

# TOWN OF ELIOT, MAINE

## PLANNING BOARD AGENDA

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

DATE: Tuesday, January 24, 2023  
TIME: 6:00 P.M.

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

**All in-person attendees are asked to wear face masks**

- 1) ROLL CALL
  - a) Quorum, Alternate Members, Conflicts of Interest
- 2) PLEDGE OF ALLEGIANCE
- 3) MOMENT OF SILENCE
- 4) 10-MINUTE PUBLIC INPUT SESSION
- 5) REVIEW AND APPROVE MINUTES
  - a) September 6, 2022 to January 10, 2023 – if available
- 6) NOTICE OF DECISION - None
- 7) PUBLIC HEARING
  - a) 290 & 291 Harold L. Dow Hwy. (Map 37/Lot 20 & Map 37/Lot 2-1), PID # 037-020-000 & 037-002-001, PB22-18: Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility
- 8) NEW BUSINESS
  - a) 360 River Rd. (Map 25/Lot 11), PID # 025-011-000, PB22-22: Shoreland Zoning Permit Application – Residential Pier, Gangway, Float, Boardwalk, and Stairway – Sketch Plan Review
  - b) 178 Harold L. Dow Hwy. (Map 29/Lot 20), PID # 029-020-000, PB22-20: Site Plan Amendment/Review – Commercial Buildings – Sketch Plan Review
- 9) OLD BUSINESS
  - a) 0 Bolt Hill Road (Map 17/Lot 29), PID #017-029-000, PB22-21: Village at Great Brook – Amendment to an Existing Subdivision Plan (43 lots)
- 10) OTHER BUSINESS / CORRESPONDENCE
  - a) Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner
- 11) SET AGENDA AND DATE FOR NEXT MEETING
  - a) February 7, 2023
- 12) ADJOURN

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

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

- a) Go to [www.eliotme.org](http://www.eliotme.org)
- b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
- c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 6:00pm (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

- a) 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.
- b) Please call **1-646-558-8656**
  1. When prompted enter meeting number ID: **898 8627 1890**
  2. When prompted to enter Attendee ID **press #**
  3. When prompted enter meeting password: **311825**
- c) 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.
- d) Press \*9 to raise your virtual hand to speak

  
Carmela Braun – Chair

**NOTE:** All attendees are asked to wear facial protective masks. No more than 50 attendees in the meeting room at any one time. 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](http://eliotmaine.org/planning-board). Town Hall is accessible for persons with disabilities.

**POSTED**  
1/17/23  


1 **ITEM 1 - ROLL CALL**

2  
3 Present: Carmela Braun – Chair, Jeff Leathe – Vice Chair, Christine Bennett – Secretary,  
4 and Jim Latter.

5  
6 Excused: Lissa Crichton.

7  
8 Also Present: Jeff Brubaker, Town Planner.

9  
10 Voting members: Carmela Braun, Jeff Leathe, Christine Bennett, and Jim Latter.

11  
12 Mr. Brubaker said that, once again, I have an apparent bias from the Town water & sewer  
13 project as a de facto project manager for the municipality so I will be stepping down for  
14 that on.

15  
16 Ms. Braun said that I will be recusing myself from the Notice of Decision for 768 Main  
17 Street. Mr. Leathe will be running that discussion.

18  
19 **ITEM 2 – PLEDGE OF ALLEGIANCE**

20  
21 **ITEM 3 – MOMENT OF SILENCE**

22  
23 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

24  
25 There was no public input.

26  
27 **ITEM 5 – REVIEW AND APPROVE MINUTES**

28  
29 **Mr. Latter moved, second by Ms. Bennett, to approve the minutes of June 28, 2022,**  
30 **as amended.**

31 **VOTE**

32 **4-0**

33 **Motion approved**

34  
35 **ITEM 6 – NOTICE OF DECISION**

36  
37 **A. 155 Harold L. Dow Highway, PB22-10: Amended Site Plan/Change of**  
38 **Use/Marijuana Products Marijuana Facility**

39  
40 Mr. Brubaker mentioned that they are now building out their unit and they have  
41 submitted the first iteration of their local license application to the Town. The PB  
42 approved was a marijuana products manufacturing facility so that's adult use. They did  
43 put in one sentence in their description that they also wanted to sell some edibles to  
44 medical marijuana dispensaries or stores. Perhaps I should have caught that but they  
45 didn't really have other information during their application process to show how they  
46 were following State rules for separating adult use and medical, so, there is a little bit of

47 a grey area with regard to what was approved. I think it's very clear that they got  
48 approved for adult use manufacturing.

49  
50 Ms. Braun said that there was no discussion on the medical. There was one little  
51 sentence on the bottom that I didn't catch.

52  
53 Ms. Lemire said that the lack of discussion was why you did not put in there. Even with  
54 the motion, there was nothing in there.

55  
56 Ms. Braun agreed.

57  
58 Mr. Brubaker reiterated that it's a little bit of a grey area but I think we pretty much  
59 focused on adult use.

60  
61 Mr. Latter asked if the facility, as approved, able to meet the State requirements.

62  
63 Mr. Brubaker said that that is something I'm looking to confirm. In a nutshell, the State  
64 requirements include that, if you're going to manufacture marijuana products for  
65 medical consumption, then you need to show you are a registered caregiver, and my  
66 understanding is that the applicant is in the works of getting that but doesn't have that  
67 currently, and didn't provide that to the PB. Instead of being a registered caregiver, you  
68 could also get a medical marijuana products manufacturing registration certificate from  
69 OCP. My understanding is that you would either have to sell it to a medical marijuana  
70 dispensary or the closely-related medical marijuana caregiver retail store. So, you can  
71 wholesale.

72  
73 Ms. Lemire said that it is in the Findings that it is a wholesale business.

74  
75 Ms. Braun asked if that is something we can ask them to provide when they get it, this  
76 medical licensing from the State.

77  
78 Mr. Brubaker said definitely. I'm going to continue working with them on that info and  
79 try to clarify with the OCP what the best path forward is. It's really nothing that the PB  
80 needs to do anything about. You've made your decision already. It doesn't affect the  
81 NOD. I think is something that we, as staff, are going to need to work with them and  
82 OCP on with how to handle that as they get closer to their license public hearing with  
83 the SB.

84  
85 Ms. Bennett asked if we have a differentiation in marijuana products manufacturing  
86 facility between adult use and medical.

87  
88 Mr. Brubaker said yes.

89  
90 Ms. Bennett said that I'm wondering if they should come back for a quick amendment  
91 so that our records completely show that they've change the use to get both of those  
92 uses.

93  
94 Mr. Brubaker said that that could be an option.

95  
96 Ms. Bennett said that it would just dot the “I” and cross the “T” to go through the  
97 process so there wouldn’t be some future applicant saying we didn’t change it, or  
98 whatever. We approved this but, in actuality, it went to both.

99  
100 Mr. Brubaker agreed, adding that it’s mainly State rules, too, because they have to show  
101 how, in addition to either having that caregiver card or the registry registration for the  
102 facility, it has come up for other reviews you have done. How they are sequestering  
103 adult use and medical products and not mixing them.

104  
105 Ms. Braun said that I would like to see a completed file, for the future, if there is any  
106 question ever that we’ve followed all the rules and regulations; that we’ve got  
107 everything we need.

108  
109 Mr. Latter said that, as we’ve seen, people can leverage lax procedure for precedence for  
110 doing something moving forward. At a minimum, maybe we could come in and clarify,  
111 even if we don’t need action.

112  
113 Ms. Lemire said that the standard for any SB decision or BOA decision or PB decision  
114 is that you never set precedent. Every case is individual so it’s always a unique decision  
115 based on the facts of that particular case or application.

116  
117 Ms. Braun said that, unfortunately, not everyone views it that way. We can talk about  
118 having the applicant come back but it is a possibility. Ms. Braun said that I need a  
119 motion on this particular Decision.

120  
121 **Ms. Bennett moved, second by Mr. Latter, that the Planning Board accept the**  
122 **Notice of Decision letter for PB22-10: Amended Site Plan, Site Review Application**  
123 **for Change of Use “Marijuana Establishment” Marijuana Products Manufacturing**  
124 **Facility, as amended.**

125 **VOTE**  
126 **4-0**  
127 **Motion approved**

128  
129 **B. 244 Pleasant Street, PB22-12: Shoreland Zoning Permit Application for new**  
130 **Residential Pier.**

131  
132 **Mr. Latter moved, second by Mr. Leathe, that the Planning Board accept the**  
133 **Planning Board Notice of Decision for PB22-12 for a Shoreland Zoning Application**  
134 **for a new residential pier, access stairway, gangway and float, as amended.**

135  
136 **VOTE**  
137 **4-0**  
138 **Motion approved**

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**C. 768 Main Street, PB22-11: Home Business Permit for Professional Office – Clinical Social Work & Therapy**

Ms. Braun recused herself and Mr. Leathe assumed the Chair position for this Decision letter.

**Mr. Latter moved, second by Ms. Bennett, that the Planning Board accept the Planning Board Notice of Decision for PB22-11 – Home Business Permit for Professional Office Clinical Social Work & Therapy, as amended.**

**VOTE  
3-0  
Motion approved**

At this time, Ms. Braun re-assumed her Chair position.

**ITEM 7 – PUBLIC HEARING**

There were no public hearings.

**ITEM 9 – NEW BUSINESS**

Ms. Braun said that we will have a slight change in the agenda and will do 147 Beech Road first.

**B. 147 Beech Road (Map 29/Lot 4) & Harold L. Dow Highway (Map 36/Lot 13), PB22-16: Shoreland Zoning Permit Application – Town of Eliot Route 236 Water-Sewer Pump Stations**

Ms. Braun said that there is no new information on this application tonight. What we are aiming for is a motion for completeness. Is everyone ready for a motion for completeness. If so, the Chair will accept a motion.

**Ms. Bennett moved, second by Mr. Latter, that the Planning Board find PB22-16 complete.**

**VOTE  
4-0  
Motion approved**

Ms. Braun said that the next step is a public hearing and Mr. Brubaker will schedule that for the next available date, which may be in October.

**A. 151 Beech Road (Map 29/Lot 7), PB22-17: Home Business Application – In-Home Childcare (Day Nursery) – Sketch Plan Review.**

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**Received: August 15, 2022**  
**1<sup>st</sup> Heard: September 6, 2022 (sketch plan review/application change)**  
**2<sup>nd</sup> Heard: \_\_\_\_\_, 2022**  
**3<sup>rd</sup> Heard: \_\_\_\_\_, 2022**  
**Public Hearing: \_\_\_\_\_, 2022**  
**Site Walk: \_\_\_\_\_, 2022**  
**Approval: \_\_\_\_\_, 2022**

Peter and Nicole Garland were present for this application.

Ms. Garland said that we want to open up a family childcare program out of our garage to help with the childcare shortage in the area. I worked at the Portsmouth Naval Shipyard Child Wellness Center for 15 years. I recently left there but I know there's an extreme need for care for civilian families now. So, it's pushed me in this direction where I want to provide really high-quality care for shipyard and local families.

Ms. Braun said that I noticed that you are located by Bouchard (trucking company). Do you have to go by Bouchard to get to your property.

Mr. Garland said that we go by the garage where the mechanics' trucks are and, then, their parking is all across the street from our main house. So, yes, you go by their garage/mechanic's shop.

Ms. Garland said that there are two ways to get to our house, now. One is down Passamaquoddy Lane.

Mr. Garland said that it has been used but I don't know if it's an access. The main access is from Beech Road between 147 and 155 Beech Road. That would be the main access we would suggest to you.

Ms. Braun said that I need some more information on the septic system, where it's old. Does it have the capacity. Does it need to be replaced, etc.

Ms. Garland said that the septic is original to the house. I think a lot of what I'm going to be providing, especially for the beginning, is a lot of children in diapers because I'm having a baby and I'll probably take infants for a while, which won't affect our septic at all. But we're going to be tying into Town septic when it comes right by our house. So that is our hope, that we would tie into Town sewer and it wouldn't be an issue.

Mr. Garland said that the leach field is 20'X70' and it is 1,000 gallons, as Ms. Garland mentioned. The apartment above the garage, as it is now, won't be used as an apartment. That goes into a holding tank, which has a septic pump that goes into our septic.

Ms. Braun asked when was the last time it was pumped.

231 Mr. Garland said that we usually pump it every three years. That is also on the list of  
232 things to do and I have them do an inspection at the same time.  
233  
234 Ms. Braun asked if the applicant was in the process of working with the State on your  
235 license.  
236  
237 Ms. Garland said that I am tiptoeing with it, yes, but I haven't really started because I'm  
238 waiting for Town approval first.  
239  
240 Mr. Leathe asked if the applicant has settled on where you want to have it in your  
241 building.  
242  
243 Mr. Garland said that we were looking to take the garage, itself, and take out the garage  
244 doors, transforming that into the daycare. We would take out all the drywall, redo it, and  
245 do an open floor plan so that there would be no rooms, per se, besides the bathrooms. We  
246 would use the upstairs, which does have a kitchen, for any cooking needed so we  
247 wouldn't have to do it in our house and future use for employees to put their stuff.  
248 Mainly, it would be in the garage, itself.  
249  
250 Mr. Leathe asked if there is a restroom.  
251  
252 Mr. Garland said that there will be but that will be part of the plan. The plumbing for the  
253 upstairs apartment goes through and would be tied into that. That would be part of the  
254 plan to have a bathroom for just the children. It would be closed off for privacy reasons.  
255  
256 Ms. Braun said that you didn't specify the age of the children. You are going to take  
257 infants to a specific age limit.  
258  
259 Ms. Garland said that my goal is ages 0 to 5. I probably wouldn't do before-and-after  
260 school because they would hold one of my spots and it wouldn't be very lucrative.  
261  
262 Ms. Braun asked if she was going to have any employees or just yourself.  
263  
264 Ms. Garland said that I think I put in my application for up to two (2). It won't happen  
265 right away but will just be me for a little while. With ratios for children, the more staff I  
266 have the more children I can have. Infant ratios are the smallest so I'll have four (4) to  
267 start and, if I want to expand or have more kids, I would have to hire somebody to help  
268 me.  
269  
270 Mr. Garland said that behind the garage we have a yard we will need to fence in.  
271  
272 Ms. Bennett said that under the category of how many square feet, you listed two  
273 different scenarios and it sounds like you've zeroed in on using the garage.  
274

275 Mr. Garland said yes, that's 310 square feet. There is a stairway that goes to the  
276 apartment that is not accessible from the garage, itself, at this point. So, I would say 300  
277 square feet of useful space.

278  
279 Ms. Bennett said that the upstairs apartment will also be dedicated space.

280  
281 Ms. Garland said that that would be the office space.

282  
283 Mr. Garland said that there would be no plan to have an apartment there. The daycare  
284 space would be about 200 square feet. If we include the upstairs, which we probably  
285 would, for office space and the kitchen so we wouldn't have to use our house. That would  
286 be about 600 square feet. The lean-to is another approximately 150-to-200 square feet,  
287 which is pretty much a garage off the back of the house. That would be used if it's  
288 raining or snowing outside for the kids to use. The plan would be to have a slider from  
289 the main area of the daycare.

290  
291 Ms. Braun said that I was thinking of a site walk judging by the location of where it is. I  
292 was involved in the Bouchard application so I think we should do a site walk. We are  
293 going to continue this to September 20<sup>th</sup> so prior to that.

294  
295 The PB was in agreement.

296  
297 A site walk was set for September 19<sup>th</sup> at 3:15PM.

298  
299 Mr. Latter said that I was sad to see that the shipyard stopped providing childcare.

300  
301 Mr. Garland agreed, saying that there were a lot of families affected. It was very sudden  
302 and childcare is hard to find in this area.

303  
304 Mr. Latter asked what was the maximum number of kids you can have in the space you  
305 are talking about.

306  
307 Ms. Garland said that the maximum would be twelve (12). That is the Maine State  
308 Licensing maximum number for family childcare. I think the maximum square footage is  
309 up to 1,500.

310  
311 Mr. Garland said that we've been touring the site, here, for a while and getting more and  
312 more serious watching the demand. We've come up with different plans and we want to  
313 see what we're capable of to supply very good care and do it properly. We thought about  
314 doing it out of the house and we always wanted some distance. With this, we can have  
315 the childcare next to us and, at the end of the day, go to the house and not be in that same  
316 space.

317  
318 Ms. Braun said, regarding the site walk, if you could stake off where you are going to  
319 have this, the fence, and any more information you can get on the septic system. She  
320 asked how old the septic system is.

321  
322 Ms. Garland said that it was original to the house, which was built in 1978.  
323  
324 Ms. Bennett asked if it was inspected when you purchased the property.  
325  
326 Ms. Garland said that the house belonged to my grandparents and I got it from them, so  
327 no.  
328  
329 Ms. Braun asked if it was still in working order.  
330  
331 Ms. Garland said yes.  
332  
333 Ms. Braun said that I'm not sure of the timeline for the sewer coming down. Because it's  
334 so old, we want to make sure it is in functioning properly.  
335  
336 Mr. Latter said that any information you have that can quantify the condition of the septic  
337 system would be good.  
338  
339 Mr. Brubaker asked the PB if they had any questions about the unique zoning.  
340  
341 Ms. Braun agreed and asked Mr. Brubaker to discuss that.  
342  
343 Mr. Brubaker said that their house is in the C/I District. This is a legal, non-conforming  
344 single-family home. Home Businesses are prohibited in the C/I District and overriding  
345 that fact is that daycares are allowed by Site Plan review (SPR). So, actually what you  
346 guys are doing is a daycare that is located in the home but not necessarily a Home  
347 Business. Therefore, they have more flexibility than what's prescribed by the Home  
348 Business regulations but that also means there may be some other performance standards  
349 that may come into play. I think we're all on the right track.  
350  
351 Mr. Latter said to work with the Planner to make sure the application actually reflects  
352 what you're asking for. I get the gist of what you want to do, and it all makes sense, but  
353 we want to make sure that we are approving what we should for where it is.  
354  
355 The applicant will work with the Planner to address the proper application process.  
356  
357 **B. Presentation on LD2003 – An Act to Implement the Recommendation of the**  
358 **Commission to Increase Housing Opportunities in Maine by Studying Zoning**  
359 **and Land Use Restrictions.**  
360  
361 Mr. (Paul) Schumacher, Director – SMPDC, directed this presentation for the PB.  
362  
363 Mr. Schumacher shared his powerpoint on Zoom and gave an overview of LD2003. Mr.  
364 Brubaker asked me to talk about LD2003. This law was passed by the State legislature in  
365 April and the stated purpose was to increase housing opportunities in Maine. It requires  
366 municipalities to allow certain types of different housing and densities, depending on

367 various factors. I think the bottom line with this is that they were essentially looking to  
368 create a much greater supply of housing within Maine and within the region and within  
369 municipalities. If we create more housing then, theoretically, prices will go down.  
370 Technically, it is an affordable housing law, and we can talk about that. I think there's  
371 some debate on whether that can work within the current construct of the law, but we'll  
372 see. It's going to take effect in 90 days after being enacted, which it already has, but you  
373 don't need to have it in place until July 1, 2023. In Eliot, I'm pretty sure you folks go  
374 through Town Meeting, which means any changes to the bill would need to be on a Town  
375 Meeting warrant prior to that. It's really not clear what's going to happen if towns vote it  
376 down or whether they don't have the time to get it put in place by July 1<sup>st</sup> of next year. I  
377 think there's some real concerns and we've been meeting with some planners in the  
378 region about their ability to get this done. With Town Meeting rules and regulations, you  
379 essentially have to have a lot of things in place within a few months, really, to go through  
380 a public hearing process and all of that. We can talk about that, as well. The other thing I  
381 would point out is that it needs to go through rule-making in Augusta. They were  
382 supposed to come out with an interim rule by the end of August to guide cities and towns  
383 through the process because, as you'll see and may have heard, there's a little bit of  
384 confusion about various parts of it. That guidance was not done by the end of August.  
385 We've heard that it should be coming out in the next week or so. So, that may be helpful  
386 and there's a couple other things related to that that I can talk about. I think the easiest  
387 way to talk about this because, while it is a three- or four-page bill that's incredibly  
388 complicated, is to look at it as having three major discrete components.

389  
390 **Density requirements:**

391  
392 The first is affordable housing density with long-term requirements for affordability.  
393 That's what I think people traditionally thinks of as affordable housing; that there are  
394 requirements that the units be affordable. The next piece would be increased density  
395 allowances which, as far as we can know, is really the most complicated and sort of  
396 mind-boggling part of this and I think it will be for cities and towns as you try to work  
397 your way through that. The final piece is accessory dwelling units (ADUs). I have not  
398 had time to look at Eliot's ordinances. I don't know if you allow ADUs. Most towns do.

399  
400 Mr. Brubaker said that we do.

401  
402 Mr. Schumacher said that there may be different requirements that are put in place, here,  
403 but it's low-hanging fruit on this whole law. One of the key parts of all this, and  
404 throughout, is if you have an existing Comprehensive Plan, which has a defined growth  
405 area, which you had, then that is where a lot of this added density could be focused.  
406 However, in saying that, Eliot's plan has expired for lack of a better word. Throw the  
407 growth area out for the time being but, once you do another plan and you have a growth  
408 area, that's going to come into play, again. You do have public water and sewer so, with  
409 any of these additional density requirements, it's really important to know where your  
410 water and sewer lines are. That's where a lot of the density would be focused. On this  
411 affordable housing requirement, it allows for 2½ times the existing base density, the  
412 parking restrictions are reduced. It needs to be in a zone that allows for multi-family

413 dwellings and it needs to be in a designated growth area served by public water and  
414 sewer. These are just standard requirements, really. But with this one, the units do need to  
415 be affordable. There is this 30-year minimum requirement that the units be affordable.  
416 The density there, and this is complicated and I'm not going to jump into it too much, if  
417 you have a 10,000 square-foot lot size, you could get 2 ½ units, or something like that. In  
418 any case, it would be much more affordable. The other thing with this piece is that these  
419 are the sort of typical things that affordable housing developers do. They don't do them a  
420 lot because they don't like to be tied into having a 30-year long-term of all these units  
421 needing to be affordable. It's hard for them to make money in doing that. And there are  
422 not really a lot of developers in Maine who do affordable housing development, other  
423 than some of the things you have seen, like elderly housing. You do need to adopt this  
424 section and this language into your ordinance. So, you're going to have to figure out  
425 where you want to do that.

426  
427 Mr. Latter asked, hypothetically, what if we do nothing. How does that expose the  
428 municipality if we do nothing at all, saying this is crazy. We don't want to touch it.

429  
430 Mr. Schumacher said that that's an open-ended question. I don't know. I think, obviously,  
431 there's going to be some towns that vote it down. I can tell you that we've spoken in four  
432 or five towns and some of them are saying that they don't like this, at all. We don't know  
433 what we're going to do. But let me work through some of it because I do think there are  
434 things in here that are good, that can help the affordable housing situation. And I'm not  
435 going to say it's not an issue. I think it is. In talking with Ms. Bennett as this was going  
436 through, I think we both had some issues with this whole bill but I think there are  
437 elements of it that are good and the Town should take a look at. This section is the messy,  
438 messy part of this whole thing and the part we were very, very confused on, as planners  
439 who have been doing this stuff forever, regarding what this actually meant. Our initial  
440 interpretation was that this was just going to blow local planning through the ceiling and  
441 just add pretty much incredible amounts of density that nobody really wanted. Our  
442 reading has changed on that; that the Town has a lot more flexibility to set up density  
443 requirements in some of these areas than they did before. Even Attorney Saucier has been  
444 concerned with this but it sounds like it has a little more flexibility within communities to  
445 do stuff on this specific section. Basically, what they are saying is that, on any vacant lot,  
446 you need to permit a multi-family dwelling. As an example, if you have a vacant lot in  
447 the rural area not served by water /sewer or in a designated growth area, you have to  
448 allow up to two dwelling units per lot. So, you have to allow a duplex, theoretically, on a  
449 vacant lot. If someone has a vacant lot in the 3-acre minimum rural area, our original  
450 interpretation was that you would have to allow a duplex on that 3 acres. So, they could  
451 get two units on the 3 acres instead of what you've zoned it for, which is one unit on 3  
452 acres. What we heard, however, is that, yes, somebody can put in a duplex but you can  
453 require them to have additional acreage that may meet your minimum lot size  
454 requirements. Now, I'm going to caveat all this out by saying talk to Attorney Saucier.  
455 And that's the reading we're getting on a lot of these density requirements. Where it says  
456 "vacant – served by water or sewer or located in designated growth area" and it says up  
457 to 4 dwelling units per lot, the way we were reading it initially is that, if it was in a  
458 minimum 10,000-square-foot zone, served by water and sewer, that you would have to

459 allow four units on that 10,000 square-foot lot. We've come to understand that that's  
460 actually not the case; that you can ask them to provide 10,000 square feet for one unit,  
461 another 10,000 for another unit, etc., etc. The one thing you can't do is ask them to do is  
462 go over that minimum lot size requirement, which of course you wouldn't do anyway.  
463 So, this is the most complicated part of this in trying to explain it to towns but it does  
464 sound as if you would have a lot more flexibility with your minimum lot size  
465 requirements in the way you calculate density for the creation of four units, and  
466 particularly multi-family units. Before, it seemed like this was a one-size-fits-all, but  
467 now, it seems like there's a lot more ability to interpret things and massage your  
468 ordinances to deal with some of these density issues, which can get very, very  
469 complicated.

470  
471 Mr. Latter gave an example. You have a 6-acre lot in our Rural Zone but it only has  
472 enough frontage for one house. Now, we could possibly put two houses.

473  
474 Mr. Schumacher said yes, although, that's a good question. I think that's where this rule-  
475 making stuff would come out. I don't know if you need the frontage for each unit. With 6  
476 acres, they can put a duplex there. I don't know if they would have to have the additional  
477 frontage, or not. My suspicion is no.

478  
479 Mr. Brubaker added that, based on our current code, if you have a 6-acre lot in the Rural  
480 District, you could build a two-family dwelling, a duplex, and you wouldn't have double  
481 the frontage requirements. You'd still be subject to the 200-foot frontage requirement. I  
482 believe that would apply to the lot, in general. So, a 6-acre lot in the Rural District with  
483 200 feet of frontage, on a public street or qualifying street, you could build your duplex.

484  
485 Mr. Latter said that you couldn't subdivide; that you couldn't split it up and sell them as  
486 different lots. Maybe a condo.

487  
488 Mr. Brubaker said that there are some interesting questions there. You could do a non-  
489 subdivision lot division, 6 to 3, and then sell both lots. But each lot would have to have  
490 the necessary frontage on a qualifying street or you would have to go through the Back  
491 Lot provisions in our ordinance to be exempt from that street frontage.

492  
493 Mr. Schumacher said that that was one of my primary questions. My concern with this  
494 whole thing is what are we going to do to our rural areas, which we have been working to  
495 preserve forever. At least since comprehensive planning started. One of my questions for  
496 a planning board was, if you have someone come in with 40 acres in a rural zone, and  
497 there's a minimum lot size of 2 acres, are you reviewing that as a 20-lot subdivision or  
498 are you reviewing it for 40 lots. Theoretically, they could get a duplex on each lot. And  
499 the answer was that they didn't know. You can't require them to only allow single-family  
500 units when they could have two. So, our advice to planning boards has been to sort of say  
501 to them that if somebody comes in in the rural zone, then just assume that they may want  
502 to have duplexes on all those lots, if they can. The other important point, here, which I'll  
503 bring up here and I think it applies to ADUs, is whether in deed-restricted subdivisions  
504 those restrictions rule, and they do. It would not override that. The interesting question

505 when you move forward and start approving subdivisions, can you ask the developers to  
506 put that language in there. And I don't know if you can, unless they want to or offer to. I  
507 guess on this one it's just going to take a lot of work on the Planner's part to try to  
508 unravel some of these, to really go through the ordinance and look at how density is set  
509 up within different zones and whether you want to have increased areas for density, or  
510 not.

511  
512 **Accessory Dwelling Units:**

513  
514 Mr. Schumacher said that, except for a deed-restricted subdivision, at least one must be  
515 allowed on any lot where housing is permitted and a single-family dwelling exists. I  
516 know that, in South Berwick, their ordinance says that it needs to be within or attached to  
517 existing structure but, with this, it can be a stand-alone structure on a lot. Additionally,  
518 you can't add additional parking, must comply with Shoreland Zoning, and the setbacks  
519 need to be the same. There is a minimum size for ADUs, and I think some towns are  
520 going to do this so people aren't building ADUs that are bigger than their house. You can  
521 establish a maximum size. Then there are obviously going to be all these restrictions on  
522 wastewater and people are going to have to prove they have that. This will mean a lot  
523 more work for the Code Office, I can tell you.

524  
525 Mr. Latter asked if there was a minimum maximum. You said you can establish a  
526 maximum. Is there a minimum size you need to start with.

527  
528 Mr. Schumacher said it's 190 square feet.

529  
530 Ms. Bennett said that we do have a pretty good ADU Ordinance. We allow it in all zones.  
531 We allow it to be detached. Right now, our minimum is 300 square feet, but could take  
532 that down to 190, and our maximum is 1,000 square feet or up to 50% of the size of the  
533 primary structure/residence. We have a growth management program and a growth  
534 permit. We're one of the last towns in the area that still issues growth permits. We max  
535 ADUs at 12 per year right now, and we have for a while. We have not hit that limit.  
536 We've had the ADU Ordinance for a good while and we modified it two years ago to  
537 give it an increased size. We've seen an uptick for ADUs but I guess I wonder about our  
538 growth permit limit on ADUs, and I don't know how we came up with 12 but 12 is the  
539 number.

540  
541 Mr. Schumacher said that I can guarantee that nobody thought about a town having a cap  
542 on ADUs, specifically, when they wrote this. They did say that ADUs cannot count  
543 towards the growth cap. That's an Attorney Saucier question, for sure, and there may not  
544 be an answer.

545  
546 Ms. Bennett wondered if this is a question we should lob to DECD to say 'this' is what  
547 we've got and what would you advise.

548  
549 Mr. Schumacher said that I do think there are a bunch of questions and some of the  
550 legislators are listening to some of the concerns about where this is going. There are some

551 crazy amendments I've seen thrown around on emails saying that towns of a certain size  
552 don't need to comply. We may end up with something worse than what exists already.  
553 On the ADU issue, what we've been saying to towns is that this is a somewhat low-  
554 hanging fruit piece of this and the first part that I talked about (affordable housing),  
555 you're just going to need to adopt those, and I think you can. Or you're going to have to  
556 try to adopt them, I guess. The ADU thing I think can be massaged, with Mr. Brubaker  
557 and the PB, pretty quickly. But the other issue is, and I'll point it out again, nothing here  
558 in this ADU section or on the density section requires that any of these units be  
559 affordable. He showed a graph of what could happen under existing scenarios. Regarding  
560 growth area requirements, I am getting comments like what if we have some public water  
561 and no sewer. I think you need to have both in order to identify the areas where you want  
562 to have the added density for that affordable housing development project. Where this is  
563 at: Again, they are working on interim guidance. They have a FAQ page. I think Ms.  
564 Bennett had a question and we are loading them up with some questions. I'm not sure  
565 whether we're going to get answers. Some of these are really hard questions that the law  
566 was not clear about but I would encourage people to send the hotline questions. DECD is  
567 hiring two people to help with this and they are going to have a grant program, which will  
568 be available to cities and towns to try to figure out how to implement the law. I'm not  
569 sure what that's going to look like. We have some interest at possibly applying on a  
570 regional level for some undefined project. You are fortunate in that you have a planner on  
571 staff who I think is going to help you figure this out. There's a lot of towns who don't and  
572 they're going to need to start pulling apart the strings of their ordinances, which as you  
573 all know, you pull one string and something else unravels, and this is loaded with that  
574 sort of stuff. The official rule-making should begin pretty soon. When the interim  
575 guidance comes out, we will be sure to get it to Mr. Brubaker and he can get to you.  
576 Some of the major questions are things that you can do and that lot size per unit  
577 requirement is a big one and, I think, the most difficult one. You might want to define  
578 maximum square footage of ADUs. I forgot to mention that, on the ADUs, you can limit  
579 the number of ADUs to one or more, per lot, if you so choose. I don't think that we  
580 thought that was something you could do before. You can regulate short-term rentals, if  
581 you want to do that. A lot of towns, your neighbors in particular (York, Ogunquit, etc.)  
582 are looking at that and thinking that, if we allow a bunch of ADUs, are we going to end  
583 up with a bunch of Airbnbs and nothing that does anything for affordability. So, you have  
584 that ability to make that choice on short-term rentals and ensure that they will be  
585 affordable. Based on what Ms. Bennett was saying, you have a cap. Maybe you say a  
586 certain number per year, if you're going to put in those ADUs, that they need to be  
587 affordable, if that is the way you want to go. Then, be aware of where this all applies.  
588 Regarding your growth area, when you do your next comp plan, this will be a good  
589 discussion. I'd be happy to answer some questions. I do think it's a little less onerous  
590 than we thought it was. However, getting this adopted by July of next year is not going to  
591 be an easy chore. I will say that we started some discussions with our local legislators and  
592 I think that, if there is going to be any amendment to this or change in the upcoming  
593 legislative session, it would be to talk about extending this deadline. You might want to  
594 talk with your local representative about that. We are encouraging towns to deal with the  
595 ADUs and that first piece on the affordable housing development, first, then see where  
596 things go.

597  
598 Mr. Latter said that that is a great slide because this really answers the original question  
599 that I asked regarding what if we do nothing; that we might end of with something that  
600 we don't like. I'm trying to figure out what our decision points are, then figure out what  
601 are pain points are, and how do we craft policy using our decision points to try to address  
602 some of our pain points.

603  
604 Mr. Schumacher said that that's a great way to look at it. I think that, when we started  
605 this initially, we didn't think there were any decision points. It was just here's a piece of  
606 legislation, adopt it. What we've come to realize is that there are a lot of decision points  
607 for the towns, which is both good and bad, I guess. Certainly, it will extend the debating  
608 time. And I do think, as much as I had some issues with the law, affordable housing is an  
609 issue, in particular down where we are, and I do think this does give you some options to  
610 try to address it without just leaving it up to the market to determine what those solutions  
611 are, which is the way it was sort of written, initially.

612  
613 Ms. Braun asked if Mr. Brubaker had a copy of this powerpoint.

614  
615 Mr. Brubaker said yes, asking if Mr. Schumacher minded me sharing the powerpoint with  
616 the PB.

617  
618 Mr. Schumacher said no, not at all.

619  
620 Ms. Braun said that it is the density part of it that I find the most daunting. How do we  
621 address that.

622  
623 Mr. Schumacher said that I have a hard time explaining it to people because, without  
624 sitting down with your zoning map and your dimensional table and your land use table  
625 where multi-use is allowed, it's very hard to just describe what you can and cannot do.  
626 Some towns may have a 10,000 square-foot minimum lot size but then they'll have an  
627 allowance to put a tri-plex on that 10,000 square feet. Most towns in southern Maine say  
628 that, if you have a 10,000 square-foot minimum lot size, if you want to put in six units,  
629 you've got to have 60,000 square feet. The way we're hearing it is that you can still do  
630 that.

631  
632 Ms. Braun said that that's the part that's confusing.

633  
634 Mr. Schumacher agreed. What we've also been told that, when you calculate your  
635 minimum lot size, you have to take out wetlands, bad soils, etc.

636  
637 Ms. Bennett said that we do that with subdivisions.

638  
639 Mr. Schumacher said that some towns do that for everything, on a single-family lot or if  
640 someone wants to put in a duplex. That's another complicated factor. I think one of the  
641 things we may apply for a grant for is just to come up with that decision graphic that  
642 shows, if you do 'this', then maybe you can do 'that', and I have no idea what that would

643 look like. I'm sure you'll be happy to know that we are starting to realize that some of  
644 our towns may not have to comply with this at all. Well, they may have to comply with  
645 certain aspects but they don't have a consistent comp plan or a growth area. They don't  
646 have water and sewer. And they don't have a census-designated compact area. What do  
647 they do. Nothing.

648  
649 Ms. Braun asked if you are available for questions and consultations if we have to. Can  
650 we call on you.

651  
652 Mr. Schumacher said yes.

653  
654 Ms. Braun asked even to come back and talk to us again.

655  
656 Mr. Schumacher said sure. Absolutely. We'd be happy to talk with Mr. Brubaker  
657 anytime, too. It will be interesting to see what they come up with for guidance. I don't  
658 know if Ms. Bennett feels better about this than when we were talking a few months ago  
659 or worse.

660  
661 Ms. Bennett said that I actually feel better about it than I did. It did seem like a cookie-  
662 cutter ban – you've got to put all these units on each of your existing lots at this time. I  
663 like the fact that it has the flexibility. I feel good in that, in many ways, we've tackled the  
664 ADU. We've refined our ordinance but we're just going to have to figure out how we're  
665 going to marry it to our growth management program and, of course, the density. But I  
666 think you just outlined exactly what we need to do, to sit down with the table of allowed  
667 land uses and our dimensional standards and just play build-out as far as where do we  
668 want these to be and where can they be. We have a lot of water and a little sewer. I think  
669 that's one of the pieces that, if you're correct in your assumption that you need both  
670 water and sewer to be able to trigger that density, that that really narrows us down. It's  
671 going to really make us look at the Commercial/Industrial Zone. The timeframe, though,  
672 is rigorous for us to get this done.

673  
674 Mr. Latter said that I think we're all interested in increasing affordable workforce  
675 housing. What I'm fearful of is thinking that we're doing that and all we've done is  
676 created a windfall for speculation and development.

677  
678 Ms. Braun added short-term rentals.

679  
680 Mr. latter asked how it is policed. How do you make sure it stays affordable for 30 years.

681  
682 Mr. Schumacher said that, on that affordable housing development, that's a good one.  
683 Some places have housing authorities. Maybe it's something that somebody needs to  
684 create, create a housing corporation to monitor it. I don't know.

685  
686 Mr. Latter said that I have a single-family house and build an ADU for my son and  
687 daughter who, at the time, qualified for affordable housing, and 15 years later, they are

688 doing great. Who is circling back around or should there be; that if people are still there  
689 and it was affordable when they moved in, I don't want to hold it against somebody.

690  
691 Mr. Schumacher said that certain towns will just say that, if you're going to do an ADU,  
692 it's going to be a deed-restricted property. You then hope for the best, I guess.

693  
694 Ms. Bennett asked where the FAQs are that you referred to about LD2003.

695  
696 Mr. Schumacher said that the DECD has a website.

697  
698 Ms. Bennett said that I went to their site and I couldn't find it. Can you send Mr.  
699 Brubaker the link.

700  
701 Mr. Schumacher said that I've got to say that we've been there, going back and forth to it  
702 and there isn't much on there right now. The timeline is the only thing I've seen.

703  
704 Ms. Bennett asked, regarding these housing developments, in your experience what's the  
705 scale of them. Do you have a sense of what a minimum size for an affordable housing  
706 development is.

707  
708 Mr. Schumacher said that it's a lot; that it has to be. It's hard to answer your question  
709 because we don't really get them. We've got a lot of projects in the Biddeford area and  
710 they throw in some affordable units as part of the approval. That's what we get. We don't  
711 get the big, Portland affordable housing projects. My sense is that there are not a lot of  
712 people who do them.

713  
714 Mr. Latter said that I've actually done quite a few of them in my past. You do need a  
715 scale of 60 to 100 units between the tax credit funding and just all the different pieces  
716 that go along with it. It's a really, really tight margin to get it all together and it doesn't  
717 exist on a small scale, at all.

718  
719 Mr. Brubaker said that one thing that's important, and I did share the video of the  
720 SMPDC annual meeting with the PB members, so they watched that including Natalie's  
721 presentation. One thing that was interesting there was that I believe the definition allows  
722 for, as long as it's a majority of the units in the development are affordable, that counts.  
723 I'm not an expert on affordable housing development economics but, perhaps, that would  
724 allow for some smaller developments; that they could subsidize affordable with market-  
725 rate.

726  
727 Ms. Bennett said that it feels like Eliot doesn't offer many opportunities for affordable  
728 housing development. We don't have a lot of water and sewer and where we do have it.  
729 they are small areas. We don't have a lot of large lots, like in the Village. We have the  
730 Commercial/Industrial Zone but we have so many competing interests in that zone that  
731 are much more lucrative, like marijuana. Am I going to open up a marijuana cultivation  
732 facility or an affordable housing unit. This is kind of a no-brainer in my mind. I'm  
733 speaking out loud to the PB, that it feels like we need to dot our 'I's and cross our 'T's

734 and put in this definition of affordable housing development and tie it into our allowable  
735 uses, and all of that, but it doesn't feel like there's really a great prospect for it in that  
736 form. I think addressing affordable housing in Eliot has a different flavor than what's  
737 presented in this LD2003, to my mind.

738  
739 Ms. Braun said that it's going to be very daunting, a lot of work.

740  
741 Mr. Brubaker said dare I say that there are parts of this that will be relatively easy and  
742 other parts could be daunting. I think that, on the ADU side, we're ahead of the curve.

743  
744 Ms. Braun said that the other thing in my mind is that we do all of the work and we place  
745 it on the ballot to the voters, will it pass.

746  
747 Ms. Bennett said that, typically, our land use ordinances pass. Now, if we were doing  
748 anything funky with zoning, and that may be where we change the density, this may get a  
749 few people \_\_\_\_\_ but I'm optimistic that whatever we work through and put forward is  
750 going to pass. It's figuring out what's the best thing to do for it.

751  
752 Ms. Braun said that it's the zoning part of it, too, that's going to be a problem.

753  
754 Ms. Bennett said that the biggest reaction will be to affordable housing, which is a  
755 horrible thing to say.

756  
757 Ms. Braun agreed that that has been an issue in the past.

758  
759 Mr. Brubaker said, just for reference, remember that where multi-family dwellings are  
760 allowed is in our Suburban and Village Districts, which of course the Village has most of  
761 the water and sewer.

762  
763 Mr. Latter said that let's be honest. Affordable housing is housing for our police officers,  
764 firefighters, etc. and that's why I specifically use the term 'workforce housing'.

765  
766 Ms. Braun agreed. It's a need but does the majority of the community see it that way.

767  
768 Mr. Brubaker said that, to Ms. Bennett's point, there are different flavors of addressing  
769 the housing crunch.

770  
771 The PB agreed.

772  
773 Ms. Lemire said that one of the things I was thinking while all this was being discussed is  
774 using examples. Taking particular lots in the areas where this would be and, depending  
775 what's on them, adding whatever units this might create so we actually have a real  
776 example of what it would look like for us. This would give people, in real time, an idea of  
777 what it would look like if your neighbor put in an ADU or had a multi-unit.

778  
779 Ms. Braun said that visuals are always better.

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825

There was discussion regarding the current existence of multi-family units in Eliot, duplexes and apartment buildings.

**ITEM 8 – OLD BUSINESS**

**A. Ordinance Subcommittee updates**

Ms. Bennett said that we think we’ll be spending a lot of time on LD2003. As a corollary to that, we’ll be looking at ‘Tiny Homes’ because the legislature passed rules about ‘tiny homes’ over a year ago and so it’s time for us to take a look at that. It may tie in to LD2003, or it could. Also looking at the short-term rental piece because I believe we need to put something into place in conjunction with LD2003.

Mr. Brubaker said that brings to mind a good thing for you guys to think about and that is, strategically, how these will be bundled for the June ballot. Voters may have a certain reaction if you say here’s the bare minimum that LD2003 plus the ‘tiny homes’ bill is making us do; that the background and rationale would clarify that all of these things we have to do, based on State law, voters might have a certain opinion of understanding. Then again, there are all these other things we identify we feel, from a policy standpoint, prudent to pair with these changes, like the short-term rental question, addressing that. So, does that get bundled in with the legislative-required stuff or does that get separated out. Just something to think about, I think.

Ms. Braun said that, once we get a grasp of what this all means, would it be prudent to have an informational meeting for the community so that they know what’s coming and what it could possibly be, in preparation for the June ballot so they aren’t blindsided.

Mr. Latter asked if that’s a joint SB-PB meeting.

Ms. Braun asked if that’s something we can do.

Mr. Brubaker said that we’ll have to do one, or more, such activities.

Ms. Braun added that that’s beyond a public hearing. This would be an informational-type meeting for them. I can see a lot of question marks for people. What does this mean for me, that type of thing.

Mr. Brubaker said that I have been coordinating with the adult services librarian at the library and she said that they would be happy to host the Planner to a day where people could just drop in and ask about this.

There was discussion regarding having some information at Eliot Festival Day.

Mr. Brubaker said that one of the hinges, here, is that interpretation of the minimum area requirement for a second unit.

826  
827 The PB agreed.

828  
829 **B. Comprehensive Plan updates**

830  
831 This was a discussion of which PB members were going to be attending which Comp  
832 Plan meetings (subcommittees).

833  
834 **ITEM 10 – OTHER BUSINESS/CORRESPONDENCE**

835  
836 **A. Town Planner update – written or verbal – if available.**

837  
838 Mr. Brubaker said that we did receive the preliminary plan submittal for 771/787 Main  
839 Street. You will be deciding on application completeness at this next meeting. I am  
840 sending out abutter notifications on this tonight. Also, we are interviewing for the Land  
841 Use Administrative Assistant position

842  
843 **ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING**

844  
845 Two public hearings.  
846 Application for 143 Harold L. Dow Highway

847  
848 Mr. Leathe is unavailable for the September 20 meeting.

849  
850 Mr. Latter said that there may be a conflict on November 1<sup>st</sup> and 15<sup>th</sup>.

851  
852  
853  
854 The next regular Planning Board Meeting is scheduled for September 20, 2022 at 7PM.

855  
856 **ITEM 13 – ADJOURN**

857  
858 The meeting adjourned at 7:49 PM.

859  
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861  
862  
863 **Christine Bennett, Secretary**  
864 **Date approved:** \_\_\_\_\_

865  
866  
867 **Respectfully submitted,**  
868  
869 **Ellen Lemire, Recording Secretary**

870  
871

PB22-18: 290 & 291 Harold L. Dow Hwy. (Map 37, Lots 20 & 2-1): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Public Hearing**



# TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: Michael J. Sudak, E.I., Attar Engineering, Applicant’s Representative  
 Shelly Bishop, Code Enforcement Officer  
 Kim Tackett, Land Use Administrative Assistant  
 Date: January 19, 2023 (report date)  
 January 24, 2023 (meeting date)  
 Re: PB22-18: 290 & 291 Harold L. Dow Hwy. (Map 37, Lots 20 & 2-1): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Public Hearing**

Application Details/Checklist Documentation	
✓ Address:	290 & 291 Harold L. Dow Hwy.
✓ Map/Lot:	37/20 & 37/2-1
✓ Zoning:	Commercial/Industrial (C/I) district
✓ Shoreland Zoning:	None
✓ Owner Name:	DJR Real Estate, LLC
✓ Applicant Name:	DJR Real Estate, LLC, and Arcanna, LLC; Agent: Attar Engineering
✓ Proposed Project:	Marijuana Products Manufacturing Facility
✓ Application Received by Staff:	September 20, 2022
✓ Application Fee Paid and Date:	\$300 (\$100 – Site Plan Amendment; \$25 – Change of Use; \$175 – Public Hearing) January 19, 2023 (anticipated)
Application Sent to Staff Reviewers:	Not yet sent
✓ Application Heard by PB	November 1 and December 13, 2022; January 24, 2023 (scheduled)
✓ Found Complete by PB	December 13, 2022
Site Walk	N/A
Site Walk Publication	N/A
Public Hearing	January 24, 2023 (scheduled)
✓ Public Hearing Publication	January 13, 2023 (Weekly Sentinel)
✓ Reason for PB Review:	Site Plan Amendment, Change of Use, Marijuana Establishment

## Overview

Applicant seeks review and approval of a Site Plan Amendment and Change of Use related to 290 and 291 Harold L. Dow Hwy. As noted in the applicant’s 12/1/22 cover letter:

The Applicant is proposing a Change of Use to the subject parcel, which would keep both of the existing uses from the previous approvals (Adult-Use Marijuana Retail and Adult-Use Marijuana Cultivation) and add the Adult-Use Marijuana Manufacturing use. This change would allow commercial kitchen space utilized for this use across the street at the 291 H.L. Dow facility, and the three staff operating said kitchen, to be brought into the previously-approved Cultivation area of the 290 H.L. Dow facility that is currently under construction.

Regarding the 291 H.L. Dow facility, this Change of Use application is not inclusive of that parcel. While the kitchen portion of the existing Manufacturing use at the 291 H.L. Dow property is proposed to be relocated across the street, the remaining portion of the Manufacturing use – an extraction lab – will continue to operate in its current capacity. The vacated space at the 291 H.L. Dow facility will be filled with lab equipment and packaging.

### **Type of review needed**

Public hearing – receive public input (if any), deliberate, and consider making a final action on the application. See my recommendation and motion templates below.

### **Use**

Marijuana establishments (e.g. products manufacturing facilities) are SPR uses in the C/I district. See previous staff reports for a discussion of definitions. Because Section 11-3 defines manufacturing of marijuana to include extraction, the proposal relates to manufacturing use staying at 291 HL Dow while being added to 290 HL Dow.

### **Affidavit of ownership (33-106)**

Deed provided; ownership info for Arcanna, LLC, on OCP Conditional License

### **OCP Conditional License**

OCP Conditional License AMF1218 issued to Arcanna LLC, expiring 9/20/23, for an Adult Use Cannabis Products Manufacturing Facility

### **Waivers (33-127)**

Waivers from 33-127 application content requirements were granted at the 12/13/22 meeting and are noted on site plan sheet 1.

### **Phasing (33-133)**

As noted in previous reviews, the applicant seeks to phase this development. Phasing details are in the applicant's 12/1/22 cover letter and site plans, but the phasing generally includes:

- Phase I: removing the temporary trailer, occupancy of the marijuana store in the permanent building, and occupancy of a portion of the proposed new manufacturing area
- Phase II: occupancy of additional manufacturing area (commercial kitchen)
- Phase III: occupancy of entire building and construction of additional parking spaces

### **Screening (33-175)**

The applicant previously added to the site plan additional vegetative screening along Route 236, north of the driveway entrance, referencing a condition of approval in PB20-28. Additional vegetative screening has been added south of the driveway. The planting locations and species can be seen on

PB22-18: 290 & 291 Harold L. Dow Hwy. (Map 37, Lots 20 & 2-1): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Public Hearing**

the Amended Graded & Utility Plan (Sheet 2). See also the summary in the 1/10/23 cover letter. Partial foundation plantings are in the form of planter boxes near the building and in the parking area median. The applicant has concurred that the vegetative buffer be required to be planted early in the development, e.g. this spring (see email discussion in packet). The latest submittal also reflects a minor change to the location of a planter box to avoid blocking an ADA-accessible route.

**Dimensional requirements (45-405)**

No detailed review comments at this time. All applicable standards appear to be met.

**Marijuana performance standards (33-190)**

<b>Paragraph</b>	<b>Standard summary</b>	<b>Met?</b>
(1)	Screening per 33-175	<b>Appears to be substantially met</b> with additional vegetative buffer along frontage and partial foundation plantings.
(2)	Comply with applicable parking requirements (45-495)	<b>Appears to be met for all phases.</b> Phase 1 – 28 required, 29 provided (3 ADA). Phase 2 – 29 required, 29 provided (3 ADA). Phase 3 – 33 required, 40 provided (3 ADA).
(3)	Signage and advertising	Sign already exists on property. Based on previous input from Town Attorney and Code Enforcement Officer, I am not applying (3)b to this review.
(4a)	Activities conducted indoors, no outdoor sales	<b>N/A.</b> No outdoor sale areas shown on plans. See also Site plan Note 8.
(4b1)	Waste disposal	<b>Appears to be met.</b> Solid waste plan included in 12/1/22 submittal, references security camera monitoring of all disposal activities. Site plan shows dumpster screened from view.
(4b2)	Wastewater disposal	<b>Appears to be met.</b> Wastewater disposal plan included in 12/1/22 submittal: “All liquid marijuana waste shall be solidified through means of mixing it with soil or other absorbent material and shall be disposed of according to the procedures for solid marijuana waste.”
<b>Security</b>		
(4c1)	Surveillance cameras	<b>Appears to be met.</b> Site plan Note 6.
(4c2)	Door/window alarm system with Police Dept. notification	<b>Appears to be met</b> in security plan (12/1/22 submittal).
(4c3)	Locking safe or secure storage container	<b>Unclear if met.</b>
(4c4)	Exterior lighting	<b>Unclear if met.</b> As of this report, an updated lighting plan is still forthcoming.
(4c5)	Door/window locks	<b>Appears to be met</b> for doors in security plan
(4c6)	Identification checks	<b>Appears to be met</b> in security plan.
(5)	“500 foot rule” separation/buffering	<b>Appears to be met</b> as retail store location is unchanged from previous approvals, and marijuana

PB22-18: 290 & 291 Harold L. Dow Hwy. (Map 37, Lots 20 & 2-1): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Public Hearing**

		cultivation and manufacturing uses are exempt from (5)b. No school within 500 ft.
(6)	Hours of operation	<b>Met.</b> Site plan Note 9.
(7)	Cultivation area limitation	N/A
(8)	Sale and production of edible products – food licensing	<b>Could be met with condition of approval</b> to confirm updated commercial processing license(s) for permanent retail location and manufacturing.
(9)	Drive-through and home delivery prohibition	<b>Appears to be met.</b> Site plan Note 8.
(10)	Traffic impact assessment	See discussion below.
(11)	Pesticides, packaging, and labeling	Defer packaging and labeling requirements to State OCP review.
(12)	Inspections	Relates to building permit/Fire Chief review
(13)	Change/addition of use	<b>Met</b> – current proposal under review by PB.
(14)	Other laws remain applicable	Will need to meet State Adult Use Program Rule co-location requirements, e.g. lockable door and tracking system for payment of excise taxes.

**Traffic (45-406)**

Site driveway with access/egress lanes is shown. Impacts of proposed changes to traffic were discussed in previous reviews, namely that a traffic impact assessment would not be required per 33-190(10), but that the condition referenced in the same section requiring post-construction traffic counts would be applicable. (See motion template.) As noted in previous reviews, the driveway is DOT-permitted.

**Odor (45-409)**

An odor control plan was included in the 12/1/22 submittal. In PB20-28, the applicant committed to odor control measures for the cultivation facility, and those would still be applicable for this review and need to be included in the finished building.

**Glare (45-410; 33-180)**

As of this report, an updated lighting plan is still forthcoming. See applicant’s 1/19/23 cover letter.

**Stormwater runoff (45-411)**

No change in impervious surface is proposed relative to previous approvals. Site plan shows DEP-approved bioretention areas in each corner of the lot. Additional front vegetation may further assist in stormwater management.

**Erosion control (45-412)**

An erosion control plan was submitted as part of PB20-28 review.

**Preservation of landscape (45-413)**

As noted above, no additional impervious surface is proposed. Additional vegetation is being added along the site frontage.

**Water and sewer**

The site is served by a well and septic system, which were further reviewed in PB20-28.

**Recommendation**

Approval with conditions

**Motion templates**

Approval with conditions (Recommended)

Motion to approve PB22-18: Site Plan Amendment/Review and Change of Use for the addition of a marijuana products manufacturing facility to the existing approved uses at 290 Harold L. Dow Hwy. (Map 37, Lot 20) and interior building changes at 291 Harold L. Dow Hwy. (Map 37, Lot 2-1).

The following are conditions of approval:

1. [Standard conditions]
2. Prior to commencing operation of Phase I, the applicant shall provide to the Code Enforcement Officer:
  - a. Their approved commercial processing license, or licenses (or similar, as applicable) required by the State of Maine.
  - b. The DOT driveway permit for the 290 Harold L. Dow Hwy. site.
  - c. Documentation that the bioretention filters are completed and operational.
3. Pursuant to Chapter 35 of the Town Code, applicant shall enter into a post-construction stormwater maintenance agreement with the Town by May 31, 2023.
4. The front vegetative buffer plantings shall be planted no later than May 31, 2023.
5. Within 120 days after the permanent marijuana store opens to the public, the applicant shall collect turning movement counts for the site driveway at 290 Harold L. Dow Hwy. for, at minimum, one full weekday and one full weekend day that the marijuana store is open, and submit such data to the Town Planner. Such count data shall be disaggregated by the hour, or a shorter time period, to show peaking characteristics.
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_ [other conditions if warranted]

*Disapproval*

Motion to disapprove PB22-18 for the following reasons:

[e.g. does not meet the following site plan review or zoning standards]

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

*Continuance*

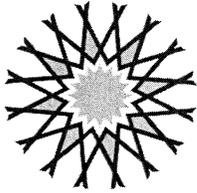
Motion to continue PB22-18 to the February 16, 2022, meeting.

*Section 33-131 timelines*

- 75 days from application completeness: February 26, 2023
- 30 days from public hearing: February 23, 2023
- Timelines may be extended with agreement from the applicant

\*\*\*

Respectfully submitted, Jeff Brubaker, AICP, Town Planner



# ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

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

January 10<sup>th</sup>, 2023  
Project No. C072-21

**RE: Site Plan Review Application – Amendment to Approved Plan  
290 H.L. Dow Highway (TM 37, Lot 20) & 291 H.L. Dow Highway (TM 37, Lot 2-1)  
Eliot, Maine**

Dear Mr. Brubaker:

On behalf of DJR Real Estate, LLC. & Arcanna, LLC., I have enclosed for your review and consideration updated Plan Set sheets and associated attachments for the above-referenced project. Revisions have been made to satisfy comments presented in the most recent Planner Review Memo as well as during the December 13<sup>th</sup>, 2022 Planning Board meeting.

- A “Waivers Granted” notes package has been added to Sheet 1 (Amended Site Plan) which includes all relevant subsections of §33-127 which were granted at the December 13<sup>th</sup>, 2022 Planning Board meeting.
- During the previous Planning Board meeting a discussion took place regarding plantings in the western corner of the site abutting the proposed parking spaces, which were required to address Condition of Approval #4 from the March 8<sup>th</sup>, 2021 Notice of Decision for a previous amendment to the approved Site Plan. A result of this conversation was the Planning Board requesting the opposite side of the proposed entrance – the southern corner of the site – have its existing treeline re-surveyed and updated on the Plan Set to determine if vegetated screening plantings were required there as well. The existing treeline and all trees of 10” DBH or greater were field-located by Attar Engineering on January 9<sup>th</sup>, 2023 and have been added to the Plan Set. Additional plantings have been added in the frontyard setback to mirror the proposed plantings in the western corner of the site, and the planting schedule on Sheet 2 (Amended Grading and Utility Plan) has been updated to reflect these additional plantings.
- Lastly, the Applicant is preparing an updated Photometric Plan to support the slight adjustments to the parking configuration and pedestrian entrances of the amended facility. This updated plan is currently with the project lighting consultant and shall be provided to the Town and Planning Board upon receipt.

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

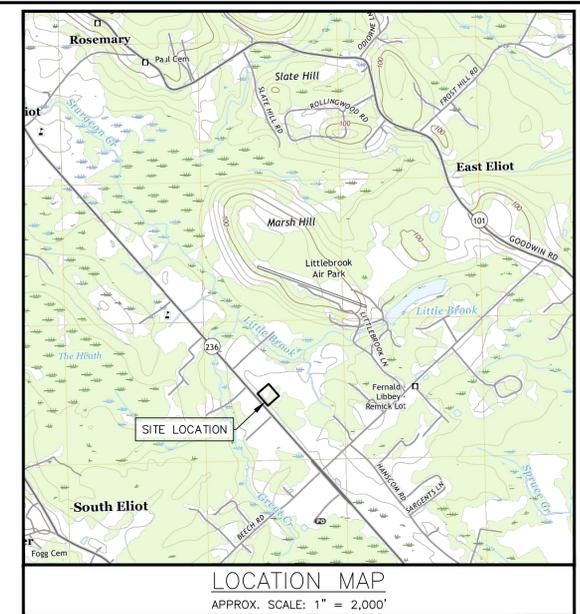
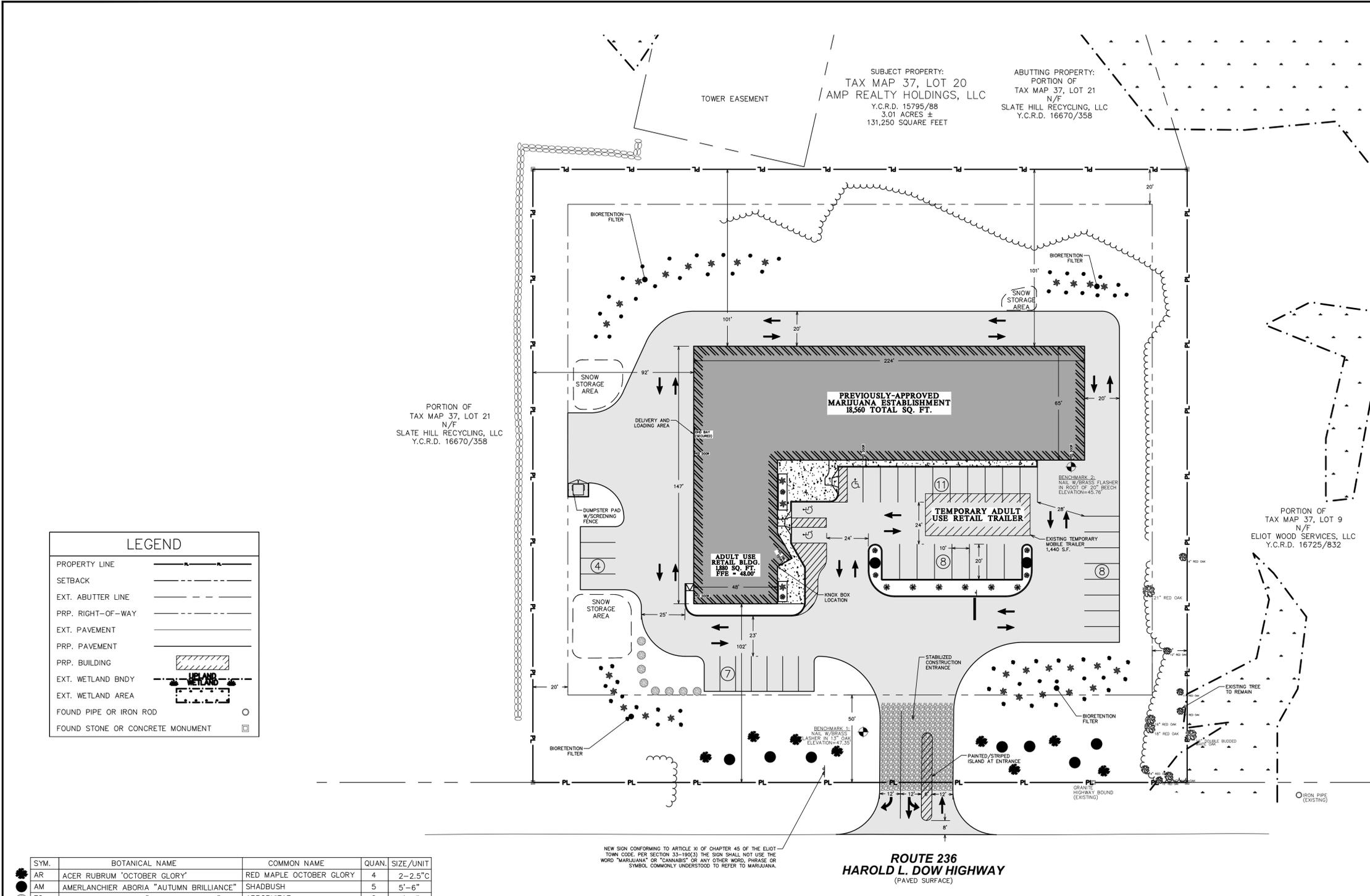
Sincerely;

Michael J. Sudak, E.I.

Staff Engineer

C072-21 Cover SPAmend 10Jan2023.doc

1284 State Road, Eliot, ME 03903 ♦ tel (207) 439-6023 ♦ fax (207) 439-2128



- GENERAL NOTES**
- THIS PLAN DEPICTS AN AMENDMENT TO THE PROPERTY LOCATED AT 290 HAROLD L. DOW HIGHWAY (STATE ROUTE 236) WHICH RECEIVED PREVIOUS PLANNING BOARD APPROVALS ON 10/22/2020 (CHANGE OF USE) AND 02/16/2021 (CHANGE OF USE AND EXPANSION). THE PROPOSED AMENDMENT DEPICTS AN UPDATE TO THE BUILDING FOOTPRINT TO ALLOW FOR THE RELOCATION OF THE PREVIOUSLY-APPROVED COMMERCIAL KITCHEN FROM THE ABUTTING 291 HAROLD L. DOW HIGHWAY PROPERTY. THE 3.01-ACRE SUBJECT PARCEL IS IDENTIFIED AS LOT 20 ON TAX MAP 37 AND IS LOCATED IN THE C/I DISTRICT.
  - DEPICTED BOUNDARY LINES, EXISTING CONDITIONS, TOPOGRAPHY AND INITIAL DESIGN BASIS BASED UPON REFERENCE 3.
  - RECORD OWNER: DJR REAL ESTATE, LLC. & ARCANNA, LLC. 290 HAROLD L. DOW HIGHWAY ELIOT, MAINE 03903 Y.C.R.D. DEED BOOK 18432, PAGE 257
  - DIMENSIONAL REQUIREMENTS FOR THE COMMERCIAL/INDUSTRIAL (C/I) ZONING DISTRICT ARE AS FOLLOWS:
 

MINIMUM LOT SIZE	3.0 ACRES
FRONTYARD SETBACK	50'
SIDEYARD SETBACK	20'
REARYARD SETBACK	20'
MAX. BUILDING HEIGHT	55'
MAX. LOT COVERAGE	50%
  - PARKING REQUIREMENTS (AS PER §45-495):
 

§45-495(7): WHOLESALE OR RETAIL SALES = 1 SPACE/100 SQ. FT. FOR MARIJUANA RETAIL STORES	
1,890 SQ. FT. PROPOSED => [1,890/100] = 18.9 SPACES	
§45-495(9): PROFESSIONAL OFFICES = 1 SPACE/200 SQ. FT.	
400 SQ. FT. (200 IN RETAIL WING, 200 IN CULTIVATION WING) PROPOSED (NO CHANGE)	
=> [400/200] = 2 SPACES	
§45-495(11): COMMERCIAL/INDUSTRIAL USE = 1 SPACE/ANTICIPATED EMPLOYEE ON THE LARGEST SHIFT	
12 MAX CONCURRENT EMPLOYEES PROPOSED ON THE LARGEST SHIFT => 12 SPACES	
TOTAL REQUIRED = [18.9+2+12] = 32.9 => 33 SPACES REQUIRED	
TOTAL PROPOSED = 40 SPACES (3 ADA)	
  - SECURITY CAMERAS MUST BE PERMANENTLY FIXED AT THE FOLLOWING LOCATIONS IN THE ESTABLISHMENT: ALL EXIT/ENTRY POINTS (SUFFICIENT TO IDENTIFY INDIVIDUALS ENTERING AND EXITING THE PREMISES AND LIMITED ACCESS AREAS). EACH POINT OF SALE A SUFFICIENT NUMBER OF CAMERAS MUST BE PERMANENTLY FIXED TO ALLOW VIEWING OF THE FOLLOWING: ANY AREA WHERE MARIJUANA, MARIJUANA PLANTS, IMMATURE MARIJUANA PLANTS, SEEDLINGS, SEEDS, MARIJUANA CONCENTRATE OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, MANUFACTURED, STORED, AND/OR PREPARED FOR TRANSFER OR SALE (THE AREA MUST BE VIEWED IN ITS ENTIRETY). THE SURVEILLANCE SYSTEM STORAGE DEVICE MUST BE SECURED ON THE PREMISES IN A LOCKBOX, CABINET OR CLOSET, OR MUST BE ON A THIRD-PARTY SERVER OR SECURED IN ANOTHER MANNER TO PROTECT FROM EMPLOYEE TAMPERING OR CRIMINAL THEFT. ALL SURVEILLANCE RECORDINGS MUST BE KEPT FOR A MINIMUM OF 45 DAYS ON THE LICENSEE'S RECORDING DEVICE.
  - ALL EXTERIOR DOORS TO BE LOCKED WITH CARD ACCESS FOR EMPLOYEES. KEY CARD AND KEYS WILL BE PROVIDED FOR EMERGENCY PERSONNEL IN KNOX-BOX AT FRONT OF BUILDING.
  - ALL MARIJUANA ACTIVITIES SHALL BE CONDUCTED INDOORS. NO DRIVE-THROUGH OR HOME DELIVERY SERVICES ARE PROPOSED.
  - HOURS OF OPERATION: RETAIL - 7 DAYS/WEEK 10:00AM - 8:00PM (NO CHANGE) CULTIVATION - 5 DAYS/WEEK 9:00AM - 5:00PM (NO CHANGE)
  - THE VEGETATIVE SCREENING WITHIN THE FRONTYARD SETBACK IS ACCOMPLISHED WITH THE CURRENT BOTANICAL SCHEDULE AND PLANTING LOCATIONS DEPICTED HERE ON SHEET 1, AND REMAINS UNCHANGED FROM THE PREVIOUSLY-APPROVED OCTOBER 2020 PLAN SET.

**LEGEND**

PROPERTY LINE	---
SETBACK	---
EXT. ABUTTER LINE	---
PRP. RIGHT-OF-WAY	---
EXT. PAVEMENT	---
PRP. PAVEMENT	---
PRP. BUILDING	---
EXT. WETLAND BNDY	---
EXT. WETLAND AREA	---
FOUND PIPE OR IRON ROD	○
FOUND STONE OR CONCRETE MONUMENT	□

SYM.	BOTANICAL NAME	COMMON NAME	QUAN.	SIZE/UNIT
AR	ACER RUBRUM "OCTOBER GLORY"	RED MAPLE OCTOBER GLORY	4	2'-2.5" C
AM	AMERLANCHIER ABORIA "AUTUMN BRILLIANCE"	SHADBUSH	5	5'-6"
TO	THUJA OCCIDENTALIS "NORTHERN PILLAR"	ARBORVITAE	8	3'-0"

SYM.	BOTANICAL NAME	COMMON NAME	QUAN.	SIZE/UNIT
BD	BUDDLEIA DAVIADII	BUTTERFLY BUSH	11	2'-3" HT
CA	CLETHRA ALNIFOLIA	SUMMERSWEET	60	1'-3" HT
SS	SCHIZACHYRIUM SCOPARIUM	LITTLE BLUESTEM	6	1'-3" HT
AE	ARONIA MELANOCARPA	BLACK CHOCHEBERRY	37	2'-4" HT

**WAIVERS GRANTED (12/13/22 PLANNING BOARD):**

- "UPDATED EXISTING CONDITIONS PLAN OF LAND OF AMP REALTY HOLDINGS, LLC., 290 HAROLD L. DOW HIGHWAY (ROUTE 236), TAX MAP 37, LOT 20, ELIOT, YORK COUNTY, MAINE." DATED MAY 17, 2017. PREPARED BY CIVIL CONSULTANTS.
  - REFER TO MAINE DOT ENTRANCE PERMIT #9781 DATED JANUARY 1, 2010 FOR 42' WIDE ENTRANCE TO COMMERCIAL/INDUSTRIAL USE WITH THE DIMENSIONS SHOWN HEREON.
  - "SITE PLAN, AMP COMMERCIAL DEVELOPMENT, 290 HAROLD L. DOW HIGHWAY (ROUTE 236), TAX MAP 37, LOT 20, ELIOT, YORK COUNTY, MAINE." DATED SEPTEMBER 28, 2017. PREPARED BY CIVIL CONSULTANTS.
  - "RELOCATION OF MODULAR BUILDING FOR DJR REAL ESTATE, 290 HAROLD L. DOW HIGHWAY, ELIOT, MAINE". DATED DECEMBER 22, 2020. PREPARED BY JENKINS CONSULTING ENGINEERS, PA.
- §33-127(5): TEMPORARY MARKERS NOT REQUIRED AS SITE WALK WAS ALSO WAIVED
  - §33-127(8): NO UPDATED PROVISIONS FOR COLLECTING AND DISCHARGING STORM DRAINAGE, AS SITE IS STILL SERVICED BY DESIGN AND PERMIT OF PREVIOUS APPROVALS
  - §33-127(9): NO UPDATED DESIGNS OF BRIDGES/CULVERTS, AS SITE STILL INTENDS TO INSTALL CULVERTED CROSSING OF DRIVEWAY AS PER PREVIOUS APPROVALS
  - §33-127(11): NO UPDATED SOIL EROSION AND SEDIMENT CONTROL PLAN REQUIRED, AS SITE IS STILL GOVERNED BY PROVISIONS OF SHEET 4 IN PREVIOUS APPROVALS
  - §33-127(12): NO HIGH INTENSITY SOIL SURVEY REQUIRED
  - §33-127(13): PRIVATE WATER AND SEWER SERVICES FUNCTION AS PER PREVIOUS APPROVALS
  - §33-127(14&15): NO INTENT TO CONNECT TO MUNICIPAL WATER/SEWER UTILITY SYSTEMS, SHOULD THEY BECOME AVAILABLE AT THE SITE
  - §33-127(16): NO UPDATED SOILS TESTING REQUIRED AS NO CHANGES TO UTILITY SERVICES ARE PROPOSED WITH THIS AMENDMENT

**TOWN OF ELIOT PLANNING BOARD**

DATE \_\_\_\_\_

CHAIR \_\_\_\_\_



NO.	DESCRIPTION	DATE
B	SPR PUBLIC HEARING	01/10/23
A	SITE PLAN REVIEW APPLICATION	12/01/22
NO.	REVISIONS	



AMENDED SITE PLAN  
AMP COMMERCIAL DEVELOPMENT  
290 HAROLD L. DOW HIGHWAY, ELIOT, MAINE  
TAX MAP 37, LOT 20

FOR: DJR REAL ESTATE, LLC  
61 BRADSTREET LANE  
ELIOT, ME 03903

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

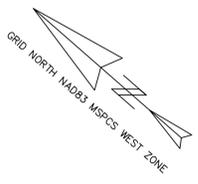
SCALE: 1" = 30'  
DATE: 09/20/22  
JOB NO: C072-21 FILE: 290 ECC BASE.DWG

APPROVED BY: \_\_\_\_\_  
DRAWN BY: MJS  
REVISION DATE: B : 01/10/23  
SHEET: 1

STATE OF MAINE  
YORK COUNTY ss. REGISTRY OF DEEDS  
RECEIVED \_\_\_\_\_ 20\_\_\_\_  
AT \_\_\_\_\_ M., AND RECORDED IN  
PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
ATTEST \_\_\_\_\_ REGISTER

GRADING & UTILITY NOTES

- 1.) ALL PIPES, VALVES, FITTINGS, AND CONNECTIONS SHALL MEET CURRENT ELIOT WATER DISTRICT STANDARDS.
- 2.) ALL STORM DRAINS TO BE ADS N-12 (PE) OR APPROVED EQUAL.
- 3.) A MINIMUM OF 5.0' OF COVER SHALL BE MAINTAINED OVER ALL WATER LINES.
- 4.) CENTRAL MAINE POWER COMPANY WILL PREPARE THE ELECTRICAL PLAN FOR CONSTRUCTION.
- 5.) NEW WATER AND SEWER LINES SHALL BE TESTED IN ACCORDANCE WITH RESPECTIVE DISTRICT REQUIREMENTS.
- 6.) THE PROPOSED MODULAR TRAILER SHALL SERVE AS A TEMPORARY ADULT-USE RETAIL FACILITY DURING THE CONSTRUCTION OF THIS DEVELOPMENT. THE TEMPORARY ADULT-USE RETAIL FACILITY WILL NOT OPERATE CONCURRENTLY WITH ANY PERMANENT USE OF THIS DEVELOPMENT.
- 7.) THE TEMPORARY TRAILER WILL BE SERVICED BY THE PRIVATE, ON-SITE DRILLED WELL, WITH 1/2" HOT WATER AND 1/2" COLD WATER SERVICE LINES. SEE REFERENCE #4 ON SHEET 1 FOR THE TEMPORARY TRAILER PLAN SET.
- 8.) THE TEMPORARY TRAILER WILL BE SERVICED BY THE SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPROVED FOR THIS DEVELOPMENT, WITH A 3" SDR-35 PVC GRAVITY SERVICE LINE. SEE REFERENCE #4 ON SHEET 1 FOR THE TEMPORARY TRAILER PLAN SET.

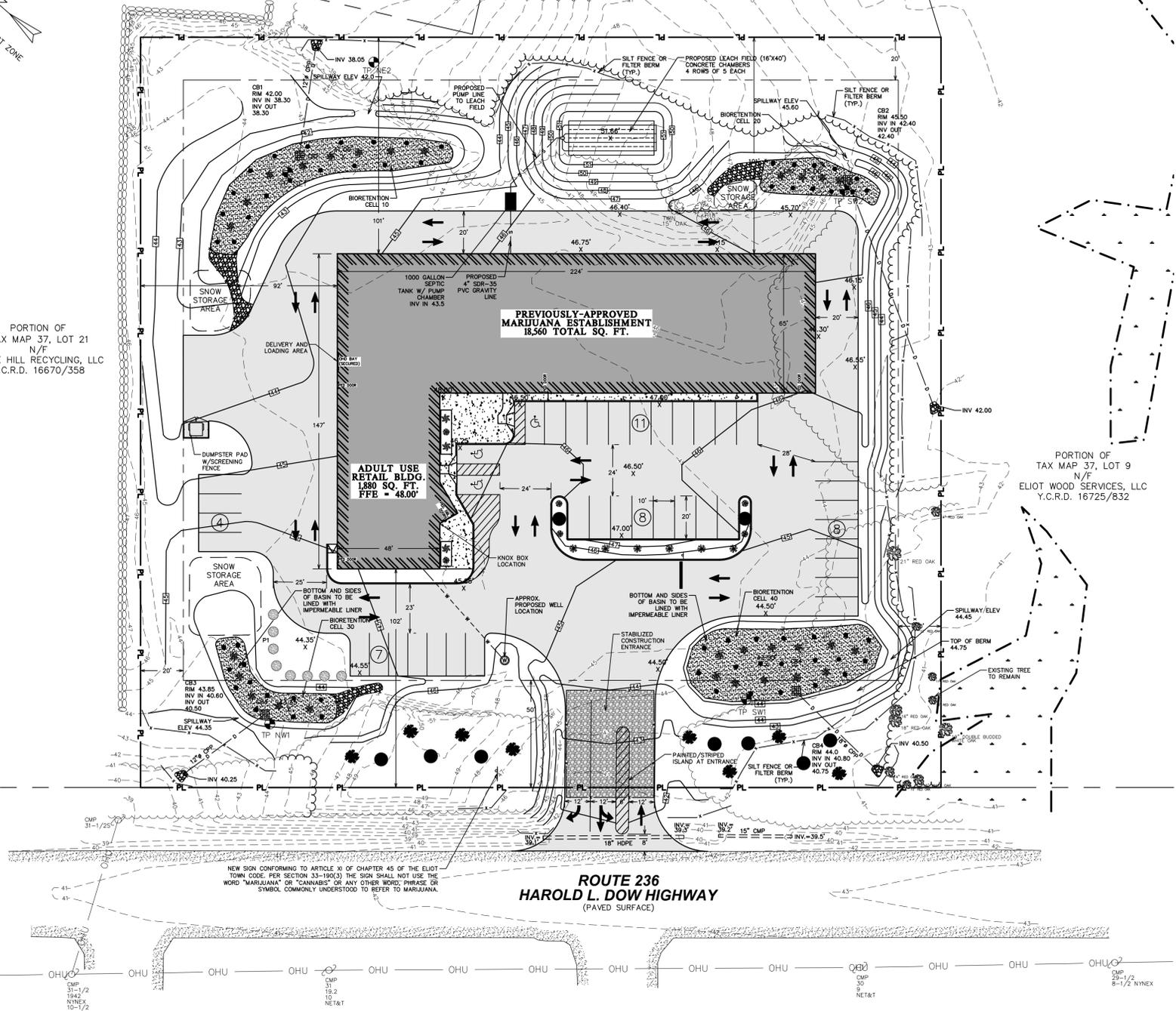


SUBJECT PROPERTY:  
TAX MAP 37, LOT 20  
AMP REALTY HOLDINGS, LLC  
Y.C.R.D. 15795/88  
3.01 ACRES ±  
131,250 SQUARE FEET

ABUTTING PROPERTY:  
PORTION OF  
TAX MAP 37, LOT 21  
N/F  
SLATE HILL RECYCLING, LLC  
Y.C.R.D. 16670/358

PORTION OF  
TAX MAP 37, LOT 21  
N/F  
SLATE HILL RECYCLING, LLC  
Y.C.R.D. 16670/358

PORTION OF  
TAX MAP 37, LOT 9  
N/F  
ELIOT WOOD SERVICES, LLC  
Y.C.R.D. 16725/832



ROUTE 236  
HAROLD L. DOW HIGHWAY  
(PAVED SURFACE)

NEW SIGN CONFORMING TO ARTICLE XI OF CHAPTER 45 OF THE ELIOT TOWN CODE. PER SECTION 33-190(3) THE SIGN SHALL NOT USE THE WORD "MARIJUANA" OR "CANNABIS" OR ANY OTHER WORD, PHRASE OR SYMBOL COMMONLY UNDERSTOOD TO REFER TO MARIJUANA.

LEGEND	
PROPERTY LINE	---
SETBACK	---
EXT. ABUTTER LINE	---
PRP. BUILDING	▨
PRP. PARKING	▨
EXT. PAVEMENT	---
PRP. PAVEMENT	---
PRP. GRAVEL	---
EXT. TEST PIT	⊕
EXT. STONEWALL	⊕
PRP. STOCKADE FENCE	⊕
PRP. SIGN	⊕
EXT. TREELINE	⊕
PRP. TREELINE	⊕
EXT. MAJOR CONTOUR	XXX
EXT. MINOR CONTOUR	XXX
PRP. MAJOR CONTOUR	XXX
PRP. MINOR CONTOUR	XXX
PRP. SPOT GRADE	46.55
PRP. CATCH BASIN	⊕
EXT. POWER POLE	⊕
EXT. MONITORING WELL	⊕
PRP. STORM LINE	D
PRP. SEWER LINE	S
PRP. WATER LINE	W
EXT. OVERHEAD ELEC	OHU
EXT. WETLAND BNDY	WETLAND
PRP. SILTATION FENCE	---
FOUND PIPE OR IRON ROD	⊕
FOUND STONE OR CONCRETE MONUMENT	⊕

SYM.	BOTANICAL NAME	COMMON NAME	QUAN.	SIZE/UNIT
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SS	SCHIZACHYRIUM SCOPARIUM	LITTLE BLUESTEM	11	1'-3' HT
AE	ARONIA MELANOCARPA	BLACK CHOKEBERRY	37	2'-4' HT

TOWN OF ELIOT  
PLANNING BOARD

CHAIR \_\_\_\_\_ DATE \_\_\_\_\_



NO.	DESCRIPTION	DATE
B	SPR PUBLIC HEARING	01/10/23
A	SITE PLAN REVIEW APPLICATION	12/01/22
NO.	REVISIONS	



TAX MAP 37, LOT 20

AMENDED GRADING AND UTILITY PLAN  
AMP COMMERCIAL DEVELOPMENT  
290 HAROLD L. DOW HIGHWAY, ELIOT, MAINE

FOR: DJR REAL ESTATE, LLC  
61 BRADSTREET LANE  
ELIOT, ME 03903

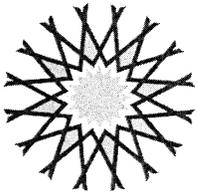
**ATTAR ENGINEERING, INC.**  
CIVIL ♦ STRUCTURAL ♦ MARINE ♦ SURVEYING  
1284 STATE ROAD - ELIOT, MAINE 03903  
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 30'  
DATE: 09/20/22

APPROVED BY: \_\_\_\_\_  
DRAWN BY: MJS  
REVISION DATE: B : 01/10/23

JOB NO: C072-21 FILE: 290 ECC BASE.DWG SHEET: 2

STATE OF MAINE  
YORK COUNTY ss. REGISTRY OF DEEDS  
RECEIVED \_\_\_\_\_ 20\_\_\_\_  
AT \_\_\_\_\_ M., AND RECORDED IN  
PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
ATTEST \_\_\_\_\_ REGISTER



# ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

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

January 19<sup>th</sup>, 2023  
Project No. C072-21

**RE: Site Plan Review Application – Amendment to Approved Plan  
290 H.L. Dow Highway (TM 37, Lot 20) & 291 H.L. Dow Highway (TM 37, Lot 2-1)  
Eliot, Maine**

Dear Mr. Brubaker:

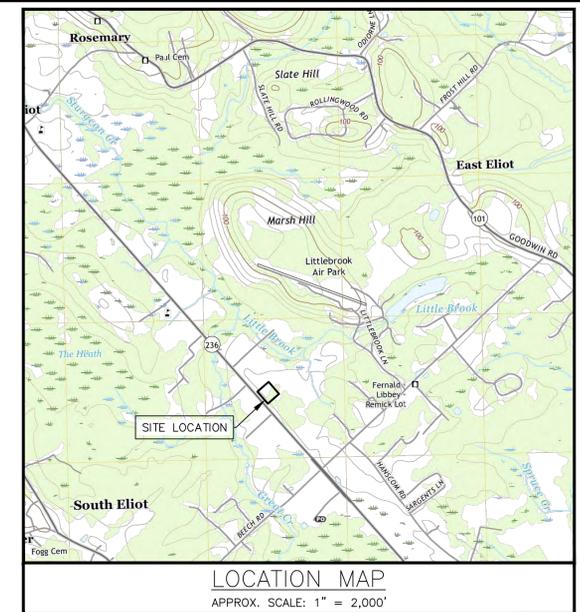
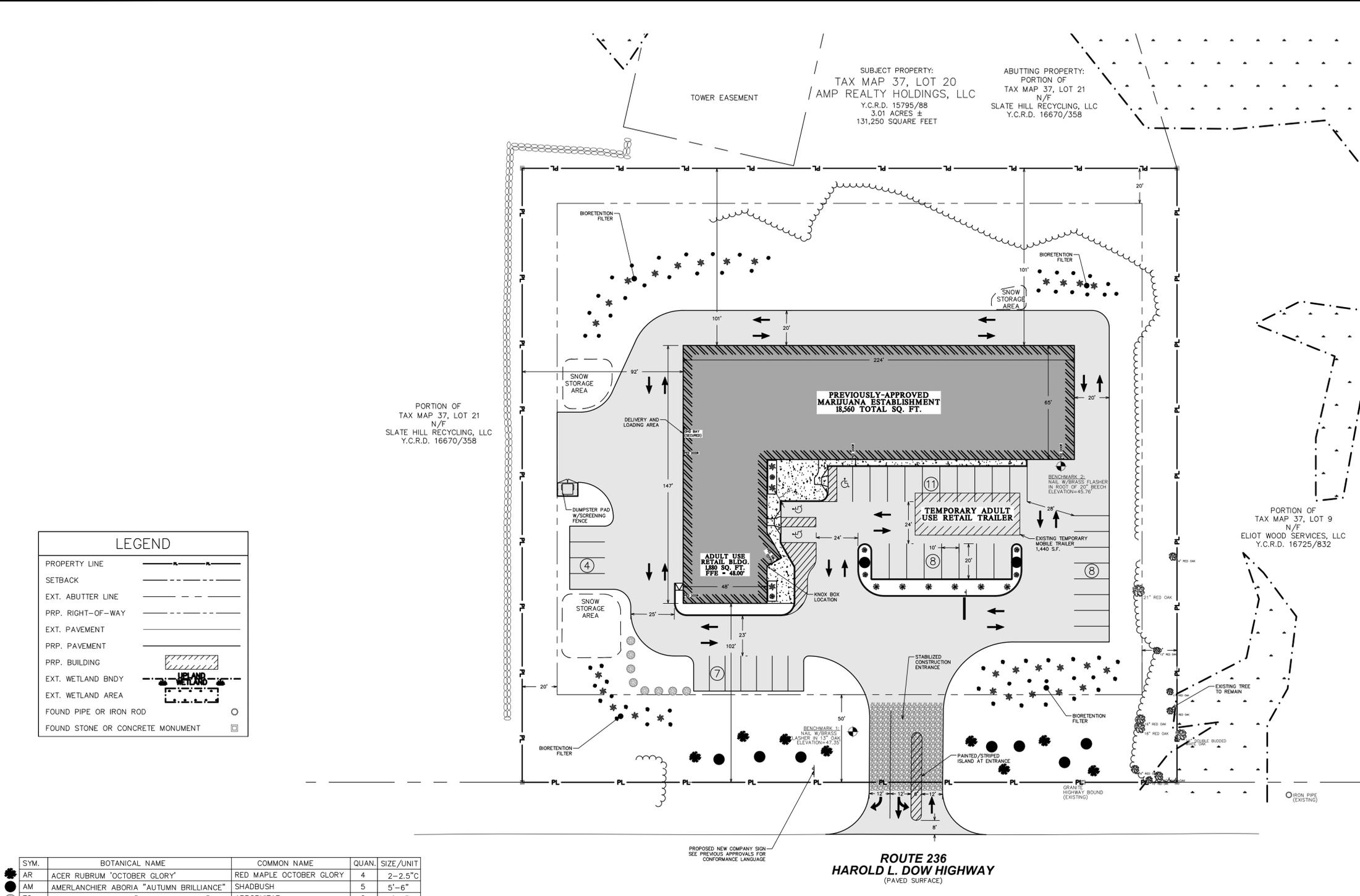
On behalf of DJR Real Estate, LLC. & Arcanna, LLC., I have enclosed for your review and consideration an updated Amended Site Plan and offer the following comments to address revisions requested by the Town Planner on January 18<sup>th</sup>, 2023.

- At the December 13<sup>th</sup>, 2022 Planning Board meeting a discussion was had concerning the movement of the proposed planter bed adjacent to the pedestrian entrance to the retail portion of the building. Sheet 1 has been revised to show this relocated planter bed and to demonstrate that a 5' aisle on the elevated sidewalk will be maintained for pedestrian access from the parking lot to the entrances.
- General Note #10 on Sheet 1 has been revised to reflect the additional plantings proposed in the southern corner of the frontyard setback of the parcel. These additional plantings are in support of the recently-completed update to the existing treeline and survey of all trees in this vicinity > 10" DBH.
- The existing callout on Sheet 1 for the proposed new company sign has been revised to reference the original approvals from 2020 for conformance language, as §33-190(3) shall not be a section of the Ordinance considered during the review of this Amendment.
- Lastly, the updated Photometric Plan which was discussed in the January 10<sup>th</sup>, 2023 cover letter shall be completed by COB 19 January 2023, and shall be forwarded to the Town upon receipt. The Applicant shall be prepared to discuss the minor changes to this plan before the Planning Board at the January 24<sup>th</sup>, 2023 meeting.

We look forward to discussing the project with the Planning board at their January 24<sup>th</sup> meeting. Please contact me for any additional information or clarifications required.

Sincerely;

Michael J. Sudak, E.I.  
Staff Engineer  
C072-21 Cover SPAmend 19Jan2023.doc



- GENERAL NOTES**
- THIS PLAN DEPICTS AN AMENDMENT TO THE PROPERTY LOCATED AT 290 HAROLD L. DOW HIGHWAY (STATE ROUTE 236) WHICH RECEIVED PREVIOUS PLANNING BOARD APPROVALS ON 10/22/2020 (CHANGE OF USE) AND 02/16/2021 (CHANGE OF USE AND EXPANSION). THE PROPOSED AMENDMENT DEPICTS AN UPDATE TO THE BUILDING FOOTPRINT TO ALLOW FOR THE RELOCATION OF THE PREVIOUSLY-APPROVED COMMERCIAL KITCHEN FROM THE ABUTTING 291 HAROLD L. DOW HIGHWAY PROPERTY. THE 3.01-ACRE SUBJECT PARCEL IS IDENTIFIED AS LOT 20 ON TAX MAP 37 AND IS LOCATED IN THE C/I DISTRICT.
  - DEPICTED BOUNDARY LINES, EXISTING CONDITIONS, TOPOGRAPHY AND INITIAL DESIGN BASIS BASED UPON REFERENCE 3.
  - RECORD OWNER: DJR REAL ESTATE, LLC. & ARCANNA, LLC. 290 HAROLD L. DOW HIGHWAY ELIOT, MAINE 03903 Y.C.R.D. DEED BOOK 18432, PAGE 257
  - DIMENSIONAL REQUIREMENTS FOR THE COMMERCIAL/INDUSTRIAL (C/I) ZONING DISTRICT ARE AS FOLLOWS:
 

MINIMUM LOT SIZE	3.0 ACRES
FRONTYARD SETBACK	50'
SIDEYARD SETBACK	20'
REARYARD SETBACK	20'
MAX. BUILDING HEIGHT	55'
MAX. LOT COVERAGE	50%
  - PARKING REQUIREMENTS (AS PER §45-495):
 

§45-495(7): WHOLESALE OR RETAIL SALES = 1 SPACE/100 SQ. FT. FOR MARIJUANA RETAIL STORES	
1,800 SQ. FT. PROPOSED => [1,800/100] = 18.8 SPACES	
§45-495(9): PROFESSIONAL OFFICES = 1 SPACE/200 SQ. FT.	
400 SQ. FT. (200 IN RETAIL WING, 200 IN CULTIVATION WING) PROPOSED (NO CHANGE)	
=> [400/200] = 2 SPACES	
§45-495(11): COMMERCIAL/INDUSTRIAL USE = 1 SPACE/ANTICIPATED EMPLOYEE ON THE LARGEST SHIFT	
12 MAX CONCURRENT EMPLOYEES PROPOSED ON THE LARGEST SHIFT	
=> 12 SPACES	
TOTAL REQUIRED = [18.8+2+12] = 32.8 => 33 SPACES REQUIRED	
TOTAL PROPOSED = 40 SPACES (3 ADA)	
  - SECURITY CAMERAS MUST BE PERMANENTLY FIXED AT THE FOLLOWING LOCATIONS IN THE ESTABLISHMENT: ALL EXIT/ENTRY POINTS (SUFFICIENT TO IDENTIFY INDIVIDUALS ENTERING AND EXITING THE PREMISES AND LIMITED ACCESS AREAS). EACH POINT OF SALE A SUFFICIENT NUMBER OF CAMERAS MUST BE PERMANENTLY FIXED TO ALLOW VIEWING OF THE FOLLOWING: ANY AREA WHERE MARIJUANA, MARIJUANA PLANTS, IMMATURE MARIJUANA PLANTS, SEEDLINGS, SEEDS, MARIJUANA CONCENTRATE OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, MANUFACTURED, STORED, AND/OR PREPARED FOR TRANSFER OR SALE (THE AREA MUST BE VIEWED IN ITS ENTIRETY). THE SURVEILLANCE SYSTEM STORAGE DEVICE MUST BE SECURED ON THE PREMISES IN A LOCKBOX, CABINET OR CLOSET, OR MUST BE ON A THIRD-PARTY SERVER OR SECURED IN ANOTHER MANNER TO PROTECT FROM EMPLOYEE TAMPERING OR CRIMINAL THEFT. ALL SURVEILLANCE RECORDINGS MUST BE KEPT FOR A MINIMUM OF 45 DAYS ON THE LICENSEE'S RECORDING DEVICE.
  - ALL EXTERIOR DOORS TO BE LOCKED WITH CARD ACCESS FOR EMPLOYEES. KEY CARD AND KEYS WILL BE PROVIDED FOR EMERGENCY PERSONNEL IN KNOX-BOX AT FRONT OF BUILDING.
  - ALL MARIJUANA ACTIVITIES SHALL BE CONDUCTED INDOORS. NO DRIVE-THROUGH OR HOME DELIVERY SERVICES ARE PROPOSED.
  - HOURS OF OPERATION: RETAIL - 7 DAYS/WEEK 10:00AM - 8:00PM (NO CHANGE) CULTIVATION - 5 DAYS/WEEK 9:00AM - 5:00PM (NO CHANGE)
  - THE VEGETATIVE SCREENING WITHIN THE FRONTYARD SETBACK IS ACCOMPLISHED WITH THE CURRENT BOTANICAL SCHEDULE AND PLANTING LOCATIONS DEPICTED ON SHEET 1 AND SHEET 2. ADDITIONAL PLANTINGS HAVE BEEN MADE TO SUPPORT A TREELINE DELINEATION PERFORMED IN JANUARY 2023 BY ATTAR ENGINEERING, WHICH INCLUDED ALL EXISTING TREES > 10" DBH.

**LEGEND**

PROPERTY LINE	— — — — —
SETBACK	- - - - -
EXT. ABUTTER LINE	— · — · — ·
PRP. RIGHT-OF-WAY	- - - - -
EXT. PAVEMENT	— · — · — ·
PRP. PAVEMENT	— · — · — ·
PRP. BUILDING	▨
EXT. WETLAND BNDY	— · — · — ·
EXT. WETLAND AREA	▨
FOUND PIPE OR IRON ROD	○
FOUND STONE OR CONCRETE MONUMENT	□

SYM.	BOTANICAL NAME	COMMON NAME	QUAN.	SIZE/UNIT
AR	ACER RUBRUM "OCTOBER GLORY"	RED MAPLE OCTOBER GLORY	4	2'-2.5" C
AM	AMERLANCHIER ABORIA "AUTUMN BRILLIANCE"	SHADBUSH	5	5'-6"
TO	THUJA OCCIDENTALIS "NORTHERN PILLAR"	ARBORVITAE	8	3'-0"

SYM.	BOTANICAL NAME	COMMON NAME	QUAN.	SIZE/UNIT
BD	BUDDLEIA DAVIADII	BUTTERFLY BUSH	11	2'-3' HT
CA	CLETHRA ALNIFOLIA	SUMMERSWEET	60	1'-3' HT
SS	SCHIZACHYRIUM SCOPARIUM	LITTLE BLUESTEM	6	1'-3' HT
AE	ARONIA MELANOCARPA	BLACK CHOKEBERRY	37	2'-4' HT

**WAIVERS GRANTED (12/13/22 PLANNING BOARD):**

- "UPDATED EXISTING CONDITIONS PLAN OF LAND OF AMP REALTY HOLDINGS, LLC., 290 HAROLD L. DOW HIGHWAY (ROUTE 236), TAX MAP 37, LOT 20, ELIOT, YORK COUNTY, MAINE." DATED MAY 17, 2017. PREPARED BY CIVIL CONSULTANTS.
  - REFER TO MAINE DOT ENTRANCE PERMIT #9781 DATED JANUARY 1, 2010 FOR 42' WIDE ENTRANCE TO COMMERCIAL/INDUSTRIAL USE WITH THE DIMENSIONS SHOWN HEREON.
  - "SITE PLAN, AMP COMMERCIAL DEVELOPMENT, 290 HAROLD L. DOW HIGHWAY (ROUTE 236), TAX MAP 37, LOT 20, ELIOT, YORK COUNTY, MAINE." DATED SEPTEMBER 28, 2017. PREPARED BY CIVIL CONSULTANTS.
  - "RELOCATION OF MODULAR BUILDING FOR DJR REAL ESTATE, 290 HAROLD L. DOW HIGHWAY, ELIOT, MAINE". DATED DECEMBER 22, 2020. PREPARED BY JENKINS CONSULTING ENGINEERS, PA.
- §33-127(5): TEMPORARY MARKERS NOT REQUIRED AS SITE WALK WAS ALSO WAIVED
- §33-127(8): NO UPDATED PROVISIONS FOR COLLECTING AND DISCHARGING STORM DRAINAGE, AS SITE IS STILL SERVICED BY DESIGN AND PERMIT OF PREVIOUS APPROVALS
- §33-127(9): NO UPDATED DESIGNS OF BRIDGES/CULVERTS, AS SITE STILL INTENDS TO INSTALL CULVERTED CROSSING OF DRIVEWAY AS PER PREVIOUS APPROVALS
- §33-127(11): NO UPDATED SOIL EROSION AND SEDIMENT CONTROL PLAN REQUIRED, AS SITE IS STILL GOVERNED BY PROVISIONS OF SHEET 4 IN PREVIOUS APPROVALS
- §33-127(12): NO HIGH INTENSITY SOIL SURVEY REQUIRED
- §33-127(13): PRIVATE WATER AND SEWER SERVICES FUNCTION AS PER PREVIOUS APPROVALS
- §33-127(14&15): NO INTENT TO CONNECT TO MUNICIPAL WATER/SEWER UTILITY SYSTEMS, SHOULD THEY BECOME AVAILABLE AT THE SITE
- §33-127(16): NO UPDATED SOILS TESTING REQUIRED AS NO CHANGES TO UTILITY SERVICES ARE PROPOSED WITH THIS AMENDMENT

**TOWN OF ELIOT PLANNING BOARD**

DATE \_\_\_\_\_

CHAIR \_\_\_\_\_



NO.	DESCRIPTION	DATE
C	TOWN PLANNER COMMENT REVISIONS	01/19/23
B	SPR PUBLIC HEARING	01/10/23
A	SITE PLAN REVIEW APPLICATION	12/01/22



AMENDED SITE PLAN  
AMP COMMERCIAL DEVELOPMENT  
290 HAROLD L. DOW HIGHWAY, ELIOT, MAINE

TAX MAP 37, LOT 20

FOR: DJR REAL ESTATE, LLC  
61 BRADSTREET LANE  
ELIOT, ME 03903

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

SCALE: 1" = 30'  
DATE: 09/20/22  
JOB NO: C072-21

APPROVED BY: \_\_\_\_\_  
FILE: 290 ECC BASE.DWG

DRAWN BY: MJS  
REVISION DATE: C : 01/19/23  
SHEET: 1

STATE OF MAINE  
YORK COUNTY ss. REGISTRY OF DEEDS  
RECEIVED \_\_\_\_\_ 20\_\_\_\_  
AT \_\_\_\_\_ M., AND RECORDED IN  
PLAN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_  
ATTEST \_\_\_\_\_ REGISTER

**From:** [Planner](#)  
**To:** [Kim Tackett](#)  
**Subject:** FW: 290 HLDow Amendment - Public Hearing Submission Items  
**Date:** Thursday, January 19, 2023 12:11:32 PM  
**Attachments:** [image001.png](#)

---

Kim,

Can you include the below email string in the PB packet for 290 & 291 HL Dow?

Thanks,  
Jeff

Jeff Brubaker, AICP  
(207) 439-1817 x112

---

**From:** Mike Sudak <mike@attarengineering.com>  
**Sent:** Wednesday, January 18, 2023 4:39 PM  
**To:** Planner <jbrubaker@eliotme.org>  
**Cc:** Sammie Rogers <sammie@attarengineering.com>  
**Subject:** RE: 290 HLDow Amendment - Public Hearing Submission Items

Hi Jeff,

Responding to your questions in order:

- I have been speaking this week with my Client's architect and my lighting rep who prepared the original Photometric Plan to complete this update. They are usually very quick with their turnaround, so I would expect that plan to be complete by the end of the week. I understand that would be too short of a time period to have in the Planning Board packets, but the changes are minor enough that I am hopeful the Board will be accommodating.
- You are correct about the planter box, the intent was to move that further north to provide an adequate access aisle on the sidewalk and I forgot to implement that change into the Plan Set. I can have that change over to you in the morning.
- I've copied Sammie from my office on this reply, who would be able to speak to our payment records. If that is something we are delinquent on I will also have that payment delivered tomorrow.
- Yes, we are amenable to having those screening requirements be incorporated into Phase I's provisions, with the allowance as you have described it.

Let me know if you have any other questions.

Thanks and take care,  
-Mike

---

**From:** Planner <[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)>  
**Sent:** Wednesday, January 18, 2023 3:54 PM  
**To:** Mike Sudak <[mike@attarengineering.com](mailto:mike@attarengineering.com)>

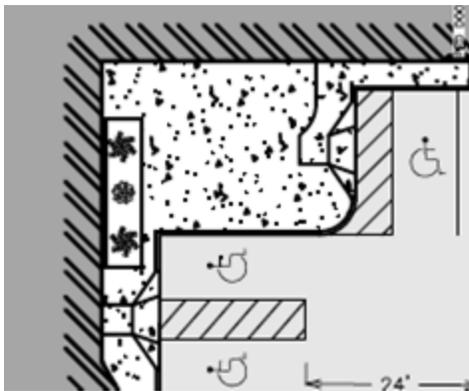
**Subject:** RE: 290 HLDow Amendment - Public Hearing Submission Items

Hi Mike,

A few quick questions on 290 HL Dow:

- Do you know when the updated photometric plan will be coming? (per your 1/10 cover letter)
- The latest plan shows the planter box near the curb ramp (see below) but I recall we talked about the need to move this so it isn't blocking an ADA-accessible route. Can this be done?
- We're not seeing a record of the fee paid for this application. Let me know if your records show it was paid. If not, we would need the fee (\$300 -- \$100 for Site Plan Amendment, \$25 for Change of Use, \$175 for Public Hearing) ideally before the public hearing.
- Are you amenable to having all front vegetative screening be part of Phase I, with an allowance for it to occur this coming spring when planting is ideal?

Thanks,  
Jeff



Jeff Brubaker, AICP  
(207) 439-1813 x112

---

**From:** Mike Sudak <[mike@attarengineering.com](mailto:mike@attarengineering.com)>  
**Sent:** Tuesday, January 10, 2023 3:07 PM  
**To:** Planner <[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)>  
**Cc:** Kim Tackett <[ktackett@eliotme.org](mailto:ktackett@eliotme.org)>; Ken Wood <[Ken@attarengineering.com](mailto:Ken@attarengineering.com)>; Sammie Rogers <[sammie@attarengineering.com](mailto:sammie@attarengineering.com)>  
**Subject:** 290 HLDow Amendment - Public Hearing Submission Items

Good Afternoon Jeff,

Attached please find updated Plan Set sheets and an accompanying Cover Letter for the 290 HLDow Amendment.

Hard copies have been prepared and are on their way over to you.

Please let me know if you have any questions/concerns.

Thanks and take care.

-Mike

---

Michael J. Sudak, E.I.  
Civil Engineer  
Attar Engineering, Inc.  
1284 State Road  
Eliot, Maine 03903  
Ph: (207) 439-6023  
Fax: (207) 439-2128  
Cell: (978) 317-3398

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



# TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

## PUBLIC HEARING NOTICE

**POSTED**

1/10/23

KRT

**AUTHORITY:** Eliot, Maine Planning Board  
**PLACE:** Town Hall (1333 State Rd.) with Remote Option  
**DATE OF HEARING:** January 24, 2023  
**TIME:** 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, January 24, 2023 at 6:00 PM for the following application:

- **290 & 291 Harold L. Dow Hwy. (Map 37/Lot 20 & Map 37/Lot 2-1), PID # 037-020-000 & 037-002-001, PB22-18:** Site Plan Amendment/Review and Change of Use Application – Marijuana Products Manufacturing Facility
  - **Applicant:** DJR Real Estate, LLC, and Arcanna, LLC
  - **Property Owner:** DJR Real Estate, LLC

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](http://eliotmaine.org/planning-board). Town Hall is accessible for persons with disabilities.



# 500 feet Abutters List Report

Eliot, ME  
January 10, 2023

## Subject Properties:

Parcel Number: 037-002-001  
CAMA Number: 037-002-001  
Property Address: 291 HAROLD L DOW HWY

Mailing Address: PAOLUCCI REALTY TRUST PETER J &  
CARMEN S PAUL TRUSTEES  
291 HAROLD L DOW HWY  
ELIOT, ME 03903

Parcel Number: 037-020-000  
CAMA Number: 037-020-000  
Property Address: 290 HAROLD L DOW HWY

Mailing Address: DJR REAL ESTATE LLC  
61 BRADSTREET LN  
ELIOT, ME 03903

---

## Abutters:

Parcel Number: 036-009-003  
CAMA Number: 036-009-003  
Property Address: 40 JULIE LN

Mailing Address: LORON LLC  
44 RIVERVIEW DR  
ELIOT, ME 03903

Parcel Number: 036-009-005  
CAMA Number: 036-009-005  
Property Address: 61 JULIE LN

Mailing Address: JULIE LANE LLC  
113 GOVERNMENT ST  
KITTERY, ME 03904

Parcel Number: 036-009-006  
CAMA Number: 036-009-006  
Property Address: 38 JULIE LN

Mailing Address: BMT ENTERPRISES  
10 NORDIC LN  
ROLLINSFORD, NH 03869

Parcel Number: 037-001-000  
CAMA Number: 037-001-000  
Property Address: 265 HAROLD L DOW HWY

Mailing Address: CHURCHILL, EVAN A/ROSALIE B  
REVOCABLE TR EVAN A AND ROSALIE  
B CHURCHILL TRUSTEES  
1288 STATE RD  
ELIOT, ME 03903

Parcel Number: 037-002-002  
CAMA Number: 037-002-002  
Property Address: 4 BROOK DR

Mailing Address: MORIARTY, MARIE  
23 LANDING DR  
METHUEN, MA 01844-5825

Parcel Number: 037-002-003  
CAMA Number: 037-002-003  
Property Address: 28 BROOK DR

Mailing Address: BMT ENTERPRISES  
C/O ORACLE INDUSTRIES LLC 13  
ELDREDGE RD  
ELIOT, ME 03903

Parcel Number: 037-002-004  
CAMA Number: 037-002-004  
Property Address: BROOK DR

Mailing Address: GORANSSON, PAUL GORANSSON,  
HLEN  
255 DEPOT RD  
ELIOT, ME 03903

Parcel Number: 037-003-000  
CAMA Number: 037-003-000  
Property Address: 6 JULIE LN

Mailing Address: CRESTA, RALPH J CRESTA,  
KATHERINE A  
295 WEST RD  
PORTSMOUTH, NH 03801



www.cai-tech.com

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



# 500 feet Abutters List Report

Eliot, ME  
January 10, 2023

Parcel Number: 037-003-001 CAMA Number: 037-003-001 Property Address: 299 HAROLD L DOW HWY	Mailing Address: NATURAL ROCKS SPRING WATER ICE CO INC 299 HAROLD L DOW HWY ELIOT, ME 03903
Parcel Number: 037-004-000 CAMA Number: 037-004-000 Property Address: 14 MACLELLAN LN	Mailing Address: HERITAGE OPERATING LP AMERIGAS PROPANE LP C/O THE ALBANO GROUP PO BOX 1240 MANCHESTER, NH 03105
Parcel Number: 037-005-000 CAMA Number: 037-005-000 Property Address: 26 MACLELLAN LN	Mailing Address: BROWN DOG PROPERTIES MAINE LLC 396 BEECH RD ELIOT, ME 03903
Parcel Number: 037-009-000 CAMA Number: 037-009-000 Property Address: 276 HAROLD L DOW HWY	Mailing Address: BLACK HAWK HOLDINGS LLC 36 WILSON ST WILTON, NH 03086
Parcel Number: 037-020-000 CAMA Number: 037-020-000 Property Address: 290 HAROLD L DOW HWY	Mailing Address: DJR REAL ESTATE LLC 61 BRADSTREET LN ELIOT, ME 03903
Parcel Number: 037-021-000 CAMA Number: 037-021-000 Property Address: 300 HAROLD L DOW HWY	Mailing Address: SLATE HILL RECYCLING LLC 171 YORK WOODS RD SOUTH BERWICK, ME 03908



[www.cai-tech.com](http://www.cai-tech.com)

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~ Classifieds ~

**RENTALS**

**YORK HOUSING HAS AN OPENING!**

One-bedroom unit for \$1,020 plus \$175 for utility fee (electricity and heat) within **Deerfield Place**, a 62+ community less than a mile to **Long Sands Beach**.

Opportunity to be added to the waitlist for future openings as well!



To request an application or for more information, please call York Housing at (207) **363-8444**.



**RENTALS**

**YEAR ROUND HOUSE / ROOM RENTALS**

At 41 Brown Lane, Wells. \$300 per week. All utilities included. 207-251-1018

**SHOP FOR RENT**

30' x 40' shop for rent with a 14' x 14' door and a truck lift in South Berwick. \$380 / week. 603-817-0808

**ESTATE SALE**

**IN HOUSE TAG / ESTATE SALE**

Mostly women's clothing - large sizes, dept store name brands in excellent condition, women's and men's coats and suits. Some furniture - recliner, rocking chair, end tables, 1 twin bed. Some household items • **Friday 1/13, Saturday 1/14, Sunday 1/15, 10 AM - 4 PM in Ogunquit.**  
\*By appointment only.\*  
Please call 207-251-4738.

find more  
**CLASSIFIED ADS**  
on page 22

**LEGAL & PUBLIC NOTICES**

**PUBLIC NOTICE:  
NOTICE OF INTENT TO FILE**

Please take notice that the **U.S. Army Corps of Engineers, New England District at 696 Virginia Road, Concord, MA 01742, Phone: 978-318-8012** is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A thru 480-BB on or about January 10, 2023.

The application is for **proposed work in Wells Harbor, Wells, Maine** which consists of two parts: 1) full maintenance dredging of approximately 170,000 cubic yards (cy) of sandy material from the Wells Harbor Federal Navigation Project (FNP) features which include an 8-foot-deep Mean Lower Low Water (MLLW) entrance channel, adjoining settling basins, and a 6-foot-deep MLLW inner channel and anchorage area; and 2) periodic maintenance dredging of between 10,000 and 50,000 cy of sandy material from portions of the FNP on an as-needed basis. For full maintenance dredging, a cutterhead pipeline dredge will remove the material and pump it to areas on Wells and Drakes Island Beaches between September 15 and March 31 in the year(s) in which funds become available, taking approximately six months to complete. Periodic maintenance dredging of the FNP, primarily areas in the 8-foot entrance channel and settling basins (previously dredged to 12 feet deep) will occur every one to four years by a government-owned hopper dredge, such as the Currituck or Murden. Placement will occur at the previously-used nearshore placement site off Wells Beach.

For activities of this kind in or affecting the Coastal Zone to be conducted by a federal agency, the review of and decision on this application will provide a basis for the State's water quality certification decision pursuant to Section 401 of the Clean Water Act (33 U.S.C. § 1341) and consistency decision in accordance with the Maine Coastal Program pursuant to Section 307 of the Coastal Zone Management Act (16 U.S.C. § 1456). All public comments received will be considered for consistency review purposes.

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over this application must be received by the Department in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

The application will be filed for public inspection at the Department of Environmental Protection's office in **Portland** during normal working hours. A copy of the application may also be seen at the municipal offices in **Wells, Maine**. Written public comments may be sent to the regional office in Portland where the application is filed for public inspection: MDEP, Southern Maine Regional Office, 312 Canco Road, Portland, ME 04103.

**CENTURY 21**  
Barbara Patterson 207.384.4008  
96 Portland St. South Berwick, ME  
www.century21barbarapatterson.com

**NORTH BERWICK**

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ads@theweeklysentinel.com

**LEGAL NOTICES**

**IF YOU ARE THE OWNER OF:**

**A 1987 Yellowstone  
632RK 5W Camper RV  
S/N: 1Y5300R22H1060702**

Contact Cathy at Route 4  
Storage - 207-384-6251

If the owner or Lien holder of this RV has not properly retrieved and paid all reasonable charges for towing, storage, and repair within 14 days from this publication, ownership of the vehicle will pass to the owner of the premises where the vehicle is located.

**LEGAL & PUBLIC NOTICES**

**Town of Eliot  
PUBLIC HEARING NOTICE**

**AUTHORITY:** ELIOT SELECT BOARD  
**PLACE:** ELIOT TOWN OFFICE  
**DATE OF HEARING:** THURSDAY JANUARY 26, 2023  
**TIME:** 5:30PM

Notice is hereby given that the Select Board of the Town of Eliot, Maine will hold a public hearing on Thursday, JANUARY 26, 2023 at 5:30 PM in said Town to hear public comment on the following:

1. An application for an Adult Use Marijuana Manufacturing Facility for Green Blossoms, LLC, 155 Harold L. Dow Highway, Eliot Maine (map 29, lot 25).

All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at that time. Please refer to the Town of Eliot's website for zoom instructions if you do not want to participate in person at the town office.

If you cannot attend meeting in person or zoom, and want to make comments in regards to the topic, please send any correspondence to the Town Manager prior to meeting date at townmanager@eliotme.org.

**Copies of the license application is available at the town office for review.**

**TOWN OF WELLS, MAINE PLANNING BOARD  
NOTICE OF PUBLIC HEARING**

**MONDAY, JANUARY 23, 2023 @ 7:00 P.M.  
LITTLEFIELD MEETING ROOM, 208 SANFORD RD, WELLS**

The Wells Planning Board will hold a Public Hearing regarding the following proposal(s) during the Planning Board meeting on Monday, January 23, 2023, which begins at 7:00 P.M. and will be held at the Wells Town Hall.

I. HAZY HILL FARM – 1616 Post Road, LLC, owner; RS470, LLC, applicant. Site Plan Amendment Application seeking approval for a Registered Marijuana Dispensary use within unit #2, approximately 3,344 SF in gross floor area. No other change in use proposed; property has approval to operate Business Office, Retail, Personal Service Business, Service Business, Contractor Business and Wholesale Business uses. Total floor area of all structures is 8,857 SF. Two dwelling units also exist on the property. The lot is located off 1614/1616 Post Road and is within the General Business District. Tax Map 135, Lot 4-1.

II. ROLLING WOODS PRESERVE – Jackson Drysdale & Associates, LLC, owner/applicant; Corner Post Land Surveying, surveyor. Preliminary Subdivision Application for a 17 lot/dwelling unit Residential Cluster major subdivision with private roadway and Open Space to be developed on 23.38 acres of land. The property is located within the Residential A and Rural Districts. The property is located off Sanford Road and is identified as Tax Map 67, Lot 3.

**Town of Eliot  
PUBLIC HEARING NOTICE**

**AUTHORITY:** Eliot, Maine Planning Board  
**PLACE:** Town Hall (1333 State Rd.) with Remote Option  
**DATE OF HEARING:** January 24, 2023  
**TIME:** 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, January 24, 2023 at 6:00 PM for the following application:

**290 & 291 Harold L. Dow Hwy. (Map 37/Lot 20 & Map 37/Lot 2-1), PID # 037-020-000 & 037-002-001, PB22-18:** Site Plan Amendment/Review and Change of Use Application – Marijuana Products Manufacturing Facility. Applicant: DJR Real Estate, LLC, and Arcanna, LLC. Property Owner: DJR Real Estate, LLC.

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

**NOTICE OF PUBLIC FORECLOSURE SALE  
Pursuant to 14 M.R.S.A. §6323**

By virtue of and in execution of a Judgment of Foreclosure and Sale entered on August 16, 2022, in the York County Superior Court, Civil Action Docket No. RE-22-02, in an action brought by MidFirst Bank, Plaintiff, against Shawn M. Brown and Jennifer M. Brown, Defendants, for the foreclosure of a mortgage dated June 19, 2017, and recorded in the York County Registry of Deeds in Book 17499, Page 105, the statutory ninety (90) day redemption period having elapsed without redemption, notice is hereby given that the aforementioned property will be sold at a public sale at 10:00 a.m. on February 16, 2023, at the law offices of Eleanor L. Dominguez, Esq., AINSWORTH, THELIN & RAFTICE, P.A., Seven Ocean Street, South Portland, ME 04106, (207) 767-4824, all and singular the premises described in said mortgage and being a certain lot of land with the buildings thereon, situated in the City of Sanford, County of York, and State of Maine, described in said mortgage as being located at 15 Bowdoin Street. (Note: The identification of the location of the property is as stated in the mortgage, which may have been subject to change and/or differ from the City of Sanford's records).

**TERMS OF SALE**

The property shall be sold to the highest bidder at the sale, who shall pay a deposit of Five Thousand and No/100 Dollars (\$5,000.00) by certified check payable to "MidFirst Bank or YOUR NAME" at the time and place of sale. The successful bidder shall be required to execute a Purchase and Sale Agreement with said MidFirst Bank with the aforesaid Five Thousand and No/100 Dollars (\$5,000.00) or sum equal to ten percent (10%) of the bid price, whichever is greater, as a non-refundable and non-interest-bearing deposit thereon providing for a closing within thirty (30) days of the date of the public sale, at which time the balance of the bid price will be due and payable by certified check acceptable to mortgagee upon presentation of the Deed. The property will be sold subject to all easements and rights of way either of record or otherwise existing. The property will be sold subject to real estate taxes assessed and due and payable to the City of Sanford, water and sewer charges and any liens and encumbrances of greater priority than said mortgage. The property shall be sold AS IS, and WHERE IS without any warranties whatsoever expressed, implied or otherwise which warranties are disclaimed. Additional terms to be announced at the sale.

**Prospective bidders are advised to contact Ainsworth, Thelin & Raftice, P.A. as close as possible to their departure to attend the sale in order to confirm the occurrence of the sale as scheduled.**

DATED: January 11, 2023

Eleanor L. Dominguez, Esq.  
Attorney for MidFirst Bank

AINSWORTH, THELIN & RAFTICE, P.A.  
P.O. Box 2412, South Portland, ME 04116-2412  
(207) 767-4824

PB22-22: 360 River Rd. (Map 25, Lot 11): Shoreland Zoning Permit Application – Residential Pier, Gangway, Float, Boardwalk, and Stairway



# 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, PE, PLS, Applicant’s Representative  
 Shelly Bishop, Code Enforcement Officer  
 Kim Tackett, Land Use Administrative Assistant  
 Date: January 12, 2022 (report date)  
 January 24, 2022 (meeting date)  
 Re: PB22-22: 360 River Rd. (Map 25, Lot 11): Shoreland Zoning Permit Application – Residential Pier, Gangway, Float, Boardwalk, and Stairway

Application Details/Checklist	
✓ Address:	360 River Rd.
✓ Map/Lot:	25/11
✓ PB Case#:	22-22
✓ Zoning:	Suburban
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Robert C. Holderith
✓ Applicant/Agent Name:	Robert C. Holderith Agent: Tidewater Engineering & Surveying, Inc. Contractor: Riverside & Pickering Marine Contractors
✓ Application Received by Staff:	December 7, 2022
Application Fee Paid and Date:	Need to confirm fee amount paid
✓ Application Sent to Staff Reviewers:	January 12, 2023
Application Heard by PB	January 24, 2023 (scheduled)
Found Complete by PB	TBD
Site Walk	TBD
Site Walk Notice Publication	TBD
Public Hearing	TBD
Public Hearing Publication	TBD
✓ Reason for PB Review:	Shoreland, Permanent Residential Pier (SPR use)

## Overview

Applicant is seeking review and approval of a proposed docking structure/residential pier system at 360 River Rd., which would consist of a permanent residential pier, seasonal gangway, seasonal float, boardwalk accessing the pier system, and stairway accessing the beach. The tract is bisected by River Rd. and is described in the deed as two parcels. The larger, inland parcel (~2.1 ac.) has a single-family residence with outbuildings. The smaller, riverside parcel (~0.2 ac.), where the pier system would be sited, has no evidence of recent development (1992-present), per the applicant.

The float will be secured with marine-grade chains connected to helical piles driven into the intertidal area. Off-season, per the applicant, the float will be “stored either offsite or on the adjacent uplands

PB22-22: 360 River Rd. (Map 25, Lot 11): Shoreland Zoning Permit Application – Residential Pier, Gangway, Float, Boardwalk, and Stairway

between the river and the road. The gangway will be stored on the fixed pier”. The pier will be ~21 in. above the 100-year flood elevation. The transition from River Rd. to the access ramp will be graded (as shown on the site plan) and stabilized. No additional shoreline stabilization is proposed.

### Dimensions of proposed pier system components

- Access boardwalk: 4’ x 16’
- Access stairway to beach: 4’ x 14’
- Permanent fixed pier: 6’ x 60’
- Seasonal gangway: 3’ x 30’
- Seasonal main float: 10’ x 30’

### Uses

Permanent residential piers and other structures and uses extending over or below the normal high-water line or within a wetland are SPR uses in the shoreland zone.

### Review needed for current meeting: 1/24/23

Sketch plan review: as needed, ask questions of the applicant, seek more information, and comment on code compliance. Decide on completeness and, if deemed complete, set a public hearing.

### Status of other agency reviews

- MaineDEP NRPA permits # L-30049-4P-A-N & #L-30049-TW-B-N – coastal wetland alteration, significant wildlife habitat, water quality certification – **approved 12/29/22**
- US Army Corps of Engineers (ACOE) authorization/permit # NAE-2022-02076 – **granted**

The PB application includes the NRPA permit application and its attachments. Many of these attachments are also relevant to PB review and will be referenced in this staff report.

### 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)	<b>Met.</b> Only 1 pier structure proposed. Shoreline frontage is about 220-225 ft.

PB22-22: 360 River Rd. (Map 25, Lot 11): Shoreland Zoning Permit Application – Residential Pier, Gangway, Float, Boardwalk, and Stairway

(2)	Developed on appropriate soils so as to control erosion	<p><b>Appears to be met.</b> NRPA application Attachment #8, Erosion Control Plan, states that the project would not include “grading, bulldozing, digging, scraping the earth or filling”, and would involve “No open excavation...within the [River] or below the highest annual tide.” Pier installation would primarily occur from a barge or staged on top of the driven pier piles, minimizing construction foot traffic in the intertidal zone. The applicant also anticipates “minimal sedimentation or suspension of sediments” resulting from installation.</p> <p>The Maine Geological Survey identifies this portion of the coastal bluff as <b>stable</b>; however, site plan Note 12 states that (under the existing conditions) “erosion and undermining of the embankment is evident”, which can be seen in site photos (NRPA application Attachment #4). NRPA application Attachment #2, Alternatives Analysis, notes that “Accessing the intertidal zone via the vegetated upland bank currently requires traversing a steep undercut bank slope. Continued access to the water in this way is a safety hazard to the property owner and promotes erosion of the coastal bluff.” Building the access boardwalk will likely lessen this erosion potential.</p>
(3)	Location shall not interfere with beach areas	<b>Appears to be met.</b> See (2) above.
(4)	Minimize adverse effects on fisheries	<b>No (or minimal) adverse effects are apparent.</b> See also marine resources/environmental impacts discussion below.
(5)	N/A – pertains to nontidal waters	
(6)	No new structure on/over/abutting a pier/wharf/dock/etc. unless it requires direct access to the water	<b>Met.</b> No such structure proposed.
(7)	N/A – pertains to nontidal waters	
(8)	No existing structure on/over/abutting a pier/wharf/dock/etc. may be converted to a residential dwelling unit	N/A
(9)	Structures built on on/over/abutting a pier/wharf/dock/etc. may not exceed 20 ft. in height above pier/wharf/dock/etc.	N/A
(10a)	Residential piers shall not extend beyond the mean low water mark and are limited to a maximum width of 6 ft.	<b>Met.</b> Proposed pier is 6 ft. in width and does not extend beyond the mean low water mark.
(10b)	Pier (+ temporary float) length restricted to 200 ft. (measured from NHWL), or a length that will provide 6 ft. of water depth for outermost float at mean low water (MLW), whichever is shorter; shall not extend more than halfway to mean low water deep channel centerline	<b>Appears to be met.</b> Total length is 120’ (60’ pier, 30’ gangway, 30’ float), and length from end of float to HAT line is 112’ (NRPA application Attachment #9). Float will be on riverbed at MLW. Visually apparent that length will not extend more than halfway to MLW centerline.
(10c)	N/A – pertains to LC and GD districts	
(11)	No structure (including temporary ramps/floats and pilings) shall extend more than halfway to the deep channel centerline at mean low water	<b>Appears to be met.</b>
(12)	25 ft. setbacks from riparian lines for neighboring properties (with lesser setback allowed with mutual agreement with neighbor)	<b>Met.</b> Riparian lines and setback lines shown on site plan. Pier system is generally centered on the shoreline, well within setback compliance.
(13)	Temporary/seasonal floats which sit on the bottom at low tide must be built per DEP guidelines to minimize harm to marsh grass/marine life living in the mud	<b>Appears to be met.</b> Float will sit at the bottom at low tide. Skids and minimal impacts noted in DEP approved permit. See further discussion below.

(14)	Required reflectors on piers and floats: 3+ in. diameter, not more than 12 in. from each corner. At least 1 per 20 ft. on each side of piers >40 ft.	Appears to be met. See site plan, Note 17.
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### Stairways

The stairway is proposed to be located on a bluff indicated as stable by the Maine Geological Survey (<https://www.maine.gov/dacf/mgs/pubs/digital/bluffs.htm>) but unstable per the applicant.

*44-35(b)(6) check for stairways to access the shoreline in areas of steep slopes or unstable soils*

44-35(b)(6) standard	Evaluation of application
Max. 4 ft. in width	<b>Met.</b> Stairway proposed to be 4 ft. wide.
Structure does not extend below or over the normal high-water line, unless permitted by DEP	<b>Met.</b> Stairway extends below mean high water (MHW)/highest annual tide (HAT) lines, but has been permitted by DEP.
Applicant demonstrates that no reasonable access alternative exists on the property	<b>Met.</b> See NRPA application Attachment #2 – Alternatives Analysis and DEP findings.

### Shoreline vegetation

Applicant notes that the pier alignment “was chosen in order to avoid tree removal and avoid direct and indirect impacts to existing salt marsh vegetation”. (NRPA application Attachment #1 – Project Description). Photos 1 and 2 in Attachment #4, plus the site plan, show how the pier system will be aligned to avoid tree removal. In my opinion, since no trees are proposed to be cut, a “tree score” plan is not required under 44-35(p)(2)b.

### Other notes on marine resources and environmental impacts

The location is a Significant Wildlife Habitat (Tidal Waterfowl and Wading Bird Habitat, TWWH). As such, the Maine Department of Inland Fisheries & Wildlife (MDIFW) recommended at least ¾” spacing between dock planks “throughout the pier system to allow sunlight penetration to marsh grass that propagates underneath in the future” and recommended that “soil disturbance should be kept to an absolute minimum and the vegetated buffer should be maintained” (quotes from DEP permit order). The Department of Marine Resources (DMR) also noted that “the proposed float skids and seasonal nature of the float will minimize...impacts” to marine resources and habitat when the float rests on the mudflat at low tide. Coastal wetland direct alteration will be limited to 10 sq. ft.: the ground in which the piles are driven. Chromated copper arsenate (CCA)-treated lumber will need to be dry-cured on land for at least 21 days before beginning construction. These requirements have been translated into permit conditions.

The DEP order approving the permit finds that:

the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life, provided that three-quarter inch spacing is utilized between deck boards...[and] that the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

PB22-22: 360 River Rd. (Map 25, Lot 11): Shoreland Zoning Permit Application – Residential Pier, Gangway, Float, Boardwalk, and Stairway

A special condition of the ACOE states: “Piles shall be installed during periods of low water when the site is in-the-dry in order to prevent potential effects to endangered marine species and to minimize potential effects to Essential Fish Habitat and local water quality.”

**Recommendation**

Deem application complete and set a public hearing for February 21, 2023.

**Motion templates**

*Complete application (recommended)*

Motion to accept the shoreland zoning permit application for PB22-22 (360 River Rd.) as complete. A public hearing is set for:

- February 21
- [or other] \_\_\_\_\_

*[If needed]* A site walk is set for: \_\_\_\_\_

*Incomplete application*

Motion to consider the shoreland zoning permit application for PB22-22 (360 River Rd.) incomplete. The following information and materials are needed to make the application complete:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

November 7, 2022

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



Re: Shoreland Application: Proposed Fixed Pier & Seasonal Floats  
360 River Road, Eliot ME 03903 (Tax Map 25 Lot 11)- Reference No. 22-111

Dear Mr. Brubaker:

Tidewater Engineering & Surveying, Inc. is pleased to submit the enclosed Shoreland Application on behalf of Robert C. Holderith. The applicant is seeking approval of a proposed docking structure at his residence at 360 River Road, Eliot ME 03903 (Tax Map 25 Lot 11) to provide recreational access to the Piscataqua River.

A Natural Resources Protection Act permit application was submitted to the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers for review on September 12, 2022. Maine DEP and the U.S. Army Corps of Engineers are currently in the process of reviewing the application, however we will submit their approval to the Town once received.

We respectfully request that the review by the Town occur concurrently with Maine DEP and U.S. Army Corps of Engineers review to expedite the permitting process. To aid in your review, we have enclosed a copy of the application that was submitted to Maine DEP. Please refer to this MDEP application to satisfy the Town's submittal requirements and for more detailed information including, but not limited to, a project description, alternatives analysis, location map, photographs and site condition report.

The following documents are enclosed.

1. Shoreland Zoning Permit Application & Fees
2. Proposed Pier & Float Plan dated September 9, 2022
3. MDEP NRPA Permit Application Submittal

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

Sincerely,

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

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

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

**TOWN OF ELIOT**  
**SHORELAND ZONING PERMIT APPLICATION**

**GENERAL INFORMATION**

1. <del>APPLICANT</del> Agent:  Tidewater Engineering & Surveying, Inc.	2. <del>APPLICANT'S ADDRESS</del> Agent Address: 1021 Goodwin Road, Unit 1 Eliot, ME 03903	3. <del>APPLICANT'S TEL. #</del> Agent Telephone: (207) 439-2222
4. PROPERTY OWNER  Robert C. Holderith	5. OWNER'S ADDRESS  360 River Road, Eliot ME 03903	6. OWNER'S TEL. #  (201) 214-5559
7. CONTRACTOR  Riverside & Pickering Marine Contractors	8. CONTRACTOR'S ADDRESS  34 Patterson Lane Newington, NH 03801	9. CONTRACTOR'S TEL. #  (603) 427-2824
10. LOCATION/ADDRESS OF PROPERTY  360 River Road Eliot, ME 03903	11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED  Tax Map 25 Lot 11 (1820 +/-)	12. ZONING DISTRICT  Suburban District Ltd Resi. Overlay Resource Protection
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3).  Construct a 6' x 60' permanent timber pier, 3' x 30' seasonal gangway, and 10' x 30' main float with float skids on the applicant's property in Eliot. The timber pier will be accessed via a 4' x 16' boardwalk that extends from grassy uplands at the top of the bank.		

14. PROPOSED USE OF PROJECT Residential/Recreational access to water	15. ESTIMATED COST OF CONSTRUCTION TBD
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**SHORELAND AND PROPERTY INFORMATION**

16. LOT AREA (SQ. FT.) 93,378 SF	17. FRONTAGE ON ROAD (FT.) 223.75'
18. SO. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES N/A	19. ELEVATION ABOVE 100 YR. FLOOD 21" +/- to bottom of fixed pier
20. FRONTAGE ON WATERBODY (FT.) 225 feet +/-	21. HEIGHT OF PROPOSED STRUCTURE N/A
22. EXISTING USE OF PROPERTY Residential	23. PROPOSED USE OF PROPERTY Residential

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

<p>24. A) TOTAL FLOOR AREA OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89:</p> <p align="center">N/A SQ. FT.</p> <p>B) FLOOR AREA OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT:</p> <p align="center">N/A SQ. FT.</p> <p>C) FLOOR AREA OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK:</p> <p align="center">N/A SQ. FT.</p> <p>D) % INCREASE OF FLOOR AREA OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89: N/A</p>	<p>25. A) TOTAL VOLUME OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89:</p> <p align="center">N/A CUBIC FT.</p> <p>B) VOLUME OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT:</p> <p align="center">N/A CUBIC FT.</p> <p>C) VOLUME OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK:</p> <p align="center">N/A CUBIC FT.</p> <p>D) % INCREASE OF VOLUME OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89: N/A</p>
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$(\% \text{ INCREASE} = \frac{B+C}{A} \times 100)$ <hr/> N/A %	$(\% \text{ INCREASE} = \frac{B + C}{A} \times 100)$ <hr/> N/A %
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NOTE: IT IS IMPERATIVE THAT EACH MUNICIPALITY DEFINE WHAT CONSTITUTES A STRUCTURE, FLOOR AREA, AND VOLUME AND APPLY THOSE DEFINITIONS UNIFORMLY WHEN CALCULATING EXISTING AND PROPOSED SO. FT. AND CU. FT.

**SITE PLAN**

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

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

SEE ATTACHED SITE PLAN

SCALE: \_\_\_\_\_ = \_\_\_\_\_ FT.

**FRONT OR REAR ELEVATION**

**SIDE ELEVATION**

SEE ATTACHED SITE PLAN

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

**ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED**

CHECK IF REQUIRED:

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

OTHERS:

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

I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE    TOWN OF ELIOT    SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.

APPLICANT'S SIGNATURE

DATE

 Agent

11/7/2022

AGENT'S SIGNATURE (if applicable)

DATE

Ryan McCarthy on behalf of Tidewater Engineering & Surveying, Inc.  
and the applicant.

September 12, 2022

Maine Dept. of Environmental Protection  
Bureau of Land & Water Quality  
312 Canco Road  
Portland, ME 04103



Re: NRPA Application: Robert C. Holderith  
360 River Road, Eliot ME 03903 (Tax Map 25 Lot 11) - Reference No. 22-111

To Whom It May Concern:

Attached is an NRPA application on behalf of Robert C. Holderith associated with a proposed docking structure at 360 River Road, Eliot ME 03903 (Tax Map 25 Lot 11) . This application, along with supplemental attachments, have been forwarded to the ACOE, Eliot Town Office, Maine Historic Preservation Commission and the five Indian tribes of Maine. All abutting property owners have been notified by certified mail and a notice of intent to file was circulated in the Portsmouth Herald.

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

Sincerely,

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

Ryan M. McCarthy, P.E., P.L.S.

President  
Tidewater Engineering & Surveying, Inc.  
(207) 439-2222  
ryan@tidewatercivil.com

cc w/ enclosures: U.S. Army Corps of Engineers  
Eliot Town Office  
Maine Historic Preservation Commission  
Mi'kmaq Nation  
Passamaquoddy Tribe of Indians (Perry, ME)  
Passamaquoddy Tribe of Indians (Princeton, ME)  
Houlton Band of Maliseet Indians  
Penobscot Indian Nation  
Riverside & Pickering Marine Contractors  
Robert C. Holderith

## APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN **BLACK INK ONLY**

<b>1. Name of Applicant:</b> Robert C. Holderith		<b>5. Name of Agent:</b> Tidewater Engineering & Surveying, Inc.	
<b>2. Applicant's Mailing Address:</b> 11440 County Highway 14 Delhi, NY 13753		<b>6. Agent's Mailing Address:</b> 1021 Goodwin Road, Unit #1 Eliot, ME 03903	
<b>3. Applicant's Daytime Phone #:</b> (210) 214-5559		<b>7. Agent's Daytime Phone #:</b> (207) 439-2222	
<b>4. Applicant's Email Address (Required from either applicant or agent):</b>		<b>8. Agent's Email Address:</b> ryan@tidewatercivil.com	
<b>9. Location of Activity: (Nearest Road, Street, Rt.#)</b> 360 River Road		<b>10. Town:</b> Eliot	<b>11. County:</b> York
<b>12. Type of Resource: (Check all that apply)</b> <input checked="" type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input checked="" type="checkbox"/> Coastal Wetland <input type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain		<b>13. Name of Resource:</b> Piscataqua River	
		<b>14. Amount of Impact: (Sq.Ft.)</b> <b>Fill:</b> 10 sf (pilings) <b>Dredging/Veg Removal/Other:</b> 758 sf (indirect impacts)	
<b>15. Type of Wetland: (Check all that apply)</b> <input type="checkbox"/> Forested <input type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input checked="" type="checkbox"/> Other <u>Intertidal</u>		<b>FOR FRESHWATER WETLANDS</b>	
		<i>Tier 1</i>	<i>Tier 2</i>
		<input type="checkbox"/> 0 - 4,999 sq ft. <input type="checkbox"/> 5,000-9,999 sq ft <input type="checkbox"/> 10,000-14,999 sq ft	<input type="checkbox"/> 15,000 – 43,560 sq. ft.
		<input type="checkbox"/> > 43,560 sq. ft. or <input checked="" type="checkbox"/> smaller than 43,560 sq. ft., not eligible for Tier 1	
<b>16. Brief Activity Description:</b>		Construct a 6' x 60' permanent timber pier, 3' x 30' seasonal gangway, and 10' x 30' main float with float skids on the applicant's property in Eliot. Access to the timber pier will be via a 4' x 16' boardwalk that extends from grassy uplands at the top of the bank.	
<b>17. Size of Lot or Parcel &amp; UTM Locations:</b>		<input checked="" type="checkbox"/> 93,000 square feet, or <input checked="" type="checkbox"/> 2.32 acres UTM Northing: 4776786.10 UTM Easting: 351848.95	
<b>18. Title, Right or Interest:</b>		<input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement	
<b>19. Deed Reference Numbers:</b> Book#: 18509 Page: 656		<b>20. Map and Lot Numbers:</b> Map #: 25 Lot #: 11	
<b>21. DEP Staff Previously Contacted:</b> Alex Groblewski		<b>22. Part of a larger project:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>After-the-Fact:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>23. Resubmission of Application?:</b> <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		<b>If yes, previous application #</b> _____ <b>Previous project manager:</b> _____	
<b>24. Written Notice of Violation?:</b> <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		<b>If yes, name of DEP enforcement staff involved:</b> _____ <b>25. Previous Wetland Alteration:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>26. Detailed Directions to the Project Site:</b>		South on Rt. 95 to Eliot (Rt. 236) take exit 2 onto Rt. 236 North. Follow Rt. 236 for 3 Miles to intersection with Beech Road. Turn left onto Beech Road and follow for 1.0 mile to State Road. Turn right onto State Road and follow for 0.6 miles to Old Road. Take a slight left onto Old Road and follow for 0.7 miles to intersection with River Road. Turn left onto River Road and follow for 0.8 miles to 360 River Road	
<b>TIER 1</b>		<b>TIER 2/3 AND INDIVIDUAL PERMITS</b>	
<input checked="" type="checkbox"/> Title, right or interest documentation <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Narrative Project Description <input checked="" type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input checked="" type="checkbox"/> Photos of Area <input checked="" type="checkbox"/> Statement of Avoidance & Minimization <input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC		<input checked="" type="checkbox"/> Title, right or interest documentation <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Copy of Public Notice/Public Information Meeting Documentation <input type="checkbox"/> Wetlands Delineation Report (Attachment 1) that contains the information listed under Site Conditions <input checked="" type="checkbox"/> Alternatives Analysis (Attachment 2) including description of how wetland impacts were Avoided/Minimized <input checked="" type="checkbox"/> Erosion Control/Construction Plan <input type="checkbox"/> Functional Assessment (Attachment 3), if required <input type="checkbox"/> Compensation Plan (Attachment 4), if required <input checked="" type="checkbox"/> Appendix A and others, if required <input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC <input type="checkbox"/> Description of Previously Mined Peatland, if required	
<b>28. FEES Amount Enclosed:</b> \$564 total (\$451 processing fee + \$113 licensing fee)			

**CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2**

**IMPORTANT: IF THE SIGNATURE BELOW IS NOT THE APPLICANT'S SIGNATURE, ATTACH LETTER OF AGENT AUTHORIZATION SIGNED BY THE APPLICANT.**

By signing below the applicant (or authorized agent), certifies that he or she has read and understood the following :

**DEP SIGNATORY REQUIREMENT**

**PRIVACY ACT STATEMENT**

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor a permit be issued.

**CORPS SIGNATORY REQUIREMENT**

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is subject to this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

**DEP SIGNATORY REQUIREMENT**

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Further, I hereby authorize the DEP to send me an electronically signed decision on the license I am applying for with this application by emailing the decision to the address located on the front page of this application (see #4 for the applicant and #8 for the agent)."

  
SIGNATURE OF AGENT/APPLICANT

Date: 9/9/2022

**NOTE:** Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.



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MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



AGENT LETTER OF AUTHORIZATION

DocuSign Envelope ID: F2F30100-7049-422E-8DF6-84D782D15179

April 29, 2022

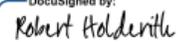
Re: Letter of Agent Authorization  
Proposed Pier & Float Structure: 360 River Road, Eliot, ME 03903  
Reference Job No. 22-111

To Whom It May Concern:

This letter is to inform the Town of Eliot, the Maine Department of Environmental Protection, and the U.S. Army Corps of Engineers that Tidewater Engineering & Surveying, Inc. and Riverside & Pickering Marine Contractors, Inc. are hereby authorized to represent us as our agents in permitting a proposed pier and float structure on our property. Said property is located at 360 River Road, Eliot, ME 03903.

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

Sincerely,

DocuSigned by:  
  
48154F265FCB492...

Robert C. Holderith  
11440 County Highway 14  
Delhi, NY 13753

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



PROPERTY DEED

NANCY E HAMMOND, REGISTER OF DEEDS  
E-RECORDED Bk 18509 PG 656  
Instr # 2020068413  
12/31/2020 02:24:29 PM  
Pages 4 YORK CO

DLN:1002040126732

Maine R.E. Transfer Tax Paid

The undersigned Anne Phillips Ogilby and Asa E. Phillips III, as the sole trustees of The Ogilby Maine Trust (created under document dated December 12, 2012) (the "Grantor") grant to Robert C. Holderith of 11440 County Highway 14, Delhi, New York (the "Grantee") with QUITCLAIM COVENANTS, for consideration paid of --- Seven hundred thousand dollars (\$700,000) --- the land with the buildings thereon commonly known as 360 River Road in Eliot, County of York and State of Maine, as reflected on a certain plan by Russell H. Caldwell, Registered Land Surveyor, dated December 1, 1987 and recorded in Plan Book 164 at Page 5 in the York County Registry of Deeds, bounded and described as follows:

PARCEL 1

A certain parcel of land bounded and described as follows:

Beginning at a drill hole in a stone on the Northerly boundary of the land owned by the Grantor abutting land now or formerly owned by Merritt and Nancy Shapleigh, said drill hole being approximately 750 feet Easterly of River Road; thence

Running WESTERLY from said drill hole N72° 38'W 535.98 feet; thence turning and running

NORTHERLY from an existing iron pin N16° 02'E 14.92 feet; thence turning and running

WESTERLY from an existing fence post N68° 48'W 214.92 feet to an existing iron pin; thence turning and running

SOUTHWESTERLY along the easterly side of River Road S15° 33'W 223.72 feet to an existing iron pin; thence turning and running

EASTERLY S65° 30'E 199.67 to an existing iron pin; thence turning and running

NORTHERLY N23° 44'E 199.32 feet to an existing iron pin; thence turning and running  
EASTERLY S64° 49'E 552.49 feet to an existing iron pin; thence turning and running

96618628 2

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



SOUTHEASTERLY S70° 56'E 126.19 feet to an iron pipe set; thence turning and running  
NORTHERLY 17° 20'E 100.0 feet to an iron pipe set; thence turning and running  
WESTERLY N72° 40'W 150.0 feet back to the point of beginning.

PARCEL II

Beginning at an iron pin at the approximate high water mark of Piscataqua River directly across River Road from Parcel I running Southwesterly by said river approximately 220 feet to an iron pipe set; thence turning and running

SOUTHEASTERLY S65° 30'E 36.0 feet to the westerly side of River Road directly opposite from Parcel I; thence turning and running  
NORTHEASTERLY S15° 33'W approximately 223 feet along said westerly side of River Road; thence turning and running  
NORTH N68° 48'W approximately 36 feet to the point of beginning.

Said Parcel II containing, approximately, 8000 square feet, plus or minus; said Parcel I containing approximately 93,000 square feet, plus or minus, being together approximately 2.32 acres.

Conveying also, any and all rights the Grantor has in and to River Road. The premises conveyed hereby remain subject to a right of way retained by predecessor in title to the Grantor from River Road along the Northerly boundary of the land conveyed hereby to the remaining land of predecessor in title to the Grantor, said right of way to be 15' in width and centered on the existing cart path; maintenance of said right of way to be the responsibility of the predecessor in title to the Grantor. Said right of way shall run with the land and is not personal to the predecessor in title to the Grantor, see deed of Lydia P. Ogilby dated December 16, 1987, recorded in Book 4568, Page 230.

Being the premises conveyed by Henry M. Ogilby to the Grantor, by deed recorded in Book 16488 Page 905.

[Signature Pages Follow]

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



WITNESS our hands as of this 25<sup>th</sup> day of December, 2020.

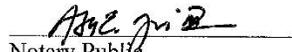
  
Anne Phillips Ogilby, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

December 25<sup>th</sup>, 2020

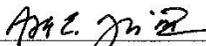
Then personally appeared the above-named Anne Phillips Ogilby, trustee as aforesaid, who was proved to me through satisfactory evidence of identification, which was based on her Massachusetts driver's license, to be the person whose name is signed on the preceding document, and acknowledged the foregoing instrument to be her free act and deed, before me,

  
Notary Public  
My Commission Expires: 09/16/2027



MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903

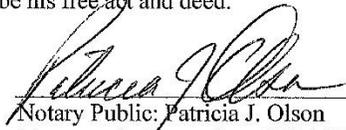


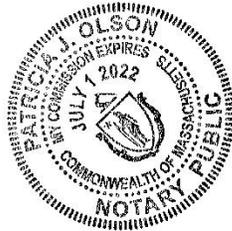
  
Asa E. Phillips III, Trustee as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this 3<sup>rd</sup> day of December, 2020, before me, the undersigned Notary Public, personally appeared the above-named Asa E. Phillips III, trustee as aforesaid, who was proved to me through satisfactory evidence of identification, which was based on my personal knowledge of his identity, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing instrument to be his free act and deed.

  
Notary Public: Patricia J. Olson  
My commission expires: 07/01/2022



**ATTACHMENT #1- PROJECT DESCRIPTION:**

A. INTRODUCTION/PURPOSE:

The subject parcel has frontage along the Piscataqua River in Eliot, Maine. The owner/applicant seeks to install a docking structure that will provide safe and efficient access to the coastal resource for recreational purposes such as boating, rowing and fishing. The applicant currently owns a 32' center console boat they wish to use to access the waterways.

B. PROJECT SUMMARY:

The proposed project consists of installing a 4' x 16' access ramp that will provide access to a 6' x 60' permanent fixed timber pier. The fixed pier will be supported by ten (10) 12" diameter timber piles, all of which will be located below the H.A.T. line. A 3' x 30' aluminum gangway will extend from the end of the fixed pier onto a 10' x 30' main float. The main float will be secured by 40' lengths of marine grade chain which will be attached to four (4) 8" diameter helical piles driven below the intertidal surface. Access to the beach is provided via a set of timber stairs extending off the side of the fixed pier. This access provides a safe means of ingress/egress to the beach for safety and for emergency situations.

C. HISTORICAL KNOWLEDGE:

The property was purchased by the applicant in 2020 and the historical use or access to the water is unknown. Review of aerial photographs from 1992 to present do not show evidence of previously existing docks or development on the portion of property west of River Road.

D. IMPACT CALCULATIONS:

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

Pier: 10 piles @ 12" diameter = 8 sf  
Float: 4 piles @ 8" diameter = 2 sf  
Total Permanent Impacts = 10 sf

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

Access Ramp (portion below the HAT line) = 8 sf  
Fixed Pier = (6' x 60') = 360 sf  
Gangway = (3' x 30') = 90 sf  
Main Float = (10' x 30') = 300 sf  
Total Indirect Impacts = 758 sf +/-

E. ADJACENT STRUCTURES:

Southern Abutter- Tax Map 25 Lot 12: Contains a 4' x 25' +/- ramp, 6' x 50' fixed pier, 3' x 30' gangway, and a 10' x 30' float.

F. OFF-SEASON STORAGE:

The floats will be removed by a third-party company and stored either offsite or on the adjacent uplands between the river and the road. The gangway will be stored on the fixed pier.

G. LOCATION-BASED IMPACT MITIGATION:

After thoroughly evaluating the shoreline and intertidal zone, the alignment of the proposed pier was chosen in order to avoid tree removal and avoid direct and indirect impacts to existing salt marsh vegetation. A 4' x 16' access ramp will extend from the end of the pier over the coastal bluff and onto the adjacent uplands. The transition from River Road to the ramp will be graded and stabilized to provide safe and efficient access to the pier from the road, minimizing impact from foot traffic along and over the embankment.

**ATTACHMENT #2- ALTERNATIVES ANALYSIS:**

The following options were considered as alternatives to the proposed project:

- 1) Do Nothing: This alternative would be for the applicant to continue to access the shoreline and waterway directly, without using a dock or float system. This alternative was not pursued for the following reasons:
  - a. Accessing the intertidal zone via the vegetated upland bank currently requires traversing a steep undercut bank slope. Continued access to the water in this way is a safety hazard to the property owner and promotes erosion of the coastal bluff.
  - b. Without a docking structure on the property, owners will access the Piscataqua River by dragging smaller boats across the sensitive intertidal habitat. This causes more cumulative impacts to the resource than the proposed option.
  - c. The owners will be limited in the type of activities they seek to enjoy on the Piscataqua River and connected waterbodies.
  
- 2) Seasonal Dock and Float System: This alternative would be for the applicant to purchase and install a seasonal docking system that would allow access to the Piscataqua River during a portion of the year. This alternative was not pursued for the following reasons:

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



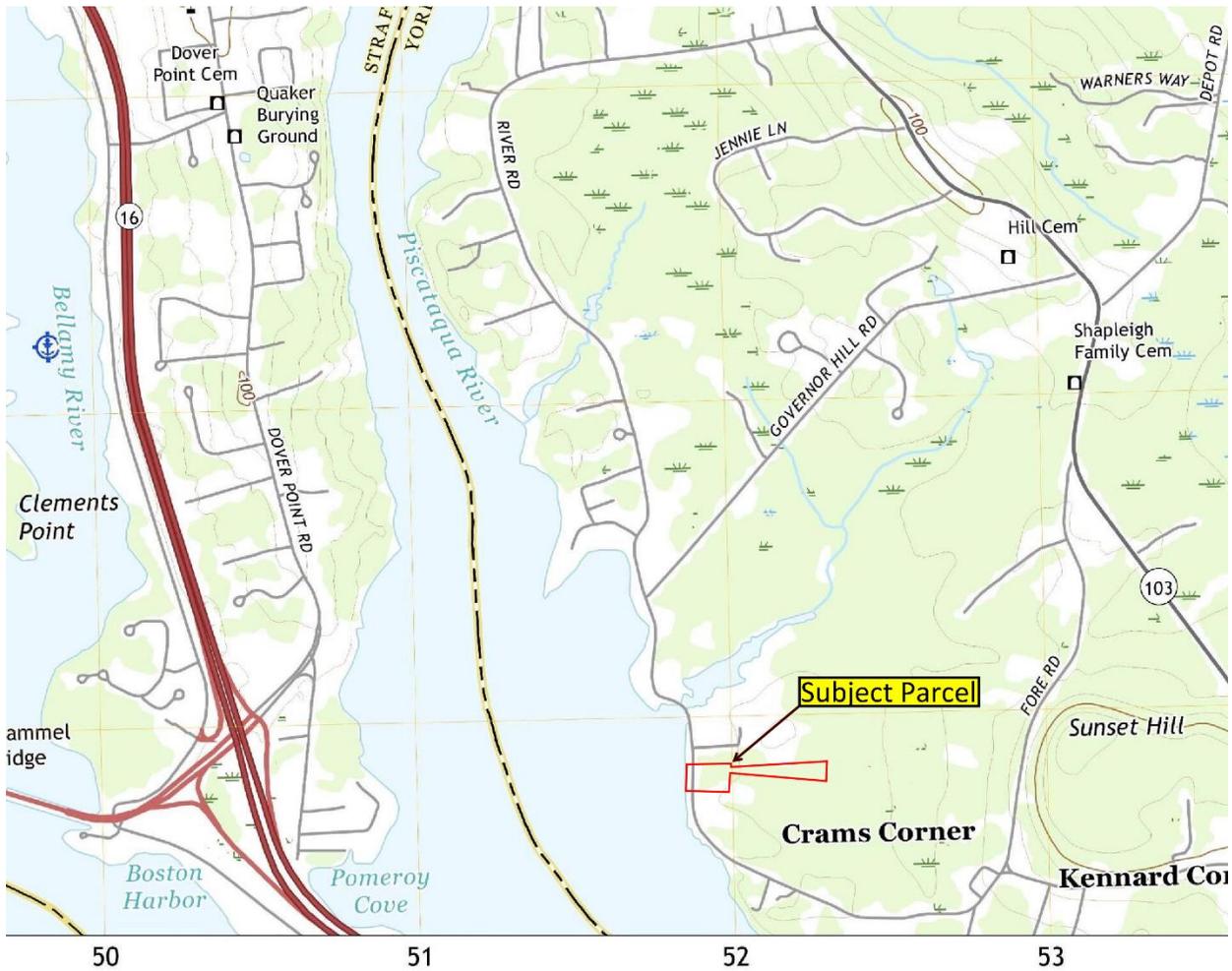
- a. The installation and removal of a seasonal dock system would cause bi-annual impact to the intertidal zone when sections of the dock are installed and removed during spring and fall months.
- b. A seasonal structure of this size is not suitable for this location due to exposure to strong currents, wave action and winds. The risk that a seasonal structure is damaged which in turn may cause damage to the shoreline and private property is high. Fixed supports are recommended.

MAINE DEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



**ATTACHMENT #3- LOCATION MAPS:**

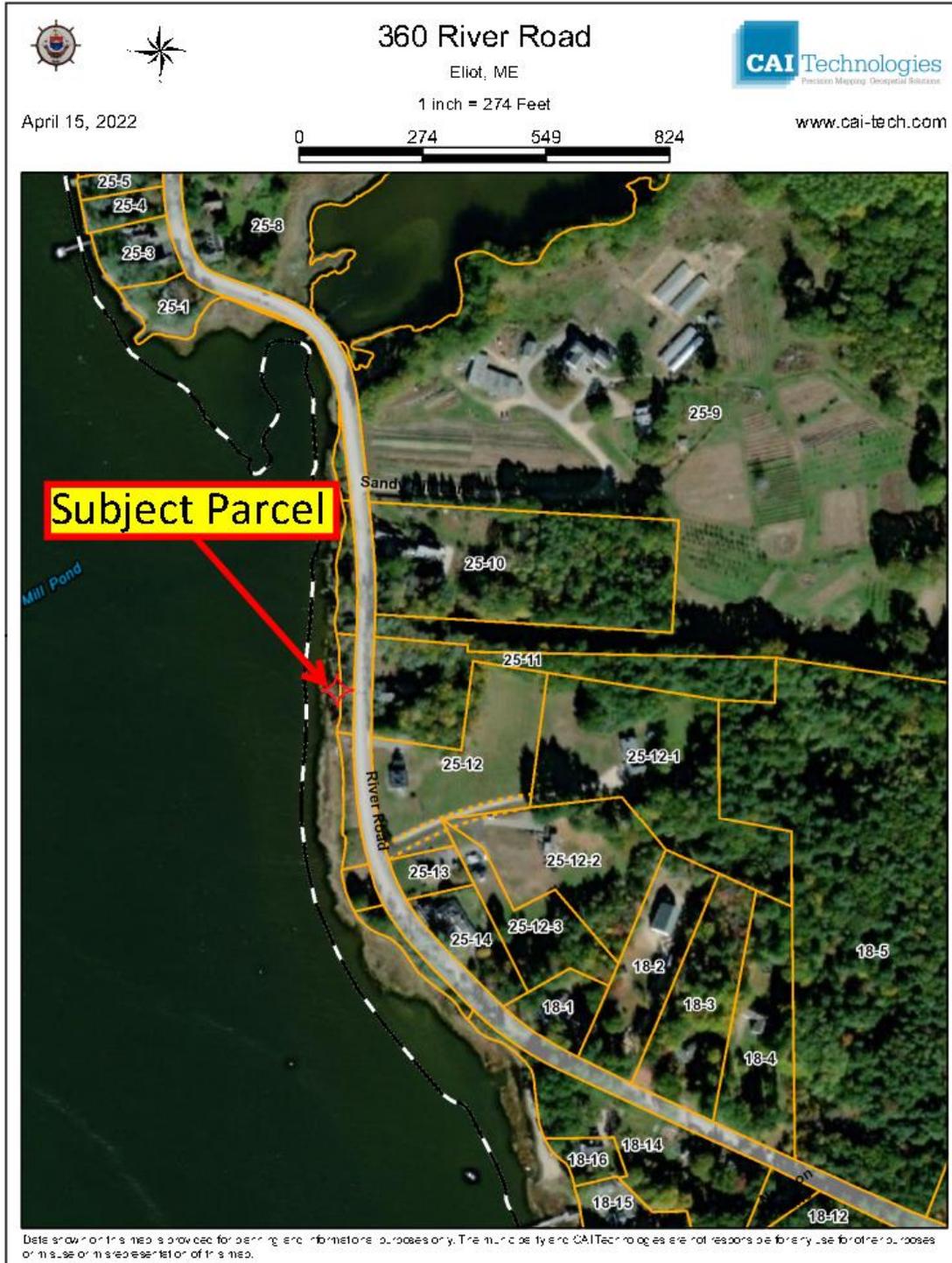
**A. USGS PROJECT LOCATION MAP**



MAINE DEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
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B. TOWN GIS PROJECT LOCATION MAP



MAINEDEP NRPA PERMIT APPLICATION  
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**ATTACHMENT #4- PROJECT SITE PHOTOS:**

Photo 1: View showing proposed dock alignment from River Road (6/7/2022)



MAINE DEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
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Photo 2: View showing proposed dock alignment from Piscataqua River (6/7/2022)

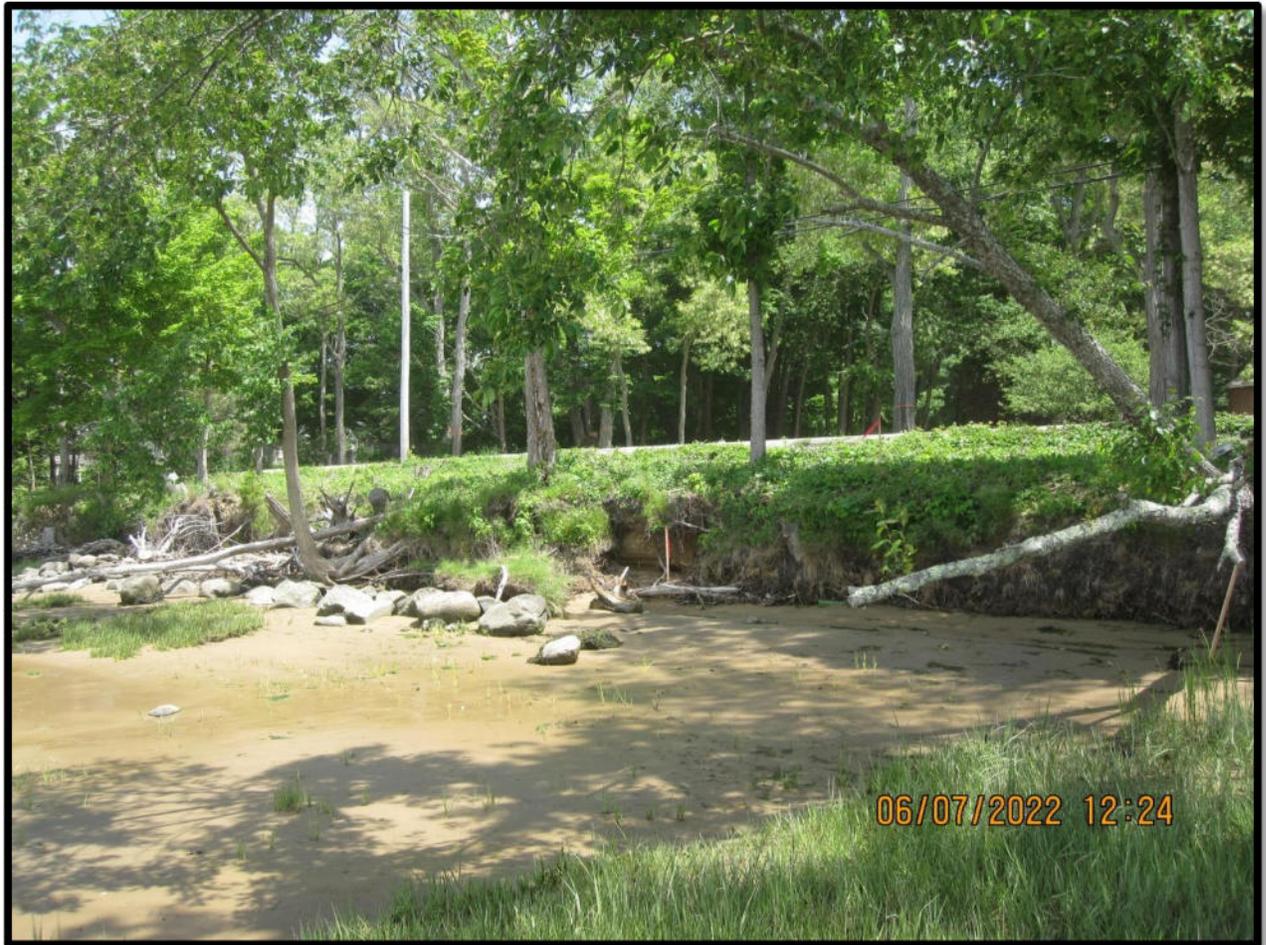


06/07/2022 12:22

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
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Photo 3: View showing vegetated upland bank (6/7/2022)



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Photo 4: View showing mudflat, facing north (05/25/2022)



MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



Photo 5: View of Abutter's Pier (Tax Map 25, Lot 12), facing south (05/25/2022)



**LEGEND**

- SUBJECT PARCEL PROPERTY LINE
- APPROXIMATE ABUTTER'S LINE
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- LIMIT RESOURCE PROTECTION ZONE
- EXISTING STONE WALL
- EXISTING SEWER LINE
- CONTOUR: POSITIVE ELEVATION
- CONTOUR: NEGATIVE ELEVATION
- IRON PIPE, ROD, OR DISK FOUND
- DRILL HOLE FOUND
- GRANITE/CONCRETE BOUND
- UTILITY POLE

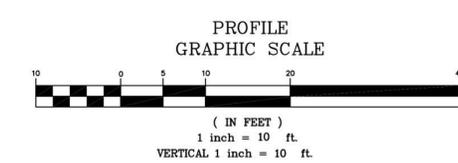
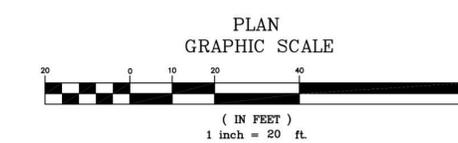
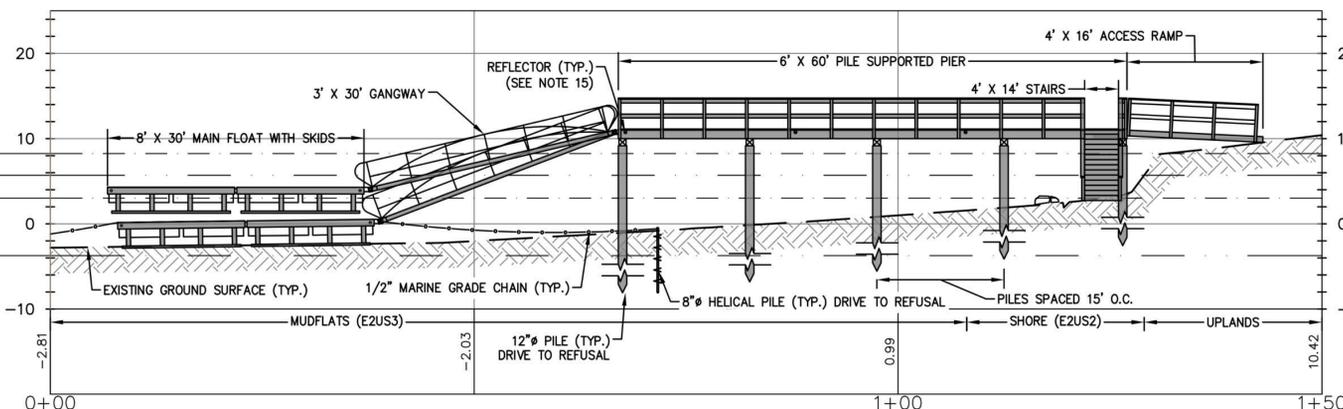
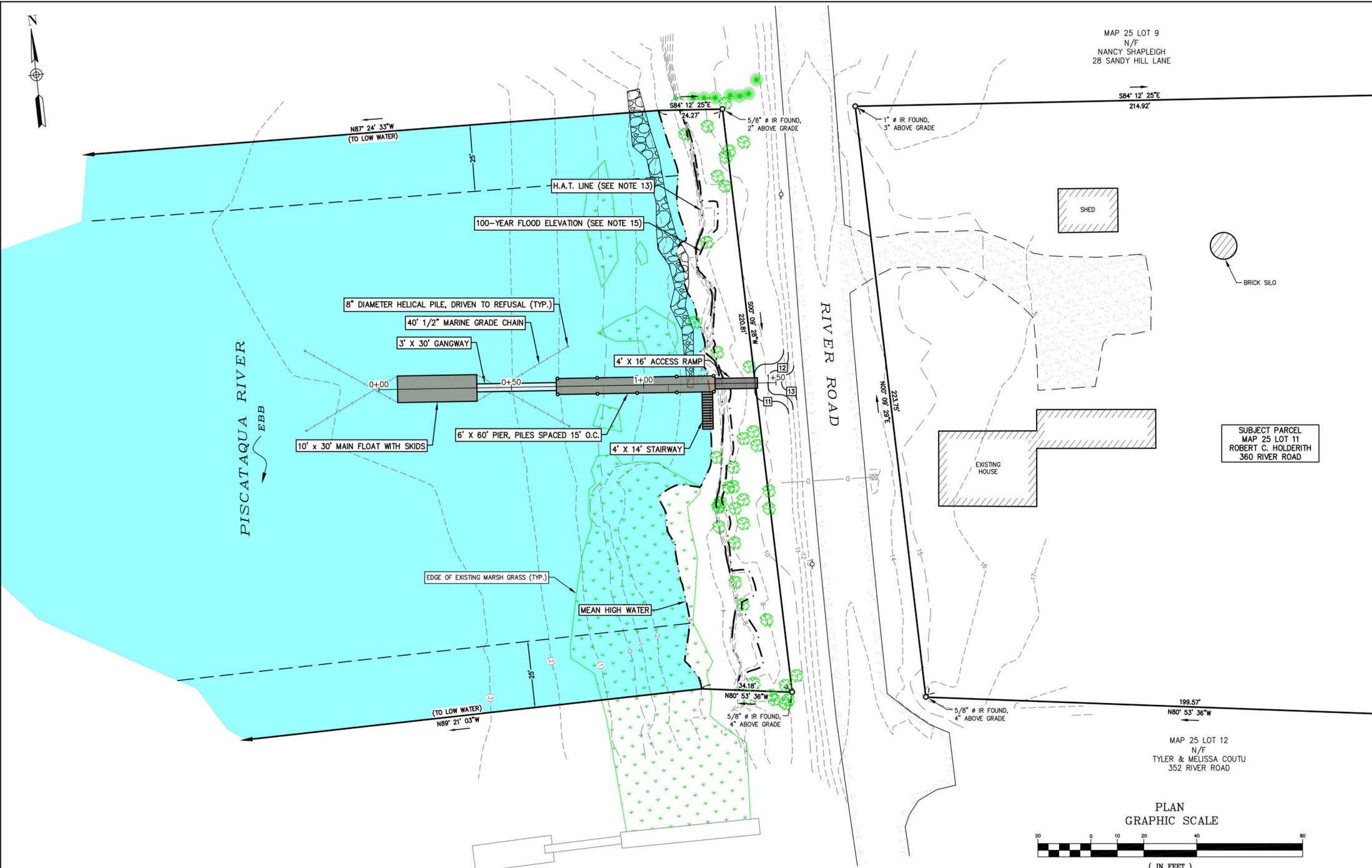
**GENERAL NOTES:**

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE LOCATION OF A PROPOSED FIXED PIER, SEASONAL GANGWAY, SEASONAL FLOAT AND ASSOCIATED ACCESS RAMP AND STAIRS TO BE LOCATED ON MAP 25 LOT 11 IN ELIOT, ME. SAID PLAN SHALL BE USED FOR APPLYING FOR PERMITS FROM THE TOWN OF ELIOT, MAINE, DEPT. OF ENVIRONMENTAL PROTECTION AND U.S. ARMY CORPS OF ENGINEERS.
2. OWNER OF RECORD:  
ROBERT C. HOLDERITH  
11440 COUNTY HIGHWAY 14  
DELHI, NY 13753  
Y.C.R.D. BOOK 18509 PAGE 656
3. THE PROPERTY IS LOCATED WITHIN THE TOWN OF ELIOT SUBURBAN DISTRICT, SHORELAND AND RESOURCE PROTECTION OVERLAY DISTRICTS. ZONING REGULATIONS ARE SUBJECT TO CHANGE. OWNER SHALL CONFIRM ALL ZONING REGULATIONS WITH THE TOWN OF ELIOT PRIOR TO ANY DEVELOPMENT.
4. BASIS OF BEARING IS MAINE STATE PLANE (NAD83) WEST ZONE, US FOOT.
5. ELEVATIONS AND TOPOGRAPHY SHOWN HEREON CORRESPOND TO NAVD88.
6. THE BOUNDARY SHOWN HEREON IS BASED ON REFERENCE PLAN 1, TIDEWATER ENGINEERING & SURVEYING, INC. HAS NOT COMPLETED A BOUNDARY SURVEY AND DOES NOT CERTIFY TO THE ACCURACY OF THE BOUNDARY ON REFERENCE PLAN 1.
7. THE RIPARIAN LIMITS SHOWN HEREON WERE CALCULATED USING THE COLONIAL METHOD.
8. THE INTENT OF THE TIE COURSE SHOWN HEREON IS TO PROVIDE A MATHEMATICAL MEANS OF RELATING THE PROPERTY SIDELINES TO EACH OTHER. THE TIE COURSE IS NOT INTENDED TO LIMIT ANY RIGHT, TITLE OR INTEREST THE OWNER MAY HAVE TO THE LAND EXTENDING BEYOND THE TIE COURSE TO LOW WATER.
9. ABUTTER LINES SHOWN HEREON SHALL BE CONSIDERED APPROXIMATE AND ARE FOR REFERENCE PURPOSES ONLY. ABUTTER LINES SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
10. EASEMENTS OR UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
11. UTILITY LOCATIONS SHOWN ON THESE PLANS ARE APPROXIMATE AND MAY NOT BE ENTIRELY ACCURATE OR COMPLETE.
12. ALTHOUGH THE MAINE GEOLOGICAL SURVEY HAS IDENTIFIED THE EASTERN BANK OF THE PISCATAQUA RIVER AS A STABLE COASTAL BLUFF ON THE DOVER EAST QUADRANGLE FILE NO. 02-186 2002, EROSION AND UNDERMINING OF THE EMBANKMENT IS EVIDENT.
13. THE 2018 HIGHEST ANNUAL TIDE (H.A.T.) ELEVATION PUBLISHED BY MAINE DEP FOR THE PISCATAQUA RIVER BETWEEN PORTSMOUTH AND DOVER POINT IS ELEV. = 5.7' (NAVD88). THE H.A.T. ELEVATION IS USED TO DELINEATE THE UPLAND EDGE OF THE COASTAL RESOURCE FOR REGULATORY PURPOSES UNDER THE MANDATORY SHORELAND ZONING ACT.
14. TIDAL ELEVATIONS: THE FOLLOWING TIDAL ELEVATIONS WERE OBTAINED FROM DATA PUBLISHED BY N.O.A.A. FOR TIDE STATION 8423005 ATLANTIC TERMINALS T14A, NH. ALL ELEVATIONS CORRESPOND TO NAVD88.
 

MEAN HIGHER-HIGH WATER (MHHW)	3.38'
MEAN HIGH WATER (MHW)	3.01'
MEAN LOW WATER (MLW)	-3.73'
MEAN LOWER-LOW WATER (MLLW)	-3.99'
LOWEST ASTRONOMICAL TIDE (LAT)	-5.33'
15. THE 100-YEAR FLOOD ELEVATION OF THE PISCATAQUA RIVER IS ELEVATION 9.0' (NGVD29) PER FEMA FIRM 230149 0010B. THIS ELEVATION CONVERTED TO THE DATUM SHOWN HEREON IS 8.25' (NAVD88).
16. THE PROPOSED DEVELOPMENT SHOWN HEREON IS SUBJECT TO REVIEW AND APPROVAL BY THE TOWN OF ELIOT, MAINE DEP AND U.S. ARMY CORPS OF ENGINEERS. OWNER/CONTRACTOR SHALL OBTAIN ALL PERMITS NECESSARY PRIOR TO ANY CONSTRUCTION AND IS RESPONSIBLE FOR COMPLYING WITH ALL CONDITIONS OF SAID PERMITS.
17. REFLECTOR SHALL BE NO LESS THAN 3 INCH DIAMETER AND SHALL BE INSTALLED AS FOLLOWS:
  - PIER: EVERY 20 FEET FROM END OF PIER, BOTH SIDES
  - FLOATS: WITHIN 12 INCHES OF EACH CORNER

**REFERENCE PLANS:**

16. "EXISTING CONDITIONS PLAN MAP 25, PARCEL 11 360 RIVER ROAD ELIOT, MAINE" PREPARED BY KIMBALL SURVEY & DESIGN DATED JANUARY 22, 2022. UNRECORDED.



STATE OF MAINE  
RYAN M. MCCOY  
#12895  
LICENSED PROFESSIONAL ENGINEER  
SEPTEMBER 9, 2022  
NOT VALID UNLESS SIGNED AND STAMPED

NO.	DATE:	SUBMISSION/REVISION DESCRIPTION

**TIDEWATER**  
ENGINEERING & SURVEYING, INC.  
1021 Goodwin Rd Unit 1, Eliot, ME 03903  
(207)499-2222 • www.tidewatercivil.com

PROPOSED PIER & FLOAT PLAN  
ON LAND LOCATED AT  
360 RIVER ROAD  
ELIOT, YORK COUNTY, MAINE

PREPARED FOR:  
ROBERT C. HOLDERITH  
11440 COUNTY HIGHWAY 14  
DELHI, NY 13753

JOB #:	22-111
DATE:	SEPT. 9, 2022
SCALE:	1" = 20'
SHEET:	1 OF 1

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



**ATTACHMENT #7- CONSTRUCTION PLAN:**

The construction and installation of the fixed pier, gangway and floats shall take place from the water side of the property. A small barge mounted excavator will be brought to the site via the Piscataqua River. This barge will be used to position/install the pilings and deliver materials. Following mobilization, the first step in the process is to install the pilings. This is completed using a vibrator hammer for pilings driven in earthen substrates. If the pilings are located on a ledge surface, the pilings are secured into position using pins and chains, as needed, depending on site conditions. Pilings will be made of pressure treated southern yellow pine.

Construction of the fixed pier occurs immediately following installation of the piles. This includes the joists, decking, bracing, railings, hardware and post caps. The installation of the fixed pier primarily occurs from the barge and from staging supported by the pilings. This allows for the crew to stay above the water during periods of high tide and minimizes foot traffic on the surface of the intertidal zone. All dimensional lumber will be made of pressure treated southern yellow pine. The owner may choose to install untreated decking and rails as an alternate to pressure-treated products.

The gangway and floats are constructed offsite and brought to the site. The aluminum gangway is connected directly to both the fixed timber pier and the main float. Four (4) 8" diameter galvanized helical piles will be driven to a stable torque point in the intertidal zone. Each helical pile will be secured to a corner of the main float with 40 feet of ½" marine grade chain.

The last step in the process is the installation of the access ramp and access stairway. All materials will be constructed from pressure treated southern yellow pine, unless the owner specifies the use of alternative decking products.

The following is an estimate of the construction duration for each phase.

Piling Installation	3 days
Fixed Pier Installation	5 days
Gangway/Float Installation	3 days
Access Stairs/Landings	5 days
Total Construction Duration	16 days

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



**ATTACHMENT #8- EROSION CONTROL PLAN:**

Riverside & Pickering Marine Contractors will construct the docking system for the applicant. They have many years of experience installing pier and float systems throughout New England. As the proposed activity does not include grading, bulldozing, digging, scraping the earth or filling, it is their opinion that erosion control measures are not necessary for this project due to the minimal ground disturbance anticipated.

The fixed pier will be supported by piles driven into the mudflat. No open excavation is proposed or necessary within the resource or below the highest annual tide. Installation of the fixed pier primarily occurs from the barge and from staging supported by the pilings/pier to minimize foot traffic on the intertidal substrate. As such, the disturbance from foot traffic and digging on the resource to install siltation barriers (i.e. silt fence, filtration socks, etc.) around the perimeter of the project site will exceed the disturbance from installing the pilings. In addition, maintaining said siltation measures through tide cycles, strong currents and wave action would be difficult and result in further foot traffic on the resource.

Overall, Riverside & Pickering Marine Contractors anticipates minimal sedimentation or suspension of sediments from the installation of the docking system.

## ATTACHMENT #9- SITE CONDITION REPORT

The site plan enclosed as Attachment 10 depicts one-foot contours, existing resource boundaries, the area of the resource to be altered, activity location and dimensions and wetland/waterbody classification. The permanent section of the proposed docking system is located within both upland areas and the intertidal zone. The fixed pier is supported on timber pilings and extends approximately 62 feet beyond the highest annual tide line. The far end of the main float is located approximately 112 feet from the H.A.T. line. The fixed pier and float is not proposed to extend beyond mean low water as depicted on the site plan.

As this project is associated with a coastal resource subject to tidal action, the upland edge of the resource was delineated by the H.A.T elevation published by Maine DEP for 2018. The H.A.T line for this section of the Piscataqua River between Portsmouth and Dover Point is elevation 5.7' referenced to the North American Vertical Datum of 1988 (NAVD88). This method for delineating the coastal resource is widely accepted by the State of Maine pursuant to the Mandatory Shoreland Zoning Act.

The surface of the resource and intertidal zone within the project limits includes substrates classified as unconsolidated shore-mud (E2US3), areas of mixed coarse & fine aggregates near the embankment, patches of existing marsh vegetation, and large boulders. These large boulders are scattered below the shoreline embankment and provides evidence of the former toe of embankment. As you extend from the toe of the vegetated embankment toward the Piscataqua River, the substrate transitions from sand to finer aggregates with a higher clay content. Rockweed was found among the boulders within the intertidal zone. For more detailed information, please refer to the enclosed *Appendix B: MDEP Coastal Wetland Characterization: Intertidal and Shallow Subtidal Field Survey Checklist*.

A profile view of the proposed docking system is provided within Attachment 10. This view provides a clear representation of the proposed docking system with respect to the substrate and the tidal elevations experienced at this site, including MHW, HAT and the 100-year flood elevation (MLW and LAT extend far beyond the limits of the dock project). The 100-year flood elevation published by FEMA is elevation 9.0' feet (NGVD29) which corresponds to elevation 8.25' (NAVD88), the elevation datum depicted on the plans. As depicted in the profile view, the bottom surface of the lowest horizontal member of the pier is located approximately 21 inches above the 100-year flood elevation.

The embankment along the subject property's shoreline is vegetated, unstable and consists of scattered mature trees and low ground cover. The permanent fixed pier will be supported by pilings that begin near the toe of this embankment. Access to the fixed pier will be provided via a 4' x 16' ramp that is supported by the adjacent stable uplands. No shoreline stabilization measures are proposed as part of this permit.

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



**ATTACHMENT #10- NOTICE OF INTENT TO FILE, CERTIFICATION & ABUTTER NOTICES:**

The following documents are enclosed under this section...

- A. PUBLIC NOTICE: NOTICE OF INTENT TO FILE
- B. PUBLIC NOTICE FILING AND CERTIFICATION
- C. TAX MAP
- D. LIST OF ABUTTERS
- E. ABUTTER CERTIFIED MAIL RECEIPTS

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



A. PUBLIC NOTICE OF INTENT TO FILE

08/08

PUBLIC NOTICE:  
NOTICE OF INTENT TO FILE

Please take notice that

**Applicant:** Robert C. Holderith

**Agent:** Tidewater Surveying & Engineering, Inc.

1021 Goodwin Road, Unit #1 Eliot, ME 03903 Phone: (207) 439-2222

(Name, Address and Phone # of Applicant)

is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A thru 480-BB on or about

9/15/2022

(anticipated filing date)

The application is for

Construct a 4' x 16' access ramp, a 6' x 60' permanent timber pier, a 3' x 30' gangway, and a 10' x 30' main float with skids.

(description of the project)

at the following location:

360 River Road, Eliot, ME 03903 (Tax Map 25 Lot 11)

(project location)

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over this application must be received by the Department in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

For Federally licensed, permitted, or funded activities in the Coastal Zone, review of this application shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act, 16 U.S.C. § 1456. (Delete if not applicable.)

The application will be filed for public inspection at the Department of Environmental Protection's office in (Portland, Augusta or Bangor) (circle one) during normal working hours. A copy of the application may also be seen at the municipal offices in Eliot, Maine.  
(town)

Written public comments may be sent to the regional office in Portland, Augusta, or Bangor where the application is filed for public inspection:

MDEP, Central Maine Regional Office, 17 State House Station, Augusta, Maine 04333

MDEP, Southern Maine Regional Office, 312 Canco Road, Portland, Maine 04103

MDEP, Eastern Maine Regional Office, 106 Hogan Road, Bangor, Maine 04401

(goldenrod)



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**Bids & Proposals**

City of Portsmouth, NH Public Works Department **REQUEST FOR PROPOSAL RFP #06-23 SPORTS COURT REPAIRS**  
Sealed proposals plainly marked "RFP #06-23 - SPORTS COURT REPAIRS"

on the outside of the mailing envelope as well as the sealed envelope, addressed to the Finance/Purchasing Department, City Hall, 1 Junktins Ave., Portsmouth, NH 03801 will be accepted until **11:00 a.m. on September 21, 2022** at which time all proposals will be opened. One copy of the price proposal must be submitted in separate sealed envelopes. Proposal specifications and proposal forms may be obtained from the City's website at <https://www.cityofportsmouth.com/finance/purchasing-bids-and-proposals>. The City of Portsmouth reserves the right to reject any or all proposals, to waive technical or legal deficiencies, and to accept any proposal and to negotiate such terms and conditions of a final contract that may be in the best interest of the City.

**Govt Public Notices**

**LEGAL NOTICE BOARD OF ADJUSTMENT PORTSMOUTH, NEW HAMPSHIRE**

**NOTICE IS HEREBY GIVEN** that the Board of Adjustment will hold Public Hearings on the following petitions on **Tuesday, September 20, 2022** and **Tuesday, September 27, 2022** starting at 7:00 p.m. in the Eileen Dondero Foley Council Chambers, City Hall, Municipal Complex, 1 Junktins Avenue, Portsmouth, New Hampshire. **THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, SEPTEMBER 20, 2022**

The request of Jessica Tia Nashahli (Owner), for property located at 1344 and 1346 Islington Street whereas relief is needed to construct a new deck and add detached garage which requires the following: 1) Variances from Section 10.521 to allow: a) a 28' rear yard for the deck where 30' is required; b) a 2' left side yard where 10' is required for the garage; and c) a Variance from Section 10.521 to allow 30% building coverage where 20% is the maximum allowed. Said property is located on Assessor Map 233 Lot 98 and lies within the Single Residence B (SRB) district.

The request of Martin Hanssmann (Owner), for property located at 130 Gates Street whereas relief is needed to add an HVAC unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 3' setback where 10' is required. Said property is located on Assessor Map 103 Lot 55 and lies within the General Residence B (GRB) and Historic districts.

The request of George Pappas (Owner), for property located at 170 Melbourne Street whereas

**Govt Public Notices**

relief is needed to add a 12 x 12 shed which requires the following: 1) A Variance from Section 10.573.20 to allow an 8' left side yard where 10' is required. 2) A Variance from Section 10.571 to allow an accessory structure to be located in the front yard. 3) A Variance from Section 10.521 to allow 26% building coverage where 20% is the maximum allowed. Said property is located on Assessor Map 233 Lot 69 and lies within the Single Residence B (SRB) district.

The request of Debra Klein and Natan Aviezri Revocable Trust (Applicant and Owner), for property located at 75 Monroe Street whereas relief is needed to extend existing dormers on both sides of the house which requires the following: 1) Variances from Section 10.521 to allow a) an 11.5 foot rear yard where 20 feet is required; and b) a 5.5 foot side yard where 10 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 168 Lot 27 and lies within the General Residence A (GRA) district.

The request of Rob Currao (Applicant), and Bursaws Pantry LLC (Owner), for property located at 3020 Lafayette Rd whereas relief is needed for a proposed retail cabinetry outlet which requires the following: 1) A Special Exception from Section 10.440, Use #8.31 to allow retail sales conducted within a building which is permitted by special exception. Said property is located on Assessor Map 292 Lot 152 and lies within the Mixed Residential Business (MRB) district.

The request of Judith A. Mraz Revocable Trust (Owner), for property located at 11 Walden Street whereas relief is needed to install a heat pump which requires the following: 1) A Variance from Section 10.515.14 to allow a 1 foot rear yard setback and a 1.5 foot side yard setback where 10 feet is required for each. Said property is located on Assessor Map 101 Lot 17 and lies within the General Residence B (GRB) and Historic districts.

**THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, SEPTEMBER 27, 2022**

The request of Emily Morgan Revocable Trust of 2021 (Owner), for property located at 127 Willard Street whereas relief is needed to replace the existing front porch with new covered landing with steps which requires the following: 1) A Variance from Section 10.521 to allow a 6 foot secondary front yard where 15 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 149 Lot 37 and lies within the General Residence A (GRA) district.

The request of Anne R. Landau Bellaud (Owner), for property located at 55 Aldrich Rd whereas relief is needed to remove existing front steps and construct new deck and steps which requires the following: 1) A Variance from Section 10.521 to allow a 2.5 foot front yard where 15 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property

**Govt Public Notices**

is located on Assessor Map 153 Lot 44 and lies within the General Residence A (GRA) district.

The request of Seth Monkiewicz (Applicant), and Betty Ann Fraser (Owner), for property located at 42 Harvard Street whereas relief is needed for the upward expansion of existing garage and mudroom to create and attached ADU which requires the following: 1) A Variance from Section 10.521 to allow a 22 foot front yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 259 Lot 30 and lies within the Single Residence B (SRB) district.

The request of Brian and Charlene Huston (Owners), for property located at 44 Harding Road whereas relief is needed to remove existing deck and construct new deck with stairs which requires the following: 1) A Variance from Section 10.521 to allow 25% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 250 Lot 75 and lies within the Single Residence B (SRB) district.

The request of Madison Tidwell & Brendan Barker (Owners), for property located at 38 Thaxter Road whereas relief is needed to construct a 14' x 25' rear second story over an existing structure which requires the following: 1) A Variance from Section 10.521 to allow a 23 foot rear yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 166 Lot 36 and lies within the Single Residence B (SRB) district.

The request of ADL 325 Little Harbor Road Trust (Owner), for property located at 325 Little Harbor Road whereas relief is needed to renovate an existing historic barn which requires the following: 1) A Variance from Section 10.628.30 to permit a bottom/basement finished floor elevation of 8 feet where 7.88 feet exist where 9 feet is required. Said property is located on Assessor Map 205 Lot 2 and lies within the Rural (R) district.

The request of John T. & Mary R. McDonald (Owners), for property located at 74 Sunset Road whereas relief is needed to add a front porch, front dormer and connection to garage which requires the following: 1) Variances from Section 10.521 to allow a) a 16 foot front yard where 30' is required; and b) 26.5% building coverage where 20% is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 153 Lot 14 and lies within the Single Residence B (SRB) district.

The request of Neila LLC (Owner), for property located at 324 Maplewood Avenue whereas relief is needed to convert existing garage into a dwelling unit which requires the following: 1) Variances from Section 10.5A41.10A to allow a) a lot area per dwelling unit of 1,780 square feet where 3,000 square feet is required; and b) a 1 foot side yard where 5 feet is required. 2) A Variance from Section 10.1114.21 to allow an 8.5 foot wide by 18 foot long parking space where 8.5 feet by 19 feet is required. Said property is located on Assessor Map 141 Lot 1 and lies within the Character District 4-L2 (CD4-L2) and the Historic district.

The request of Jeffrey & Melissa Foy (Owners), for property located at 67 Ridges Court whereas relief is needed for the expansion of existing main roof and front porch roof and addition of new roof over side doorway which requires the following: 1) Variances from Section 10.521 to allow a) an 8 foot front yard where 30 feet is required to expand the existing front porch; b) a 13.5 foot front yard where 30 is required to expand the main roof of the house; c) a 13.5 foot front yard where 30 feet is required for a new roof over an existing doorway; and d) a 9.5 foot left side yard where 10 feet is required for a new roof over an existing doorway. 2) A Variance from Section 10.321 to allow a nonconforming

**Govt Public Notices**

building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 207 Lot 59 and lies within the Single Residence B (SRB) district. Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Registration information will be provided on the meeting agenda when it is posted to the web page. For technical assistance, please contact the Planning Department by email ([planning@cityofportsmouth.com](mailto:planning@cityofportsmouth.com)) or by phone 610-7216. Those interested in submitting written comments should email [planning@cityofportsmouth.com](mailto:planning@cityofportsmouth.com) or mail to the Planning Department, City Hall, 1 Junktins Ave, Portsmouth, NH 03801. Comments for any public hearings that are received by 4:00 pm the day of the meeting will be incorporated into the record of the meeting.

Beverly Mesa Zendt  
Planning Director

**Public Notices**

**PUBLIC NOTICE NOTICE OF INTENT TO FILE**

Please take notice that Robert C. Holderith Agent: Tidewater Engineering & Surveying, Inc. Address: 1021 Goodwin Road, Unit 1, Eliot, ME 03903. Phone: (207) 439-2222. is intending to file a Natural Resources Protection Act, Coastal Sand Dune permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A through 480-Z and the Coastal Sand Dune Rules, Chapter 355, on or about 9/15/2022. The application is for Construct a 4' x 16' access ramp, a 6' x 60' permanent timber pier, a 3' x 30' gangway, and a 10' x 30' main float with skids at the following location: 360 River Road, Eliot, ME 03903 (Tax Map 25 Lot 11) A request for a public hearing or a request that the Board of Environmental assume jurisdiction over this application must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application. For Federally licensed, permitted, or funded activities in the Coastal Zone, review of this application shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act, 16 U.S.C. § 1456. (Delete if not applicable.) The application will be filed for public inspection at the Department of Environmental Protection's Office in Portland during normal working hour. A copy of the application may also be seen at the municipal offices in Eliot, Maine. Written public comments may be sent to the regional office in Portland, Augusta, or Bangor where the application is filed for public inspection: MDEP, Central Maine Regional Office, 17 State House Station, Augusta, Maine 04333 MDEP, Southern Maine Regional Office, 312 Canco Road, Portland, Maine 04103 MDEP, Eastern Maine Regional Office, 106 Hogan Road, Bangor, Maine 04401

**CITY OF SOMERSWORTH, NH PUBLIC NOTICE SCHOOL BOARD WARD 1 VACANCY**

The City Council of the City of Somersworth announces the vacancy of the School Board Ward 1 seat, with a term to expire November, 8 2022. Interested persons should submit a letter of interest addressed to the Somersworth City Council, c/o Office of the City Clerk, City Hall, One Government Way, Somersworth, NH 03878. Interested persons must be a registered voter in the City of Somersworth and a resident of Ward 1 for a minimum of 6 months. The Office of the City Clerk must receive all letters of interest by September 22nd, 2022 at 4:30p.m. Questions may be directed to the Office of the City Clerk at 692-9511. Jonathan Slaven, City Clerk Date Posted: September 8, 2022 Posted by: City Clerk Public Library City Website Channel 22

**Public Notices**

**CITY OF SOMERSWORTH, NH PUBLIC NOTICE CITY COUNCIL WARD 3 VACANCY**

The City Council of the City of Somersworth announces the vacancy of the City Council Ward 3 seat, with a term to expire November, 8 2022. Interested persons should submit a letter of interest addressed to the Somersworth City Council, c/o Office of the City Clerk, City Hall, One Government Way, Somersworth, NH 03878. Interested persons must be a registered voter in the City of Somersworth and a resident of Ward 3 for a minimum of 6 months. The Office of the City Clerk must receive all letters of interest by September 22nd, 2022 at 4:30p.m. Questions may be directed to the Office of the City Clerk at 692-9511. Jonathan Slaven, City Clerk Date Posted: September 8, 2022 Posted by: City Clerk Public Library City Website Channel 22

**Summons**

**THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH NH CIRCUIT COURT 7th Circuit - Family Division**

- Rochester CITATION BY PUBLICATION TERMINATION OF PARENTAL RIGHTS TO: STEVEN DIXON TRANSPARENT FOR TELEPHONIC HEARING: DIAL: 1-866-951-1151 Conference Room #: 468-920-816#

formerly of and now parts unknown Case Number: 619-2022-TR-00022 619-2021A-00078; 619-2021-1V-00079; 619-2022-TR-00023 Preliminary Hearing A petition to terminate parental rights over your minor child(ren) has been filed in this Court. You are hereby cited to appear at a Court to show cause why the same should not be granted. Date: October 12, 2022 76 North Main Street Time: 10:00 AM Rochester, NH 03867 Time Allotted: 30 Minutes Courtroom 2-7th Circuit-Family Division-Rochester A written appearance must be filed with this Court on or before the date of the hearing, or the respondent may personally appear on the date of hearing or be defaulted. CAUTION You should respond immediately to this notice to prepare for trial and because important hearings will take place prior to trial. If you fail to appear personally or in writing, you will waive your right to a hearing and your parental rights may be terminated at the above hearing.

**IMPORTANT RIGHTS OF PARENTS THIS PETITION IS TO DETERMINE WHETHER OR NOT YOUR PARENTAL RIGHTS OVER YOUR CHILD(REN) SHALL BE TERMINATED. TERMINATION OF THE PARENT/CHILD RELATIONSHIP MEANS THE TERMINATION SHALL DIVEST YOU OF ALL LEGAL RIGHTS, PRIVILEGES, DUTIES AND OBLIGATIONS, INCLUDING BUT NOT LIMITED TO THE LOSS OF ALL RIGHTS TO CUSTODY, VISITATION AND COMMUNICATION WITH YOUR CHILD(REN). IF TERMINATION IS GRANTED, YOU WILL RECEIVE NO NOTICE OF FUTURE LEGAL PROCEEDINGS CONCERNING YOUR CHILD(REN).**

You are hereby notified that you have a right to be represented by an attorney. You also have the right to oppose the proceedings, to attend the hearing and to present evidence. If you desire an attorney, you may notify this Court within ten (10) days of receiving this notice and upon a finding of indigency, the Court will appoint an attorney without cost to you. If you enter an appearance, notice of any future hearings regarding this child(ren) will be by first class mail to you, your attorney and all other interested parties not less than ten (10) days prior to any scheduled hearing. Additional information may be obtained from the Family Division Court identified in the heading of this Order of Notice. If you will need an interpreter or other accommodations for this hearing, please contact the court immediately. please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625:11, V in a courtroom or area used by a courtroom.

August 24th, 2022  
BY ORDER OF THE COURT  
Cheryll-Ann Andrews,  
Clerk of Court

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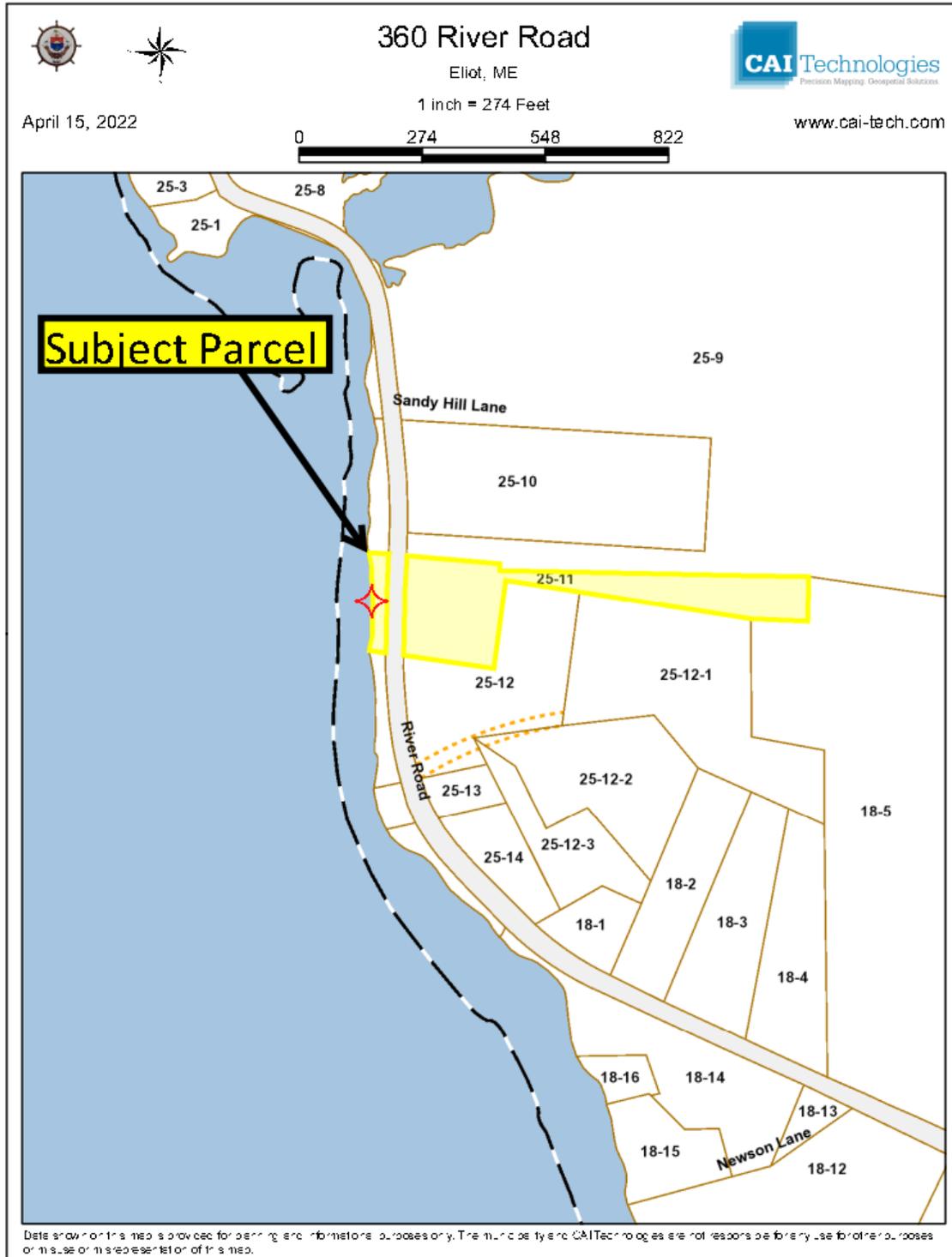
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MAINE DEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



D. TAX MAP



MAINE DEP NRPA PERMIT APPLICATION  
 APPLICANT: ROBERT C. HOLDERITH  
 LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



E. ABUTTERS LIST



**Abutters List Report**

Eliot, ME  
 April 15, 2022

**Subject Property:**

Parcel Number:	025-011-000	Mailing Address:	HOLDERITH, ROBERT C
CAMA Number:	025-011-000		11440 COUNTY HIGHWAY 14
Property Address:	360 RIVER RD		DELHI, NY 13753

**Abutters:**

Parcel Number:	018-005-000	Mailing Address:	OGILBY, HENRY M
CAMA Number:	018-005-000		88 TAYLOR RD
Property Address:	RIVER RD		BELMONT, MA 02178
-----			
Parcel Number:	025-009-000	Mailing Address:	SHAPLEIGH, NANCY
CAMA Number:	025-009-000		28 SANDY HILL LN
Property Address:	28 SANDY HILL LN		ELIOT, ME 03903
-----			
Parcel Number:	025-009-000	Mailing Address:	WIDI, LOIS
CAMA Number:	025-009-000-001		34 SANDY HILL LN
Property Address:	34 SANDY HILL LN		ELIOT, ME 03903
-----			
Parcel Number:	025-010-000	Mailing Address:	EGLESTON, PETER R FRANCIS,
CAMA Number:	025-010-000		JOANNE C
Property Address:	374 RIVER RD		374 RIVER RD
			ELIOT, ME 03903
-----			
Parcel Number:	025-012-000	Mailing Address:	COUTU, TYLER R JENKINS, MELISSA
CAMA Number:	025-012-000		352 RIVER RD
Property Address:	352 RIVER RD		ELIOT, ME 03903
-----			
Parcel Number:	025-012-001	Mailing Address:	GORDON, KATHY PELLEY
CAMA Number:	025-012-001		346 RIVER RD
Property Address:	346 RIVER RD		ELIOT, ME 03903
-----			
Parcel Number:	025-012-002	Mailing Address:	COUTU, RICHARD F COUTU, DIANE S
CAMA Number:	025-012-002		344 RIVER RD
Property Address:	344 RIVER RD		ELIOT, ME 03903
-----			
Parcel Number:	025-013-000	Mailing Address:	JENKINS, THOMAS B JENKINS, ANN M
CAMA Number:	025-013-000		342 RIVER RD
Property Address:	342 RIVER RD		ELIOT, ME 03903



www.cai-tech.com

4/15/2022

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

Page 1 of 1

Abutters List Report - Eliot, ME

MAINE DEP NRPA PERMIT APPLICATION  
 APPLICANT: ROBERT C. HOLDERITH  
 LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



F. ABUTTER NOTIFICATION RECEIPTS

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.60

Total Postage and Fees \$4.60

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 Street and Apt. No., or PO Box No. 88 TAYLOR ROAD  
 City, State, ZIP+4® BELMONT, MA 02178

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<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.60

Total Postage and Fees \$4.60

Sent To NANCY SHAPLEIGH  
 Street and Apt. No., or PO Box No. 28 SANDY HILL LANE  
 City, State, ZIP+4® ELIOT, ME 03903

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<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.60

Total Postage and Fees \$4.60

Sent To LOIS WIDI  
 Street and Apt. No., or PO Box No. 34 SANDY HILL LANE  
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 Street and Apt. No., or PO Box No. 374 RIVER ROAD  
 City, State, ZIP+4® ELIOT, ME 03903

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 City, State, ZIP+4® ELIOT, ME 03903

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MAINEDEP NRPA PERMIT APPLICATION  
 APPLICANT: ROBERT C. HOLDERITH  
 LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



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Postage \$0.60

Total Postage and Fees \$4.60

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 ELIOT, ME 03903

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.60

Total Postage and Fees \$4.60

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 THOMAS & ANN JENKINS  
 Street and Apt. No., or PO Box No.  
 342 RIVER ROAD  
 City, State, ZIP+4®  
 ELIOT, ME 03903

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



**ATTACHMENT #11- FOR ARMY CORPS OF ENGINEERS:**

A copy of the entire application package has been submitted to the MHPC and the five recognized Native American tribes simultaneously with filing it with other agencies. Any correspondence received will be forwarded to the Army Corps of Engineers immediately. Also enclosed as Attachment 11A is the EPA IPaC "Official Species List" that was requested by Rob Hopkinson using the email address [rob@tidewatercivil.com](mailto:rob@tidewatercivil.com).

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



A. USFWS IPAC OFFICIAL SPECIES LIST



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Maine Ecological Services Field Office  
P. O. Box A  
East Orland, ME 04431  
Phone: (207) 469-7300 Fax: (207) 902-1588



**Submitted via [rob@tidewatercivil.com](mailto:rob@tidewatercivil.com)**

In Reply Refer To:  
Project Code: 2022-0048579  
Project Name: Holderith: Proposed Dock System

May 31, 2022

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological

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evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



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Attachment(s):

- Official Species List

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



05/31/2022

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## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Maine Ecological Services Field Office**  
P. O. Box A  
East Orland, ME 04431  
(207) 469-7300

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



05/31/2022

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### Project Summary

Project Code: 2022-0048579  
Event Code: None  
Project Name: Holderith: Proposed Dock System  
Project Type: Boatlift/Boathouse/Dock/Pier/Piles - New Construction  
Project Description: Construction of a fixed pier, gangway, and main float for recreational use and access to the Piscataqua River.

#### Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.129130599999996,-70.82087169863854,14z>



Counties: York County, Maine



05/31/2022

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## Endangered Species Act Species

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

### Birds

NAME	STATUS
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/2083">https://ecos.fws.gov/ecp/species/2083</a>	Endangered

### Insects

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

### Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



05/31/2022

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### **IPaC User Contact Information**

Agency: Tidewater Engineering & Surveying, Inc.  
Name: Robert Hopkinson  
Address: 1021 Goodwin Road, Unit #1  
City: Eliot  
State: ME  
Zip: 03903  
Email: rob@tidewatercivil.com  
Phone: 2074392222

### **Lead Agency Contact Information**

Lead Agency: Army Corps of Engineers  
Name: Colin Greenan  
Email: Colin.M.Greenan@usace.army.mil  
Phone: 9783188676

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



B. USFWS VERIFICATION LETTER



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Maine Ecological Services Field Office  
P. O. Box A  
East Orland, ME 04431  
Phone: (207) 469-7300 Fax: (207) 902-1588



**Submitted via [rob@tidewatercivil.com](mailto:rob@tidewatercivil.com)**

In Reply Refer To:  
Project code: 2022-0048579  
Project Name: Holderith: Proposed Dock System

May 31, 2022

Subject: Verification letter for the 'Holderith: Proposed Dock System' project under the January 5, 2016, Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-eared Bat and Activities Excepted from Take Prohibitions.

Dear Robert Hopkinson:

The U.S. Fish and Wildlife Service (Service) received on May 31, 2022 your effects determination for the 'Holderith: Proposed Dock System' (the Action) using the northern long-eared bat (*Myotis septentrionalis*) key within the Information for Planning and Consultation (IPaC) system. This IPaC key assists users in determining whether a Federal action is consistent with the activities analyzed in the Service's January 5, 2016, Programmatic Biological Opinion (PBO). The PBO addresses activities excepted from "take"<sup>[1]</sup> prohibitions applicable to the northern long-eared bat under the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based upon your IPaC submission, the Action is consistent with activities analyzed in the PBO. The Action may affect the northern long-eared bat; however, any take that may occur as a result of the Action is not prohibited under the ESA Section 4(d) rule adopted for this species at 50 CFR §17.40(o). Unless the Service advises you within 30 days of the date of this letter that your IPaC-assisted determination was incorrect, this letter verifies that the PBO satisfies and concludes your responsibilities for this Action under ESA Section 7(a)(2) with respect to the northern long-eared bat.

Please report to our office any changes to the information about the Action that you submitted in IPaC, the results of any bat surveys conducted in the Action area, and any dead, injured, or sick northern long-eared bats that are found during Action implementation. If the Action is not completed within one year of the date of this letter, you must update and resubmit the information required in the IPaC key.

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



05/31/2022

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This IPaC-assisted determination allows you to rely on the PBO for compliance with ESA Section 7(a)(2) only for the northern long-eared bat. It **does not** apply to the following ESA-protected species that also may occur in the Action area:

- Monarch Butterfly *Danaus plexippus* Candidate
- Roseate Tern *Sterna dougallii dougallii* Endangered

If the Action may affect other federally listed species besides the northern long-eared bat, a proposed species, and/or designated critical habitat, additional consultation between you and this Service office is required. If the Action may disturb bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act is recommended.

---

[1]Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct [ESA Section 3(19)].

05/31/2022

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### Action Description

You provided to IPaC the following name and description for the subject Action.

#### 1. Name

Holderith: Proposed Dock System

#### 2. Description

The following description was provided for the project 'Holderith: Proposed Dock System':

Construction of a fixed pier, gangway, and main float for recreational use and access to the Piscataqua River.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.129130599999996,-70.82087169863854,14z>



#### Determination Key Result

This Federal Action may affect the northern long-eared bat in a manner consistent with the description of activities addressed by the Service's PBO dated January 5, 2016. Any taking that may occur incidental to this Action is not prohibited under the final 4(d) rule at 50 CFR §17.40(o). Therefore, the PBO satisfies your responsibilities for this Action under ESA Section 7(a)(2) relative to the northern long-eared bat.

#### Determination Key Description: Northern Long-eared Bat 4(d) Rule

This key was last updated in IPaC on May 15, 2017. Keys are subject to periodic revision.

This key is intended for actions that may affect the threatened northern long-eared bat.

The purpose of the key for Federal actions is to assist determinations as to whether proposed actions are consistent with those analyzed in the Service's PBO dated January 5, 2016.

Federal actions that may cause prohibited take of northern long-eared bats, affect ESA-listed species other than the northern long-eared bat, or affect any designated critical habitat, require ESA Section 7(a)(2) consultation in addition to the use of this key. Federal actions that may

MAINEDEP NRPA PERMIT APPLICATION  
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LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



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affect species proposed for listing or critical habitat proposed for designation may require a conference under ESA Section 7(a)(4).

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## Determination Key Result

This project may affect the threatened Northern long-eared bat; therefore, consultation with the Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.) is required. However, based on the information you provided, this project may rely on the Service's January 5, 2016, *Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions* to fulfill its Section 7(a)(2) consultation obligation.

## Qualification Interview

1. Is the action authorized, funded, or being carried out by a Federal agency?  
*Yes*
2. Have you determined that the proposed action will have "no effect" on the northern long-eared bat? (If you are unsure select "No")  
*No*
3. Will your activity purposefully **Take** northern long-eared bats?  
*No*
4. [Semantic] Is the project action area located wholly outside the White-nose Syndrome Zone?  
**Automatically answered**  
*Yes*



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## Project Questionnaire

**If the project includes forest conversion, report the appropriate acreages below.**

**Otherwise, type '0' in questions 1-3.**

1. Estimated total acres of forest conversion:

0

2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. If known, estimated acres of forest conversion from June 1 to July 31

0

**If the project includes timber harvest, report the appropriate acreages below.**

**Otherwise, type '0' in questions 4-6.**

4. Estimated total acres of timber harvest

0

5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. If known, estimated acres of timber harvest from June 1 to July 31

0

**If the project includes prescribed fire, report the appropriate acreages below.**

**Otherwise, type '0' in questions 7-9.**

7. Estimated total acres of prescribed fire

0

8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. If known, estimated acres of prescribed fire from June 1 to July 31

0

**If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.**

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0

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### **IPaC User Contact Information**

Agency: Tidewater Engineering & Surveying, Inc.  
Name: Robert Hopkinson  
Address: 1021 Goodwin Road, Unit #1  
City: Eliot  
State: ME  
Zip: 03903  
Email: rob@tidewatercivil.com  
Phone: 2074392222

### **Lead Agency Contact Information**

Lead Agency: Army Corps of Engineers  
Name: Colin Greenan  
Email: Colin.M.Greenan@usace.army.mil  
Phone: 9783188676

MAINEDEP NRPA PERMIT APPLICATION  
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**ATTACHMENT #12- FUNCTIONAL ASSESSMENT:**

It is our understanding that the impacts associated with the proposed docking structure does not meet the threshold for requiring compensation, therefore it is assumed this attachment is not required. As such, a functional assessment has not been completed by the applicant. If this is not the case, please contact us and a functional assessment will be completed.

**ATTACHMENT #13- COMPENSATION:**

It is our understanding that the impacts associated with the proposed docking structure are too minor to warrant compensation. If this is not the case, please contact us to discuss compensation requirements.

MAINEDEP NRPA PERMIT APPLICATION  
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**APPENDIX A:**

**APPENDIX A - MDEP VISUAL EVALUATION  
 FIELD SURVEY CHECKLIST**  
 (Natural Resources Protection Act, 38 M.R.S. §§ 480 A - Z)

Name of applicant: Robert C. Holderith Phone: (201) 214-5559  
 Application Type: NRPA- Individual  
 Activity Type: (brief activity description) Permanent timber pier, seasonal gangway, landing & main float at 360 River Road Eliot, ME  
 Activity Location: Town: Eliot County: York  
 GIS Coordinates, if known: N 43° 7'45.36" W 70°49'17.29"  
 Date of Survey: 05/25/2022 Observer: Ryan McCarthy, P.E. Phone: (207) 439-2222

**Distance Between the Proposed Visibility Activity  
 and Resource (in Miles)**

	0-¼	¼-1	1+
1. Would the activity be visible from:			
A. A National Natural Landmark or other outstanding natural feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. A State or National Wildlife Refuge, Sanctuary, or Preserve or a State Game Refuge?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. A state or federal trail?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. A public site or structure listed on the National Register of Historic Places?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. A National or State Park?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. 1) A municipal park or public open space?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) A publicly owned land visited, in part, for the use, observation, enjoyment and appreciation of natural or man-made visual qualities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) A public resource, such as the Atlantic Ocean, a great pond or a navigable river?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. What is the closest estimated distance to a similar activity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. What is the closest distance to a public facility intended for a similar use?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Is the visibility of the activity seasonal? (i.e., screened by summer foliage, but visible during other seasons)		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
5. Are any of the resources checked in question 1 used by the public during the time of year during which the activity will be visible?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

(blue)

MAINE DEP NRPA PERMIT APPLICATION  
 APPLICANT: ROBERT C. HOLDERITH  
 LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



**APPENDIX B:**

**APPENDIX B: MDEP COASTAL WETLAND CHARACTERIZATION:  
 INTERTIDAL & SHALLOW SUBTIDAL FIELD SURVEY CHECKLIST**

NAME OF APPLICANT: Robert C. Holderith PHONE: (201) 214-5559  
 APPLICATION TYPE: NRPA- Individual  
 ACTIVITY LOCATION: TOWN: Eliot COUNTY: York

ACTIVITY DESCRIPTION:  fill  pier  lobster pound  shoreline stabilization  
 dredge  other: \_\_\_\_\_

DATE OF SURVEY: 06/07/22 OBSERVER: Ryan McCarthy, P.E.

TIME OF SURVEY: 12:15 pm TIDE AT SURVEY: Low: -1.1 (NAVD88)

SIZE OF DIRECT IMPACT OR FOOTPRINT (square feet):  
 Intertidal area: Piles: 9.25 SF +/- Subtidal area: None

SIZE OF INDIRECT IMPACT, if known (square feet): \_\_\_\_\_  
 Intertidal area: 758 SF +/- Subtidal area: \_\_\_\_\_  
(boardwalk, pier, gangway, float)

HABITAT TYPES PRESENT (check all that apply):  
 sand beach  boulder/cobble beach  sand flat  mixed coarse & fines  salt marsh  
 ledge  rocky shore  mudflat (sediment depth, if known: \_\_\_\_\_)

ENERGY:  protected  semi-protected  partially exposed  exposed

DRAINAGE:  drains completely  standing water  pools  stream or channel

SLOPE:  >20%  10-20%  5-10%  0-5%  variable

SHORELINE CHARACTER:  
 bluff/bank (height from spring high tide: 2.6' +/-)  beach  rocky  vegetated

FRESHWATER SOURCES:  stream  river  wetland  stormwater

MARINE ORGANISMS PRESENT:

	absent	occasional	common	abundant
mussels	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
clams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
marine worms	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
rockweed	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
eelgrass	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
lobsters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
other	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Crabs/Horseshoe crabs

SIGNS OF SHORELINE OR INTERTIDAL EROSION?  yes  no

PREVIOUS ALTERATIONS?  yes  no

CURRENT USE OF SITE AND ADJACENT UPLAND:  
 undeveloped  residential  commercial  degraded  recreational

PLEASE SUBMIT THE FOLLOWING:  
 Photographs  Overhead drawing (pink)

**APPENDIX D:**

**Natural Resource Protection Act Application  
APPENDIX D: Project Description Worksheet for a Dock, Pier or Wharf Application.**



Help us process your application more efficiently by completing this worksheet, which is supplemental to a NRPA application for a dock, pier or wharf. A completed Appendix D may be substituted for Block 14 of the application page.



**THIS IS AN APPLICATION FOR A.....**

- Commercial wharf  
If yes, indicate type of commercial activity: \_\_\_\_\_  
License number: \_\_\_\_\_  
Number of fishermen using this wharf: \_\_\_\_\_
- Public pier, dock or wharf
- Common or shared recreational pier, dock or wharf
- Private recreational pier, dock or wharf
- Expansion or modification of an existing structure
- Other, please indicate: \_\_\_\_\_



**TELL US ABOUT YOUR BOAT....**

My boat(s) requires a draft of <3 feet.  
My boat(s) is 32 feet long.



**TELL US ABOUT YOUR PROJECT SITE....** For coastal piers and wharves, please complete Appendix B of the NRPA application. For freshwater docks, please describe the substrate and any vegetation: \_\_\_\_\_



**SCENIC CONSIDERATIONS...**Please complete Appendix A of the NRPA application.



**WHAT FACILITIES ARE NEARBY?**

The nearest public boat launch is located in Eliot approximately 2.9 miles from the project location.  
(town) (distance)

The nearest public, commercial, or private marina is located in Eliot approximately 4.5 miles from the project location.  
(distance) (town)

- I have inquired about slip or mooring availability at the nearest marina or public facility.
  - Yes, a slip or mooring is available.     No, a slip or mooring is not available.
  - Approximate expected time on waiting list: 4 month wait for mooring. Slips unavailable for 2022 season
- I have contacted the local Harbor Master.



MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
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**APPENDIX D: SLIP & MOORING REQUESTS:**

**From:** Sean McKenna <[sean@greatbaymarine.com](mailto:sean@greatbaymarine.com)>  
**Sent:** Thursday, September 1, 2022  
**To:** Kuerstin Fordham <[kuerstin@riversideandpickering.com](mailto:kuerstin@riversideandpickering.com)>  
**Subject:** Lack of Dockage In The Area

Kuerstin,

I am writing to let you know that Great Bay Marine is totally full for slips and moorings for the coming boating season as well having sold out earlier than ever before. We also have over 190 on a waiting list for space here at the marina for future years. I do not know of any space on either the Maine or New Hampshire sides of the river.

Regards,

---

Sean

Sean McKenna, CMM  
Great Bay Marine, Inc  
61 Beane Lane  
Newington, NH 03801  
(603) 436-5299 Main

(603) 380-9242 Direct  
[Greatbaymarine.com](http://Greatbaymarine.com)

MAINEDEP NRPA PERMIT APPLICATION  
APPLICANT: ROBERT C. HOLDERITH  
LOCATION: 360 RIVER ROAD, ELIOT, ME 03903



**APPENDIX D: SLIP & MOORING REQUESTS:**

From: Great Cove Boat Club <greatcove@comcast.net>  
Sent: Thursday, September 1, 2022 10:52 AM  
To: Kuerstin Fordham <kuerstin@riversideandpickering.com>  
Subject: Available Slips

Hi Kuerstin we at Great Cove Boat Club have all slips and moorings leased for the 2022 season and have a waitlist of close to 100 names of people looking for any space if it comes available John "Butch" Madden Operations manager GCBC

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

From: Kuerstin Fordham [mailto:kuerstin@riversideandpickering.com]  
Sent: Thursday September 1, 2022 3:45 PM  
To: 'Butch Madden (greatcove@comcast.net)'  
Subject: Available Slips

Hi Butch,

I am reaching out to local marinas in search of any available slips for boat rentals for the upcoming year . When you have a moment please let me know what you have available for rentals.

If you have any questions do not hesitate to contact me.

Thanks again for your help Butch.

Best,

Kuerstin Fordham  
Construction Administrator  
Riverside & Pickering Marine Contractors  
34 Patterson Lane  
Newington, NH 03801  
603-427-2824 ext. 1000 Office  
866-571-7132 Fax  
(A division of Riverside Marine Construction Inc)

Confidentiality Notice: This communication, together with any attachments hereto or links contained herein, is for the sole use of the intended recipients and may contain information that is confidential, valuable and/or legally protected. If you are not the intended recipient, you are hereby notified that any review, copying, dissemination, distribution, or use of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email message and delete the original and all copies of the communication including but not limited to those in the Delete Folder, along with any attachments hereto or links herein, from your system.



REPLY TO ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

MAINE GENERAL PERMITS (GPs)
AUTHORIZATION LETTER AND SCREENING SUMMARY

ROBERT C. HOLDERITH
11440 COUNTY HIGHWAY 14
DELHI, NEW YORK 13753

CORPS PERMIT # NAE-2022-02076
CORPS GP# 3
STATE ID# L-30049-4P-A-N/TW-B-N

DESCRIPTION OF WORK:

Construct and maintain a 6-ft. wide x 60-ft. long pile-supported timber pier with a 3-ft. wide x 30-ft. long ramp leading to a 10 ft. x 30 ft. float with associated mooring tackle located below the mean high water mark of the Piscataqua River off 360 River Road at Eliot, Maine. In addition, a 4 ft. x 14 ft. set of stairs will be constructed along the mean high water mark. This work is shown on the attached plans entitled "USGS PROJECT LOCATION MAP" in one sheet undated, "TOWN GIS PROJECT LOCATION MAP" in one sheet undated and "PROPOSED PIER & FLOAT PLAN" in one sheet dated "SEPT. 9, 2022".

See GENERAL and SPECIAL CONDITIONS attached.

LAT/LONG COORDINATES: 43.129378° N -70.821423° W USGS QUAD: DOVER EAST

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. Your work is therefore authorized by the U.S. Army Corps of Engineers under the Federal Permit, the Maine General Permits (GPs) which can be found at: https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit/ Accordingly, we do not plan to take any further action on this project.

You must perform the activity authorized herein in compliance with all the terms and conditions of the GP [including any attached Special Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the GPs, including the GPs conditions beginning on page 5, to familiarize yourself with its contents. You are responsible for complying with all of the GPs requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 45 of the GPs (page 19) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the GPs on October 14, 2025. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 14, 2026.

This authorization presumes the work shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to the undersigned.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary.

II. STATE ACTIONS: PENDING [ X ], ISSUED [ ], DENIED [ ] DATE \_\_\_\_\_

APPLICATION TYPE: PBR: \_\_\_\_, TIER 1: \_\_\_\_, TIER 2: \_\_\_\_, TIER 3: X \_\_\_\_, LURC: \_\_\_\_, DMR LEASE: \_\_\_\_, NA: \_\_\_\_

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 15SEP2022 LEVEL OF REVIEW: SELF-VERIFICATION: \_\_\_\_, PRE-CONSTRUCTION NOTIFICATION: X \_\_\_\_,

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 X \_\_\_\_, 404 \_\_\_\_, 10/404 \_\_\_\_, 103 \_\_\_\_,

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA\_NO \_\_\_\_, USF&WS\_NO \_\_\_\_, NMFS\_NO \_\_\_\_,

If you have any questions on this matter, please contact my staff at 978-318-8676 at our Augusta, Maine Project Office. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at: http://corpsmapu.usace.army.mil/cm\_apex/f?p=136:4:0

Handwritten signature of Colin M. Greenan
COLIN M. GREENAN
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

Handwritten signature of Frank J. Del Giudice
FRANK J. DEL GIUDICE
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DIVISION



**US Army Corps  
of Engineers**®  
New England District

**PLEASE NOTE THE FOLLOWING GENERAL AND SPECIAL CONDITIONS FOR  
DEPARTMENT OF THE ARMY  
MAINE GENERAL PERMIT 3  
PERMIT NO. NAE-2022-02076**

**GENERAL CONDITIONS**

**11. Navigation.** a. There shall be no unreasonable interference with general navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. b. Work in, over, under, or within a distance of three times the authorized depth of an FNP shall specifically comply with GC 10. c. Any safety lights and/or signals prescribed by the U.S. Coast Guard, State of Maine or municipality, through regulations or otherwise, shall be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S. d. The permittee understands and agrees that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

**31. Storage of Seasonal Structures.** Seasonal or recreational structures such as pier sections, floats, aquaculture structures, etc. that are removed from the waterway for a portion of the year shall be stored in an upland location and not in wetlands, tidal wetlands, their substrate, or on mudflats. These seasonal structures may be stored on the fixed, pile-supported portion of a structure that is waterward of the mean high water mark or the ordinary high water mark, e.g. the storage of a ramp or gangway on the pile-supported pier. Seasonal storage of structures in navigable waters, e.g., in a protected cove, requires prior Corps approval and local harbormaster approval.

**33. Permit(s)/Authorization Letter On-Site.** The permittee shall ensure that a copy of the terms and conditions of these GPs and any accompanying authorization letter with attached plans are at the site of the work authorized by these GPs whenever work is being performed and that all construction personnel performing work which may affect waters of the U.S. are fully aware of the accompanying terms and conditions. The entire permit authorization shall be made a part of any and all contracts and subcontracts for work that affects areas of Corps jurisdiction at the site of the work authorized by these GPs. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means all terms and conditions of the GPs, the GPs, and the authorization letter (including its drawings, plans, appendices and other attachments) and subsequent permit modifications as applicable. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or subcontract. Although the permittee may assign various aspects of the work to different contractors or subcontractors, all contractors and subcontractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire GP authorization, and no contract or subcontract shall require or allow unauthorized work in areas of Corps jurisdiction.

**34. Inspections.** The permittee shall allow the Corps to make periodic inspections at any time deemed necessary in order to ensure that the work is eligible for authorization under these GPs, is being, or has been performed in accordance with the terms and conditions of these GPs. To facilitate these inspections, the permittee shall complete and return to the Corps the Work-Start Notification Form and the Compliance Certification Form when either is provided with an authorization letter. **These forms are attached after the plans.**

**SPECIAL CONDITION**

1. Piles shall be installed during periods of low water when the site is in-the-dry in order to prevent potential effects to endangered marine species and to minimize potential effects to Essential Fish Habitat and local water quality.



# TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: Michael J. Sudak, E.I., Attar Engineering, Applicant’s Representative  
 Shelly Bishop, Code Enforcement Officer  
 Kim Tackett, Land Use Administrative Assistant  
 Date: January 19, 2023 (report date)  
 January 24, 2023 (meeting date)  
 Re: PB22-20: 178 Harold L. Dow Hwy. (Map 29/Lot 20): Site Plan Amendment/Review – Commercial Buildings – Sketch Plan Review

Application Details/Checklist Documentation	
✓ Address:	178 Harold L. Dow Hwy.
✓ Map/Lot:	29/20
✓ Zoning:	Commercial/Industrial (C/I) district
✓ Shoreland Zoning:	None
✓ Owner Name:	Pathfinder Business Offices, LLC
✓ Applicant Name:	J & J’s Pathfinder, LLC; Agent: Attar Engineering
✓ Proposed Project:	Commercial Buildings
✓ Application Received by Staff:	November 1, 2022
Application Fee Paid and Date:	Not yet paid (sketch plan review)
Application Sent to Staff Reviewers:	Not yet sent
Application Heard by PB Found Complete by PB	January 24, 2023 (scheduled)
Site Walk	TBD
Site Walk Publication	TBD
Public Hearing	TBD
Public Hearing Publication	TBD
✓ Reason for PB Review:	Site Plan Amendment, Change of Use, SPR uses

## Overview

Applicants seek review and approval to construct two additional buildings at 178 Harold L. Dow Hwy: a 5000-sq. ft. commercial/industrial building and single-story commercial building, overall expected to have 13 employees. As noted in the 11/1/22 cover letter, “The existing commercial office facility will remain with the upper floor supporting office use while half of the basement floor supports commercial use for 3 employees and the remainder is bulk storage area associated with the professional offices on the upper floor”.

PB22-20: 178 Harold L. Dow Hwy. (Map 29/Lot 20): Site Plan Amendment/Review – Commercial Buildings – Sketch Plan Review

**Type of review needed**

Sketch plan review – as needed, ask questions of the applicant, seek more information, and comment on Town Code compliance

**Use**

“Commercial office” is not in the land use table (45-290).

**Right, title, and interest (33-106)**

Warranty deed provided

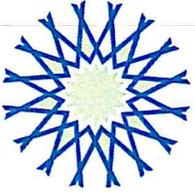
**Additional review comments**

*Will be available at the meeting*

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner



# ATTAR

ENGINEERING, INC

CIVIL ♦ STRUCTURAL ♦ MARINE

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

Nov. 1st, 2022  
Project No. C331-22

**RE: Sketch Plan Application for Site Plan Amendment  
J & J's Pathfinder, LLC (Tax Map 29, Lot 20)  
178 Harold L. Dow Highway, Eliot, Maine**

Dear Mr. Brubaker:

On behalf of the lot owner/applicant, J & J's Pathfinder, LLC, I have enclosed a Sketch Plan Application and supporting documents for your review and consideration.

The site, which contains 3.0 acres, is located at 178 Harold L. Dow Highway, and was originally developed as a 4,666 sq. ft. commercial office facility with accompanying gravel parking. The site is in the Commercial/Industrial zoning district. It is not located in a flood hazard zone.

J & J's Pathfinder, LLC. proposes to construct two commercial buildings to the North-East and South-West of the existing building. The North-East building is a two-story 5000 sq. ft. building with a footprint measuring 50'x100' to be used for future commercial/industrial use supporting an anticipated 10 employees per largest shift. The South-West building is to be a single-story commercial use building supporting 3 employees.

The existing commercial office facility will remain with the upper floor supporting office use while half of the basement floor supports commercial use for 3 employees and the remainder is bulk storage area associated with the professional offices on the upper floor.

The proposed buildings are to be placed on a septic holding tank until such time that they may be connected to town sewer.

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

Sincerely;

Kenneth A. Wood, P.E.  
President



Case No. _____
Site review?    Yes    No

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

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

Tax Map 29    Lot# 19    Lot Size 3.0 acres    Zoning District: C/I

Your Name Kenneth A. Wood    Your mailing address 1284 State Road

City/Town Eliot    State: Maine    Zip: 03903    Telephone: 207-439-6023

Who owns the property now? Pathfinder Business Offices, LLC

Address (Location) of the property 178 Harold Dow Highway Eliot ME 03903

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

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

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

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

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

Having entered the SPECIFIC land use above now provide a more detailed description of what you want to do:  
Two commercial office facilities are to be added to the lot.

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	Case No. _____
	Site review?    Yes    No

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

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

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

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

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

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

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

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

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

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

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

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

<b>PART 2</b>
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Case No. \_\_\_\_\_

Site review? Yes No

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

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

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

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

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

If other Local, State or Federal agencies or officers (Section 33-102) should review Sketch Plan.

If applicable, MaineDOT driveway permit is **required** prior to local approval for anyone installing, physically changing or changing the use of a driveway on state highway.

If review by Eliot Fire Chief \_\_\_\_, Police Chief \_\_\_\_, or Road Commissioner\_\_ is required.

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

Site review?    Yes    No

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

Chapter 33 required information

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

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

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

Other Chapter 33 Site Review Ordinance Requirements.

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

Case No. _____
Site review?    Yes    No

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

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

Chapter 35 Post-Construction Stormwater Management

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

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

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

	Case No. _____		
	Site review?	Yes	No

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

5.1. Board discusses Site Plan with applicant.

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

- 6.1. Conducted within 30 days of Boards acceptance of Site Plan.
- 6.2. Three notices posted 10 days prior to the Public Hearing.
- 6.3. Notices advertised in two newspapers 10 days prior to Public Hearing.
- 6.4. Other Towns notified 10 days prior to if within 500 feet of applicant's lot.
- 6.5. Abutters notified 10 days prior to by certified mail, return receipt requested. \$150.00 paid by applicant to cover the cost of advertising and abutter notification (Sec. 1-25)
- 6.6. Selectmen, CEO, and Board of Appeals shall be notified 10 days prior to the Public Hearing.

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

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

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



DLN:1001840030571

## Warranty Deed

Know all men by these presents that we, R. NIVEN DAMON and JACQUELINE Z. DAMON, of Eliot, County of York and State of Maine, with a mailing address of 1638 State Road, Eliot, ME 03903, for consideration paid, grant to PATHFINDER BUSINESS OFFICES, LLC, a Maine limited liability company having a mailing address of 33 Creekview Dr., Eliot, ME 03903, with Warranty Covenants,, the real property in Eliot, County of York and State of Maine, together with the buildings located thereon, bounded and described as follows:

See EXHIBIT A attached hereto and incorporated herein by reference.

Being a portion of the premises conveyed to R. Niven Damon and Jacqueline Z. Damon by deed of Henry L. DeWildt and Elinor M. DeWildt dated October 23, 1987 and recorded in the York County Registry of Deeds in Book 4507, Page 67. See warranty deed of R. Niven Damon and Jacqueline Z. Damon to Medical Environments LLC dated 2004 and recorded in said Registry of Deeds in Book 14239, Page 889 and corrective warranty deed of R. Niven Damon and Jacqueline Z. Damon dated February 13, 2006 and recorded in said Registry of Deeds in Book 14756. Page 140.

Dated this 21st day of June, 2018.

Signed, sealed and delivered in the presence of:



Witness



Witness



R. Niven Damon



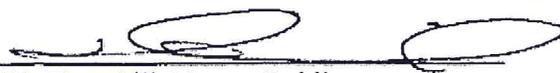
Jacqueline Z. Damon

State of Maine  
County of York, ss.

June 21, 2018

Then personally appeared the above named R. Niven Damon and Jacqueline Z. Damon and acknowledged the foregoing instrument to be their free act and deed.

Before me,



Dan W. Thornhill, Notary Public  
My Commission Expires: 7/25/19

Maine R.E. Transfer Tax Paid



R. Niven Damon and Jacqueline Z. Damon to Pathfinder Business Offices, LLC

## EXHIBIT A

A certain lot or parcel of land, together with the buildings thereon, located on the northeasterly side of Route 236, also known as Harold L. Dow Highway, shown as Lot 2 on a plan entitled "Plan of Land at 330 Beech Road, Eliot, Maine" by James Verra and Associates, Inc. dated February 7, 2006 and recorded in the York County Registry of Deeds in Plan Book 308, Page 15, as described on the attached stamped "Suggested Parcel Description" by James Verra and Associates, Inc. dated June 13, 2018.

ALSO CONVEYING a twenty-five foot (25') wide access easement as shown on the above-referenced plan extending from Beech Road to the premises herein conveyed.

SUBJECT TO a ten-foot wide Sewer Easement and a twenty-five foot (25') wide Construction Easement as shown on the above-referenced plan for the purpose of laying, constructing, operating, inspecting, maintaining, repairing, replacing, substituting, and removing a sewer pipeline for the transportation of sewage through said pipeline, at a location and on a route as shown on said plan.

The Sewer Easement is subject to the declaration of covenants, conditions, limitations, restrictions and easements set forth in warranty deed of R. Niven Damon and Jacqueline Z. Damon to Medical Environments LLC dated 2004 and recorded in the York County Registry of Deeds in Book 14239, Page 889 and in corrective warranty deed of R. Niven Damon and Jacqueline Z. Damon to Medical Environments LLC dated February 13, 2006 and recorded in said Registry of Deeds in Book 14756, Page 140.

SUBJECT TO a Grading and Drainage Easement as shown on the above-referenced plan, subject to the requirements of the Town of Eliot, the Maine Department of Environmental Protection, and any other applicable State, local or Federal laws or regulations.

ALSO, TOGETHER WITH AND SUBJECT TO the rights, benefits, obligations, easements, conditions, covenants, restrictions and notes as shown on the above-referenced plan and as set forth in the above-referenced deeds recorded in Book 4507, Page 67; Book 14239, Page 889; and Book 14756, Page 140 in the York County Registry of Deeds.

178 Harold Dow Highway  
Eliot Map 29, Lot 20

\\realest\deeds\damon wd  
12136-24287



June 13, 2018

Suggested Parcel Description

178 Harold Dow Highway (Maine Route 236)  
Eliot, Maine

Prepared for R. Niven Damon & Jacqueline Z. Damon

A certain tract or parcel of land lying on the northeasterly side of Harold Dow Highway in Eliot, County of York, State of Maine, said tract being shown as Lot 2 on a plan prepared by James Verra and Associates, Inc., entitled, "Plan of Land, 330 Beech Road, Eliot, Maine, owner: Medical Environments, LLC, 21 Harold Dow Highway, Eliot, ME, 03903", dated 2-7-2006, recorded in the York County Registry of Deeds as Plan Book 308, Page 15, bounded and described as follows:

Beginning at the most southerly corner of said lot on the northeasterly side of said Harold Dow Highway, at land now or formerly of Irving Oil Corporation, said point bears North 28° 49' 10" West a distance of 19.76 feet and North 30° 00' 07" West a distance of 300.12 feet from an iron pipe found at the most southerly corner of land of said Irving Oil Company;

thence by said Harold Dow Highway North 29° 45' 20" West a distance of 327.19 feet to a point at land now or formerly Medical Environments., LLC;

thence by land of said Medical Environments, LLC on the following courses:

North 60° 14' 40" East a distance of 97.12 feet to a point;  
South 29° 45' 20" East a distance of 17.19 feet to a point;  
South 77° 33' 50" East a distance of 100.42 feet to a point;  
North 57° 26' 06" East a distance of 334.71 feet to a point at land now or formerly of Gian Garufo;

thence by land of said Garufo South 31° 25' 42" East a distance of 233.79 feet to an iron rod found at land now or formerly of Donald W. and Christine M. Wallner;

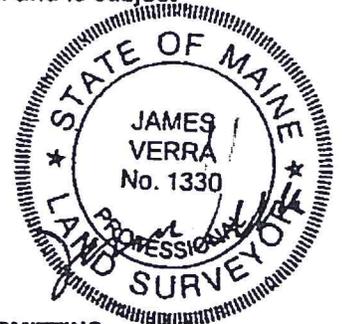
thence by land of said Wallner South 57° 21' 14" West a distance of 75.01 feet to a 1¼ inch iron pipe found at land of said Irving Oil Company;

thence by land of said Irving Oil Company South 57° 26' 06" West a distance of 438.27 feet to the true point of beginning;

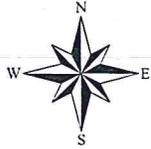
Said parcel contains 3.00 acres.

Said description reflects conditions as of the date of the survey. Said tract benefits from and is subject to easements of record and easements as shown on the referenced plan.

Job No: 21653-2







# Lot 29-20 Location Map

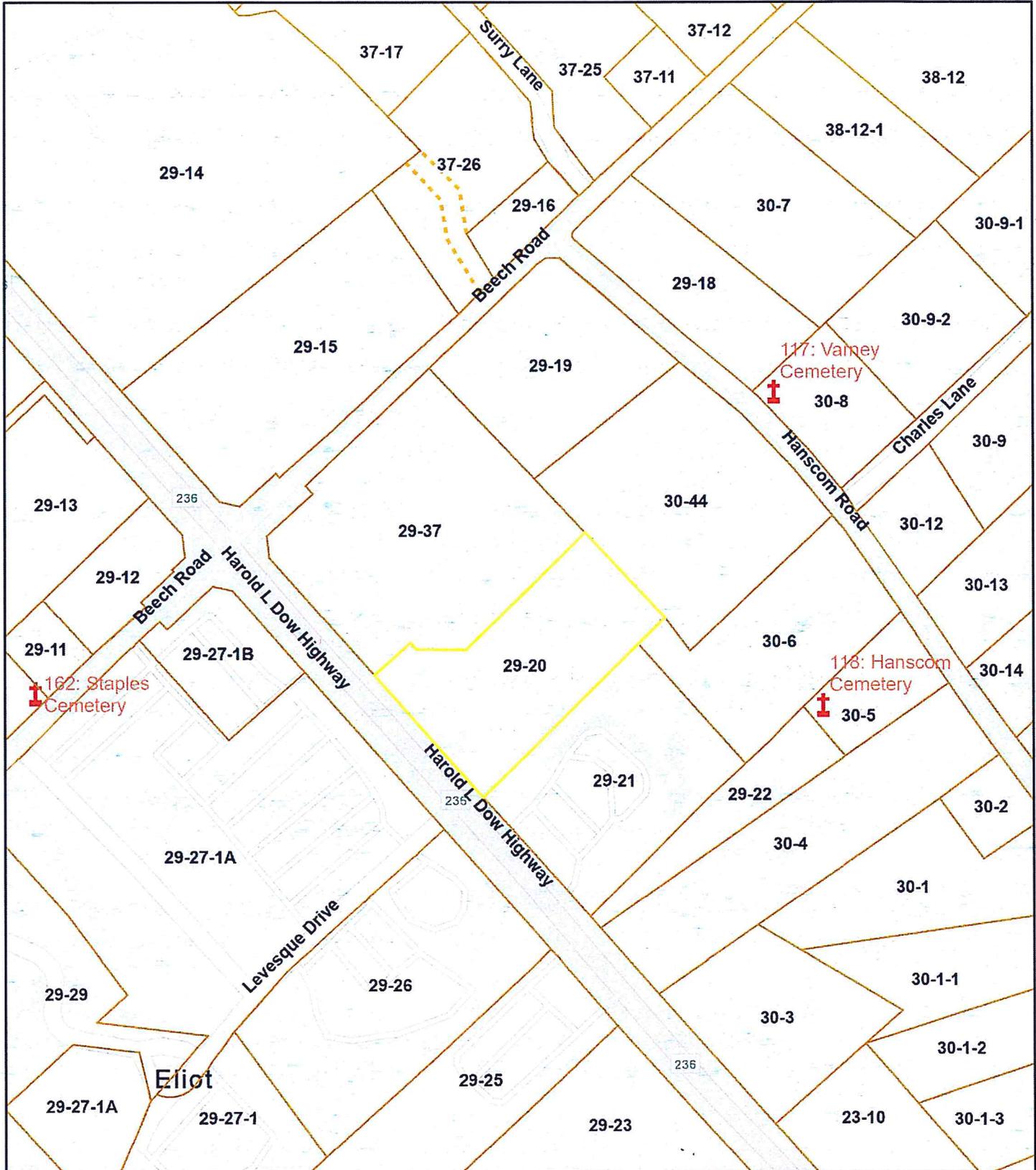
Town of Eliot, ME

1 inch = 500 Feet



www.cai-tech.com

November 1, 2022



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





# 500 feet Abutters List Report

Eliot, ME

November 01, 2022

## Subject Property:

Parcel Number: 029-020-000  
CAMA Number: 029-020-000  
Property Address: 178 HAROLD L DOW HWY

Mailing Address: PATHFINDER BUSINESS OFFICES LLC  
33 CREEKVIEW DR  
ELIOT, ME 03903

---

## Abutters:

Parcel Number: 029-012-000  
CAMA Number: 029-012-000  
Property Address: 191 BEECH RD

Mailing Address: ROHANI, NASSER ROHANI, PARIVASH  
555 AUBURN ST  
PORTLAND, ME 04103

Parcel Number: 029-015-000  
CAMA Number: 029-015-000  
Property Address: 213 BEECH RD

Mailing Address: LOCKART, GARY W LOCKART, LINDA J  
213 BEECH RD  
ELIOT, ME 03903

Parcel Number: 029-018-000  
CAMA Number: 029-018-000  
Property Address: 286 HANSCOM RD

Mailing Address: MARSH, LINDA M  
286 HANSCOM RD  
ELIOT, ME 03903

Parcel Number: 029-019-000  
CAMA Number: 029-019-000  
Property Address: 230 BEECH RD

Mailing Address: GRANITE STATE PIONEER LLC  
PO BOX 4201  
PORTSMOUTH, NH 03802

Parcel Number: 029-021-000  
CAMA Number: 029-021-000  
Property Address: 162 HAROLD L DOW HWY

Mailing Address: IRVING OIL LIMITED ATTN:  
CORPORATE REAL ESTATE  
PO BOX 868  
CALAIS, ME 04619

Parcel Number: 029-022-000  
CAMA Number: 029-022-000  
Property Address: 160 HAROLD L DOW HWY

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

Parcel Number: 029-025-000  
CAMA Number: 029-025-000  
Property Address: 155 HAROLD L DOW HWY

Mailing Address: 155 HDH LLC  
84 MARGINAL WAY STE 600  
PORTLAND, ME 04101-2480

Parcel Number: 029-026-000  
CAMA Number: 029-026-000  
Property Address: 19 LEVESQUE DR #3

Mailing Address: GUYS REALTY LLC  
16 HOMESTEAD LN  
BRENTWOOD, NH 03904

Parcel Number: 029-027-01A  
CAMA Number: 029-027-01A  
Property Address: 28 LEVESQUE DR

Mailing Address: SEA DOG REALTY LLC  
86 NEWBURY ST  
PORTLAND, ME 04101

Parcel Number: 029-027-01B  
CAMA Number: 029-027-01B  
Property Address: 28 LEVESQUE DR #2

Mailing Address: CFI PROPCO 2 LLC  
165 FLANDERS RD  
WESTBOROUGH, MA 01581



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# 500 feet Abutters List Report

Eliot, ME  
November 01, 2022

Parcel Number: 029-037-000  
CAMA Number: 029-037-000  
Property Address: 220 BEECH RD

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

Parcel Number: 030-004-000  
CAMA Number: 030-004-000  
Property Address: 247 HANSCOM RD

Mailing Address: WILLIAMS, MICHAEL T WILLIAMS,  
AMANDA M  
247 HANSCOM RD  
ELIOT, ME 03903

Parcel Number: 030-005-000  
CAMA Number: 030-005-000  
Property Address: 255 HANSCOM RD

Mailing Address: VAN DISSEL, RONALD J REVOCABLE  
TRUST RONALD J VAN DISSEL  
TRUSTEE  
255 HANSCOM RD  
ELIOT, ME 03903

Parcel Number: 030-006-000  
CAMA Number: 030-006-000  
Property Address: 263 HANSCOM RD

Mailing Address: WALLNER, CHRISTINE M  
263 HANSCOM RD  
ELIOT, ME 03903

Parcel Number: 030-008-000  
CAMA Number: 030-008-000  
Property Address: 266 HANSCOM RD

Mailing Address: RICHARDS, KAREN A  
266 HANSCOM RD  
ELIOT, ME 03903

Parcel Number: 030-012-000  
CAMA Number: 030-012-000  
Property Address: 264 HANSCOM RD

Mailing Address: SAUVE, RONALD SAUVE, CYNTHIA M  
264 HANSCOM RD  
ELIOT, ME 03903

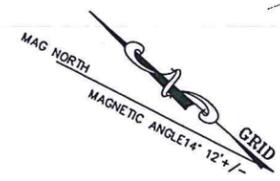
Parcel Number: 030-044-000  
CAMA Number: 030-044-000  
Property Address: 281 HANSCOM RD

Mailing Address: GARUFO, GIAN  
9664 W89TH WAY  
WESTMINSTER, CO 80021



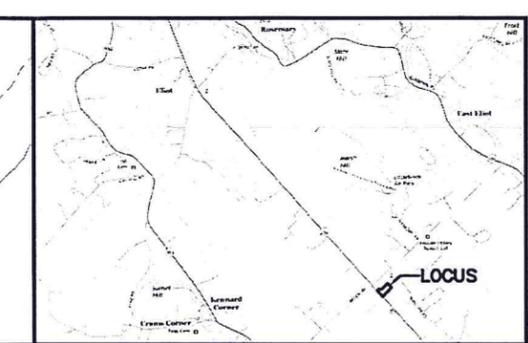
[www.cai-tech.com](http://www.cai-tech.com)

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**LEGEND:**

- FIP FOUND IRON PIPE, AS NOTED
- FIR FOUND IRON ROD, AS NOTED
- UTY UTILITY POLE
- STONE WALL
- N/F LAND, NOW OR FORMERLY, OF
- YCRD YORK COUNTY REGISTRY OF DEEDS
- 7654/321 VOLUME/PAGE OF RECORDED DOCUMENT
- ⊙ SR SET IRON ROD, 5/8 INCH #, WITH IDENTIFICATION CAP SCRIBED ATTAR ENG INC, ME PLS 1311



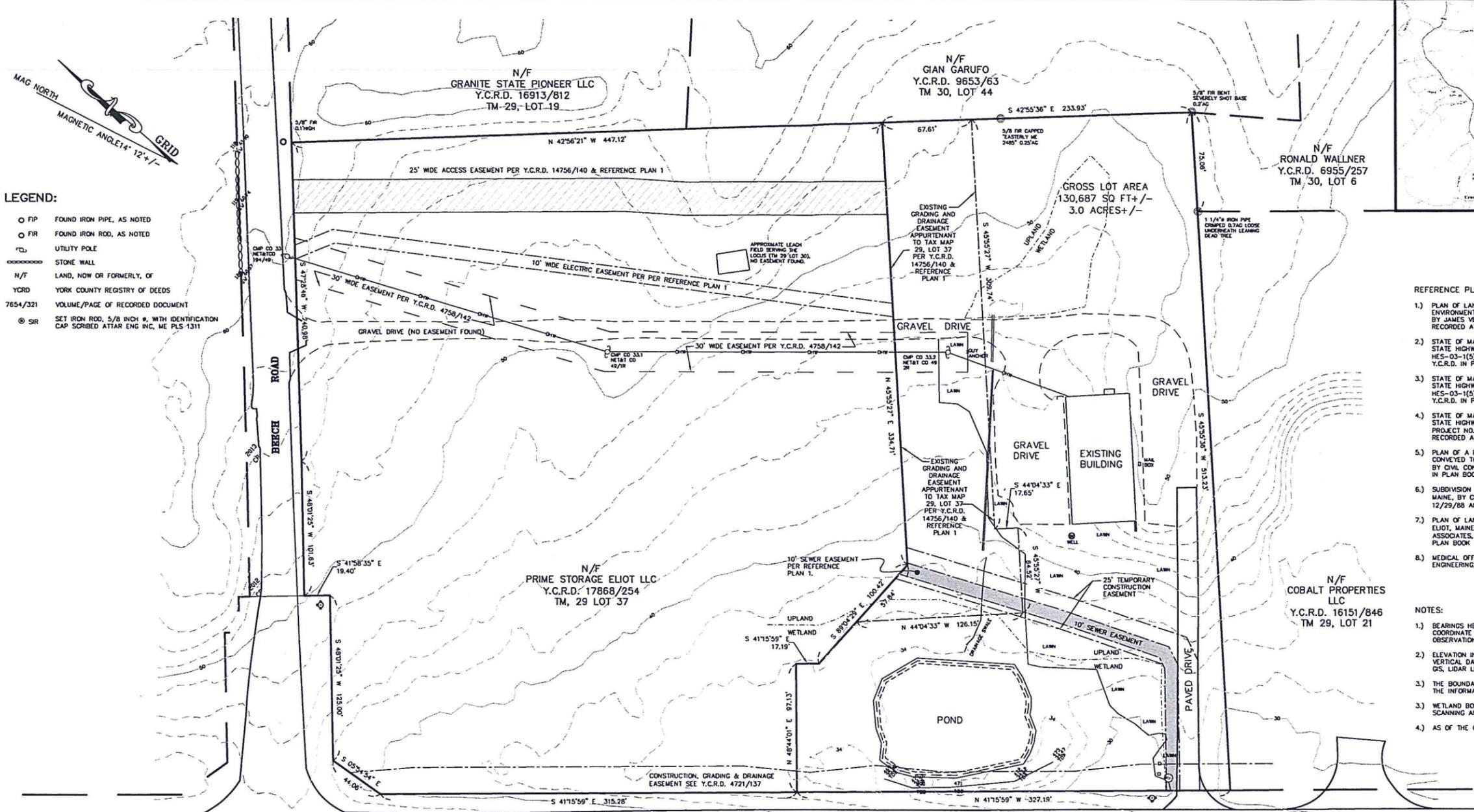
**LOCATION PLAN NTS**

**REFERENCE PLANS:**

- 1.) PLAN OF LAND, 330 BEECH ROAD, ELIOT, MAINE, OWNED BY MEDICAL ENVIRONMENTS, LLC, 21 HAROLD L. DOW HIGHWAY, ELIOT, MAINE 03903, BY JAMES VERRA AND ASSOCIATES, INC., DATED 2-7-2006 AND RECORDED AT THE Y.C.R.D. IN PLAN BOOK 308, PAGE 15.
- 2.) STATE OF MAINE, DEPARTMENT OF TRANSPORTATION, RIGHT OF WAY MAP, STATE HIGHWAY 3, ELIOT, YORK COUNTY, FEDERAL AID PROJECT NO. HES-03-1(5), D.O.T. FILE NO. 16-315, SHEET 3 OF 6, RECORDED AT THE Y.C.R.D. IN PLAN BOOK 191, PAGE 25.
- 3.) STATE OF MAINE, DEPARTMENT OF TRANSPORTATION, RIGHT OF WAY MAP, STATE HIGHWAY 3, ELIOT, YORK COUNTY, FEDERAL AID PROJECT NO. HES-03-1(5), D.O.T. FILE NO. 16-315, SHEET 4 OF 6, RECORDED AT THE Y.C.R.D. IN PLAN BOOK 191, PAGE 26.
- 4.) STATE OF MAINE, DEPARTMENT OF TRANSPORTATION, RIGHT OF WAY MAP, STATE HIGHWAY 100, ELIOT, YORK COUNTY, FEDERAL AID SECONDARY PROJECT NO. S-0100(5) S.H.C. FILE NO. 16-112, SHEET 6 OF 13, RECORDED AT THE Y.C.R.D. IN PLAN BOOK 191, PAGE 26.
- 5.) PLAN OF A PORTION OF LAND OF HARRY & ELINOR DEWLOD TO BE CONVEYED TO R. NIVEN DAMON, RTE. 236 & BEECH ROAD, ELIOT, MAINE, BY CIVIL CONSULTANTS DATED 10/26/87 AND RECORDED AT THE Y.C.R.D. IN PLAN BOOK 162, PAGE 37.
- 6.) SUBDIVISION OF LAND OF MICHAEL SHEFFIELD, HANSCOM ROAD, ELIOT, MAINE, BY CIVIL CONSULTANTS, DATED 12/14/88, LAST REVISED 12/29/88 AND RECORDED AT THE Y.C.R.D. IN PLAN BOOK 176, PAGE 21.
- 7.) PLAN OF LAND FROM A STANDARD BOUNDARY SURVEY, ROUTE 236, ELIOT, MAINE FOR FIRST / LAST GAS, INC., BY NORWAY PLAINS ASSOCIATES, INC., DATED 5/9/2000, AND RECORDED AT THE Y.C.R.D. IN PLAN BOOK 295, PAGE 43.
- 8.) MEDICAL OFFICE PARK FOR MEDICAL ENVIRONMENTS, LLC, BY ALTUS ENGINEERING, INC., DATED OCTOBER 7, 2003, SHEETS C-3 & C-4.

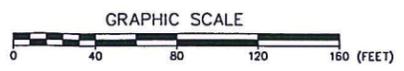
**NOTES:**

- 1.) BEARINGS HEREON ARE BASED ON GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD 83 AS DERIVED FROM GPS OBSERVATIONS.
- 2.) ELEVATION INFORMATION DEPICTED HEREON, IS BASED ON NAVD 88 VERTICAL DATUM. CONTOURS WERE OBTAINED FROM THE MAINE OFFICE OF GIS, LIDAR LIBRARY, CONTOUR INTERVAL IS 2 FEET.
- 3.) THE BOUNDARIES SHOWN HEREON ARE BASED ON A RETRACEMENT OF THE INFORMATION DEPICTED ON REFERENCE PLAN 1.
- 3.) WETLAND BOUNDARIES, AS DEPICTED HEREON, WERE OBTAINED BY SCANNING AND DIGITIZING INFORMATION SHOWN ON REFERENCE PLAN 6.
- 4.) AS OF THE ORIGINAL DATE HEREON, LOT CORNERS HAVE NOT BEEN SET

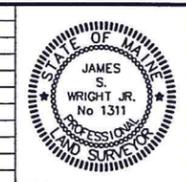


HAROLD L. DOW HIGHWAY (ME. ROUTE 236)

STATE OF MAINE  
YORK COUNTY ss. REGISTRY OF DEEDS  
RECEIVED \_\_\_\_\_ 20\_\_\_\_  
AT \_\_\_\_\_ h \_\_\_\_\_ m \_\_\_\_\_, AND RECORDED IN  
PLAN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_  
ATTEST \_\_\_\_\_ REGISTER



NO.	DESCRIPTION	DATE



**BOUNDARY SURVEY AND EXISTING CONDITIONS PLAN**

LOCATED AT  
178 HAROLD L. DOW HIGHWAY  
ELIOT, MAINE

TAX MAP 29, LOT 20

PREPARED FOR  
J & J'S PATHFINDER, LLC  
402 THE HILL, PORTSMOUTH, NH 03801

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

SCALE: 1" = 40'  
DATE: 06/10/2022  
JOB NO: C331-22

APPROVED BY: *[Signature]*

DRAWN BY: JSW  
REVISION DATE: - : -  
SHEET: 1 OF 1







PB22-21: 0 Bolt Hill Road (Map 17/Lot 29), PID #017-029-000: Village at Great Brook –  
Amendment to an Existing Subdivision Plan (43 lots)



# TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: Kenneth A. Wood, PE, Attar Engineering, Applicant’s Representative  
 Sandra L. Guay, Esq., Archipelago, Applicant’s Representative  
 Shelly Bishop, Code Enforcement Officer  
 Date: January 19, 2023 (report date)  
 January 24, 2023 (meeting date)  
 Re: PB22-21: 0 Bolt Hill Road (Map 17/Lot 29), PID #017-029-000: Village at Great Brook –  
 Amendment to an Existing Subdivision Plan (43 lots)

Application Details/Checklist Documentation	
Address	0 Bolt Hill Rd.
Map/Lot	17/29
PB Case#	22-21
Zoning District(s)	Commercial/Industrial
Shoreland Zoning District(s)	Limited Residential
Property Owner(s)	Village on Great Brook, LLC
Applicant Name(s)	Equity Alliance c/o Chad Fitton; Village on Great Brook, LLC; agents: Attar Engineering, Archipelago Law (legal counsel)
Proposed Project	Subdivision amendment
<b>Amendment application</b>	
✓ Application Received by Staff	October 17, 2022
✓ Application Fee Paid and Date	\$8,600 October 17, 2022
✓ Application Sent to Staff Reviewers	October 25, 2022
✓ Application Reviewed By PB	November 15 and December 13 (review postponed at applicant’s request), 2022; January 24, 2023 (scheduled)
Site Walk	TBD
Site Walk Publication	TBD

## Overview

Applicants seek an amendment to an approved 2007 subdivision plan for The Village at Great Brook (“2007 plan”). The subdivision is partially built out in a way that is not consistent with the 2007 plan. The amendment seeks a reduction in the number of dwelling units from 150 to 43. The amendment also seeks to eliminate the 2007 plan’s proposed assisted living/dementia care building and its associated dwelling units, dining facilities, and amenities, which were never built. The development is currently subject to a Stop Work Order issued by the Code Enforcement Officer. One of the changes

proposed is to relocate a portion of the main road, Village Dr., to address a setback issue for a unit now under construction.

The 1/9/23 applicant letter in the packet summarizes the history of project development.

**Right, title, and interest (33-106)**

Warranty deed previously included. See letter from applicant (dated 12/3/22, received by email 1/5/23) included in packet for more information.

**Dimensional requirements**

<b>Standard</b>	<b>Planner review</b>
Min. lot size and street frontage	Units are condominiums and not divided into their own lots. Overall, proposed division from 1 to 2 lots would meet 3 ac. min. lot size.
Setbacks: appropriate for location of subdivision and type of development/use contemplated [41-255]. 45-405 setbacks: 30' front/20' side/30' rear	Buildings have various setbacks from the road. Setback of 14 ft. shown, with road relocation, for 49 Village Dr. (Unit 19) to correct setback issue.
Max. non-vegetated footprint in shoreland zone: 20%	<b>Appears to be met</b> for Limited Residential portion.

**Subdivision streets (41-221(b)(2), Ch. 37)**

<b>Street design standards (37-70), considering 2007 waivers (relaxed from C/I District and Collector road standards)</b>	<b>Planner review</b>
Min. right-of-way: 50 ft.	2007 plan waiver. <b>Unclear if met</b> for length of Village Dr. from Bolt Hill Rd. to Route 236.
Min. width of traveled way: 20 ft.	2007 plan waiver. <b>Not met</b> for proposed gravel travelway from Pheasant Ln. to Route 236.
Min. width of shoulders: 3 ft.	2007 plan waiver. <b>Unclear if met</b> for proposed gravel travelway from Pheasant Ln. to Route 236.
Sidewalk width (if used): 8 ft.	No sidewalk built or proposed.
Min. grade: 0.5%	<b>Appears to be met.</b> See Plan & Profile sheets.
Max. grade: 8.0%	2007 plan waiver
Max. grade at intersections: 3%	<b>Appears to be met.</b>
Min. angle of street intersections: No minimum	2007 plan waiver
Min. centerline radius of curves: No minimum	2007 plan waiver
Min. tangent length b/t reverse curves: No minimum	2007 plan waiver
Roadway crown: 1/4" per ft. of lane width	<b>Shown on plans.</b> See Sheet 6. Unclear if built road has met this.
Min. curb radius at 90-degree intersections: No minimum	2007 plan waiver

Min. right-of-way radii at intersections: No minimum	2007 plan waiver
Cul-de-sac concentric radii: 30'/40'/65'/70'	<b>Unclear if met</b> on plans and built-out Pheasant Ln. cul-de-sac.
Cul-de-sac suitable snow storage	<b>Unclear if met</b> on plans and built-out Pheasant Ln. cul-de-sac. Review has included discussion of possible addition of boulders around cul-de-sac perimeter as a barrier between the travelway and center retention basin.
Min. cul-de-sac pavement width around the center island: 25 ft.	<b>Appears to be met on plans.</b> Unclear if met by built-out Pheasant Ln. cul-de-sac.
Sight distance	<b>Appears to be met.</b> No known documentation of sight distance issues at Bolt Hill Rd. intersection.

<b>C/I or Collector street construction standards (37-71)</b>	<b>Planner review</b>
Aggregate subbase course (max size stone 4"): 15" in depth Collector; 24" in depth C/I	<b>Unclear</b> if built-out portion of Village Dr. meets these standards. Proposed 16' gravel portion of Village Dr. <b>does not meet</b> pavement standards.
Crushed gravel base course (max size stones 2"): 6" in depth	
<i>Hot bituminous pavement</i>	
Total thickness: 3" Collector; 4" C/I	
Wearing/surface course: 1¼"	
Base course: 1¾" Collector; 2¾" C/I	

<b>Street/road side slope standards (37-74)</b>	<b>Planner review</b>
No steeper than 3:1 for non-ledge cuts	<b>Unclear if met.</b>

<b>Sidewalk construction standards (37-75)</b>	<b>Planner review</b>
	No sidewalk proposed.

41-221(b)(5) states that the PB “may require that a subdivider reserve sufficient land for future rights-of-way where a proposed subdivision abuts undeveloped property.” The PB should consider this requirement as pertains to a future R/W to undeveloped land to the northwest of the tract, off of the future Quail Ln. R/W, where there are uplands on a large tract that is otherwise mostly wetlands.

**Stormwater management and water quality (41-213, 45-411)**

Stormwater facilities/BMPs: bioretention cells, under-drained soil filters, swales, detention areas, wet ponds, gravel filters, wooded buffer areas

<b>Standard</b>	<b>Planner review</b>
“Surface water runoff shall be minimized and detained onsite if possible or practical.”	Per HydroCAD results and applicant’s 10/17/22 cover letter, for peak runoff in a 50-year storm:

	<ul style="list-style-type: none"> <li>• At Analysis Point 1 (AP1), NW of storage units: <b>2.66 cubic feet per second (cfs) increase</b></li> <li>• At AP2, <b>20.44 cfs reduction</b></li> </ul> <p>Stormwater Management Study notes that the AP1 change is a “negligible increase” that “will not have any adverse effects on downstream receiving waterbodies, structures or property”.</p>
“The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible.”	Plans show natural features, such as on-site wetlands, to be preserved.
Drainage easements	None apparent on plans
Soil statement	2001 High Intensity Soil Survey included in application package. Amendment does not propose significant new construction areas over and above existing buildout. Soil standards should be reviewed again for future applications.
Storage of materials	<b>Unclear if met</b> currently regarding outdoor storage of fuel, raw materials, products, other materials, and waste collection and disposal facilities being located on impervious surface with a suitable horizontal barrier.

The applicant will be required to enter into post-construction stormwater management agreement per Ch. 35 (applicable to all sites/common plans of development with >1 acre of disturbance). (See draft template below.) It is not clear that such an agreement was signed in the past, but it could be because the development is not, or has not been, in the MS4 Urbanized Area. Ch. 35 requirements used to only apply to the Urbanized Area but were amended in 2021 to be Town-wide.

The site is also under DEP’s jurisdiction for stormwater permitting. The DEP stormwater permitting documentation from 2007 was included in a previous packet. The site also received after-the-fact approval by DEP for modifications in March 2020. The site had previously been issued a violation by DEP for noncompliance with their permit, and remedial measures were required by DEP. DEP has been sent this application for their courtesy review, but as of this report the review is forthcoming.

**Erosion & sedimentation control**

Erosion & sedimentation control notes are on Sheet 6, as required by 41-150(10) and 41-214(c).

The application is subject to the Erosion and Sedimentation Control ordinance amendments (primarily new Ch. 34) enacted by voters on November 8. The Planning Board will need to review an Erosion & Sedimentation Control Plan for consistency with Ch. 34.

**Preservation of natural resources and scenic beauty (41-215)**

PB22-21: 0 Bolt Hill Road (Map 17/Lot 29), PID #017-029-000: Village at Great Brook – Amendment to an Existing Subdivision Plan (43 lots)

The 10/27/22 cover letter states: “Natural Features – All natural features to be preserved, mostly the on-site wetlands, are shown on the plans. Review letters from the Maine Department of Inland Fisheries and Wildlife and Maine Natural Areas Program are attached.”

The PB may wish to discuss with the applicant any additional requirements under 41-215 such as the planting of additional trees.

### **Preservation of historical and natural features and traditional land use pattern (41-216)**

No review comments at this time.

### **Water and sewer service (41-217 and -218)**

The 10/27/22 cover letter notes the reduction in expected water demand to 11,610 gallons per day (gpd) for 43 units compared to the 38,000 gpd originally approved. Water supply is from Kittery Water District. The cover letter also notes the private sanitary sewer connection to the Sea Dog Realty, LLC private sewer system, leading out to Bolt Hill Rd. The letter states: “The capacity has been previously approved by the Town of Eliot’s Board of Selectmen. Again, the 11,610 GPD used is less than the 40,000 GPD approved.”

### **Community services, utilities, and open space (41-220) and reservation of land (41-256)**

If needed, the PB may make review comments on the potential effects of the subdivision on the community services listed in 41-220(a). My preliminary review:

- Schools, including busing: no impact expected given anticipated no or few school-age children
- Road maintenance and snow removal: road to be privately-maintained, with private responsibilities for snow removal
- Police and fire protection: plan has been shared with Police and Fire Depts. for their review
- Recreation facilities: recreational facilities approved in 2007 plan were never built and have been omitted from the current plans.
- Solid waste disposal: 10/27/22 cover letter states that “Solid waste disposal is currently provided curbside by Dorado Services, 406 Dow Highway, Eliot, Maine.”
- Runoff: see above regarding stormwater

Regarding open space, the built-out portion of the subdivision and plans show the preservation of delineated wetlands.

The PB may require reservation of land for parks/recreational purposes (41-256). Such land “shall be of a character, configuration and location suitable for the particular use intended.” In this development, since there is no such land reserved and previously-approved amenities have been omitted from buildout, I suggest the PB consider this requirement.

### **Traffic and streets (41-221)**

The 10/27/22 cover letter notes that the “43 units are expected to generate 160 trips/day, substantially less than a single-family residential development which generates 10 trips/day/dwelling or a total 430 trips/day. The main access is on Bolt Hill Rd. and vehicles travel either to Dow Highway, Route 236 or State Rd. No adverse traffic impacts will be generated by the development. A secondary, emergency

access road is available from Dow Highway, Route 236 as shown on the plan.”

Beyond the above statement, the application does not include a traffic impact assessment. However, the reduction in units can be expected to substantially reduce trips generated by the site compared to the current, 2007 plan’s 150 units. This is not in a residential growth area as designated by the 2009 Comprehensive Plan, so a sidewalk is an optional feature per 41-221(a)(4). However, the subsequent subparagraphs speak to safe internal circulation for both vehicles and pedestrians and may warrant additional consideration for this review, such as separation of vehicular and pedestrian traffic.

**Public health and safety (41-222)**

This section includes glare and noise standards. A “green strip at least 30 feet wide or other buffer” may be a relevant noise mitigation requirement given that the applicant proposes to eliminate the remaining housing areas, retaining land that could in the future be developed according to the zoning.

**Soil suitability/soils report**

A high-intensity soil report done in 2001 is included in the packet. The site has been noted as having substantial wetlands, some of which were altered via a DEP/US Army Corps permit to build the development. The 2001 report found hydric soils in 3 locations. The subdivision amendment eliminates the question of soil suitability for the units that were to be built but are now omitted.

**Performance guarantee (41-176; 33-132)**

A performance guarantee is typically required for subdivisions. In this case, the subdivision roads have been partially built out. The 10/27/22 cover letter states: “The current owners have demonstrated financial capacity throughout completion of the project; most of the construction has been completed and no additional surety or “guarantee” is proposed”.

The PB may wish to consider what type of guarantee, if any, may be warranted given the context and circumstances of this subdivision (seeking after-the-fact approval of a buildout inconsistent with the approved plan). Note the letter from VGB residents asking for a performance guarantee.

**Recommendation**

Continue review until February to allow the applicant submit an updated application and plan set to address outstanding performance standards mentioned in this report, address review comments by PB members, and address public input pertinent to the standards.

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

**Maintenance Agreement for Stormwater Management Facilities  
(REVIEW DRAFT)**

This Maintenance Agreement is made this \_\_\_ day of \_\_\_\_\_ 20\_\_\_ by and between \_\_\_\_\_ and the Town of Eliot, Maine.

The project name is: Village at Great Brook Subdivision [PB# TBD].

The location is: 0 Bolt Hill Rd., Eliot, Maine.

The project's Tax Map and Lot Number is Map 17, Lot 29.

The project is shown on a plan entitled " \_\_\_\_\_ " dated \_\_\_\_\_ and most recently revised on \_\_\_\_\_, approved by the \_\_\_\_\_ [Municipal Permitting Board] on \_\_\_\_\_ and recorded in the \_\_\_\_\_ County Registry of Deeds in Plan Book \_\_\_\_\_ Page \_\_\_\_\_ (the "Project").

WHEREAS, the approval of the Project includes Stormwater Management Facilities which require periodic maintenance; and,

WHEREAS, in consideration of the approval of the Project the Town of Eliot requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town and the agreement of \_\_\_\_\_ to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. \_\_\_\_\_, for itself, and its successors and assigns, agrees to the following:
  - a. To use a Qualified Post-Construction Storm Water Inspector to inspect the Stormwater Management Facilities; and to clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, at least annually, to prevent the build-up and storage of sediment and debris in the system as described in the Post-Construction Maintenance Plan for the facilities;
  - b. To provide a certification of inspection to the Town by July 1 each year. The Qualified Post-Construction Storm Water Inspector's inspection report must be provided along with the certification; and,
  - c. To repair any deficiencies in the Stormwater Management Facilities noted during the annual inspection and provide notice to the Town of the repairs within 60 days of identification or within a schedule approved by the Code Enforcement Officer; and,
  - d. To create a homeowners' association [or similar] for the purpose of maintaining the Stormwater Management Facilities.

2. Upon creation of the homeowners' association [or similar], the homeowners' association [or similar] shall become responsible for compliance with the terms of this Agreement.
3. This Agreement shall constitute a covenant running with the land, and \_\_\_\_\_ shall reference this Agreement in all deeds to lots and/or units within the Project.

_____ Witness	By: _____ Its: _____  TOWN OF ELIOT, MAINE
_____ Witness	By: _____ Its: _____
STATE OF MAINE _____, ss.	_____, 20__

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

	Before me, _____ Notary Public/Attorney at Law
Print Name:	_____
STATE OF MAINE _____, ss.	_____, 20__

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of the Town of \_\_\_\_\_, and acknowledged the foregoing Agreement to be said his/her free act and deed in said capacity.

	Before me, _____ Notary Public/Attorney at Law
Print Name:	_____

From Residents at the Village at Great Brook

January 13, 2023

Mr. Mike Sullivan, Town Manager  
Mr. Jeffery Brubaker, Town Planner  
The Eliot Select Board  
The Eliot Planning Board  
1333 State Road  
Eliot, Maine 03903



RE: Residents Concerns with Recommended Amendments to the Village at Great Brook (VGB) Subdivision

Dear Mr. Brubaker, Mr. Sullivan, Select Board Members and Planning Board Members:

The Residents of the Village at Great Brook have critical concerns regarding the letter from Attar Engineering, dated October 17, 2022.

Our primary concern is the request by the Declarant to **“not”** have a Performance Bond levied on them when the new and amended subdivision plan is approved. We request that the Town ask for a Performance Bond before the new and amended subdivision plan is approved by the Town of Eliot as per 41-176:33-132. We would like to remind you of the petition that we submitted to you that was signed by all the residents requesting a **Full Site Plan Review** which includes phases 1,2,3,4, and 5.

Item 20) Financing: We disagree with this line item. The current owners have not demonstrated financial capacity throughout as evidenced by the 7 liens filed against The Village on Great Brook LLC, The Village at Great Brook LLC, and the Village at Great Brook Unit Owners Association as reported on the York County, Maine Registry of Deeds Website. Please see attached. We request the town impose a “guarantee” to protect VGB residents.

Much of the common area construction has not been completed. All the current roads (the largest expense) were not built to Town Standards according to the bore hole samples. The roads in all phases need a top coat, all driveways need paving, and many driveways need repair. Landscaping and erosion control for

Phase 3 is subpar when compared to Phases 1 and 2. The development overall in each phase does not look finished and doesn't reflect the approximate \$16M that residents paid to live here. Please see details under the "Other" title on page 3.

We need the Performance Bond for assurance that all will be complete before the Declarant leaves. The fourth unit – 26 Pheasant Lane (yet to be built) which would be the final unit that the Town could withhold the Certificate of Occupancy on, may never get built. Once the lot split is approved, the land will be much more attractive to buyers and could sell quickly. And when the last 3 units are sold, there is nothing to assure the residents that we'll be taken care of without a Performance Bond.

We understand that completion of punchlists and warranty items do not fall under your control for a Performance Bond, but the fact that work remains undone after all this time (6 ½ years since the first home was built), speaks to the poor performance of this Declarant and the lack of trust and confidence residents have that other work will be done without a performance bond in place to cover the entire community.

While this has been a difficult project for all concerned, the residents at the Village at Great Brook continue to be misled, and the Declarant continues to ask for forgiveness for poor performance and management. The Declarant has indicated his desire to exit this project leaving only about \$20K in the reserve account after six and a half years of development and profit. That is woefully inadequate to cover all that needs to be done for general maintenance in the common areas, outside the structural integrity of each home, and would not even closely cover catastrophic issues with critical infrastructure in the common areas of this community. Most of the residents are retired and on a limited fixed income in this 55+ community and cannot endure the potential financial burden we could be saddled with in the near future. We need a Performance Bond to help protect our interests and to ensure this community is fully completed.

Following are other Items from Attar's letter we have concerns with:

Item 7) Storm Water Management: It is our understanding that the Developer and later the elected HOA members must self-certify every year by submitting a report from a licensed storm water inspector. We would like to see those reports.

Item 8) Erosion Control: more work needs to be done on hills, around some homes and patios, and around swale tubes.

Item 16) Traffic Safety: We were told by Attar at a meeting they held for the VGB residents that the secondary, emergency access road would be gravel and have a gate at each end with a lock box. We want to be assured that the access road has an appropriate gate. A lock box may not be in the best interest of residents. We also want to be sure it is gravel road and not just dirt so there's not a problem with getting stuck in mud and plowing companies struggling to plow the road. The Right-of-Way on this access road should remain intact for the Residents of the Village at Great Brook as depicted in the original plan.

Item 18) Permits: Ponds 6 and 7 do not appear to be working as we were told they would. Pond 7 was not even depicted in the original approved 2007 plan. We would like a certified written and notarized report that says all ponds are functioning as they should, including the pond near 57 Village Drive.

#### Other

We requested boulders and trees to be put around pond 6 for safety and aesthetics. The declarant asked residents to design it, and we did, but then he didn't incorporate it into the plan being reviewed by the Town.

We requested that more soil be brought in to be placed around some of the homes where it is unsafe to walk around due to limited level land before a very steep drop off. The declarant said, there is plenty of soil out back, but nothing was brought in. This is a significant safety issue for the residents in the Village at Great Brook.

There have been multiple issues concerning flooding in yards and basements that have not been resolved.

The Declarant was asked how long the cones on Pheasant Lane need to remain in place and the response was "When whatever they are protecting is no longer required." The cones are all around Pheasant Lane, making us feel like we are still in a construction zone after years. What will change? How will residents be protected without orange cones forever marring the landscape?

In addition, plastic retaining fences have not been removed after years. There is still a temporary electric station set up. There is a place marked off with stakes and ribbon that we were told is a "gas blow off". We can't get a straight answer about that. The gas company doesn't know anything about it. There is a picture of that label on a pipe during construction. We are worried about the potential danger to our neighborhood.

Again, while these other items may not fall under your umbrella, they speak to the fact that this neighborhood does not look complete and final steps have not been taken by the developer to provide a finished project. There are lots of trees that have been knocked over/fallen down that are an eye sore. There are other trees that are a potential hazzard to homes. There are also many huge stumps that should not be left behind. Some grass plantings are poorly established. The access road has furniture and and appliances dumped there. There are large hills and mounds. We would like to see the land returned to some sense of normalicy.

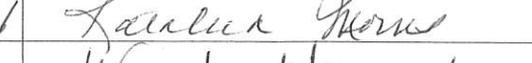
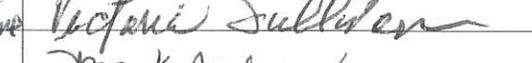
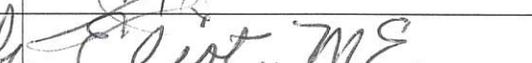
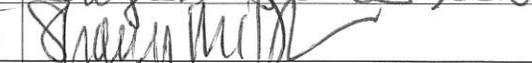
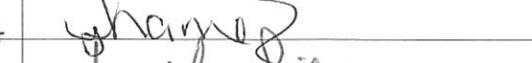
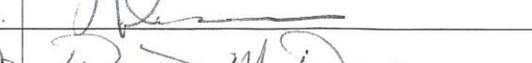
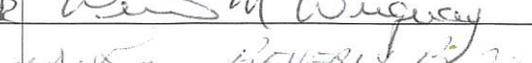
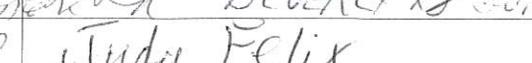
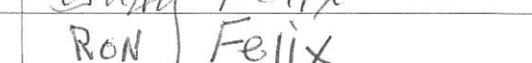
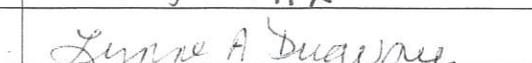
Thank you for your time and consideration.

The Residents of The Village at Great Brook

(Signatures on next page)

## Residents of The Village at Great Brook

By signing below (or sending an email if out of state), I acknowledge that I have read the four page letter dated January 13, 2023, addressed to Mr. Brubaker, Mr. Sullivan, and Select Board Members, and Planning Board Members and that I agree with what is written.

Name	Address	Signature
Tania Pulikowski	8 Pheasant Ln	
Jeanne DeFlorio	45 Pheasant Ln	
Carol Castellon	5 Abenaki Trl	
Kathleen Morais	7 Abenaki Trl	
Wendy Haupt	16 Pheasant	
Victoria Sullivan	2 Pheasant Lane	
Mark Andrew	9 Pheasant Lane	
Lynne Elliott	4 Pheasant Ln.	
JAYON JASKY	4 Pheasant Ln.	
Patty Brown	64 Village Dr	
Phyllis Pomeroy	362 Village Dr	
Sherry McDermitt	39 Village Drive	
John Hout	40 Village Dr	
Michelle Hent	40 Village Dr	
Victoria L. Davis	43 Pheasant Ln	
June Hamel	27 Pheasant	
Joe Silva	57 Village Dr	
David Cannan	55 Village Dr.	
Wendy Dugway	37 VILLAGE DR	
Beverly B. Squarrena	3 Sagamore	
Judy Felix	4 Sagamore	
Ron Felix	45 Acadmore Ln	
Lynne Dugway	37 Village Dr.	

SAM SQUIGLEY	14 PHEASANT	Gene J. J...
Anthony J Khouri	3 AGENAKI TRAIL	Cathy Khouri
Michelle Khouri	3 AGENAKI TRAIL	Michelle Khouri
Shirley Bruno	1 AGENAKI TRAIL	Shirley Bruno
Eileen A Messier	34 Village Dr.	Eileen A. Messier
Carol A. Quigley	14 Pheasant Ln	Carol A. Quigley
Carol DeRoche	32 Village Dr	Carol DeRoche
Jim DeRoche	32 Village Dr.	Jim DeRoche
STAN DABROWSKI	36 VILLAGE DR.	Stan Dabrowski
Elizabeth Antonellis	38 Village Dr	Elizabeth Antonellis
Kathy D. Roberts	25 Pheasant Lane	Kathy D. Roberts
Fred M Roberts Jr	25 PHEASANT LN	FRED M ROBERTS JR
Mark M Greeny	10 Pheasant Ln	MARK M GREENY
M. S. H.	57 VILLAGE DR	Margie Sina
Sandra Cannan	55 Village Dr	Sandra Cannan
Paul J. Wells	38 Village Dr	Paul J. Wells
W. Martin	1 Sagamore Lane	
J. Boardman	2 Sagamore Ln	
42 CM Jones	36 Pheasant	Connie Jones
Deborah Parent	34 Pheasant	Deborah Parent
44 Janus Parent	34 Pheasant	Janus Parent
45 Suzanne Sheppard	7 Pheasant Ln.	Suzanne Sheppard

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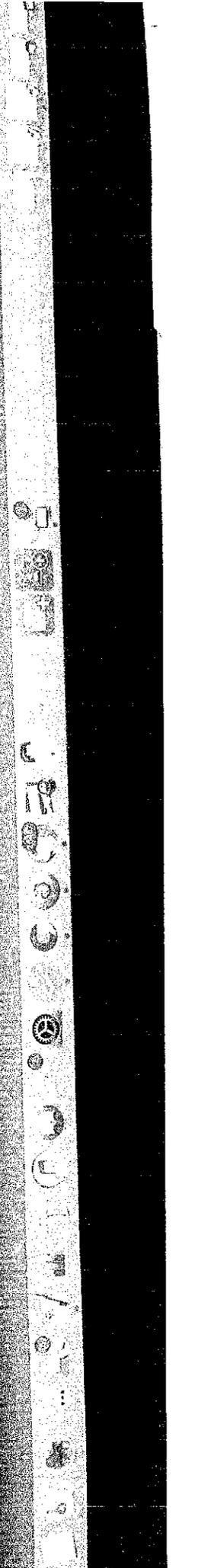
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Property	Opposite Party	Type	Book-Page	Date	Town
LLAGE ON GREAT BROOK LLC	EJ PAVING COMPANY INC	LIEN	18105-608	11/22/2019	ELIOT
ILLAGE ON GREAT BROOK LLC	BELLETTES INC	LIEN	18133-455	12/26/2019	ELIOT
VILLAGE ON GREAT BROOK LLC	SPRING HILL SITE DEVELOPMENT LLC	LIEN	18191-320	03/10/2020	ELIOT
VILLAGE ON GREAT BROOK LLC	YORK WOODS TREE & PRODUCTS LLC	LIEN	18198-686	03/19/2020	ELIOT
VILLAGE ON GREAT BROOK LLC	HISSONG READY-MIX & AGGREGATES LLC	LIEN	18225-120	04/22/2020	ELIOT
VILLAGE ON GREAT BROOK LLC	STURGEON CREEK ENTERPRISES LLC	LIEN	18753-262	07/30/2021	ELIOT

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Value	VILLAGE ON GREAT BROOK*
	LIEN





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I	Party	Opposite Party	Type	Book Page	Date
1	VILLAGE AT GREAT BROOK L L C	STURGEON CREEK ENTERPRISES L L C	LIEN	17419-158	07/30/2011
1	VILLAGE AT GREAT BROOK UNIT OWNERS ASSN	STURGEON CREEK ENTERPRISES L L C	LIEN	17419-158	02/10/2017

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Issue	Value
VILLAGE AT GREAT BROOK*	
LIEN	
Than or Equal To	07/01/2016
Page	12/24/2022



**From:** [Planner](#)  
**To:** [Kim Tackett](#)  
**Subject:** FW: Village at Great Brook Amended Subdivision Application  
**Date:** Thursday, January 19, 2023 1:32:07 PM

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Kim,

Can you include the below email conversation in the Village at Great Brook item for the PB packet?

Thank you,  
Jeff

Jeff Brubaker, AICP  
(207) 439-1817 x112

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**From:** Philip Saucier <[psaucier@bernsteinshur.com](mailto:psaucier@bernsteinshur.com)>  
**Sent:** Thursday, January 19, 2023 1:29 PM  
**To:** Planner <[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)>  
**Subject:** RE: Village at Great Brook Amended Subdivision Application

Hi Jeff,

I hope all is well. I have had a chance to review your question about the applicability of the fee provision related to certain subdivision amendments. In my view there is some ambiguity and inconsistency in the Ordinance.

The recent Maine Supreme Judicial Court's opinion in *Zappia v. Town of Old Orchard Beach* is particularly helpful in outlining the standards for interpreting the provisions in an ordinance or Charter:

“The meaning of terms or expressions in zoning ordinances is a question of statutory construction ....” When a term in an ordinance is “ambiguous or uncertain, the court's construction of that term should be guided by the context in which the term appears” and the ordinance should be considered “as a whole.” *Id.* “All words in [an ordinance] are to be given meaning, and none are to be treated as surplusage if they can be reasonably construed.” “While undefined terms should be given their common and generally accepted meanings unless the context requires otherwise, terms which control and limit the use of real estate must be given a strict construction.”

*Zappia v. Town of Old Orchard Beach*, 2022 ME 15, ¶ 10, 271 A.3d 753, 756 (internal citations deleted).

The *Zappia* case was an appeal from a decision of the CEO and ZBA denying the Plaintiff's building permit application to place an accessory structure in her front yard. The dispute was whether accessory structures were prohibited from being placed anywhere in the front yard (Section 78-1381(a) reads "No garage, swimming pool or other accessory building shall be located in a required front yard") or only within the portion of the front yard required to meet the fifty-foot front yard setback for all structures. In overturning the decision of the CEO, the Court held that when reading an Ordinance is read as a whole, another provision in the Ordinance for a different zoning district had a provision for front yard setbacks for accessory structures that simply read "Not permitted." Thus, the Court held that this shows that the drafters of the Ordinance knew how to prohibit an accessory structure from being anywhere in a property's front yard and found that the term "required front yard" in the previous provision thus meant such structures were not permitted within the front yard setback, not that they were prohibited in the front yard at all.

In this case Section 41-182 contains two provisions. Subsection (a) prohibits any subdivider from making "any changes, erasures, modifications or revisions in any final plan after approval has been given by the planning board and endorsed in writing on the plan" and reads like an enforcement provision. Subsection (b) requires any person from "making any re-subdivision or other changes, modifications or revisions in a final plan or lots contained in a final plan shall obtain planning board approval" – and reads like a process provision. Only subsection (b) contains reference to the fee schedule, since it relates to applications to the planning board, and it does not include the word "erasure." But it would not be reasonable to read Section 41-182 as somehow not requiring planning board approval for erasures, since subsection (a) specifically makes it a violation to make any erasure without planning board approval. And it also does not seem reasonable that an application for an amendment related to erasures, which are a form of modification, would not require a fee – but technically that is how the ordinance reads. This should be clarified in a future amendment.

It does not seem reasonable, however, that the application fee for a 150-unit subdivision would be the same for an amendment that would result in 43 units. I would be happy to talk about this further in a phone call if you have a few moments.

Take care,  
Phil

**Philip Saucier**  
Shareholder  
Municipal & Governmental Services Practice Group Leader

207 228-7160 direct  
207 774-1200 main  
207 774-1127 fax  
[My Bio](#) | [LinkedIn](#) | [Twitter](#)

## **BERNSTEINSHUR**

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**From:** Planner <[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)>

**Sent:** Monday, January 9, 2023 8:39 AM

**To:** Philip Saucier <[psaucier@bernsteinshur.com](mailto:psaucier@bernsteinshur.com)>

**Subject:** FW: Village at Great Brook Amended Subdivision Application

### EXTERNAL EMAIL

Good morning Phil,

Can you review the below correspondence between Attorney Guay and me regarding the appropriate Planning Board fee to be paid by Villages at Great Brook for their subdivision amendment application?

The question hinges on whether the elimination of dwelling units or lots constitutes a “revision”, subject to the \$200 per lot/DU fee prescribed in Section 1-25 of the Town Code. In summary, the approved 2007 subdivision plan had 150 units, and the current application (which seeks after-the-fact approval for what has mostly been built out already, inconsistent with the 2007 plan), seeks approval for a reduction to 43 units. Attar Engineering, the applicant’s consultant, has already paid a fee of \$8600 (43 x \$200). I argued in the attached correspondence that a literal interpretation of Section 1-25 entails a higher fee. However, after corresponding further with Attorney Guay, I can see both sides and now feel inclined to take a neutral approach.

I am hoping your advice could shed some more light on this question for the PB. If possible, a response by next Thursday, 1/19, would be appreciated.

Thank you,  
Jeff

Jeff Brubaker, AICP  
(207) 439-1813 x112

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**From:** Sandra Guay <[sguay@archipelagona.com](mailto:sguay@archipelagona.com)>

**Sent:** Friday, January 6, 2023 1:36 PM

**To:** Planner <[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)>

**Subject:** Re: Village at Great Brook Amended Subdivision Application

Hi Jeff - I understand that you are referencing the fee table, where it says “Revisions to final

subdivision plans after approval (Sec. 41-182). It then says “\$200.00 per lot or dwelling unit affected by change.”

The table specifically references Sec. 41-182. Subpart (b) of Sec. 41-182 specifically excludes removed lots or dwelling units from the type of change that is required to pay the fee. To read these two sections together in any other way would make subpart (b) meaningless, and all provisions in the ordinance are presumed to have meaning. In other words, you can't read one section of the ordinance in a way that makes another to have no meaning.

Jeff, with great respect to both you and the Planning Board, this is a matter of law and not a question for the Planning Board to decide on an ad hoc, arbitrary basis. I would very much appreciate it if you would reach out to Phil Saucier to discuss this, rather than submit this question to the Board.

Thank you and once again, I am happy to discuss this with you or with Phil.

Please do put the letter in the 1/24 Planning Board packet.

Sandy

**Sandra L. Guay**, Partner  
Archipelago  
One Dana Street  
Portland, ME 04101  
Ph: 207.558-0102  
Fx: 207.536-0080  
[sguay@archipelagolaw.com](mailto:sguay@archipelagolaw.com)  
<https://archipelagona.com/>



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**From:** Jeff Brubaker <[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)>  
**Date:** Thursday, January 5, 2023 at 2:42 PM  
**To:** Sandra Guay <[sguay@archipelagona.com](mailto:sguay@archipelagona.com)>  
**Subject:** RE: Village at Great Brook Amended Subdivision Application

Thank you, Sandy. Letter received. Can I include both the letter and this correspondence in the 1/24 packet?

I can confirm our conversation about the fee. I still stand by my earlier correspondence on the fee amount. A literal interpretation of Section 1-25 means that \$200 should be assessed for any “lot or dwelling unit affected by [the] change”. An eliminated dwelling unit is an affected dwelling unit. Despite 41-182(b) omitting the word “erasures”, the elimination of dwelling units can reasonably be deemed “changes, modifications or revisions”. However, I understand Ken’s and your arguments from a practical perspective. A Planning Board fee is meant to cover staff costs of review, and the elimination of units arguably reduces staff review time. Therefore, I don’t think there is one “right” fee amount here. Obviously, VGB has already paid \$8,600. VGB and the PB have seen my earlier correspondence. The PB can consider VGB’s perspective. I will neither agree nor disagree, but will defer to the PB if they believe any additional fee amount should be paid.

Jeff

Jeff Brubaker, AICP  
(207) 439-1813 x112

---

**From:** Sandra Guay <[sguay@archipelagona.com](mailto:sguay@archipelagona.com)>  
**Sent:** Thursday, January 5, 2023 1:34 PM  
**To:** Planner <[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)>  
**Subject:** Village at Great Brook Amended Subdivision Application

Good afternoon Jeff:

Attached is a letter to the Planning Board supplementing the previously submitted The Village at Great Brook, Amended Subdivision application with the inclusion of the information required under Section 33-106 (Right, title, and interest) of the Ordinance.

Also, I would like to confirm the conversation we had a week or so ago about the application fee. As discussed, the section of the ordinance that covers plan revisions (Sec. 41-182; reprinted below) distinguishes between amendments that remove units in subdivisions from amendments that add additional new units. Read together, all revisions need planning board approval, but amendments that proposed “erasures” are not subject to the fees. As also discussed, this makes sense as the Town collects fees upon the initial application, meaning, it has already been paid a fee for the lots that are to be erased from the plan. Please confirm that we are in agreement on this issue or let me know if you would like to discuss this further.

Thank you – Sandy

**Sec. 41-182. - Plan revisions after approval.**



(a) The sub-divider shall not make any **changes, erasures, modifications** or revisions in any final plan after approval has been given by the planning board and endorsed in writing on the plan, **unless that sub-divider first resubmits the plan and the planning board approves any modifications**. If a sub-divider records a final plan without complying with this requirement, the same shall be considered null and void, and the code enforcement officer shall institute proceedings to have the plan stricken from the records of the municipal officers and the registry of deeds.

(b) Any person making any **re-subdivision or other changes, modifications or revisions** in a final plan or lots contained in a final plan shall obtain planning board approval. The planning board may review and act upon such changes by application or by subdivision review. Upon completion of the project and at the applicant's expense all work must be inspected and approved by the town or town's technical consultant and a set of as-built plans submitted to the planning office in hard copy and electronic format in accordance with [section 41-179](#). **The fee for review shall be in the amount established by the master fee schedule.**

**Sandra L. Guay, Partner**  
Archipelago  
One Dana Street  
Portland, ME 04101  
Ph: 207.558-0102  
Fx: 207.536-0080  
[sguay@archipelagolaw.com](mailto:sguay@archipelagolaw.com)  
<https://archipelagona.com/>



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Sandra L. Guay  
Partner  
sguay@archipelagolaw.com

1 Dana Street  
Portland, Maine 04101  
(207) 558-0102

December 3, 2022

*Via Email*

Eliot Planning Board  
Attn: Jeff Brubaker, Town Planner  
Town of Eliot  
1333 State Road  
Eliot, ME 03903  
[jbrubaker@eliotme.org](mailto:jbrubaker@eliotme.org)

Re: Amendment to and Existing Subdivision Plan for The Village at Great Brook

Dear Planning Board Members:

This information is provided in furtherance of the pending application for an Amendment to and Existing Subdivision Plan for The Village at Great Brook and specifically addresses Section 33-106, Right, title and Interest:

**Sec. 33-106. - Right, title, and interest.**

The applicant shall submit, with the sketch plan application, documents and information sufficient to show that, if their application is approved, they have right, title, and interest to construct the development as approved, in compliance with this Code and any other applicable laws. As applicable, such documentation shall include, but shall not necessarily be limited to:

- (1) A deed, recorded in the county registry of deeds, conveying the property to the current property owner (required);

**RESPONSE:** This item was submitted with the Application.

- (2) A purchase and sale agreement, or similar purchase option, valid for at least 90 days from the date of receipt of the application, between the property owner and the applicant, or the applicant's lessor;

**RESPONSE:** N/A

## ARCHIPELAGO

Eliot Planning Board  
January 5, 2023  
Page 2 of 3

- (3) A lease or rental agreement, or a lease option valid for at least 90 days from the date of receipt of the application, between the property owner and the applicant;

**RESPONSE:** N/A

- (4) Any easement or right-of-way agreements applicable to the development;

**RESPONSE:** N/A

- (5) If any corporations are involved (for example S, C, and non-profit corporations; limited liability companies; sole proprietorships; and partnerships), a complete list of all directors, officers and stockholders owning more than five percent of any class of stock in each corporation;

**RESPONSE:** Village on Great Brook, LLC Members: Chad Fitton, Mike Murray, Vlad Harris, John O'Conner, Vicki Blumberg and Mary Ann Meyer

- (6) If requested by the planning board, a chart summarizing ownership or lease agreements and connections between individuals and business entities involved;

**RESPONSE:** There are no such agreements to be summarized.

- (7) Similar documentation as listed above.

**RESPONSE:** N/A

If the applicant will have an authorized agent representing them for planning board review and permitting, the applicant shall provide an agent authorization letter (or similar document) with the agent's contact information.

**RESPONSE:** Authorization is included in Application.

Lastly, at the November 15, 2022 PB meeting, Acting Chair Jeffrey Leathe requested historical information about the ownership and management of the Village at Great Brook subdivision. To the extent that this information assists the Planning Board at obtaining a better understanding of the current efforts by the Village at Great Brook, LLC to address the concerns of the Code Enforcement Officer and amend the prior 2007 subdivision approval, the applicant shall be providing historical information through its consultant, Ken Wood at ATTAR Engineering, prior to the January 24, 2023 meeting.

## ARCHIPELAGO

Eliot Planning Board  
January 5, 2023  
Page 3 of 3

As a general comment however, to the extent that there had been issues left unaddressed by prior ownership and management, it must be pointed out that Village at Great Brook, LLC, and in particular, Chad Fitton, has in past five years since taking over the project: hired a new on-site property manager to whom homeowners have unimpeded access; together with LLC Member Mike Murray, has spent approximately \$4.4 million making onsite and dwelling improvements; for each of the past six months has been meeting with a group of 5 homeowners in a continuing effort to address homeowner concerns; has authorized his consultants to hold a neighborhood meeting to address subdivision concerns; and, has been working with the Town to amend the subdivision plan so that the setback violation cited by the Code Enforcement Officer can be addressed. This ongoing work is being accomplished despite the fact that between the delays caused by COVID and the Stop Work Order in August 2022, the project has been shut down for nearly eight months.

It must also be mentioned that between 2015 and August of 2021, when the last dwelling conveyance occurred, the Town of Eliot issued 39 building permits and occupancy permits as the project was built out, without any citations for code or building violations. It was not until an occupancy permit was sought for the 40<sup>th</sup> unit that the current Code Enforcement Officer issued a Notice of Violation and as noted, the Village at Great Brook, LLC has been communicating with the Code Enforcement Officer and the Planner on a continual basis since receipt of that NOV to correct the violation.

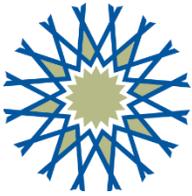
We appreciate the Planning Board's consideration of the Village at Great Brook, LLC's amended subdivision application and look forward to working with the Board toward the finalization of this project, at the January 24, 2023 meeting.

Very Truly Yours,



SANDRA L. GUAY

SLG/lb  
Copy to:  
Chad Fitton  
Ken Wood



# ATTAR

ENGINEERING, INC

CIVIL ♦ STRUCTURAL ♦ MARINE

Jeffery Brubaker, AICP, Town Planner  
Planning Board Members  
Town of Eliot, Maine  
1333 State Road  
Eliot, Maine 03903

January 9, 2023  
Project No. C173-23

**RE: Amendment to an Existing Subdivision Plan  
The Village at Great Brook (Tax Map 17, Lot 29)  
Bolt Hill Road, Eliot, Maine**

Dear Mr. Brubaker & Board Members:

As requested, I have summarized a brief history of the Villages On Great Brook

Attar Engineering, Inc. initially started work on this project in 2005 for William Cullen and Sandy Roberts; the parcel was owned by Ted Long. The design included 100 Independent Living dwelling units in a mix of singles, duplexes, triplexes and fourplexes and 50 Assisted Living/Memory Care units in a single large building. The plan met the Life Care facility definition of Eliot's Zoning Ordinance. Site/Subdivision Plan approval was received on April 18, 2007 (the application was filed on February 7, 2006). Additionally, a Site Location of Development permit was received from the Maine Department of Environmental Protection on February 21, 2007 (application was filed on July 31, 2002). We also received a wetlands permit from the U.S. Army Corps of Engineers on October 3, 2006. The development is served by the Kittery Water District and the Kittery Sewer Department through a connection agreement with Sea Dog Realty (executed on June 7, 2007) for the private portion of the system along Bolt Hill Road which discharges to the municipal system at the top of the hill. Bill Cullen commenced construction in the summer of 2007 and constructed the access road, wetland and stream crossings and installed some utilities – the construction ended after the stream crossing (approximately where the sewer pump station is located).

Several years later, in 2015, the initial 18 units with their respective roads and utilities were constructed by Blair Hodge of Hodge & Company – Attar Engineering had minimal involvement with this stage of the project. These units differed from the original design and approved plan; however, Blair applied for and received building and occupancy permits from the Town.

In September 2018, the Village At Great Brook, LLC took over the management of the project and has been responsible for all of the construction of remaining 43 units, roads and utilities. Chad Fitton and Mike Murray had been two of Hodge & Company's initial investors; Blair Hodge had developed some health issues and these investors decided to continue with the development under their leadership. Chad and Mike have invested over \$4.4 mill in the project and managed it for over five years; neither one of them wanted to leave the residents with an incomplete project with Blair's departure. Attar Engineering applied for a Minor Revision with Maine DEP for the PH I, II and III modifications on August 23, 2019 and received approval on March 15, 2022. This approval reflected all substantive changes to the 2007 approved plans, as determined by MDEP in a pre-application meeting with the applicant. The Town of Eliot's

1284 State Road, Eliot, ME 03903 ♦ tel (207) 439-6023 ♦ fax (207) 439-2128

Code Enforcement Office also refrained from issuing any building permits on the units noted in the Minor Revision Application until the application was approved and the permit issued.

Attar Engineering has been working closely with Chad, his project manager, Joel Kahn and their project team. During construction we have also been involved in site visits with representatives of the Army Corps, The Maine DEP and Town Staff and their 3<sup>rd</sup> Party Stormwater Engineer – I believe any issues resulting from these observations have been resolved.

We look forward to further discussion with the board at their next available meeting.

Thank you for the consideration.

Sincerely;

*Kenneth A. Wood*

Kenneth A. Wood, P.E.  
President