

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: REGULAR
PLACE: ELIOT TOWN HALL - 1333 STATE RD.

DATE: Tuesday, December 18, 2018
TIME: 7:00 P.M.

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

- 1) ROLL CALL
- 2) PLEDGE OF ALLEGIANCE
- 3) MOMENT OF SILENCE
- 4) 10-MINUTE PUBLIC INPUT SESSION
- 5) OLD BUSINESS
 - a) Development of Town Marijuana Ordinances
- 6) NEW BUSINESS
 - a) Storm Water Awareness Review
 - b) Planning Board Submission Deadlines for 2019
- 7) REVIEW AND APPROVE MINUTES
 - a) December 4, 2018
- 8) CORRESPONDENCE
- 9) UPDATES
- 10) SET AGENDA AND DATE FOR NEXT MEETNG
- 11) ADJOURN


Dennis Lentz, Chair



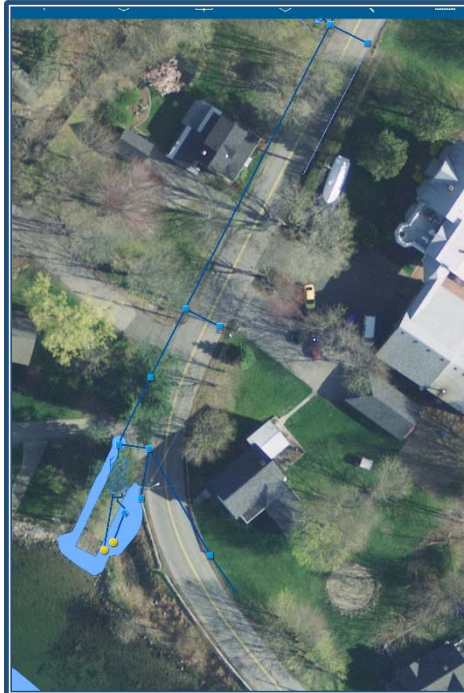
POSTED

12/11/18

Town of Eliot, Maine Stormwater Awareness Fact Sheet for Municipal Staff and Officials



This is a snapshot of the mapping program installed on the IPAD in use by Public Works to inspect stormwater infrastructure in town. The IPAD and program are also used for the sanitary sewer system. The stormwater infrastructure shown is of the Pleasant Street Phase I Infrastructure installed in 2016. A subsurface retention system similar to a leachfield was installed to promote infiltration, which lowers the temperature of runoff during hot weather, and sediments and litter before discharge into the Piscataqua River.



The Town of Eliot is regulated for its Separated Stormwater Discharges by a Clean Water Act Permit

This Fact Sheet was designed to inform Town Staff and Elected Officials about the Permit

About this Fact Sheet

This fact sheet is being provided to help fulfill a requirement of a Clean Water Act Permit to which the Town is subject. The Permit is called the General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (hereafter referred to as the MS4 General Permit or the Permit). It was issued by the Maine Department of Environmental Protection, and is effective from July 1, 2013 to June 30, 2018. Though the Permit was supposed to expire at the end of June, the DEP extended the Permit until they can issue a new one.

The Town has been reviewing drafts of the Permit and working with other regulated towns to comment on the content to help minimize impacts to the Town's budget.

**Last Revised
November 2018**

Why am I receiving this Fact Sheet? One of the requirements of the Permit is that certain staff and elected officials be made aware of the Permit and its requirements. You are receiving this Fact Sheet because some aspect of your job or position with the Town is affected by the MS4 General Permit, therefore, the staff who implement the Permit believe that you should be made aware of the Permit. This fact sheet provides you with an overview of the Permit requirements and identifies how the requirements affect the various staff, elected and appointed officials.

What should I do with the information? Read through this Fact Sheet to gain an understanding of which elements might apply to your position with the Town. The Permit requires that we assess your awareness of the Permit periodically. Town staff or the Town's consultant may interview you, or attend a meeting to determine if your committee or board is aware of the permit.

General Information you need to know about the MS4 General Permit: The Permit applies to the "Urbanized Area" of the Town, and is designed to reduce the discharge of pollutants from the Town's regulated, separated storm drain system, to protect water quality, and satisfy appropriate requirements of the Clean Water Act. The attached figure shows the Urbanized Area for the Town of Eliot. Urbanized areas are determined by the US Census Department, based on population density and impervious surface cover. The attached brochure titled, "Follow the Flow", shows how stormwater can become polluted in urbanized areas and can flow untreated into the storm drain system, which discharges directly into waters such as the Piscataqua River, smaller streams or marsh areas.

The Permit requires that the Town staff complete many different tasks. The following is a listing of a few of them:

- Prepare a Five Year Stormwater Program Management Plan describing how the Town will implement the Permit (available on the Town Website under the Public Works Department Stormwater page)
- Educate the public about stormwater issues to raise their awareness. The Town teams with four other communities in York County, in a group called the Southern Maine Stormwater Working Group (SMSWG, pronounced, "sim-see-wig"), and with other communities in the state (using the www.thinkbluemaine.org website) to implement many of the public education programs more cost effectively than if the Town had to implement them alone.
- Encourage the public to change their behaviors so that they are more protective of stormwater. For this element, the Town works with SMSWG to focus on more sustainable YardScaping behaviors (see www.Yardscaping.org for more information) .
- Involve the public in stormwater protection efforts by conducting programs such as stream clean ups, storm drain stenciling, or attendance at workshops.
- Prepare and maintain a map of the storm drain system and use it to conduct inspections of catch basins, outfalls, and ditches to evaluate them for signs of illicit discharges (Illicit discharges are things that do NOT belong in the storm drain system, like sewage, litter, pet waste or oil). The inspections are also used to identify needed maintenance issues. The Town's storm drain system map is included on the Town's GIS maps, available on the Town website.
- Whenever illicit discharges are identified, correct them. An Ordinance (Municipal Code of Ordinances Subpart B. Land Use Regulations Chapter 31 Non-Stormwater Discharges) has been prepared for the

town which allows the code enforcement officer to issue a notice of violation if necessary to help correct an illicit discharge.

- Conduct inspections at construction sites for sediment and erosion control issues whenever the site disturbs more than one acre of land.
- Require inspections at sites that are already constructed to ensure stormwater structures such as detention ponds, catch basins, biofilters or drainage swales are being properly maintained by private parties. A Post Construction ordinance (Municipal Code of Ordinances Subpart B. Land Use Regulations Chapter 35 Post-construction Stormwater Management) has been passed to assist planning staff in informing the public about this requirement, and to allow the Public Works Director to inspect the stormwater structures to ensure they are being properly maintained.
- Perform street sweeping, catch basin cleaning, and maintenance of the storm drain system.
- Implement good practices at all municipal operations where stormwater can become polluted (transfer stations and public works garages require full Stormwater Pollution Prevention Plans to be prepared and implemented, other municipal operations such as fire and police stations have a listing of good practices to follow)
- Train municipal employees in good stormwater practices.
- Prepare annual reports documenting all this information, and provide it to the Maine DEP annually.

What specifically do I need to know for my position?

Select Board and Town Manager: Understand for budgeting and staffing purposes that the Town is subject to the MS4 General Permit, which is a Clean Water Act Permit enforced by the Maine Department of Environmental Protection.

Planning Boards: Understand that some of the MS4 General Permit requires two ordinances be enforced by the Town (Non-Stormwater Discharge Ordinance, Post-Construction Ordinance). These ordinances cannot be altered without potentially causing a permit violation.

Conservation Commissions: Understand that the Town is subject to the MS4 General Permit, which is designed to reduce the discharge of pollutants from its regulated storm drain system, and to protect water quality.

Code Enforcement and Planning Departments: Understand that CEO Role is to assist in enforcing against illicit discharges, and sediment/erosion control issues. Understand that Planning Department Role is to track construction and Post Construction sites in the Urbanized Area that disturb greater than 1 acre of land, and inform applicants of Ordinance requirements.

Where to go for more information: The Public Works Stormwater page has more information for you. The following people are primarily responsible for implementing the MS4 General Permit in your town, and can be contacted for more information:

Joel Moulton – Public Works Director
Jess McQuade – Public Works Assistant
Doug Greene – Planner
Mark Mitchell – Code Enforcement Officer

FOLLOW THE FLOW

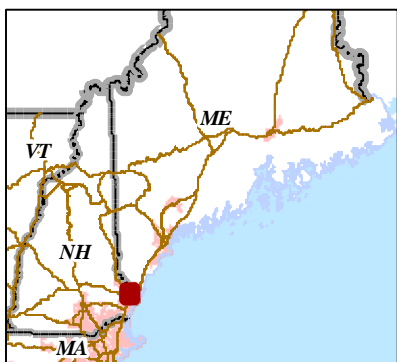
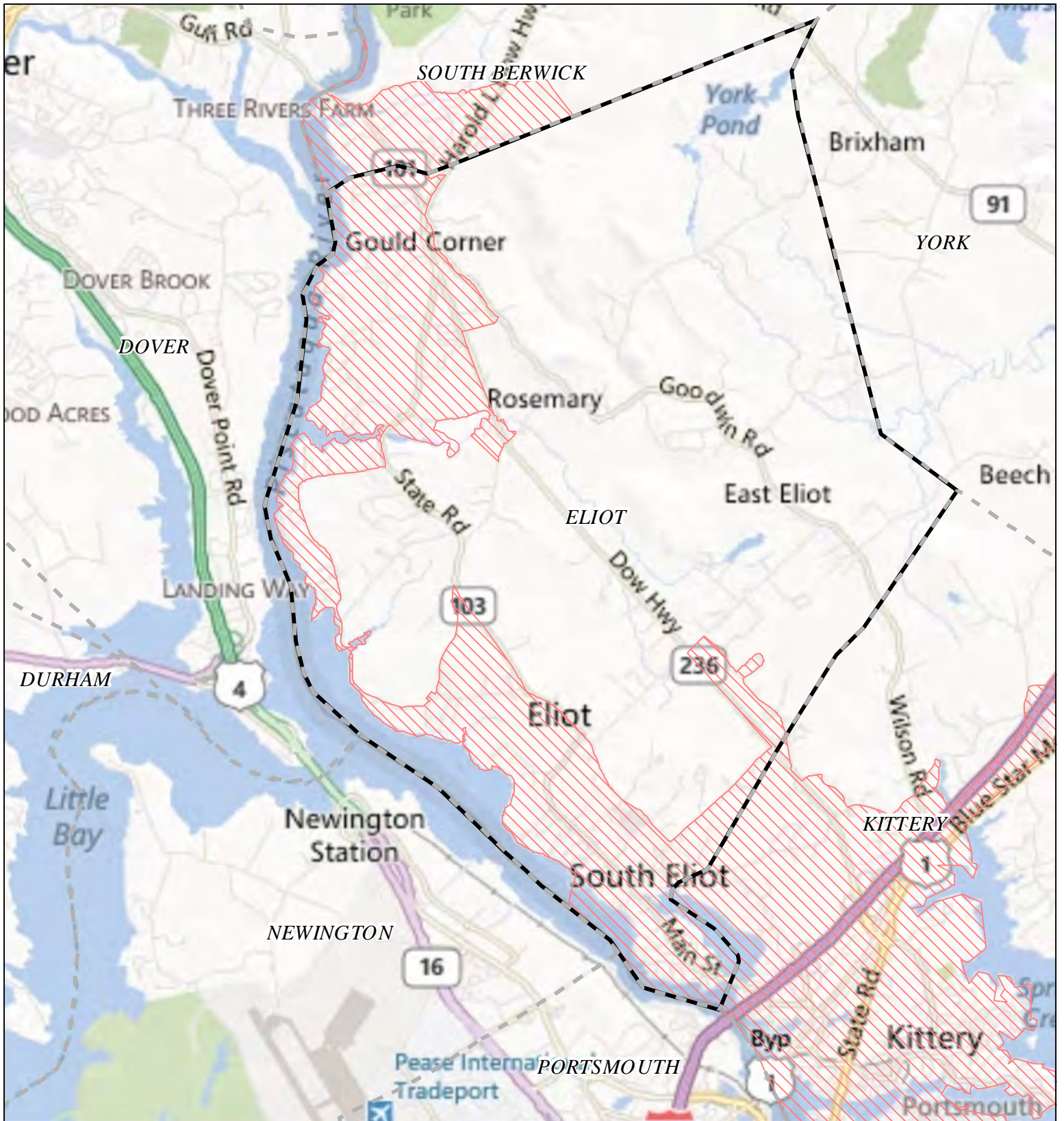
Where does water go?

Not all water that falls on your property soaks into the ground. As water flows off your property, it can wash pollutants such as soil, lawn chemicals and pet waste into where we fish, what we drink and where we swim.

It's up to all of us to protect our local rivers, lakes and bay from polluted runoff.

Learn how at
www.ThinkBlueMaine.org

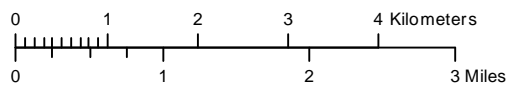




**NPDES Phase II Stormwater Program
Automatically Designated MS4 Areas**

Eliot ME

 Regulated Area (2000 + 2010 Urbanized Area)



Town Population: 6204
 Regulated Population: 3227
 (Populations estimated from 2010 Census)



Urbanized Areas, Town Boundaries:
 US Census (2000, 2010)
 Base map © 2010 Microsoft Corporation
 and its data suppliers

1 **ITEM 1 - ROLL CALL**

2

3 Present: Dennis Lentz - Chairman, Ed Cieleuszko, Casey Snyder – Alternate.

4

5 Also Present: Doug Greene, Planner.

6

7 Absent: Melissa Horner (excused), Christine Bennett.

8

9 Voting members: Dennis Lentz, Ed Cieleuszko, and Melissa Horner.

10

11 **ITEM 2 – PLEDGE OF ALLEGIANCE**

12

13 **ITEM 3 – MOMENT OF SILENCE**

14

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

16

17 There was no public input.

18

19 **ITEM 5 – OLD BUSINESS**

20

21 **A. 11 Sanborn Lane (Map 23/Lot 14): PB18-12: Determination of completeness of**
22 **application by Planning Board & Public Hearing.**

23

24 **Received: September 4, 2018**

25 **1st Heard: September 18, 2018**

26 **2nd Hearing: October 16, 2018**

27 **Site Walk: October 16, 2018**

28 **3rd Hearing: November 13, 2018**

29 **Public Hearing: December 4, 2018**

30 **4th Hearing: December 4, 2018**

31 **Approval: December 4, 2018**

32

33 Tom Harmon, P.E., Civil Consultants, and Neil Rapoza, P.E., Civil Consultants were
34 present for this application.

35

36 Mr. Rapoza introduced himself and gave a brief summary of the project.

37

- 38 • Installation of new pavement
- 39 • Use of existing, currently-cut entrance onto Route 236, with no use associated
40 with it at this time
- 41 • HVAC assembly facility for Thermo Dynamics
- 42 • Three storage buildings on Condo Unit #3 portion of the property
- 43 • Landscaping has been revised
- 44 • Signage and lighting revised per comments
- 45 • Completed stormwater management study to hold flows to Town standard

46

46 **7:05 PM Public Hearing opened.**

47
48 Mr. (Bob) Seeley, abutter on Hanscom Road, discussed his concern about the water,
49 asking if they had a fire hydrant and Town water.
50
51 Mr. Rapoza said that it was Town water.
52
53 Mr. Seeley said that they have a lot of water coming in and wanted to know how they
54 would get rid of it.
55
56 Mr. Rapoza said that the water from the building, itself, is going to be handled by the
57 existing septic near Unit #2; that there's going to be a new pre-treatment system that will
58 accommodate the new flows going into that system.
59
60 Mr. Seeley asked if Mr. Rapoza knew this was all filled land.
61
62 Mr. Rapoza said yes, the majority of it.
63
64 Mr. Seeley said that there is ledge about 30 feet down and glacial silt is sitting on top of
65 that; that when you put stuff on that, it (water) kind of oozes up wherever it can come up.
66
67 Mr. Rapoza said that this lot is a pre-developed lot and, if you look next to the proposed
68 building on the plan, we have designed a stormwater detention area to make sure we hold
69 those flows back to not impact those surrounding areas.
70
71 Mr. Seeley asked for clarification on what they would be manufacturing.
72
73 Mr. Rapoza said that the HVAC was air conditioning, duct work, etc. that would be put
74 together there and more of an assembly for individual jobs that go out.
75
76 Mr. Seeley asked how many people would be employed.
77
78 Mr. Harmon said that we plan on three being in the facility; that it would also have an
79 office with an individual in that.
80
81 Mr. Seeley said that, when zoning came in, the setback was only 250 feet and he knows
82 'this' building right 'here' is already beyond that, an office building right now he
83 guessed.
84
85 Mr. Rapoza clarified that the thing that looks like a box back there is a septic field,
86 pointing to it and the existing building on the plan. He explained that all the pre-existing
87 development is in the more heavily buffered portion of this lot and what we have
88 proposed is more towards the center, trying to keep it further away from the property
89 lines.
90
91 Mr. (Paul) Randolph, abutter on Hanscom Road and Route 236, proposed that they plant
92 some trees, evergreens, around that property just to keep a border with the residential

93 properties. He added that he was hoping Mr. Sanborn would do that. He asked how many
94 buildings would be going in there.

95
96 Mr. Rapoza said that there would be one building going on the existing foundation and
97 three storage buildings out towards the south, there.

98
99 Mr. Randolph asked how big the storage buildings would be.

100
101 Mr. Rapoza said that they would be 360 square feet; that they are smaller storage sheds

102
103 Mr. Randolph asked if they were going to use the foundation that was there.

104
105 Mr. Rapoza said it would either be that foundation or a foundation in the same footprint.

106
107 Mr. Randolph asked how many employees they expected down the road.

108
109 Mr. Rapoza said that he wasn't sure how many employees, in general; that as far as this
110 facility the three employees are all they are going to have there for full-time people on-
111 site, with vendors coming in and out.

112
113 Mr. Randolph asked if there was any kind of toxic waste.

114
115 Mr. Rapoza said no; that this proposal is more preparing for install.

116
117 Mr. Harmon added that they are bringing pieces in and assembling them.

118
119 Mr. Randolph wanted confirmation that they would not be manufacturing anything there.

120
121 Mr. Rapoza said that parts would be brought in and prepped to go to the big job when
122 they go and install everything.

123
124 Mr. Randolph reiterated his suggestion for added trees so that residential doesn't have to
125 see buildings, pointing out on the plan where his properties are and where he would like
126 to see a border of evergreen trees.

127
128 Mr. Rapoza said that we were proposing to leave all that vegetation, as is, right up to that
129 point; that the project is all going to be within that area that's currently clear and graded
130 out. He added that, from there on, they proposed better landscaping as far as natural lawn
131 and something a little more presentable on that side; then keeping the buffer to Route
132 236, as required by the Town, and anything that was required to the residential properties
133 was met by existing vegetation.

134
135 The Planner asked what the vegetation was, whether it was scrub or a mix of trees.

136
137 Mr. Rapoza said that it was a big mix of a lot of different stuff.

138

139 Mr. Randolph said that Mr. Sanborn cleared a lot of stuff out of there and opened it up
140 quite a bit; that it used to be grown up but, now, it's very visible; that that's why he
141 would like to see some trees planted there to kind of shield that area; that they don't cost
142 a lot.

143
144 Mr. Seeley said that right now, with leaves off the trees, he can see the oil company down
145 there and hear the trucks backing up, making that noise; that there is a big light out there
146 advertising the business and that bothers him because it was nice and quiet before that oil
147 company moved in there. He added that he agreed as far as what to do about the lighting,
148 and so on, and keep it down in the 250 that was originally allotted.

149
150 Mr. Lentz said that there is an ordinance for glare in the zoning, which you guys have
151 spoken to, asking if they would like to speak to that again.

152
153 Mr. Randolph said that Mr. Sanborn had that pretty lit up down there and it really bothers
154 the residential end of that; so, that is a thing that should be addressed, too.

155
156 Mr. Rapoza said that, as far as the letter of the code, we believe that the vegetation that is
157 there does meet the glare requirements; that we have worked to make sure that any
158 lighting on the site, now, will be 'dark sky', downward shielding lighting so there won't
159 be any light spill-over from any of the new, proposed work.

160
161 Mr. Lentz said that he thinks what they are asking is something that was done before this
162 application; that he doesn't know if we can hold these people responsible for something
163 that was done wrong before. He added that it's a good request and asked if that was
164 something the applicant would consider talking to the owner about, as that seems to be an
165 aggravation.

166
167 Mr. Rapoza said that they could do that.

168
169 Mr. Randolph asked who would actually own the property.

170
171 Mr. Harmon said that this is actually in the condominium so there are separate owners;
172 Jeff Kolod owns the piece down in the front, left-hand corner (Unit #1) and the other
173 pieces will be owned by Frank Fortunato (Unit #2, #3, & #4); that the land is owned by
174 the condominium association.

175
176 Ms. Seeley asked if the septic system was going to be for all the condos.

177
178 Mr. Harmon said that the current septic system was planned for that office building and
179 has never really been taxed; that it hasn't been used a great deal. He added that, in
180 today's world, there are implements we can put inline that double the capacity of that
181 septic system; so, that septic system is capable of handling much more.

182

183 **Ms. Seeley?** said that there's a pond near there that is spring-fed that is full of all kinds of
184 wonderful wildlife and it would be a shame if, somehow, the waste leached into that
185 pond; that it would kill the whole pond.

186

187 Mr. Harmon said that, typically, a septic system like that would not bother that
188 environment.

189

190 **Ms. Seeley** also asked about the noise level.

191

192 Mr. Harmon said that the noise would be inside the building.

193

194 **7:18 PM Public Hearing closed.**

195

196 Mr. Lentz asked if the applicant would talk with the owner about the border issues raised.

197

198 Mr. Harmon agreed that they would speak to the owner.

199

200 Mr. Lentz asked if the applicant got a copy of the letter from the Fire Chief, dated today.

201

202 Mr. Harmon said no and was provided a copy.

203

204 Mr. Lentz said that that was totally unacceptable; that most of what he sees in there is
205 mostly construction requirements, which has nothing to do with us, at all.

206

207 Mr. Harmon agreed that is typically building permit issues.

208

209 Mr. Lentz said that that is all CEO things, we believe, asking the Planner if that was
210 correct.

211

212 The Planner said that that was correct.

213

214 Mr. Lentz said that he does want to make it known to the Chief that that is totally
215 unacceptable; that he is getting notices that we are holding these meetings and this is six
216 weeks, or better, that we've been talking about this subject; that to wait until today...

217

218 The Planner said that he would confirm.

219

220 Mr. Harmon pointed out, regarding the memo from the Fire Chief, that it talks about the
221 State Fire Marshall and that actually is a building permit issue.

222

223 The Planner said that most of these are building permit/construction issues, not so much
224 site plan issues.

225

226 Mr. Cielezsko said that he saw no relevance to this (memo).

227

228 Mr. Lentz agreed. He asked if there was anything else.

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Mr. Cieleuszko asked how high the vegetation was between the property in question and the property to the south.

Mr. Harmon said that, at the site walk, they had to walk to get past it to see what the site distance actually was, so, that vegetation extends almost to Route 236.

Mr. Cieleuszko asked how high it was.

Mr. Harmon said about 15 feet; that it wasn't low brush.

Mr. Kolod said that it was higher than that because there are small trees and is the same as the other side; that it may be even 20 feet.

Mr. Lentz agreed that that is what he recalled from the site visit.

Mr. Cieleuszko asked how many lights were existing that would not be adjusted by this project.

Mr. Harmon said that he didn't think we ever counted.

Mr. Kolod said that there's one in the parking lot in the drive-in; that there's a light on the sign out by the road. He added that there are lights on the buildings, themselves, shining down to highlight the buildings; that there is also a light in the parking lot that shines down into the parking lot on the other building but he doesn't know if there are stand-alone lights in the back; that there's nothing on that side over there.

Mr. Cieleuszko said that he thought that would address the issues that were brought up.

Mr. Lentz said that we had a new layout with the water line on it; that the last he remembered, that was a question, and they updated that. He added that we went over stormwater and erosion control, refuse disposal; that there was a question on lighting and we talked that through; that we did agree to put evergreen shrubs and trees within the 50-foot front yard setback.

Mr. Harmon said that those were indicated on the site plan.

Mr. Lentz said that there would be 12 new parking spaces.

Mr. Harmon said that, actually, there were more; that we added a few more for their facility.

Mr. Cieleuszko moved, second by Mr. Snyder, that the Planning Board accept the Site Plan of the Sanborn Development, LLC, Case # PB18-12, as complete and forward for a building permit, with the following conditions of approval:

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1. **The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board. Copies of approved permits from Maine DEP, Army Corps of Engineers, if applicable, and State shall be provided to the CEO before construction on this project may begin.**
 2. **The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.**
 3. **The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.**

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VOTE
3-0
Motion approved

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

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ITEM 6 – NEW BUSINESS

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A. Discuss framework for Cannabis Ordinance

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Mr. Lentz said that he was interested in the Planner’s letter, dated December 3rd; that he thinks it’s a pretty good summation and a pretty clear framework, at the end, for a land use committee. He added that he believes it’s where we should be headed and the steps we should be taking.

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Mr. Cielezsko said that he has nothing to add to this, as he is sort of in a fog on this. He added that he was wondering if the SB had authorized the committee (Ad Hoc Adult Cannabis) to work with us or help us in our work.

317
318

Mr. Lentz said that, as far as he was concerned, it is clear enough that they are a committee and can certainly add to what we are doing; that he sees their role different

319 from ours but sees that it can merge; that they would work on education and we would
320 develop constraints on where this could be, as an example.

321
322 Mr. Cielezsko said that they have to have an organizational meeting and would like to
323 defer until that. He added that he doesn't like these rules from the other towns and
324 doesn't like picking and choosing from other peoples' tries that haven't even gone
325 through the courts, yet. He said that the states are different and aren't under the same
326 rules as Maine; that it's all good information but he would like to have a lot firmer basis
327 in Maine law; that every time he has gone over it, it has changed. He added that, if it's
328 going to stay like this, now, then he's kind of thinking it's time to go after it and use it in
329 reference to our own land use ordinance; that he has nothing to add at the moment
330 because he's not sure of anything and he thinks our next input should be their
331 development to us.

332
333 Mr. Lent said that, as he understands, they have had a meeting and they have been
334 organizing; that he thinks what Mr. Cielezsko is asking will come but he doesn't think it
335 will come tonight.

336
337 Mr. Cielezsko agreed, saying that he doesn't want to make too much headway tonight, or
338 any, as he can't offer anything to make any headway. He added that he really wants to
339 stay with State law and use 'these' as the most distant references – ordinances from other
340 towns.

341
342 Mr. Lentz said that he strongly supports having a template and, looking at these, they
343 aren't bad; that he doesn't know if they are good but he doesn't think they are bad; that,
344 in particular, South Portland looked good to him and he doesn't think we ought to throw
345 the baby out with the bathwater, as these people have had some experience and they've
346 put their ideas down on paper. He added that he agrees about the State law but felt that
347 we could use that template and make adjustments to fit our Town.

348
349 Mr. Cielezsko said that he would work with this but, in reading some of these, he doesn't
350 see the backgrounds of where they are dealing with it; that it's stuff on paper and hasn't
351 really been put into use, yet, and these are all conjectures on the part of all these towns.

352
353 Mr. Lentz said that, on the other hand, there are some elementary things we know we
354 have to do – how many retail stores will we allow in Eliot, what are all the constraints –
355 there are a ton of things we talk about in every application and those we can begin to talk
356 about.

357
358 Mr. Cielezsko agreed. He said that how many is a good question; that he thinks it's how
359 many the market can bear and we shouldn't be setting limitations.

360
361 Mr. Lentz said to remember that what we're going to put together are going to be support
362 tools for the Selectmen, as they are going to have to put this on a ballot; that they will
363 have to word the warrant; so, there should be at least some thoughts on that paper.

364

365 Mr. Cieleuszko said that he wasn't sure; that even if we take it, like the adult
366 entertainment, as something out of the ordinary, there was no limit to how many places,
367 but only where, and he thinks it's the applicant's business, not ours, as to whether it's
368 going to be successful or not.

369
370 Mr. Lentz asked if we should involve the stakeholders in these discussions, such as the
371 Fire Chief, the Police Chief, the CEO...are they involved I our discussions or the
372 Cannabis Committee's discussions or both.

373
374 Mr. Cieleuszko said both; that he thinks they should be invited for their input, as Chief
375 Muzeroll already has, in general, presented material when we started talking about
376 marijuana and an ordinance. He added that that should be open and reapplied to anyone
377 who is part of this.

378
379 Mr. Lentz said that, at least initially, we should be copying them with all our thoughts
380 and minutes.

381
382 Mr. Cieleuszko agreed at least our minutes.

383
384 Mr. Snyder agreed. He said that this hasn't gone live here, yet; however, it has gone live
385 in Massachusetts and in Colorado; that he thinks there is valuable input from what we
386 were tasked to read through. He added that, although every town and state need will be
387 different, and even down in Northampton, MA with their first open that created traffic
388 grid-lock, with people not being able to get to work; so, each situation, each town is
389 different and having a template to at least work off from, should the time come, he thinks
390 would be valuable. He said that we probably shouldn't just mimic or copy what Sanford
391 wrote but he thinks there's a case to be made that there may be something in that
392 document that could be relevant. He added that his impression, today, was that we were
393 going to try to extract some information from the (Adult-Use Retail) Cannabis
394 Committee (AURCC) to learn some of the details of questions from the last meeting
395 regarding tax revenue and how towns may, or may not, financially benefit from whatever
396 may unfold here; that his goal today was to learn more of the details that may play a role
397 in the PB's interpretation of how many dispensaries, if any at all, etc., no different than a
398 town suggest allowing for 35 convenience stores.

399
400 The PB invited members of the AURCC to speak.

401
402 Mr. (Justice) Ryan, attorney, said that he understood the sensitivity to keeping more local
403 zoning ordinances as references and certainly giving them in terms of their structure and
404 constituent components and things of that sort; but California, Colorado and the West
405 Coast, particularly California, have had a lot of time to refine these ordinances, especially
406 in medical use, and have these ordinances established and re-worked and improved; so,
407 there's a lot that can be gleaned from, in terms of specific information, in those, and he
408 wouldn't put those aside, out-of-hand, because there's a lot there and there's been a lot of
409 iteration of those laws. He added that those are some of the forms where, as a practicing
410 cannabis attorney, he looks to first – the practitioners out there, what they're drafting and

411 doing, how towns are reacting and what the state is doing from an enforcement
412 perspective and things of that sort; that California and Colorado are some of the models
413 to follow.

414
415 Mr. Lentz said that he thinks Mr. Cielezsko has a point in that there are a lot of things
416 unique to Maine, that he has so far seen, and he thinks that needs to be understood as well
417 as looking at all the other input; that it's like taking the best of what everybody's got.

418
419 Attorney Ryan agreed; that the trial-and-error stuff, like the traffic issue in Northampton
420 and Leicester, MA, there are things that you might not think about, like that many people
421 showing up, and in all likelihood they will.

422
423 Ms. (Jessica) O'Donoghue said that that is why she can see limiting the number of stores,
424 just because, if something like that were to happen, which she thinks is likely, then we
425 would have to have some sort of plan to manage that.

426
427 Mr. (Brigham) Pendleton said that he thinks it depends; that if Kittery opens a store...we
428 have to think about things like traffic and also weight that to what the landscape is in
429 Maine versus Colorado or Massachusetts. He added that those are definitely things that
430 you wouldn't think about regarding the impacts to towns and we definitely have to keep
431 an eye on that as well as and what is going on around us and what's changing in the law.

432
433 Mr. Snyder asked where we stand in terms of the number of allowed registered
434 dispensaries that the State of Maine is going to approve.

435
436 Mr. (Hughes) Pope, Creek Crossing, said that there is a number; that there were 8 initially
437 awarded in 2010 and he believes there are going to be two more licenses that would be
438 made available to somebody in the State other than Wellness Connection; that Wellness
439 Connection is a group that came in from California and somehow got four of the eight
440 licenses and they have been specifically banned from expanding in the adult-use market.

441
442 Mr. Snyder asked if that cap is to be lifted in 2022 or 2021.

443
444 The Planner said that he thinks the limit goes away.

445
446 Mr. Snyder asked if that was per owner or limit of licensees.

447
448 The Planner said that his reading of it said that they would take the cap away at that
449 point.

450
451 Mr. Pope asked if everyone knew what a dispensary is versus a caregiver.

452
453 The Planner said that he would like to hear that.

454
455 Mr. Pope explained that a dispensary, as defined in Maine, is an entity that is awarded
456 through a licensing process in the State and they have to pay \$15,000/year to the State;

457 that they have an unlimited plant count based on their clientele. He said that a caregiver is
458 limited by their plant count and can never exceed a certain amount and does not have the
459 same fees. He added that, in other states, they call everybody a dispensary but, in Maine,
460 there is a distinction in the law.

461
462 Mr. Lentz said that he is reading LD1539 that says it allows six additional registered
463 dispensaries and eliminates the cap on dispensaries after 2021.

464
465 Mr. Snyder said that, parroting one of the documents he read, it talks about how there is a
466 cap of four, he thinks, dispensaries or licenses per owner and that may be the situation
467 where they snuck in and grabbed four stores, and they said no more; that there's also the
468 language that suggests that all caps fail to exist in 2021. He added that, to the point of
469 could we have a Northampton event, it depends on how many other locations there may
470 be, the timing of these other locations, if and when they open; that if Eliot is one of two,
471 then we have a problem.

472
473 Ms. O'Donoghue said that is dispensary versus retail Mr. Casey is talking about, two
474 totally different things.

475
476 Mr. Pope added that that is assuming that the dispensary is medical, the caregiver is
477 medical; that retail is a separate animal.

478
479 The Planner said that that brought up a point he wanted to discuss and clarify. He
480 explained that it looked like some of the towns framed it specifically for medical
481 marijuana and for retail use but he thought the recent rewrite, here, provided for a
482 uniform set of definitions and, obviously, a caregiver is different than retail is different
483 than a dispensary but, in terms of land use and planning, he thought you could use the
484 same guidelines in terms of buffers, location, distances from churches and schools, and
485 things like that. He said that you could use those same sets of rules but there are
486 obviously different laws that govern licensing and size in terms of whether it is one of
487 those three.

488
489 The AURCC members agreed that that sounded practical.

490
491 Mr. Cielezsko asked where the retail establishments got their stuff.

492
493 Attorney Ryan said that, in Maine, you would either cultivate it yourself or purchase it;
494 that, in Massachusetts, you have to have a vertically-integrated license, so, from seed to
495 sale, it's all the same company; that, in Maine, you can apply for any one of, or a
496 combination of, those licenses. He said that it would be purchased, wholesale, from a
497 licensed cultivator the companies will be growing and manufacturing the products
498 themselves.

499
500 Mr. Cielezsko said that, from what he has heard in previous discussions, it's not going to
501 be little bags of all these different brands; that there's going to be candy and toys and all
502 kinds of stuff, asking if all this has to be done in order – from origin to sale.

503 Attorney Ryan said that it is his understanding that the State will be mandating a seed-to-
504 sale tracking system and we wish they would tell us what it was going to be, explaining
505 that the moment that seed turns into a sprout, it's tracked; that they know exactly where it
506 is, where it went, if it goes to an off-site process there are trip tickets; that many
507 companies, if you look at California and Colorado, are using RFID tags on everything.
508 He added that that is really important for cannabis companies operating under the current
509 climate because, in order to demonstrate compliance, you have to demonstrate a closed
510 loop for your sales, from genesis to the sale that occurred in the State and didn't get
511 diverted.

512
513 Mr. Cielezsko asked, in regard to that, if we're going to prepare a zoning ordinance for a
514 retail establishment, are we going to have to look at this agriculturally, in manufacturing,
515 etc., an all-encompassing site because it could be a beginning-to-end product.

516
517 Attorney Ryan said that he thought that was advisable. He added, to Mr. Cielezsko's
518 earlier point, that he thinks you can mirror the tiered structure that are already there in
519 State law in terms of applications. He added that you have several different tiers of
520 cultivation, several different tiers of manufacturing.

521
522 Mr. Cielezsko said that we not only have to consider the retail storefront but the process
523 behind it.

524
525 Mr. Lentz said that there seems to be a great deal of difference between a retail
526 establishment and a retail store; that when he reads the definition for retail establishment,
527 it seems to carry with it the growing, cultivation, manufacturing, processing, and the
528 sales.

529
530 Attorney Ryan said yes, with retail establishments but a storefront is a component of a
531 retail establishment under the language of the law, which he hopes is cleaned up.

532
533 Mr. Lentz said that he was remembering from what Mr. Pope told him before; that he
534 didn't read anywhere in any definition the term 'storefront'; that he read 'retail store'.

535
536 Mr. Cielezsko said that Mr. Pope is not a recreational seller; that we weren't looking at it
537 that way.

538
539 Mr. Lentz said that he understood; that he was talking about definitions for medical, as
540 well.

541
542 Mr. Cielezsko commented that that seems to mix it up even more.

543
544 Ms. O'Donoghue said that that's what the State is doing.

545
546 The Planner said that he thought, from his reading, that you have all these different
547 classifications and you could have someone who is just a storefront, just a processor, just
548 manufacturing, or just growing.

549
550 Attorney Ryan said that his understanding is that the reason behind that is to make the
551 industry more accessible to Mainers, to local businesses; that one of the biggest limiting
552 factors in Massachusetts was that you had to be vertically integrated and that cost a lot of
553 money to set up – cultivation, manufacturing, packaging, compliance, and retail
554 operations.

555
556 The Planner said that he misunderstood him when he was talking about seed-to-sale; that
557 he thought he was talking about a vertical.

558
559 Attorney Ryan said that that was tracking. He said that we will need to see what the
560 Department of Revenue comes up with for a regulatory enforcement regime but, in
561 theory, regardless if you have disparate cultivation or manufacturing or otherwise, or
562 people are vertically integrated, if that product is moving between those different entities
563 at different stages of the industry, it's going to be, and should be, tracked and that's what
564 the law requires. He added that, as a compliance official in on of these businesses, the
565 holy grail for him is being able to, with technology, demonstrate that closed loop, and
566 that's what we want; that he thinks there's probably ways for the Town to have a say in
567 what people do on that front, too.

568
569 Mr. Lentz, addressing the next time the PB talks about this, said that he likes the
570 Planner's memo on December 3rd, particularly the structure he put at the end that he
571 thinks we should be working with ; that we could discuss the nine points with the
572 Planner, now, and if there's any question in members' minds about what any of those
573 mean, we could ask the Planner to explain it and, then, between now and the next time we
574 get together, we can certainly develop our list of thoughts and questions and at least begin
575 to structure this thing. He asked the Planner what he was thinking regarding 'Order &/or
576 Sequence'.

577
578 The Planner said that there were so many differences in the way towns have set up their
579 ordinances; that he liked South Portland in that it states the purpose, its statutory
580 authority and rests in the State law; and, then, it goes on into definitions and there are
581 slight differences the terms they use - the definitions, the language; so, those are things
582 we can clarify in discussion and, then, obviously the classifications and the tier structures
583 for the size of a grower or how do you want to group businesses according to how much
584 they grow or the volume of their sales or the size of their footprint; are host community
585 agreements different than licensing, are those one and the same, are those impact fees. He
586 added that different towns have had different structures and ways of putting those fees
587 together and what those look like, who has the authority to grant licenses – is the Clerk
588 doing that, is the SB doing that, is it the Town Manager's job, or some combination
589 thereof. He added that, with permits or licenses, are they transferable and how is that
590 done; that, in terms of zoning, is concentrating all this on Route 236 going to invite a
591 headache and, if so, how do we control that; buffer zones, times of operation. He asked if
592 we are going to confine the growers to Route 236 as well as the retail establishments; that
593 that may come back to the issue of traffic. Additionally, he said there would be noise,

594 sight, use, signs, odor. He asked the AURCC members if they had any thoughts based on
595 experiences or what you've heard or seen.

596
597 Ms. O'Donoghue said that Route 236 can already be a nightmare; that there were some
598 real horror stories in Northampton last Tuesday.

599
600 Mr. Pendleton said that there's going to be a surge because it's never been there and, all
601 of a sudden, it's there.

602
603 Ms. O'Donoghue said that she didn't think we'd have that issue here because the dates
604 are going to be different; that we won't have just one day where everybody is opening.
605 She added that we may have a day where one store is opening but, then, South Berwick
606 may have been opened already, or Kittery, so she doesn't see the same surge.

607
608 The Planner said that he thinks we'll have to coordinate with the Portsmouth Shipyard.

609
610 Mr. Cielezsko said that from what he understands the Chairman's question was what the
611 Planner meant by 'Order and/or Sequence' and he thinks all the Planner was talking
612 about was how to come to terms with all the other things below it.

613
614 The Planner said more-or-less; that different ordinances lead into it differently and he
615 thought South Portland's was fairly clear and succinct in the way that they proceeded.

616
617 Mr. Lentz suggested we come up with some examples or jot down some things for next
618 time.

619
620 Mr. Snyder asked if the Town had to opt-in for cultivation, could the Town theoretically
621 host cultivation without a storefront.

622
623 The Planner said that that was a good question.

624
625 Attorney Ryan thought it was all or nothing but that would be an interesting thing to pose
626 back to the State, too.

627
628 It was asked if we could opt in and then control what goes on with the ordinances.

629
630 Attorney Ryan said sure; that he thought that as long as you are making changes that are
631 more stringent than the State law, and not less, you are probably okay; that he can't
632 imagine why the State would want to come after you for wanting to limit the number. He
633 added that, right now, you can't limit the number of medical caregivers in a city or
634 municipality but he doesn't think that that will be in the rules based on their experiences
635 with the Department of Revenue.

636
637 Mr. Lentz said that it seemed to him when he read that it was structured, if the town opts
638 in, then the next step would be to get a permit and you would have to get a permit for
639 cultivation, a permit for manufacturing, and that's where it seemed the hook was.

640
641 Attorney Ryan agreed; that the limiting factor are the municipalities. He added that he
642 doesn't know if you can opt-in piecemeal.

643
644 Mr. Snyder said that the reason he asked that is that it relates to the line item 'host
645 community agreements'; that some of the literature he read, establishments are making
646 promises, whether it be the community or various organizations, that would parlay into
647 tax revenue, or what kind of revenue is being generated to the town; that his
648 understanding is that, with cultivation, even if it's a small percentage, it comes back to
649 the municipality. He added that, whether it would be retail establishment or cultivation or
650 retail store, tax revenue would vary depending on what the town opted in for. He said
651 that, thinking of community involvement and, in that light in particular, if it's a question
652 of how much is there to work with as far as fees, what would be reasonable, depending
653 on what the opt-in entailed.

654
655 The PB scheduled a work session on this topic for January 8, 2019.

656
657 Mr. Pope said that he doesn't think it's worth getting into at the moment but he would
658 just like to say that Eliot has a lot of land and it seems very common to restrict it to the
659 C/I Zone; that he thinks it would be neat to somehow alleviate some of the congestion on
660 Route 236 and utilize other land that may be further off in left field that doesn't see as
661 much traffic.

662
663 Mr. Lentz said that he thinks we can consider all of it, for now.

664
665 Mr. Pope said that another thing important to him is to find a way to get money back to
666 the Town; that money is what it all seems to trickle down to in his mind and being a
667 resident, here, he certainly doesn't want to see the taxes go up more and more. He added
668 that he knows there are a number of ways that the Town can benefit from the added
669 revenue; that we could all think of a bunch of things we could use money for – for
670 transportation, the elderly, children's camps, revitalizing areas, etc.; that he knows we
671 can't have a host community agreement but he would like to believe that there are a few
672 ways we could skin that cat and have a sound theory to hang our hat on to get money
673 back into Eliot.

674
675 Mr. Lentz asked if Mr. Pope said we can't have a host community agreement.

676
677 Attorney Ryan said that there is some dispute on whether that is legal.

678
679 The Planner said that, from his reading, the fees have to be proportionate and reasonable
680 to the impact that it imposes but added the question of how do you define that. He added
681 that Northampton's looked like it was tied to volume and had gradations in it.

682
683 Mr. Lentz asked if that was the 500, 500, 500.

684

685 The Planner said no; that that was less than what Northampton had in and didn't seem to
686 me to be particularly reasonable; that he guessed it depended on how you define impact.
687 He added that he thought it wasn't supposed to go toward general funds and is supposed
688 to be fairly targeted; that it goes to those things that are being impacted, he guessed you
689 could argue.

690
691 Mr. Lentz suggested that that may be something the AURC Committee can do, to start to
692 put together a framework of how we can put more money back in the Town.

693
694 Attorney Ryan said that he is going to be having a conversation with the attorney who is
695 advising most of the towns on this matter, and advising them not to do it, to find out more
696 of what her take is on it; that he will report that to the Committee.

697
698 Mr. Lentz said that that would be great.

699
700 Mr. Pope said that that was his goal, to find out how we can do that.

701
702 The Planner said that that somewhat touched on his earlier thought with whether it is a
703 host community agreement or is it built into the licensing, as some do it separately and
704 some just have a simple licensing structure.

705
706 Mr. (Robert) Pomerleau said that, on that question of revenue for the Town, the current
707 legislation in Augusta is proposing a local-option sales tax and, from a quick read, it
708 looks like communities could target that sales tax through specific industries or
709 businesses; that it's not marijuana-specific but it does become a potential optional
710 revenue source, if it were to pass. He added that, barring any identifiable revenue from it,
711 at a minimum, both the Committee and the PB should certainly make sure that there is no
712 cost to the Town, and there have been some identifiable, hidden costs – police training,
713 odor control, CEO, security, fire issues, administration, planning; that there's always a
714 cost to business; that there's always a cost relationship to any revenue coming to the
715 Town. He said that businesses don't come here without costing the Town some money to
716 support them and we need to make sure that, at a minimum, we charge fees sufficient to
717 cover the Town costs because the last thing that's going to kill any ordinance is giving
718 him, as a taxpayer, some inclination that his taxes are going to go up to support this
719 industry; that he's not going to buy it.

720
721 Mr. Lentz thanked the Committee for joining the meeting.

722
723 **ITEM 7 – REVIEW AND APPROVE MINUTES**

724
725 **Mr. Cielezsko moved, second by Mr. Snyder, to approve the minutes of November**
726 **20, 2018, as amended.**

727 **VOTE**
728 **3-0**
729 **Motion approved**

730

731 **ITEM 8 – CORRESPONDENCE**

732
733 There was no correspondence.

734
735 **ITEM 9 – UPDATES**

736
737 **A. Temporary vs. Permanent Definition Update**

738
739 Mr. Lentz said that, out of the minutes he read, he marked that ‘tabled’.

740
741 The PB agreed.

742
743 **B. Ordinance Revisions/Priorities**

744
745 The Planner said that Ms. Lemire was good enough to run copies, which he thinks
746 everyone has.

747
748 Ms. Lemire said that this was the original that Ms. Prescott did back in June.

749
750 Mr. Lentz said that we knocked off Dimensional Standards, Growth Permit Process, Job
751 Title: Planner, Shoreland Zoning, and he believes Nonconformance.

752
753 Mr. Lentz asked the Planner to go back in the computer and see what has been changed
754 and what hasn’t; that he knows the four we took before the citizens that were changed –
755 Shoreland Zoning, Job Title: Planner, Growth Permit Process, and one of the
756 Dimensional Standards for the Chapter 44 requirements.

757
758 The Planner said that he would be happy to check those things, like Nonconformance and
759 Dimensional Standards, to see which were approved and reviewed. He added that he
760 would like to talk about the priorities for the next meeting.

761
762 Mr. Lentz agreed, asking what are the next two or three that we would like to start to look
763 at. He said that he would like to see that Notice of Decision - date of decision – changed
764 so we get that fixed up.

765
766 The Planner asked that we look at Subdivisions, Site Plan, and Sketch.

767
768 Mr. Lentz said absolutely, particularly the Sketch Plan process.

769
770 The Planner said yes because that is part-and-parcel of our subdivision and site plan
771 review.

772
773 Mr. Lentz said that one of our struggles was why we have a Sketch Plan and why don’t
774 we just go right into a Site Plan; that he doesn’t think we were ever able to answer that.

775
776 Mr. Cieleuszko agreed that there was never any strong consensus.

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The Planner said that it can be kind of redundant but it is useful for somebody coming in that either doesn't have any experience or it's complicated so they want to feel out things that the PB or the Planner know will be conflicts or problematic, upfront, and then they come in...

Mr. Lentz said that it's almost like they are looking for the PB to fill in the blanks.

The Planner said that it was like getting the AURCC to comment on things and have some go-between so you can better clarify the issues before coming forth with a full proposal.

Mr. Cielezsko said that he thinks that the discussion was that the Planning Department would try to weed everything out before it got to us; that the meetings would be held in the Planner's office, which would take up a lot less time, here, and we'd be getting a more finished packet.

The Planner said that that makes sense.

The PB agreed to prioritize Subdivision and Sketch Plan.

Mr. Lentz said that he likes the NOD/Date of Decision.

The Planner asked for clarification.

Mr. Lentz said that we had trouble with dates for some reason.

Ms. Lemire said that she thinks it's because she put the checklist, that very detailed checklist, with it.

Mr. Lentz said yes but they were two dates and they shouldn't have been.

Ms. Lemire said that, currently, it is very clear when the decision was made and then the date the letter was sent to the applicant.

Mr. Lentz said that he thinks the document, itself, is good right now; that he thinks there's some confusion in that section of the ordinance.

The Planner clarified that Mr. Lentz likes the way it's spelled out but you want to verify that the ordinance actually corresponds to that.

Mr. Lentz said that that was his thought; that he likes the forms, now; that it's clear.

Mr. Cielezsko agreed that that's a good Notice of Decision that he sees now.

822 Ms. Lemire said that she incorporates all the ordinances as that is important; that they
823 should be in there that apply to that particular decision.

824
825 Mr. Lentz said that Ms. Prescott originally said §§33-44 and 45 (Shoreland/Regular
826 Zoning); so, there is something in there that was contrary to the form.

827
828 Mr. Cielezsko asked if Mr. Lentz wanted to attack that for the next workshop and just
829 clarify whether it needs work or not.

830
831 Mr. Lentz agreed that we could put it on the next workshop.

832
833 Ms. Lemire said that the noticing in the different chapters might not be the same.

834
835 *****

836
837 Mr. Lentz asked the Planner if he was aware of any new applications coming up.

838
839 The Planner said two.

840
841 Mr. Lentz said that we would not schedule any workshop items for next time, then.

842
843 It was clarified that applications are heard only on the second meeting of the month and
844 administrative items are on the first meeting of the month. Applications would be heard
845 on December 18th and, then, January 8th for the workshop kind of things, such as cannabis
846 and ordinances.

847
848 *****

849
850 Mr. Lenz said that he and the Planner worked on a letter to the Town Manager and SB
851 based on the motion Mr. Cielezsko made on Meadow Lane; that the Planner put the
852 history and a very nice overview statement in it; that at the bottom he listed the
853 recommendations from the motion. He asked if there was any objection to sending that
854 over.

855
856 There was none.

857
858 **ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**

859
860 The next regular Planning Board Meeting is scheduled for December 18, 2018 at 7PM.

861
862 **ITEM 11 – ADJOURN**

863
864 There was a motion and a second to adjourn the meeting at 8:35 PM.

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877

Respectfully submitted,
Ellen Lemire, Recording Secretary

Dennis Lentz, Chair
Date approved: _____