there may be a capacity at some point in the future if the Town so desires. To me,
273 the water & sewer is the most limiting factor on any kind of density along that corridor.

274

275 Mr. Brubaker said that, long term, there could be some capacity constraints. But, for the
276 foreseeable future, we're in a good spot with regard to capacity. There are thoughts of
277 what we could plan for in the mid-term future, such as moving even further up Route 236
278 with water & sewer.

279
280 Mr. Latter asked if there was anything north of ____.

281
282 Ms. Bennett said no; that South Berwick doesn't even have sewer in their
283 commercial/industrial area near the high school.

284
285 Mr. Brubaker said, thinking about that, obviously a part of this is what Mr. Feldman said
286 about lower minimum lot sizes; that that will be enabled primarily for the parcels where
287 there will be opportunity for sewer.

288
289 Mr. (Dan) Rawling, Roger's Point Drive, said that I'm just recently getting up to speed
290 on the work being done on the Comp Plan. I like very much what I've seen and I would
291 like to be involved with how to shape it to make Eliot the best it can be here. I'm very
292 pleased to hear this discussion. There were a lot of things I wanted to talk about. Talking
293 about Route 236, I feel re-zoning it now is a little premature without knowing what
294 should happen with that road. One is what the future of that road is going to be, whether
295 it will be expanded or diminished, just get a clear idea of what would be happening here.
296 Community involvement might be a little bit limited (State-owned road). Perhaps a
297 second part of that is to remember we built Route 236 just as much as we built some of
298 our other favorite places that we have, start to look at places we like, enjoy, where we
299 want to go to, where we want to spend our time. Get some examples of those, gather
300 them, and start to model the land use patterns here, with the arrangements of buildings,
301 and see how that might work if applied to development in these areas. The second part I
302 wanted to talk about is a little broader with the Comp Plan development. I think we saw
303 some really good input and results from everything, But to me, when I look at it, it's a
304 series of dots and dashes and lines, and it's not very clear how it really fits and what's in
305 the Town of Eliot. I really feel that another layer of study is needed, perhaps, to take that
306 data and apply it to the Town maps, start to do some studies with what we have to work
307 with, see how these parts, fully integrated, apply to the area. Start doing some studies of
308 5- and 10-minute walks, what does that get us to from here and there. Ways of reducing
309 our traffic footprint. Start to make the places more connected, and everything. And I
310 really feel that this step to at least start to get some of these pieces on a piece of paper of
311 paper, something we can look at, is critical to being able to organize and then think of
312 what is needed for zoning in these areas. What are we going to do to protect special
313 natural areas. How does that link with connecting other natural areas. How do we connect
314 our neighborhoods to our centers. How do we get connected with the Transportation
315 systems. It is sometimes called a charrette but I just call them designed development with
316 the Comp Plan with what would be, perhaps, the most important step to be writing in
317 zoning.

318
319 Ms. Bennett said that I appreciate everything you've just mentioned. It's like you've been
320 listening in to some of our conversations around the Comp Plan and also this exercise we

321 wanted to start now. As Mr. Feldman mentioned, and we are fully aware, we can't
322 change any zoning without the support and guidance of the Comp Plan. So, a lot of what
323 we've discussed is that this process in really looking at the form and doing a hybrid form-
324 based approach would involve a form of charrette where people, not just the PB, but also
325 members of the community, look at a map. Start to talk about where the walking patterns
326 might be. What are the possibilities on some of these properties, the ones that are already
327 built, which ones offer some in-fill and what that might look like. How we might connect
328 this sort of mini village zone we've been talking about between Bolt Hill and Beech
329 Road. How do we connect that to our actual Town center. And we have a sidewalk
330 project, a walkable connection, trying to be made between that Beech Road/Route 236 to
331 here at the center of Town. It's something that is going to be brought up with the Comp
332 Plan Committee but we thought that we could dovetail this work in with a larger
333 visioning with maps and more individuals around the table in the near future. The PB can
334 think in terms, as we're comfortable with some of the nuts and bolts, of uses and other
335 things and how we would go about the process.

336
337 Mr. Rawlings said that particularly with linkage I think it's important that you address the
338 whole area. And even if you can't connect things or don't have money or aren't doing a
339 project right now, you'll at least know not to build a new building on top of your park, as
340 an example.

341
342 Ms. Bennett agreed, saying that that's really the role of the Comp Plan and why we have
343 these different committees that are, right now, really working within their subject matter.
344 We are coming up to the phase where we will be coming together to talk about goals,
345 policies, and strategies as a group. Then, informing each other and talking about which
346 ones are going to rise to the top and if there are any big ideas that emerge.

347
348 Mr. Latter said that there is a synergy between the PB and the Comp Plan Committee.
349 We're integrated.

350
351 Mr. Rawlings said that what I'm pushing for is trying to get something on paper right
352 now and conceptualizing individual parcels. If anything, that's what you want with Eliot.
353 There's a lot of different lots and there's nothing cohesive or coherent.

354
355 Mr. Latter said that I think that's where the vision comes in. In my experience, I've seen
356 Comp Plans in the past and that is the overriding visions. You put it out there and
357 developers kind of throw a gauzy vision of it and think how they can make a profit and
358 show this gauzy vision to everybody that complies with the Comp Plan. 'This' is a great
359 idea. It's not a bad thing. Let's be honest, the Town doesn't have the money to develop.
360 You need private money to come in. It's important to get this stuff down. It's also
361 important to get the zoning right as the water & sewer comes on line. Otherwise, we're
362 going to end up with what people can do by right instead of what we might want to
363 incentivize people to do otherwise.

364
365 Ms. Bennett said that I know your background, Mr. Rawlings, but could you offer up
366 what you've done as a professional.

367
368 Mr. Rawling said that I'm retired now from architectural landscape design. I worked in
369 Portsmouth since 1997. We sold property there, apartment buildings. I was involved in a
370 lot of the citizen groups in Portsmouth. I was on the historic board for about 10 years.
371 And I used to work with the Planning Department pretty regularly, reworking a lot of
372 their zoning, particularly their gateway districts, which is somewhat similar to Route 236.
373 In doing those things, one of the things I did was transpose land development patterns in
374 downtown Portsmouth onto the Lafayette Road and reversed it in two, which is a very
375 striking thing to find out that we used the Lafayette Road guidelines and standards all of
376 the downtown Portsmouth would only need a couple shopping malls. So, the whole
377 character and the place that everybody loves to go, and it couldn't even exist. It would
378 just be this bleak character.

379
380 Ms. Bennett thanked him for coming, saying that, hopefully, we can engage you more in
381 the Comp Plan. We are trying to keep this meeting to 7PM, and if there are no other
382 questions, I would like to ask Mr. Feldman if you have any suggestions on next steps.
383 How do we outline our process. Should we all schedule a meeting where we all sit down
384 with a map or bring some pictures of building styles that we like to discuss. What would
385 you say is our next step with the thought that we want to bring this forward to a charrette
386 sometime in the next six months.

387
388 Mr. Feldman said that I think it could dovetail together with the Comp Plan because you
389 want this information in the Plan to be able to justify it. You're going to have a future
390 land use map, if you will, as part of your plan and that would identify a growth area, not
391 necessarily specifically a village zone, but a growth area, or areas. I think the idea of
392 three 'nodes' or two 'nodes' makes a lot of sense, so, you want to make sure that finds its
393 way into the Comp Plan piece. I also think you can go along a parallel track, knowing
394 that hopefully that's where the plan is going to be and start looking at the issues that you
395 just mentioned about look and feel of buildings. What do we want to see in our design
396 regulations or guidelines, whatever it's going to end up being. Is the stuff I gave you in
397 the document that I gave you good, is it not good, do you want to see something different,
398 and can you get photo examples of what you want. I know the Northern New England
399 Chapter of the American Planning Association has on their website pictures of well-
400 designed buildings throughout New England – Maine, New Hampshire, Vermont. Start
401 looking at that and also start talking about the use issue. I think it's important that you
402 have a mix of uses, including those light industrial uses, and the skin of the building as
403 was mentioned, doesn't have to look industrial. You can still encourage that type of use
404 but have the building look different. In Cumberland or Yarmouth, there is a self-storage
405 facility up there and they had the developer make those buildings, from the roadway, look
406 like barns. They have barn doors, cupolas, and does not look like a typical self-storage
407 facility. I think there are things you can do and still encourage a mix of development to
408 occur. So, don't shy away from that simply because you want to encourage mixed
409 development. I think there are ways to do it without jeopardizing the economy of the
410 Town by having just retail or just residential. You can incorporate a mix and there's no
411 reason why that shouldn't happen.

412

413 The PB thanked Mr. Feldman for attending and his input.

414

415 **ITEM 7 – OLD BUSINESS - None**

416

417 **ITEM 8 – REVIEW AND APPROVE MINUTES - None**

418

419 **ITEM 9 – OTHER BUSINESS/CORRESPONDENCE - None**

420

421 **A. Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town**
422 **Planner, Board Member.**

423

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

425

426

427 The next regular Planning Board Meeting is scheduled for January 23, 2024 at 6 PM.

428

429 **ITEM 11 – ADJOURN**

430

431 **Ms. Braun moved, second by Mr. Shiner, that the Planning Board adjourn.**

432

VOTE

433

5-0

434

Motion approved

435

436

437 The meeting adjourned at 7 PM.

438

439

440

441

442

Suzanne O'Connor, Secretary

443

Date approved: _____

444

445

446 **Respectfully submitted,**

447

448 **Ellen Lemire, Recording Secretary**

449

450

451